



**University of Economics in Bratislava**  
**Faculty of International Relations**



***International Economy, Politics and Law in 2024:  
Trends, Challenges, Perspectives***

International Scientific Conference

with support of Educational and Scientific Institute of Public Service and  
Administration Odessa Polytechnic National University  
and the  
Center for Global Political Economy



Bratislava  
November 29, 2024



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## Content

<b>Michael Augustín – Kristína Baculáková</b> <i>Hydrological Governance in Slovakia: Managing Surface Water Resources and its Abstraction</i>	8
<b>Kristína Baculáková – Michael Augustín</b> <i>Economic Costs of Floods in Slovakia</i>	17
<b>Andrianna Baleha</b> <i>Integration Processes of Ukrainian Refugees in the Slovak Republic</i>	27
<b>Zhanargul Bisembieva– Aigerim Akizhanova</b> <i>Human Capital and the Development of the Country’s Labor Market</i>	38
<b>Lucia Bocková</b> <i>Pact on Migration and Asylum</i>	44
<b>Katarína Brocková</b> <i>International Investment Law – Towards Reform or Fragmentation?</i>	55
<b>Radoslava Brhlíková</b> <i>Vasudhaiva Kutumbakam in Modi’s National Security Policy</i>	65
<b>Olha Brynko</b> <i>Elections to Regional Councils in the Czech Republic in 2020-2024 in a Comparative Perspective</i>	75
<b>Peter Csanyi</b> <i>2024: A Turbulent Year for Slovakia</i>	83
<b>Eubomír Čech</b> <i>Turkic Vector of Turkey’s Foreign Policy Towards Central Asia</i>	93
<b>Ján Dančo</b> <i>Islamization of Iranian Education System</i>	105
<b>Tomáš Dudáš</b> <i>Government Strategies for the Transition to Battery Electric Vehicles Production in Slovakia</i>	116

<b>Boris Dziura</b> <i>3 Seas Initiative</i>	124
<b>Martin Grešš</b> <i>Chinese and Indian Service in World Economy</i>	130
<b>Simona Chuguryan – Zuzana Čičková</b> <i>The Migration and the Danish Welfare State in the Pre-Covid Period</i>	140
<b>Dorota Harakaľová</b> <i>Application of Article 234 of Unclos on the Example of Canada and the Russian Federation</i>	150
<b>Eubica Harakaľová</b> <i>The Position of the European Commission in the Institutional Framework of the European Union</i>	163
<b>Katarína Holjenčiková</b> <i>Analysis of the impact of the Fourth Gas Package on the European Union's energy market and its International Economic Relations with third countries</i>	176
<b>Klaudia Hraníková Pytel'ová</b> <i>Rule of Law and Post-Conflict Justice</i>	184
<b>Peter Jančovič</b> <i>The European Union's everything but arms initiative: Evaluation of its Effectiveness in the Case of Eastern African Countries</i>	193
<b>Barbora Janubová</b> <i>Trends of the Informal Economy in Latin America</i>	204
<b>Rostyslav Karakash</b> <i>Chinese Involvement in Africa: Disputed Neocolonialism</i>	216
<b>Martin Karas</b> <i>Theories of Investment Treaty Design in the Light of the Recent Trends</i>	228
<b>Lidiia Karpenko – Mykola Izha – Dmytro Kazavchynskyi</b> <i>Tourist Cluster as a Tool of Macroeconomic Regulation of Tourism Business in Ukraine</i>	235
<b>Jiří Kohoutek – Štefan Viedenský</b> <i>The Right to a Fair Trial in the Context of Article 36(1) of the Vienna</i>	

<i>Convention on Consular Relations: Analysis of the 'Augustino and Abdulkarim v Tanzania' Judgment by the African Court on Human and Peoples' Rights</i>	250
<b>Jozef Kovács – Nadežda Jankelová</b> <i>The Role of SMEs in Regional Economic Development in Slovakia for Years from 2018-2023</i>	267
<b>Júlia Kromková</b> <i>The Role of Islam in Central Asia's Future (Case Study of Uzbekistan)</i>	275
<b>Rudolf Kucharčík</b> <i>The 2024 French Legislative Elections</i>	290
<b>Radovan Kopál</b> <i>Academic Migration and Its Current Pull and Push Factors (Case Study of the University of Economics in Bratislava)</i>	299
<b>Mykhaylo Kunychka</b> <i>Integration of Ukrainian Refugees in Visegrad Countries: Recent Literature Review</i>	309
<b>Sabina Lacušová</b> <i>The Impact of Foreign Direct Investment on South African Economic Growth and Income Inequality</i>	317
<b>Jana Marková – Vít Rouč</b> <i>Geopolitical Importance of Guyana</i>	326
<b>Boris Mattoš – Michaela Grinaj</b> <i>Science Diplomacy and Examples of Its Application in Slovakia and the Czech Republic</i>	339
<b>Peter Moravec</b> <i>Market Reactions Then and Now: Analyzing Asset Class Performance Across U.S. Presidential Elections with a Focus on 2024</i>	349
<b>Juraj Ondriaš</b> <i>The Decline of French Political and Security Influence in West and Central Africa</i>	363

<b>Tomáš Imrich Profant</b> <i>Césaire, Bauman and Adorno and Horkheimer on the Holocaust</i>	372
<b>Terézia Seresová</b> <i>Migration Discourse in V4 Countries. Case of Poland</i>	379
<b>Christopher Schagerl</b> <i>An Analysis of the Current State of the Economy of Uzbekistan</i>	390
<b>Beáta Stehlíková</b> <i>Modification of the Ueno's Model of Interest Rates</i>	400
<b>František Škvrnda</b> <i>Jiang Qing and Renaissance of the Political Confucianism</i>	408
<b>Iryna Taliian</b> <i>Development of Foreign Trade Activities of Australian Commonwealth and the East Asia Countries</i>	417
<b>Tatiana Tökölyová</b> <i>India's Strategic Role in the Indo-Pacific</i>	427
<b>Anna Turczak</b> <i>Decomposition of GDP per Working-Age Person in European Union Countries: An Application of the Logarithmic Method</i>	441
<b>Martin Winkler</b> <i>Intra-Group Financial Support Agreements in Banking According to Slovak and European Union Law</i>	454
<b>Natália Zagoršeková</b> <i>Changes in African Trade with Selected Partners</i>	473
<b>Tetyana Zubro</b> <i>State Sovereignty in the Context of Globalization</i>	483



# HYDROLOGICAL GOVERNANCE IN SLOVAKIA: MANAGING SURFACE WATER RESOURCES AND ITS ABSTRACTION<sup>1</sup>

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**Abstract:** The paper analyzes surface water abstraction trends in Slovakia between 2018 and 2023, focusing on industrial water usage. The article examines the role of the Slovak Water Management Enterprise in overseeing water resources and highlights the primary industrial water consumers. Findings suggest a general decline in surface water abstraction since the 90s, while currently, Slovakia's surface water usage remains relatively stable. Ongoing efforts to enhance water efficiency are crucial to maintaining sustainable water management practices in the face of growing global demand and climate challenges. This implies that although, in Slovakia, industrial water consumption may vary yearly, it does not indicate an unchecked rise driven by industrial expansion.

**Keywords:** Slovak Republic, water management, Slovak Water Management Enterprise, surface water, industry.

**JEL:** L95, P2, Q25, Q28

## Introduction

The global demand for water resources has steadily increased in recent decades, driven by population growth, industrialization, and the effects of climate change.<sup>2</sup> Surface water sources like rivers and lakes play a crucial role in fulfilling the requirements of multiple sectors, including agriculture, industry, and household use. In various industries, the abstraction of surface water serves multiple essential purposes related to production processes and the operation of industrial facilities. Surface water is frequently utilized for cooling in sectors such as energy – particularly for cooling thermal power plants – as well as in the chemical and petrochemical industries, where it is crucial for reducing the temperature of machinery and equipment. Additionally, water is employed in boilers for steam production, which is necessary for driving turbines. Surface water also plays a vital role in production processes across various fields, including chemistry, food processing, textiles, and metallurgy, where it is needed for cleaning, mixing, chemical reactions, and washing. In agriculture, surface water is essential for irrigating crops and providing drinking water for livestock.

However, the excessive use of these resources and poor management have resulted in considerable challenges. With the rising global demand for water, it is crucial to model how this demand might be distributed between surface water and groundwater sources while also considering the dynamic impacts of extractions and return flows on water availability.<sup>3</sup>

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<sup>1</sup> The paper was published within the Water4All project ID 101060874 under HORIZON-CL6-2021-CLIMATE-01.

<sup>2</sup> VÖRÖSMARTY, C. J. – GREEN, P. – SALISBURY, J. – LAMMERS, R. B. (2000): Global Water Resources: Vulnerability from Climate Change and Population Growth. In: *Science*, 289(5477), pp. 284-288. [online]. [Cited 04. 11. 2024].

<sup>3</sup> DE GRAAF, I. – VAN BEEK, L. – WADA, Y. – BIERKENS, M. (2013): Dynamic attribution of global water demand to surface water and groundwater resources: Effects of abstractions and return flows on river discharges. In: *Advances in Water Resources*, 64, pp. 21-33. [online]. [Cited 05. 11. 2024].

The decline in surface water quality has emerged as a worldwide environmental issue, particularly during the ongoing coronavirus disease (COVID-19), which has not yet been wholly managed.<sup>4</sup> In the coming decades, about two-thirds of the world's population may experience water scarcity. Many countries focus on increasing water supplies, such as developing new infrastructure, desalinating water, recycling wastewater, or recharging aquifers. This approach often outweighs efforts to reduce water demand, like minimizing losses in distribution systems, implementing tariffs to encourage reduced consumption, and improving water efficiency in domestic, industrial, and agricultural practices, ultimately aiming to boost overall water productivity.<sup>5</sup>

Trends in surface water abstraction among European countries vary considerably, influenced by factors such as water resource availability, industrial structures, environmental policies, and the impacts of climate change. The European Union and its Member States increasingly prioritize the sustainable management of surface water resources.<sup>6</sup> It includes efforts to minimize consumption, as well as to enhance the recycling and reuse of water, especially in regions facing water scarcity. The EU Water Framework Directive (2000/60/EC) represents the first systematic approach and underscores these initiatives by establishing goals for protecting and restoring water quality across the Member States.<sup>7</sup> Despite advancements in the EU water policy, significant gaps remain in current water management policies. The European Economic and Social Committee's 2023 opinion on water-intensive industries urges the EU to quickly develop a new water policy that promotes sustainable management by reducing, reusing, and recycling water while minimizing water pollution.<sup>8</sup> It also calls for a roadmap to gradually help industries achieve water efficiency, with specific milestones and a sector-based strategy considering the energy-water-critical raw materials nexus. This approach will necessitate revisions to the EU Industrial Strategy and transition pathway documents, incorporating the unique water challenges of each sector and utilizing foresight methods with impact assessments.<sup>9</sup> Climate change also impacts surface water availability across various European regions, with southern areas such as France, Spain, and Italy experiencing a marked increase in the frequency and severity of droughts.<sup>10</sup> These conditions worsen the challenges industries face in securing adequate water supplies. Moreover, the growing environmental pressures strengthen scrutiny of surface water quality (mainly in sectors such as the chemical and food industries adopting stricter regulations).<sup>11</sup>

Slovakia is renowned for its abundant water resources, featuring an extensive network of rivers, substantial groundwater reserves, and significant surface water systems. This wealth

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<sup>4</sup> CHU, W. – FANG, C. – DENG, Y. – XU, Z. (2020): Intensified disinfection amid COVID-19 pandemic poses potential risks to water quality and safety. In: *Environmental Science & Technology*, 55(7), pp. 4084-4086. [online]. [Cited 05. 11. 2024].

<sup>5</sup> COSGROVE, W. J. – LOUCKS, D. P. (2015): Water management: Current and future challenges and research directions. In: *Water Resources Research*, 51(6), pp. 4823-4839. [online]. [Cited 05. 11. 2024].

<sup>6</sup> TSANI, S. – KOUNDOURI, P. – AKINSETE, E. (2020): Resource management and sustainable development: A review of the European water policies in accordance with the United Nations' Sustainable Development Goals. In: *Environmental Science & Policy*, 114, pp. 570-579. [online]. [Cited 06. 11. 2024].

<sup>7</sup> BRACK, W. – DULIO, V. – ÅGERSTRAND et al. (2016): Towards the review of the European Union Water Framework Directive: Recommendations for more efficient assessment and management of chemical contamination in European surface water resources. In: *The Science of the Total Environment*, pp. 576, 720-737. [online]. [Cited 06. 11. 2024].

<sup>8</sup> EUROPEAN ECONOMIC AND SOCIAL COMMITTEE (2024): *Water-intensive industries and water-efficient technologies*. [online]. [Cited 06. 11. 2024].

<sup>9</sup> Ibid.

<sup>10</sup> TORETI, A. – BAVERA, D. – ACOSTA et al. (2023): Drought in the western Mediterranean - May 2023. In: *JRC Publications Repository*. [online]. [Cited 07. 11. 2024].

<sup>11</sup> NADIR, H. M. – AHMED, A. (2023): The Critical Review of the Performance of the EU Water Framework Directive in Improving the Rivers' Water Quality and the Impediments in its Implementation. In: *Novel Research in Science*, 14(4), pp. 1-7. [online]. [Cited 07. 11. 2024].

results from the country's diverse geography, which includes mountain ranges, valleys, and numerous basins. Slovakia's central position in Europe and its humid continental climate contribute to a well-distributed hydrological system. Hydroelectric power plants serve as a central application of Slovakia's water resources, with numerous dams and waterworks supporting renewable energy production. Nevertheless, despite its rich water supply, Slovakia faces challenges such as pollution from industrial and agricultural sources, the impacts of climate change, increasing droughts during the growing season, and the urgent need for modernized infrastructure. Climate change significantly impacts various domains, leading to more frequent extreme weather events like droughts, floods, and changes in water runoff patterns. These alterations affect groundwater recharge and disrupt ecosystem stability, impairing their water retention and runoff management capabilities.<sup>12</sup> Slovakia is witnessing a gradual change in its hydrological regime, with water scarcity becoming most pronounced during the growing season.<sup>13</sup> This shift is a clear indicator of the country's changing climate patterns, highlighting the vulnerability of water resources during critical agricultural periods.

The article's primary objective is to analyze the framework of water management in the Slovak Republic, such as the SWME, and to analyze the trends in surface water abstraction in Slovakia. This analysis will identify key factors influencing water consumption by different sectors, with a particular emphasis on industrial usage. The central research question of this paper is: How have surface water abstraction patterns in Slovakia evolved between 2018 and 2023 across various sectors, including industrial, agricultural, and drinking water production? Our article employs a descriptive statistical research approach, primarily utilizing secondary data analysis. The data is sourced from the annual reports of the SWME and other relevant documents from the Ministry of Environment and the Water Research Institute.

## **1 The Slovak Water Management Enterprise**

At the level of state administration bodies, the area of water management pertains to the competence of the Ministry of Environment of the Slovak Republic, which has overall responsibility for water matters. The Slovak water management model, relatively centralized, differs, for example, from water management in the Czech Republic, where the portfolio of water policy is divided between several departments, with the main competencies falling under the Ministry of the Environment and the Ministry of Agriculture. In Slovakia, natural resources, groundwater, natural medicinal springs, and waterways are the property of the Slovak Republic, according to the Constitution of the Slovak Republic.<sup>14</sup>

The Slovak Water Management Enterprise (SWME) is a state enterprise established on December 19, 1996, under Act No. 111/1990 Coll. on State Enterprises, as amended. The SWME is tasked with maintaining and developing Slovakia's major watercourses, water structures, and river basins across Slovakia, in line with national and EU water management policies. Officially operational since July 1, 1997, SWME became the legal successor to former state-owned river basin enterprises, inheriting their assets, rights, and responsibilities. These entities were integrated as independent organizational units with specific delegated powers. The Enterprise's structure aligns with Slovakia's natural hydrological river basins.<sup>15</sup>

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<sup>12</sup> MINISTERSTVO ŽIVOTNÉHO PROSTREDIA SR (2022): *Koncepcia vodnej politiky Slovenskej republiky do roku 2030 s výhľadom do roku 2050*, p. 8. [online]. [Cited 07. 11. 2024].

<sup>13</sup> TASR (2024): SHMÚ: Najsuchší mesiac v roku bol august, september ovplyvnili povodne. In: *TERAZ.sk*. [online]. [Cited 08. 11. 2024].

<sup>14</sup> *Constitution of the Slovak Republic*, Article 4. (1992). [online]. [Cited 08. 11. 2024].

<sup>15</sup> SLOVENSKÝ VODOHOSPODÁRSKY PODNIK (2023): *Výročná správa 2023*, p. 6. [online]. [Cited 08. 11. 2024].

Firstly, the SWME operated under the Ministry of Agriculture of the Slovak Republic. Since 2003, it has passed to the Ministry of Environment. The SWME manages property that is exclusively owned by the Slovak Republic. In addition to the SWME, the management of small watercourses is carried out by state forestry organizations, including Forests of the Slovak Republic (Banská Bystrica), Forest and Agricultural Property Ulič, Military Forests and Property of the Slovak Republic (Pliešovce), and the National Forests of Tatra National Park. However, only 1% of the total length of small watercourses is managed by other entities, while 7% remain without an assigned administrator.<sup>16</sup> Facilities such as water supply and sewer systems are managed by water utility companies, municipal authorities, and other relevant entities.<sup>17</sup>

The main activity of the SWME is the management and protection of water resources and hydro-ecological activities in river basins, which include management of watercourses, waterworks, and their functions, protection of waters, development, and maintenance of waterways and navigation conditions, flood protection and fulfillment of tasks arising from flood plans, construction and maintenance work, monitoring and evaluating water quality and collecting fees for surface and groundwater abstraction and the fees for wastewater discharge into surface waters. It also deals with fisheries management and crisis management.<sup>18</sup>

The SWME is obliged to comply with the Water Act, which was created following the EU Water Framework Directive. In connection with the implementation of the EU Water Framework Directive in the conditions of the Slovak Republic, with effect from 1 May 2004, an organizational change was made to the Enterprise:

a) the branch plants in the Danube River Basin in Bratislava, Váh River Basin in Piešťany, Hron River Basin in Banská Bystrica, and Bodrog and Hornád River Basin in Košice were abolished, and new branch plants in OZ Bratislava, OZ Piešťany, OZ Banská Bystrica and OZ Košice were established,

b) instead of the so-called territorial branches, the Danube Bratislava plant, the Gabčíkovo Waterworks plant, and the river basin administrations were established, whose scope is aligned with the partial river basins and designated river basin areas in the Slovak Republic.<sup>19</sup> In connection with the comprehensive organizational reform of the Enterprise in 2022:

a) Effective February 1, 2022, the names of the previous branches were changed, two new branches were established, and their territorial scope was redefined. Following this restructuring, the following branches were registered in the Commercial Register:

- Danube River Basin, branch headquartered in Bratislava
- Lower Váh River Basin, branch headquartered in Piešťany
- Upper Váh River Basin, branch headquartered in Ružomberok
- Hron River Basin, branch headquartered in Banská Bystrica
- Hornád River Basin, branch headquartered in Košice
- Bodrog River Basin, branch headquartered in Trebišov.

b) Effective November 1, 2022, the branches and river basin administrations were dissolved, and 31 operational centers were established in their place.<sup>20</sup>

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<sup>16</sup> MINISTERSTVO ŽIVOTNÉHO PROSTREDIA SR (2021): *Vodné hospodárstvo v Slovenskej republike v roku 2021*, p. 3. [online]. [Cited 08. 11. 2024].

<sup>17</sup> *Ibid.*, p. 4.

<sup>18</sup> MINISTERSTVO ŽIVOTNÉHO PROSTREDIA SR (2007): *Rozhodnutie ministra životného prostredia Slovenskej republiky z 24. apríla 2007 č. 25/2007-6.3.* [online]. [Cited 09. 11. 2024].

<sup>19</sup> SLOVENSKÝ VODOHOSPODÁRSKY PODNIK (2023): *Výročná správa 2023*, p. 7. [online]. [Cited 08. 11. 2024].

<sup>20</sup> SLOVENSKÝ VODOHOSPODÁRSKY PODNIK (2023): *Výročná správa 2023*, p. 7. [online]. [Cited 08. 11. 2024].

## 2 Surface water abstraction in Slovakia

The utilization of surface water refers to the volume of surface water withdrawn according to user categories. In Slovakia, surface water is predominantly used for hydroenergetic potential, irrigation systems, waterways, utility water supply, drinking water production and specialized fish farming. This article focuses exclusively on the utility water supply, specifically dealing with surface water abstraction. In our analysis, we based our research on the SWME's annual reports and other analytical materials from the Ministry of Environment or the Water Research Institute.

Surface water abstractions have experienced a significant decline since 1995, despite minimal year-on-year increases and decreases. The water resource indicators have improved significantly, with surface water abstractions declining to 61.2% of 1995 levels and 58.2% of 2000 levels by 2013, decreasing by 5.9% annually.<sup>21</sup> In 2018, abstractions decreased by 71% compared to 1995 and by 56.0% compared to 2005. Year-on-year (2017–2018), abstractions declined by 4.0%.<sup>22</sup> Between 2013 and 2018, there were considerable shifts in surface water abstractions, particularly concerning energy-related abstractions, which encompass abstractions for small hydroelectric facilities, representing nearly 90% of the total. An important aspect of these abstractions is that the water usually returns to the stream after hydropower use.<sup>23</sup>

**Table 1: Deliveries of Surface Water to Various Sectors and Selected Users for 2018–2023 (in thousands of cubic meters)**

Indicator	2018	2019	2020	2021	2022	2023
Total surface water deliveries	239,852	238,678	236,898	240,273	240,033	279,863
<b>Of which:</b>						
Drinking water production	44,747	45,336	48,746	47,781	50,066	49,545
Total for industry	182,663	179,773	174,726	179,346	172,273	219,578
For food industry	844	852	896	879	890	650
For irrigation	11,038	12,467	12,400	12,122	16,518	9,721
Other uses	290	250	131	145	286	369

Source: Annual Reports of the Slovak Water Management Enterprise (2018–2023)

In 2023, revenue from surface water abstraction reached 36,236 euros, marking a 29.62% increase (8,280 euros) over 2022, when it was 27,956 euros.<sup>24</sup> The supply of surface water to various sectors and selected consumers between 2018 and 2023 has shown the following trends.

According to the SWME Annual Report, the most significant consumers of surface water in Slovakia are the following companies:

- Slovnaft, a.s. Bratislava (Dunaj River Basin): Slovnaft is a major petrochemical company in Slovakia and one of the important refineries in Central Europe. It uses surface water extensively for cooling processes and other industrial operations related to refining crude oil and producing fuels and chemicals.

<sup>21</sup> JANAS, K. – KUCHARČÍK, R. (2015): Water Management and Water Supply in the Slovak Republic at the Regional Level. In: *SGEM 2015. Volume 2: 15th International Multidisciplinary Scientific Geoconference, 18-24 June, 2015, Albena, Bulgaria*. Sofia: STEF92 Technology, 2015, p. 521-527. ISBN 978-619-7105-40-7. ISSN 1314-2704.

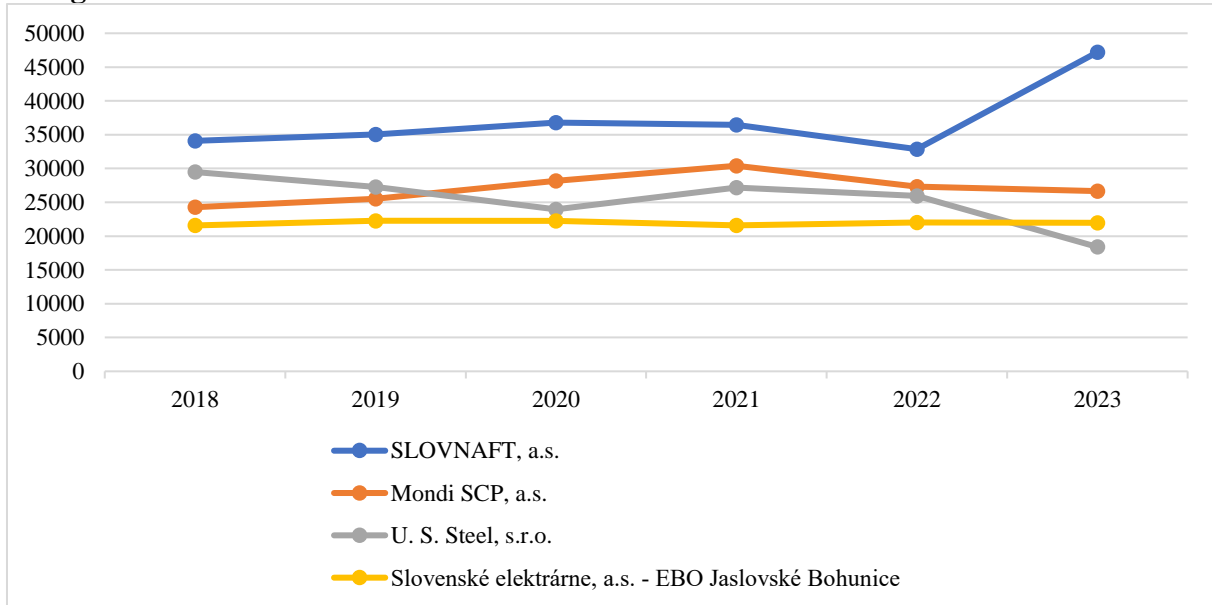
<sup>22</sup> DRDÚLOVÁ, E. (2020): *Aktualizácia ekonomickej analýzy využívania vody podľa čl. 5 RSV pre 3. cyklus plánov manažmentu povodí (2022-2027)*, p. 7. [online]. [Cited 08. 11. 2024].

<sup>23</sup> Ibid., p. 108.

<sup>24</sup> SLOVENSKÝ VODOHOSPODÁRSKY PODNIK (2023): *Výročná správa 2023*, p. 13. [online]. [Cited 08. 11. 2024].

- U.S. Steel Košice (Hornád River Basin): This steel production giant is one of the largest employers in eastern Slovakia. Its operations require significant amounts of surface water, primarily for cooling and other processes involved in steel manufacturing.
- Mondi SCP, a.s. Ružomberok (Váh River Basin): Mondi SCP is Slovakia’s major paper and pulp producer. It depends on surface water for various production stages, including paper processing and maintaining environmental standards in wastewater management.
- EBO Jaslovské Bohunice (Váh River Basin): This nuclear power plant, part of the Slovak energy infrastructure, relies on surface water for cooling its reactors and ensuring the safe and efficient operation of its systems.<sup>25</sup>

**Figure 1: Surface water abstraction in thousands of cubic meters from 2018 to 2023**



Source: Annual Reports of the Slovak Water Management Enterprise (2018–2023)

The data indicates a varied trend in surface water abstraction across those companies from 2018 to 2023: SLOVNAFT, a.s. significantly increased the abstraction of surface water in 2023, reaching 47,196 thousand m<sup>3</sup>, a noticeable rise from 32,858 thousand m<sup>3</sup> in 2022. Mondi SCP, a.s. marks a gradual decrease in surface water abstraction, with a decline from 30,404 thousand m<sup>3</sup> in 2021 to 26,680 thousand m<sup>3</sup> in 2023. In the case of the U. S. Steel, s.r.o., there is a noticeable drop in abstraction from 2020, where it was 23,944 thousand m<sup>3</sup>, to 18,400 thousand m<sup>3</sup> in 2023, showing a clear downward trend. Slovenské elektrárne, a.s. - EBO Jaslovské Bohunice represents relatively stable levels of surface water abstraction over the years, with only minor fluctuations between 21,579 thousand m<sup>3</sup> in 2018 and 21,983 thousand m<sup>3</sup> in 2023. In summary, while Slovnaft shows a significant increase in water usage in 2023, U.S. Steel exhibits a notable reduction in surface water abstraction, and Mondi SCP continues to decrease its water use. Slovenské elektrárne demonstrates stability in their consumption.

### Conclusion

The article’s primary objective was to analyze Slovakia’s water management framework, particularly the role of the Slovak Water Management Enterprise. We also aimed to explore trends in surface water abstraction across different sectors, with a particular emphasis on industrial surface water usage. Ultimately, our paper emphasizes that while Slovakia has

<sup>25</sup> Ibid., p. 13.

experienced a general decline in surface water abstraction since 1995, driven by efficiency improvements and environmental measures, industrial demands and sector-specific needs will continue to play a major role in shaping future water usage patterns. From a broader perspective, surface water abstraction in Slovakia appears to be relatively stable in the medium term, indicating a balanced management approach to water resources. Currently, Slovakia's largest surface water consumers within the industrial sector are Slovnaft, a.s., U.S. Steel Košice, Mondi SCP, a.s., and Slovenské elektrárne, a.s. - EBO Jaslovské Bohunice, with each relying on surface water for cooling, manufacturing processes, and energy production in their respective sectors.

Regarding our research question, "How have surface water abstraction patterns in Slovakia evolved between 2018 and 2023 across various sectors, including industrial, agricultural, and drinking water production?" the analysis suggests several observations. Firstly, the increasing demand for water in industrial processes, particularly in petrochemical sectors, can be attributed to the growing energy needs and changes in production volumes. On the other hand, the gradual decline in water usage by some companies, such as Mondi SCP and U.S. Steel, can reflect efforts to improve water efficiency, implement water recycling technologies, and adapt to stricter environmental standards. In terms of drinking water, irrigation, and agriculture, water consumption has fluctuated, with some years seeing an increase in demand due to climatic conditions, while a reduction has marked other years.

It cannot be asserted that Slovakia has experienced vigorous industrialization, which would lead to an excessive increase in surface water abstraction in recent years. Year-on-year fluctuations in water usage are more likely to be linked to moderate changes in production levels and current demand. These variations are often influenced by specific factors such as economic activity, seasonal requirements, or temporary operational needs. This suggests that while water consumption in industry may fluctuate, it does not reflect an uncontrolled increase driven by industrial growth. In this regard, Slovakia represents a relatively sustainable example of surface water management both within the European Union and globally.

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# ECONOMIC COSTS OF FLOODS IN SLOVAKIA<sup>1</sup>

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**Abstract:** The paper deals with economic costs of floods in Slovakia. It explains the concept of flood from a theoretical point of view. In the next section, it offers a historical overview of floods in Slovakia during the last 20 years focusing on crucial flood areas and calculating the cost of damage. Moreover, it emphasises the flood protection in context of sustainable management and health protection. As a conclusion, it emphasises the complexity of the issue and the need for functioning flood protection to be able to protect the property and, most important, human lives.

**Keywords:** flood, Slovakia, economic costs

**JEL:** Q25, Q54

## Introduction

Floods are world's most pervasive natural disasters. They can cause injury and loss of life, leading to significant economic costs and damage the environment and cultural heritage. In Europe, serious floods occur regularly. The economic costs associated with hydrological phenomena in the entire EU represented in the period 1980 – 2017 approximately 166 billion EUR.<sup>2</sup> As a result of the changing climate, more and more geographical areas are experiencing stronger torrential rains, storms and rising river and sea levels. It was the sharp rise in river levels that proved to be a critical factor in the occurrence of floods in Slovakia. Only weeks ago, several areas in western Slovakia faced critical floods caused by the high level of the Danube River. If the river system does not have sufficient capacity to drain water to compensate with the volume of water due to rainfall, it can result in river floods. On large rivers such as Danube, Rhine or Elbe, floods can occur long after rainfall and can last for months.<sup>3</sup> We are currently seeing this situation in Bratislava as well. Dealing with the consequences of floods has an economic, social and political costs. In the presented conference paper, we will focus on the analysis of the economic costs of floods in the territory of the Slovak Republic. We will focus on the evaluation of data for the last 21 years, namely from 2002 to 2023.

## 1 Flood as natural disaster

Flood can be defined as the “temporary flooding of land that is not normally covered by water.”<sup>4</sup> A flood is a natural process during which water temporarily inundates a normally

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<sup>2</sup> EURÓPSKY DVOR AUDÍTOROV (2018): *Osobitná správa Smernica o povodniach: dosiahol sa pokrok pri posudzovaní rizík, je však potrebné zlepšiť plánovanie a vykonávanie*. [online]. [Cited 24. 10. 2024].

<sup>3</sup> EUR-LEX (2024): *SEC (2006) 66 of 18.1.2006*, working document of the Commission services - annex to the draft of Directive of the European Parliament and the Council on the evaluation of floods and anti-flood measures - Impact assessment - COM(2006) 15 final, p. 8. [online]. [Cited 24. 10. 2024].

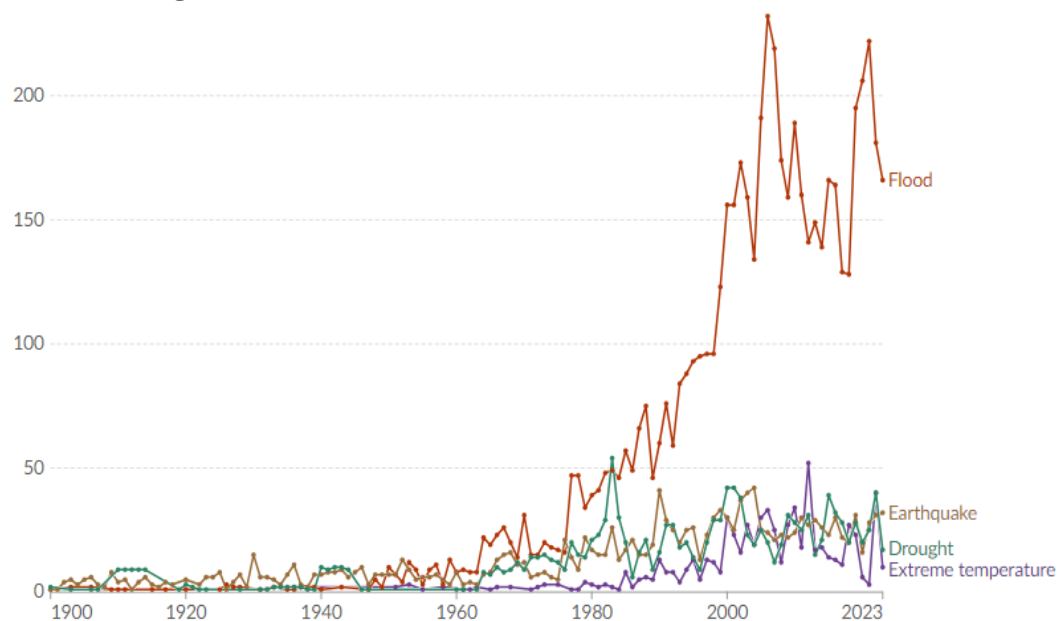
<sup>4</sup> EUR-LEX (2024): *Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks*. Off. J. Eur. Union Eur. Commun. 2007, 288, pp. 27-34. [online]. [Cited 25. 10. 2024].

unflooded area. According to the Ministry of Environment in Slovakia, a flood occurs when water inundates a normally undrained area as a result of:

- increasing the flow of water in the stream,
- the formation of obstacles in the stream bed or on objects crossing the stream, which limit the smooth flow of water, cause it to swell and spill out of the bed,
- prolonged or intense precipitation or snow melting,
- surface water runoff from precipitation or melting snow flowing into the territory from adjacent areas,
- rise of the groundwater level above the surface of the terrain as a result of a long-lasting above-average water level in the water course.<sup>5</sup>

As visible in the Figure 1, floods are the world's most numerous climate disaster.

**Figure 1: Number of selected recorded natural disaster events**



Source: EM-DAT, CRED / UCLouvain (2024). Data includes disasters recorded up to April 2024.

Changes in precipitation patterns under climate change conditions are expected to increase the intensity and frequency of flood events in many regions.<sup>67</sup> Global floods and extreme rainfall events have surged by more than 50% this decade, and are now occurring at a rate four times higher than in 1980.<sup>8</sup> Floods may have an impact on water availability, sanitation and other facets of human livelihoods through damage to key infrastructure and services. Along with droughts, floods are the main cause of death associated with climate change.

According to Bailey, Saffioti and Drall (2021), the risk of flooding is increasing worldwide.<sup>9</sup> This flood risk is result of three factors. The first is exposure. Exposure is constantly increasing because the population of the earth is increasing, which means that the number of settlements is also increasing. They are also located near water bodies.

<sup>5</sup> MINISTERSTVO ŽIVOTNÉHO PROSTREDIA SR (2024): *Povodne – úvod*. [online]. [Cited 26. 10. 2024].

<sup>6</sup> ASADIEH, B. – KRAKAUER, N. Y. (2017): Global change in streamflow extremes under climate change over the 21st century. *Hydrology and Earth System Sciences*. 21. pp. 5863-5874.

<sup>7</sup> HIRABAYASHI, Y. et.al. (2013): Global flood risk under climate change. *Nature Climate Change*, 3, pp. 816-821.

<sup>8</sup> KONCAGÜL, E. – TRAN, M. – CONNOR, R. (2020): *The United Nations world water development report 2020: water and climate change, facts and figures*. [online]. [Cited 04. 11. 2024].

<sup>9</sup> BAILEY, R. – SAFFIOTI, C. – DRALL, S. (2021): Sunk costs: *The socioeconomic impacts of flooding*. [online]. [Cited 04. 11. 2024].

Another factor is hazard. Hazard depends on natural variability climate change and Flood-control infrastructure.

## 2 Floods in Slovakia

Unfortunately, floods are an integral part of river life. They are not exceptional in Slovakia; they occurred in the past and occur regularly. The first flood that was documented in Bratislava was the one from 1899.<sup>10</sup> If we map the period of the last 20 years, serious floods have occurred in Slovakia several times. The year 2002 is especially characterized by extraordinary occurrences of flood situations. Floods occurred in the Danube, Váh, Hron, Bodrog and Hornád basins. In August 2002, Bratislava announced III. degree of flood activity. Since then, water level constantly rose, which worsened the critical situation. Anti-flood measures were prepared for a level reaching 1050 cm, the Danube finally culminated at 990 cm. During a critical flood situation on the Danube, and thus in the reverse swells of the Morava and Váh streams, the local part of Devínska Nová Ves was flooded, namely 78 family houses and 590 ha of land, and in the local part of Devín there was flooding of 29 family houses, 105 cottages and 48 ha of land. In other areas along the Danube, there was only waterlogging of agricultural land and gardens.<sup>11</sup> During the period of 2002, a total of 156 municipalities were affected by floods.

In 2003, the significant warming in January and the combination of melting snow and rising water levels contributed to the flood threats. This year, however, a significant flood was not recorded, the consequences of the rise were rather only local leaks.<sup>12</sup>

In the period January - August 2004, compared to the previous year, flood activity in Slovakia again increased significantly. There were local floods caused by the sudden thaws and in the summer by intense storm activity. The largest extent of consequences, more than 95% of the costs and damages for the period January-August 2004, was caused by large-scale floods in eastern Slovakia in July and August 2004.<sup>13</sup> In total, during the floods in the Slovak Republic in the period January - August 2004, 333 villages and towns were affected, in which 5,418 residential houses were flooded. Roads, railway lines, and sidewalks were destroyed. In 2005, only a few minor local flood situations occurred, at least on the rivers Nitra, Žitava, Bebrava, Krupinica, Štiavnica.<sup>14</sup>

At the beginning of 2006, the freezing weather caused the rivers' level to be low, and there was a real danger of an ice flood. As a result of continuous freezing of the water level, international navigation on the Danube in the section Komárno - Bratislava was also stopped for 27 days. The occurrence of floods at the beginning of the spring period was again related to the melting of snow. Flood situations arose on watercourses of almost the whole of Slovakia. The highest water levels in the modern history of observation, reached in the lower section of the Morava River, were the cause of a dangerous flood situation, which arose as a result of swelling of the Rudava river level near the villages of Malé Leváre and Gajary. There was

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<sup>10</sup> PIŠŮT, P. (2011): Dunajská povodeň roku 1787 a Bratislava. In: *Geografický časopis*, 63, (2011), 1, pp. 87-109. [online]. [Cited 04. 11. 2024].

<sup>11</sup> MINISTERSTVO ŽIVOTNÉHO PROSTREDIA SR (2002): *Správa o povodniach na vodných tokoch v Slovenskej republike v roku 2002*. [online]. [Cited 04. 11. 2024].

<sup>12</sup> MINISTERSTVO ŽIVOTNÉHO PROSTREDIA SR (2003): *Správa o povodniach na vodných tokoch v Slovenskej republike v roku 2003*. [online]. [Cited 04. 11. 2024].

<sup>13</sup> MINISTERSTVO ŽIVOTNÉHO PROSTREDIA SR (2004): *Správa o priebehu a následkoch povodní na území Slovenskej republiky v období január - august 2004*. [online]. [Cited 04. 11. 2024].

<sup>14</sup> MINISTERSTVO ŽIVOTNÉHO PROSTREDIA SR (2005): *Správa o priebehu a následkoch povodní na území Slovenskej republiky v období október - december 2005*. [online]. [Cited 04. 11. 2024].

a threat of both sides overflowing and breaking the dams and flooding a large part of Záhorská lowland. Thanks to prompt, quick and flexible measures, this situation was prevented in time.<sup>15</sup>

In 2007, several flood situations occurred on the Morava River and local streams in eastern Slovakia. The floods were largely caused by torrential rains.<sup>16</sup> However, the situation can be assessed as calmer compared to the previous year. The year 2008 brought another worsening of the situation. The basins of Topľa, Ondava, Torysa, Hnilec and Poprad, in the districts of Bardejov, Svidník, Stropkov, Prešov, Sabinov, Kežmarok and Stará Ľubovňa were the most affected. The most critical situation arose in the Topľa basin. Floods caused a lot of damage to property, houses, roads.

The year 2009 was relatively dramatic in terms of floods. These were caused by intense rainfall and occurred in two main waves, with the first wave of floods at the beginning of June affecting the western part and the second wave mainly the north and east of Slovakia. Part of the second wave of floods in June 2009 is also the flood in the Danube, the origin of which, unlike the floods in the north and east of Slovakia, was relatively far from the territory of the Slovak Republic.

The floods in 2010 in the Slovak Republic were unprecedented. According to the summary report of the Ministry of the Environment, until then there had not been a single year in which flood activity was for 206 days in 8 months (85% the entire period), while the floods affected practically the entire territory of Slovakia.<sup>17</sup> In the winter months of the year, eastern Slovakia was mainly affected, in the spring months it was central and western Slovakia. In the spring of 2010, the floods were caused by extreme precipitation activity and therefore by the total amount of precipitation.

The year 2011 was included among the so-called dry years. There was a precipitation deficit in all regions of Slovakia. Despite this, however, significant hydrological events occurred in the form of flash floods on the streams of the Little Carpathians and on the Orava. As for the year 2012 itself, the occurrence of days with a threat of flooding was concentrated in the months of February and March. In February, it was mainly ice – barrier floods in the upper Váh basin. Some floods from melting snow and rain occurred in the winter period in the Morava, Nitra and Bodrog basins.

The year 2013 was characterized by a record flood on the Danube. The river level started to rise after the heavy rains that formed in Germany at the end of May.<sup>18</sup> The flood wave advanced along the entire Slovak section of the Danube as far as Štúrovo, while in the middle and lower sections it was also manifested by record water levels. The values of recorded culminating flows in Devín and Bratislava correspond to 50-100 annual flow, in Komárno to 100 annual maximum flow, and culminating flows in Medveďov and Štúrov were higher than the value of 100 annual flow. As a result of the high level of the Danube, streams such as the Morava, later the Váh and the Nitra, also began to rise. During this period, floods affected all of Europe and caused loss of life. The Danube culminated at a level of 1032 cm. The last flood in 2013 occurred in Slovakia on August 28<sup>th</sup> in the afternoon in the village of Veľký Biel (Senec district) and its cause was the intense rain that caused it extremely intense surface runoff from the area of the logistics center near the northeast the edge of the village. This event was followed by 201 days, during which on the territory of Slovakia there was not a single flood

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<sup>15</sup> MINISTERSTVO ŽIVOTNÉHO PROSTREDIA SR (2006): *Správa o priebehu a následkoch povodní na území Slovenskej republiky v období január - apríl 2006*. [online]. [Cited 04. 11. 2024].

<sup>16</sup> MINISTERSTVO ŽIVOTNÉHO PROSTREDIA SR (2007): *Správa o priebehu a následkoch povodní na území Slovenskej republiky v roku 2007*. [online]. [Cited 04. 11. 2024].

<sup>17</sup> MINISTERSTVO ŽIVOTNÉHO PROSTREDIA SR (2010): *Správa o priebehu a následkoch povodní na území Slovenskej republiky v období január - august 2010*. [online]. [Cited 04. 11. 2024].

<sup>18</sup> SHMU (2013): *Povodeň na Dunaji v júni 2013*. [online]. [Cited 24. 10. 2024].

in the Republic. The occurrence of floods in 2014 was related to precipitation activity. The areas of the Hornád, Váh and Nitra rivers were affected.

The year 2015 was not characterized by significant flood events. There was no single flood state was declared for Danube during the whole year. Even in 2016, the situation was stable and brought only local flood situations. The interesting thing in 2017 was the occurrence of ice phenomena in the stations on the Slovak section of the Danube, which last occurred in February 2012 in the form of ice chips and ice near the shore in almost all profiles of the Danube hydroprognostic stations.<sup>19</sup> In 2018-2019, the trend of local floods caused by meteorological conditions persisted, especially snowmelt in the winter months and storm activity in the summer months. A number of negative interventions were found that exacerbated the damage caused by floods. It was primarily an inappropriate agricultural activity near the streams, which caused silting and pollution of the waters during floods. The years 2020-2023 were marked by the corona crisis. Although there were no more significant flood situations in Slovakia, the implementation of remediation of local floods was made difficult due to anti-pandemic measures. Flooding situations were mostly caused by local surges of water from rainfall.

In September of the current year 2024, precipitation continued for several days not only on the territory of Slovakia, but also in Austria and Germany. The level of the Danube began to rise sharply, which culminated above the level of 950 cm in Bratislava, thus surpassing the so-called 30-year water.<sup>20</sup> Although in Bratislava, several parts were flooded (around Tyršovo nábrežie, Danube promenade, Devínska Nová Ves) the situation in the Czech Republic and Austria was more dramatic and claimed lives.

**Picture 1: Floods in Bratislava, September 2024**



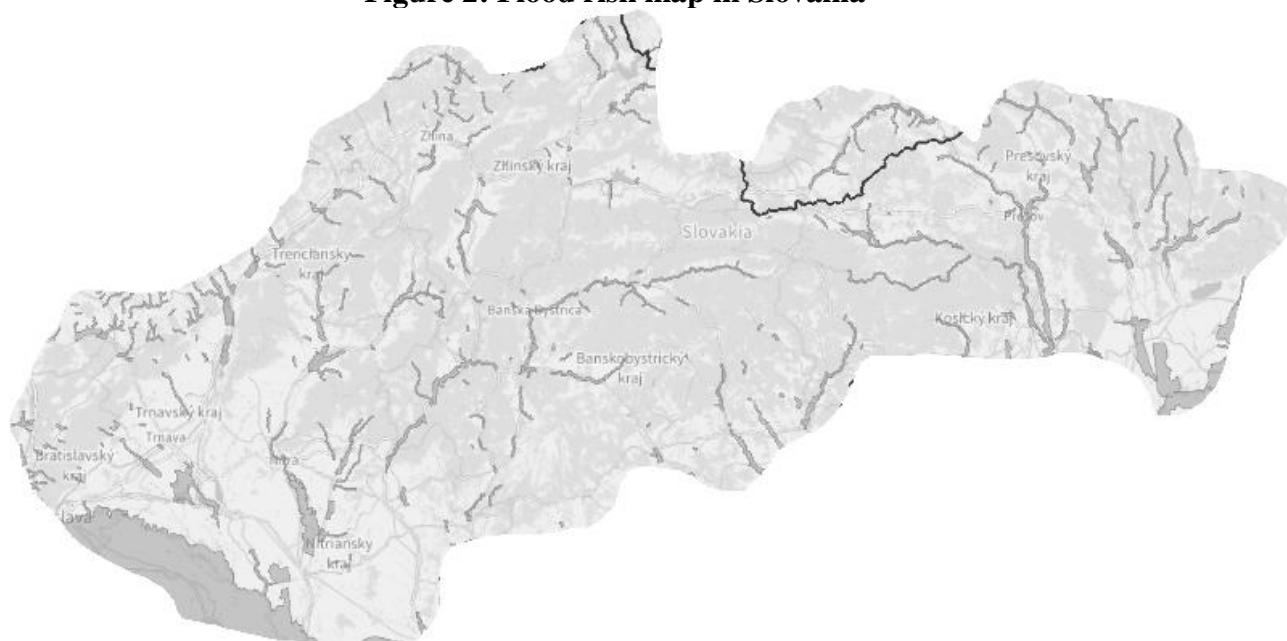
Source: Pravda.sk

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<sup>19</sup> SHMU (2018): Správa o povodniach za rok 2017. [online]. [Cited 24. 10. 2024].

<sup>20</sup> iMETEO.sk (2024): *Dunaj v Bratislave pôjde ešte vyššie a prekoná 950 cm. Dosiahne 30-ročnú povodeň.* [online]. [Cited 23. 10. 2024].

**Figure 2: Flood risk map in Slovakia**



Source: Flood Risk Areas Viewer

As we can see in Figure 2 above, the darker gray areas show a higher flood risk. In Slovakia, such risk areas include the Danube Plain, because Danube River affects the subsoil in the whole area. Other areas of risk are the Váh, Dunajec, Hron, Hornád river basins. Frequent floods also occur on smaller water bodies, for example in eastern Slovakia, where Bodrog, Topľa, Torysa are often problematic.

### 3 Economic costs of flood in Slovakia

Table 1 presents the overview of the flood situation in Slovakia in the period of 2002 – 2023. The worst year in terms of floods in Slovakia during the last decade was 2010. Damages in that year reached EUR 480,851,663. Floods affected more than 33 thousand inhabitants. The water flooded almost 28,000 residential and 7,000 non-residential buildings, over 97 thousand hectares of territory, of which approximately 7 thousand hectares are in the urban areas of the municipalities and caused extraordinary major flood damage.<sup>21</sup> The destructiveness of the floods also consisted in the fact that they affected practically the entire territory of the country. In western Slovakia, floods occurred on the Danube and Moravia, or Váh. In central Slovakia, the Hron with its tributaries was problematic, and in eastern Slovakia, in addition to the Hornád, there were also smaller streams such as Bodrog, Torysa, Topľa.

**Table 1: Overview of the flood situation in Slovakia 2002-2023**

Year	Flood occurrence (number of days)	Localities	Damage costs EUR
2002	83	Danube, Váh, Hron, Bodrog, Hornád	54 235 644
2003	42	Danube, Morava, Váh	1 785 501
2004	111	Hron with tributaries, Nitra with tributaries, Morava, Váha, Torysa, Ondava and tributaries	39 566 255
2005	122	Nitra, Žitava, Bebrava, Krupinica, Štiavnica	28 956 350

<sup>21</sup> MINISTERSTVO ŽIVOTNÉHO PROSTREDIA SR (2011): *Analýza stavu protipovodňovej ochrany na území Slovenskej republiky*. [online]. [Cited 05. 11. 2024].

2006	103	Morava, Danube, Váh Bodrog, Hornád and Bodva	92 080 562
2007	79	Morava, Latorica, Bodrog	4 170 683
2008	67	Topla, Ondava, Torysa, Hnilec and Poprad	45 856 3030
2009	72	Morava, Danube, Váh, Hron, Hornád	11 328 989
2010	206	entire territory	480 851 663
2011	49	Small Carpathians, Orava	20 017 255
2012	62	Bodrog, Váh, Morava	2 435 268
2013	153	Hornád, Bodrog, Váh, Danube	13 460 597
2014	96	Hornád, Váh, Nitra	36 958 657
2015	47	Hornád, Váh, Nitra	1 141 062
2016	93	local floods	1 201 732
2017	115	local floods	7 288 872
2018	172	local floods	4 847 073
2019	136	Danube, Dunajec, Morava, Váh, Bodrog, Hornád	2 362 835
2020	150	Váh, Bodrog	3 531 316
2021	122	Bodrog, Hornád, Morava	3 816 209
2022	79	local floods	416 000
2023	89	local floods	1 906 355
Summary	2248		1 270 921 908

Source: own data processing from the summary reports of the Ministry of the Environment

According to economic theory, the cost of floods is a utility loss from the event.<sup>22</sup> The total costs of floods in Slovakia in the period of 2002 – 2023 amounted to 1 270 921 908 EUR. These are the cost of physical damage to residential, commercial, and government or municipal buildings; material assets within a building; time element losses like business interruption; damages to vehicles; offshore energy platforms, electrical infrastructure, military bases; broken public infrastructure like roads, bridges, levees, buildings; damages of agricultural assets like crops, livestock, and timber. Moreover, loss assessments do not take into account losses to natural capital or assets, health care related losses, or values associated with loss of life. This greatly increases the total cost of flood damage remediation.

Because floods damage property, infrastructure and energy supplies, they also negatively affect business activities. There are either interruptions in production or outages in the distribution chain. A lot of power infrastructure is located in areas directly threatened by floods, because they use the proximity of water to cool the heat generated during energy production. Floods also negatively affect food security, particularly in vulnerable countries. According to UN Food and Agriculture Organization floods are the source of almost two-thirds of all damages and losses of crops.<sup>23</sup> In addition to the direct loss of life, another dimension of the threat to health is the contamination of flooded areas with dangerous pathogens such as typhoid, cholera, leptospirosis, and hepatitis A.

The costs of floods are difficult to quantify and often difficult to recover. A number of insurance companies distinguish between floods and deluges according to the source –

<sup>22</sup> LEE, S. et. al. (2024): *Beyond Asset Losses: Estimating the Economic Cost of Floods*. [online]. [Cited 05. 11. 2024].

<sup>23</sup> FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (2017): *The impact of disasters and crises on agriculture and food security*. Based on data for 2006 to 2016. [online]. [Cited 07. 11. 2024].



whether it is rainfall activity that causes substations of flows or swelling of the lower surface or waterlogging. In such cases, damages are often not covered by insurance premiums. Another disadvantage in Slovakia is that the flood map shows a number of areas throughout the country, while insurance companies usually do not insure property located in such an area.

After the consequences of the devastating flood in 2010, the Government of the Slovak Republic commissioned the preparation of material on the state of flood protection in the country. The legal regulation of flood risk management in the Slovak Republic is based on transposition of European Parliament and Council Directive 2007/60/EC. The legal framework for flood risk management is based on Act No. 7/2010 Coll., Act of the National Council of the Slovak Republic no. 42/1994 Coll. on civil protection of the population and relevant generally binding legal regulations. Flood prevention means taking into account possible flood risk while spatial planning and construction processes; and in the appropriate use of the landscape, in the rational management of forests and agricultural land. As part of flood protection, it is necessary to pay attention to the sustainable planning of the country and its management. From the point of view of water quality protection, the forest is one of the most suitable ways of land use. The forest cover uses two mechanisms to reduce precipitation water, namely interception and transpiration. Therefore, one of the measures at the country level is the establishment and cultivation of forest stands. In addition to the management of the forest landscape, an emphasis on sustainable agricultural practices, the regulation of mining activities as well as the reasonable construction of infrastructure is important. A highly debated question is flood protection in urbanized areas where there is a lot of concrete. Here, it is necessary to build efficient drainage systems and bet on green infrastructure. In the construction of buildings, cascade concepts are used more and more so that the water can drain away better.

### Conclusion

Floods represent one of the greatest dangers of climate change. In Slovakia, we record flood events regularly, affecting not only large rivers, but also smaller watercourses. The consequences of floods are often devastating. You cannot escape or hide from water. Water takes everything with it - it destroys homes, infrastructure, the landscape, and often causes damage to human health or lives. The most effective prevention to minimize economic damage and protect human life is functional flood protection. This must be based on reasonable spatial planning, preservation of forest areas and, nowadays, also on modern technology. Legislative regulation must be a matter of course. If we are talking about long-term sustainability, even flood management must be in accordance with the overall concept of climate protection, not only at the national level, but also at the transnational level.

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# INTEGRATION PROCESSES OF UKRAINIAN REFUGEES IN THE SLOVAK REPUBLIC<sup>1</sup>

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**Abstract:** The Slovak Republic has a low share of foreigners in the total population compared to other EU Member States. More than half of the foreigners are citizens from Ukraine, whose number increased rapidly after the beginning of the war conflict in 2022. The integration of labour migrants and refugees from Ukraine represents a significant potential for the labour market of the Slovak Republic without endangering the domestic population. Currently, the employment of Ukrainian refugees accounts for around 44 per cent and is on an upward trend. However, on the other hand, more than half of the population is still passive.

**Keywords:** war refugees, integration, Ukraine, labour market

**JEL:** A13, F22, J61

## Introduction

The invasion of Ukraine by the Russian Federation in 2022 caused the largest and fastest forced displacement in Europe after the Second World War. As a result of the war, according to the International Organization of Migration (IOM), in 2024 around 3.7 million Ukrainians are displaced to regions of Ukraine farther from the front, and nearly 6.5 million people are refugees in various countries around the world, especially the European Union.<sup>2</sup>

The European Union reacted very quickly to the unprecedented mass influx of Ukrainians by activating the 2001 Temporary Protection Directive. Under that directive, Ukrainians are granted special temporary protection status, with the right of residence and access to housing, the right to work and education, social services and medical assistance. The validity of that mechanism is extended until 4 March 2026.<sup>3</sup> According to the latest data, as of 31 August 2024, around 4.16 million Ukrainians are under temporary protection in the European Union.<sup>4</sup> Given the active current military attacks by the Russian Federation on civilian infrastructure: residential houses, hospitals, educational establishments, shopping centres, train and bus stations, power and water plants, displaced Ukrainians will continue to seek refuge in European countries.<sup>5</sup> These realities are consequently causing an increase in the number of Ukrainian refugees in the European Union.

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<sup>1</sup> This paper was created within the *Migration Governance and asylum Crises: the story of Ukraine* project (09I01-03-V04-00042).

<sup>2</sup> IOM UN MIGRATION (2024): Millions Assisted, Millions More Still in Need Two Years into Ukraine War.

<sup>3</sup> EUROPEAN COUNCIL (2024): How the EU helps refugees from Ukraine.

<sup>4</sup> EUROSTAT (2024): Temporary protection for persons fleeing Ukraine – monthly statistics.

<sup>5</sup> PRESIDENT OF UKRAINE VOLODYMYR ZELENSKY (2024): Every Day, Russia Uses About a Hundred Guided Aerial Bombs Against Ukraine – Address by the President.

**Table 1: Number of Ukrainians under temporary protection in European Union countries, August 2024**

	<i>Country</i>	<i>Number of persons</i>	<i>% of EU total</i>
1	Germany	1 122 330	27
2	<b>Poland</b>	975 190	<b>24</b>
3	<b>Czechia</b>	376 885	<b>9</b>
4	Spain	215 130	5
5	Rumania	169 345	4
6	Italy	166 795	4
7	<b>Slovakia</b>	125 915	<b>3</b>
8	Netherlands	117 895	3
9	Ireland	107 435	3
10	Belgium	83 240	2
27	<b>Hungary</b>	31 525	<b>0,5</b>

**Table 2: Number of Ukrainian under temporary protection relative to the EU population – per thousand persons**

	<i>Country</i>	<i>Number of persons</i>
1	<b>Czechia</b>	<b>35</b>
2	Lithuania	28
3	<b>Poland</b>	<b>27</b>
4	Latvia	25
5	Estonia	25
6	<b>Slovakia</b>	<b>23</b>
7	Cyprus	23
8	Ireland	20
9	Liechtenstein	16
10	Norway	14
23	<b>Hungary</b>	<b>4</b>

Source: EUROSTAT (2024): Beneficiaries of temporary protection by citizenship - per thousand persons  
 EUROSTAT (2024): Beneficiaries of temporary protection at the end of the month by citizenship, age and sex - monthly data

The largest numbers of Ukrainians are in Germany and two Visegrad Group countries - Poland and Czech Republic. Slovak Republic also features in the top ten beneficiaries of temporary protection from Ukraine. Hungary, despite being a neighbouring state of Ukraine, is ranked last among the other EU countries.

The average number of Ukrainians under temporary protection in the European Union is 9 persons per thousand inhabitants. The Czech Republic, Poland and Slovakia are well above this average. In Hungary there are 4 Ukrainians under temporary protection per 1000 inhabitants.

The war conflict has changed the lives of millions of Ukrainians, who have lost loved ones, friends, homes, jobs, a traditional lifestyle, and a sense of security and peace. Based on a survey, more than half of working Ukrainians (66%) lost their jobs and financial income with the onset of the war conflict. Of the remaining 45% of employed people, 21% worked part-time or partially. Only 22% of Ukrainians in 2022 were working in their original jobs.<sup>6</sup> A year later, the situation had improved. Of the 66% of people working before the war, 23% are not working in 2023 and 15% of Ukrainians are employed in a new job. Around 44% of respondents are working in their usual work mode.<sup>7</sup>

The integration of refugees into the labour market abroad is also an extremely important process that ensures the economic self-sufficiency of the individual, the possibility of securing a decent living, education for children, and participation in the social and cultural life of the host country. At the same time, the labour integration of refugees represents one of the key elements of the sustainability of the European Union.<sup>8</sup>

At the same time, refugees face many challenges and obstacles to labour market integration. "Deteriorating conditions in host countries, tensions between host populations and refugees, as well as unabated misinformation efforts, can lead to a breakdown in social

<sup>6</sup> RATING GROUP (2022): The sixth national survey: Ukrainians' adaptation to the war conditions, p. 9-10.

<sup>7</sup> RATING GROUP (2023): Attitudes and economic situation population, pp. 7-9.

<sup>8</sup> SEBERÍNI, A. – LACOVÁ, Ž. – GUBALOVÁ, J. – MURRAY SVIDROŇOVÁ, M. (2024): The Challenges of Ukrainian Refugees in Slovakia – Labour Market Integration Aspects with the Help of NGOs.

cohesion, increased polarisation of society, discrimination and even hate speech against vulnerable groups".<sup>9</sup>

The main objective of this paper is to analyse the quantitative aspect of migration of Ukrainian refugees in the Slovak Republic after 2022. As a result of this research, we will determine the main tendencies of migration and labour integration, challenges and obstacles faced by Ukrainians on the labour market. The results of the research will be implemented in future studies to compare the integration processes of Ukrainian expatriates in other Visegrad Group countries.

## 1 Literature review

The military conflict in Ukraine in 2022 caused the mass displacement of the population either to areas of the country further away from the frontline or abroad. Neither the citizens of Ukraine nor the citizens of neighbouring countries were prepared for a similar humanitarian crisis. For this reason, the Slovak authors Seberíni, Lacová, Gubalová and Svidroňová in their paper *The Challenges of Ukrainian Refugees in Slovakia - Labour Market Integration Aspects with the Help of NGOs* point to the important role of NGOs in understanding, supporting and integrating refugees in Slovakia. In qualitative research, the authors analysed the problems faced by Ukrainian refugees in Slovakia: language barrier, bureaucratic barriers, lack of the job opportunities, and experience of discrimination, and the role of NGOs in addressing them.<sup>10</sup>

The challenges faced by Ukrainian refugees were addressed by Papcunova, Ďurbisová and Mukhina in a scientific article entitled *Exploring Labour Integration Challenges for Ukrainians in Slovakia*. The authors examined the needs and barriers encountered by Ukrainian refugees in the labour market in the city of Košice, the second largest city of Slovakia, close to the Ukrainian border. The authors pointed out that the language barrier is one of the main challenges for stable employment. On the other hand, they talk about the discrimination, hatred, experiences of exploitation and interrogation that Ukrainian refugees in the city of Košice have encountered and point to the need to spread education and awareness about the legal consequences of such actions.<sup>11</sup>

A thorough comparative analysis was carried out by Veselková and Hábel from the Institute of Social Policy of the Ministry of Labour, Social Affairs and Family of the Slovak Republic entitled *Labour migrants from Ukraine are better off in Slovakia than refugees*. In the study, the authors highlighted differences in employment rates, wages and number of days worked, gender differences and differences in employment attainment between economic migrants and refugees from Ukraine. As a result of the research conducted, the authors formulated three main recommendations for policy makers: 1) introduce mandatory electronic registration for the purpose of extending temporary protection or linking existing departmental databases for better quality statistics on refugees to Slovakia 2) actively reach out to economically inactive refugees at points of personal contact with refugees for their integration into the Slovak labour market, and 3) simplify the education recognition regime for other specialisations and professions to be filled by refugees in scarce but regulated professions in Slovakia.<sup>12</sup>

For the purposes of our research we drew on statistical data from the Ministry of the Interior of the Slovak Republic, the Slovak Labour, Social Affairs and Family Office and Eurostat.

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<sup>9</sup> PAPCUNOVÁ, J. (2023): The public support for displaced ukrainians in Slovakia is slowly decreasing.

<sup>10</sup> SEBERÍNI, A. – LACOVÁ, Ž. – GUBALOVÁ, J. – MURRAY SVIDROŇOVÁ, M. (2024): The Challenges of Ukrainian Refugees in Slovakia – Labour Market Integration Aspects with the Help of NGOs.

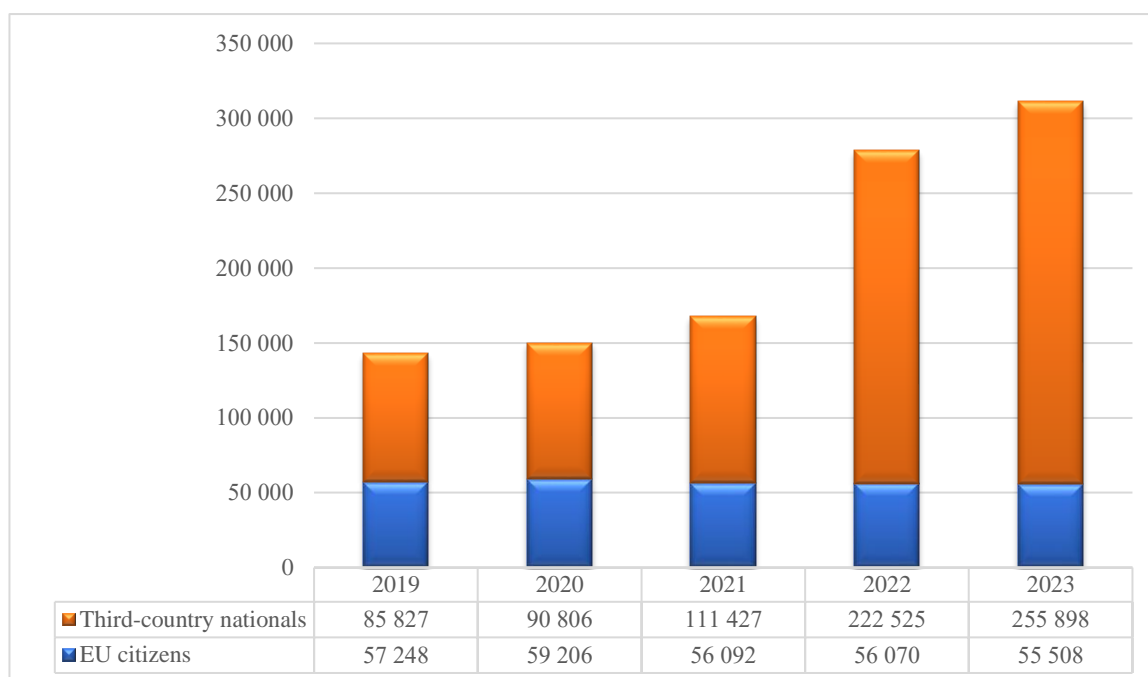
<sup>11</sup> PAPCUNOVA, J. – ĎURBISOVÁ, S. – MUKHINA, A. (2023): Exploring Labour Integration Challenges for Ukrainians in Slovakia.

<sup>12</sup> VESELKOVÁ, M. – HÁBEL, B. (2023): Labour migrants from Ukraine are better off in Slovakia than refugees.

## 2 Current migration trends in Slovakia

According to the latest statistical data, the total population of Slovakia as of 31 December 2023 is 5 424 687 persons. Of these, 5.7% (311 406) are foreigners who are citizens of other European countries (18%) and third-country nationals (82%). The trend in migration of foreigners from EU countries is almost constant over the five-year period, but rapidly increasing among third-country nationals, especially after the Russian invasion of Ukraine in 2022.

**Figure 1: Number of valid residencies for foreigners by nationality in 2019-2023**



Source: MINISTRY OF INTERIOR OF THE SLOVAK REPUBLIC (2024): Statistics.

In 2023, foreigners from third countries have mostly tolerated (45%) or temporary residence (43%), and only about 13% have permanent residence in the Slovak Republic. Tolerated residence is granted to third-country nationals for a short period of time in order to overcome a specific crisis situation. The Slovak Republic grants this type of residence for a maximum of 180 days on the basis of conditions laid down by law<sup>13</sup> or if it results from international obligations of the State.<sup>14</sup> A temporary residence may be granted to a third-country national for the purpose of business, employment or seasonal employment, studies, research and development, special activities such as lecturing, sports, artistic and voluntary activities, activities of an accredited journalist or for the provision of health care, also for the purpose of family reunification and for the performance of official duties by the civilian

<sup>13</sup> Tolerated residence is a specific type of stay that can be granted to an alien for a maximum of 180 days, provided that one of the following conditions applies:

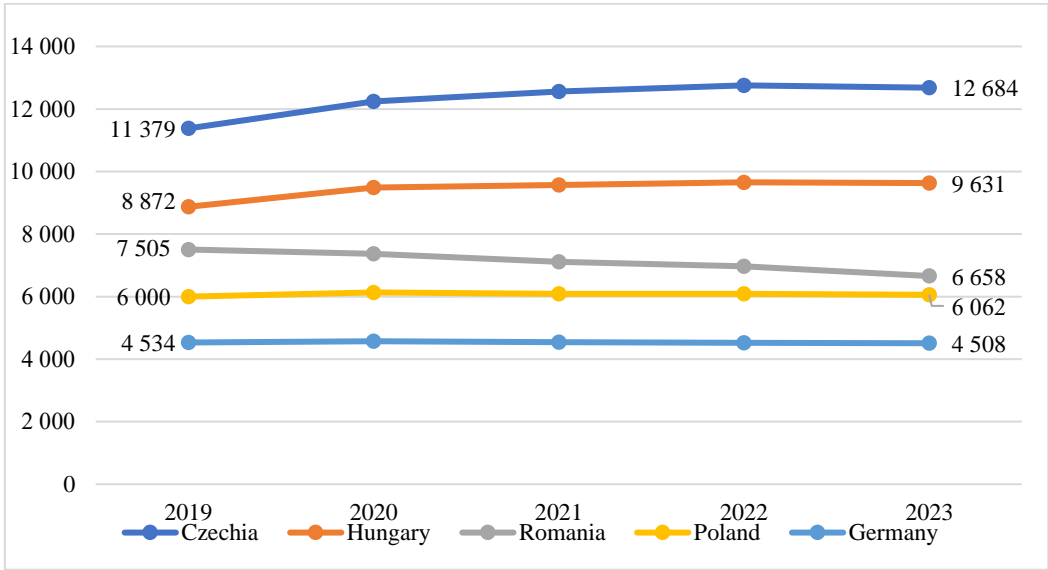
1. he/she is a victim of a trafficking crime and is at least 18 years old;
2. is a minor child found in the territory of the Slovak Republic;
3. if respect for his/her private and family life requires it (according to Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms) and he/she does not endanger the security of the state or public order (you must submit an extract from the criminal record of the state of which you are a national and in which you have resided for more than 90 days in the last three years for six consecutive months);
4. you have been illegally employed under particularly exploitative working conditions or if you are an illegally employed minor.

<sup>14</sup> IOM UN MIGRATION (2024): Tolerated residence.

components of the armed forces. Transitional residence is granted to persons with the status of a Slovak living abroad and with a long-term residence in another Member State of the European Union.<sup>15</sup> Permanent residence represents a more stable type of residence of a foreigner, under which he/she is granted identical rights and obligations as citizens of the Slovak Republic (e.g. employment, health care, social affairs, public life at the regional level).<sup>16</sup>

Among the foreigners from the European Union member states who emigrated to Slovakia, citizens from the Visegrad Group countries predominate. The Czech Republic maintains the long-term leadership trend. In 2023, around 23% of the total number of foreigners from European countries come from that country. Citizens from Hungary are in second place, accounting for around 17%. Slovakia often has deeper work, family and other social ties with these countries that stem from historical or cultural backgrounds.<sup>17</sup> Approximately the same proportion of foreigners living in Slovakia come from Romania and Poland - around 11% of the total. The migration of Romanian citizens, in contrast to the others, has a decreasing trend over the five-year period under review. Around 8% of foreigners living in Slovakia from EU countries are from Germany. Citizens from these countries have formed their own communities in Slovakia, which continue to expand for family, work or educational reasons.

**Figure 2: Number of foreigners from EU Member States in Slovakia in 2019-2023**



Source: MINISTRY OF INTERIOR OF THE SLOVAK REPUBLIC (2024): Statistics.

For a long time, Ukrainians have been the majority group among all foreigners in Slovakia, whether they come from European Union countries or from third countries. The European Parliament's regulation on visa liberalisation for Ukraine contributed to the increase of this trend in 2017.<sup>18</sup> However, the rapid increase of Ukrainian citizens to Slovakia was caused by the Russian invasion in 2022.

Compared to the pre-war years, the current increase in emigrants from Ukraine is more than 60%. According to the latest data, Ukrainians in 2023 represent around 70% of third country nationals and 57% of the total number of migrants, regardless of their country of origin.

<sup>15</sup> IOM UN MIGRATION (2024): What is temporary residence?  
<sup>16</sup> IOM UN MIGRATION (2024): What is permanent residence?  
<sup>17</sup> IOM UN MIGRATION SLOVAKIA (2023): Migration in Slovakia.  
<sup>18</sup> EUROPEAN PARLAMENT (2017): Parliament approves Ukraine visa waiver.



Among third-country nationals, citizens of Serbia are the second most represented, followed by citizens of Vietnam, the Russian Federation and China. However, in the last period, there has been an increase in emigrants from Georgia and Northern Macedonia, who are approaching the share of Chinese citizens in terms of numbers.

**Table 3: Number of foreigners from third countries in Slovakia in 2019-2023**

	2019	2020	2021	2022	2023
Ukraine	38 307	42 162	56 480	156 881	176 522
Serbia	16 604	16 005	16 331	18 215	19 045
Vietnam	5 565	6 798	7 235	8 039	9 082
Russia	5 257	5 658	6 389	7 436	8 434
China	2 709	2 695	2 697	2 732	2 882

Source: MINISTRY OF INTERIOR OF THE SLOVAK REPUBLIC: Statistics.

In the legislation of the Slovak Republic in relation to migrants from Ukraine after 2022, two concepts are implemented - asylum seekers and refugees. Law No 480 of June 2002 defines asylum seekers as foreigners who have been granted asylum by the Ministry of the Interior of the Slovak Republic and refugees as foreigners who have been granted temporary refuge by the Ministry on the basis of a decision of the Government of the Slovak Republic.<sup>19</sup> Migrant is a broader term that defines a person who has moved voluntarily for the purpose of work, study or family reunification. For this reason, Ukrainians who arrived in Slovakia after 2022 cannot be referred to as migrants, as their resettlement was not of their own volition but as a result of the war. In this case, it is involuntary or forced migration.<sup>20</sup>

The Slovak Republic is one of the European Union countries with the lowest number of asylum seekers. In 2022, this indicator reached the value of 545, which represents 0.06% of the total number of asylum seekers in the Union. In 2023, the number of applicants dropped to 410, representing 0.04%.<sup>21</sup> The trend is long-term. From 1993 to 2023, the total number of asylum applications in Slovakia has been set at 60 658, of which 963 have been granted, representing 1.6%. Complementary protection, which was introduced in Slovakia in 2007, was granted to 896 persons.<sup>22</sup>

After 2022, the vast majority of Ukrainians apply for temporary refuge in the Slovak Republic, but they are also allowed to apply for international protection - asylum and subsidiary protection. From February 2022 to 30 September 2024, when the latest statistics of the Ministry of Interior of the Slovak Republic were published, 210 persons from Ukraine applied for international protection (asylum) in Slovakia. Out of this number, only 1 person was granted asylum and 41 persons were granted subsidiary protection.<sup>23</sup>

Statistics on migration flows show that Slovakia is a country from which people emigrate in search of better living, working and educational opportunities, rather than a country which itself receives migrants. On the other hand, Slovakia has not been a predominantly transit country for a long period of time, but a certain number of migrants come to Slovakia on purpose, for the purpose of integration. However, the share of foreigners in the total population, which is one of the lowest in the European Union, the number of tolerated, temporary and permanent residences granted, the number of persons granted asylum

<sup>19</sup> Zákon č. 480/2002 Z. z.

<sup>20</sup> MINISTRY OF INTERIOR OF THE SLOVAK REPUBLIC (2018): Terms.

<sup>21</sup> EUROSTAT (2024): Asylum applicants by type - annual aggregated data.

<sup>22</sup> MINISTRY OF INTERIOR OF THE SLOVAK REPUBLIC (2024): Statistics.

<sup>23</sup> Ibid.

on the territory of the Slovak Republic, to a large extent reflect the strictly or even restrictively set immigration policy in the country.

### **3 Integration of Ukrainian refugees**

People's motives for emigrating to a foreign country are a significant predictor of the success of their integration into the labour market of the receiving country. Economic migrants are most likely to succeed, as the decision to migrate is considered and planned. Economic migrants choose their own country of immigration according to the labour market situation and after assessing their own competences and skills.

Unlike economic migrants, refugees do not choose a new country after a thorough analysis of labour opportunities and integration mechanisms. Nor do they consider their own language and professional skills, as they leave their own homes at considerable speed and without preparation. For them, emigration represents a significant traumatic experience.

As a result of the nature and reasons for emigration, the unemployment rate of refugees in the first stages is considerably lower compared to other types of migrants. But still, the employment rate of refugees as well as their income grows most dynamically, but does not reach the level of economic migrants.<sup>24</sup>

The difference in motivation and consequently the type of residence granted between refugees and economic migrants in Slovakia is also pointed out by the Institute of Social Policy of the Ministry of Labour, Social Affairs and Family of the Slovak Republic. Labour migrants enter into an employment relationship with a specific employer on the basis of a work permit. Persons from third countries who have been granted temporary refuge status acquire the right to work in Slovakia automatically, without a work permit.<sup>25</sup>

To enter the labour market is the main reason for emigration in Slovakia during the period under review. Thus, in 2023, third-country nationals obtained valid residence in Slovakia mainly for work reasons - either business (32%) or employment (19%). Around 13,000 young people moved to Slovakia for the purpose of study, which is 9% of the total number of third-country nationals.<sup>26</sup>

An increasing tendency in the integration of refugees in the Slovak labour market can be observed since the beginning of the period under review. In February 2022, around 11 % of working-age (18-64 years) refugees have entered the labour market. A year later, the share was already 34 %. In September 2024, the employment rate of Ukrainian migrants reached around 44%. Despite the positive development trend, still half of Ukrainian working-age residents are economically inactive in Slovakia.

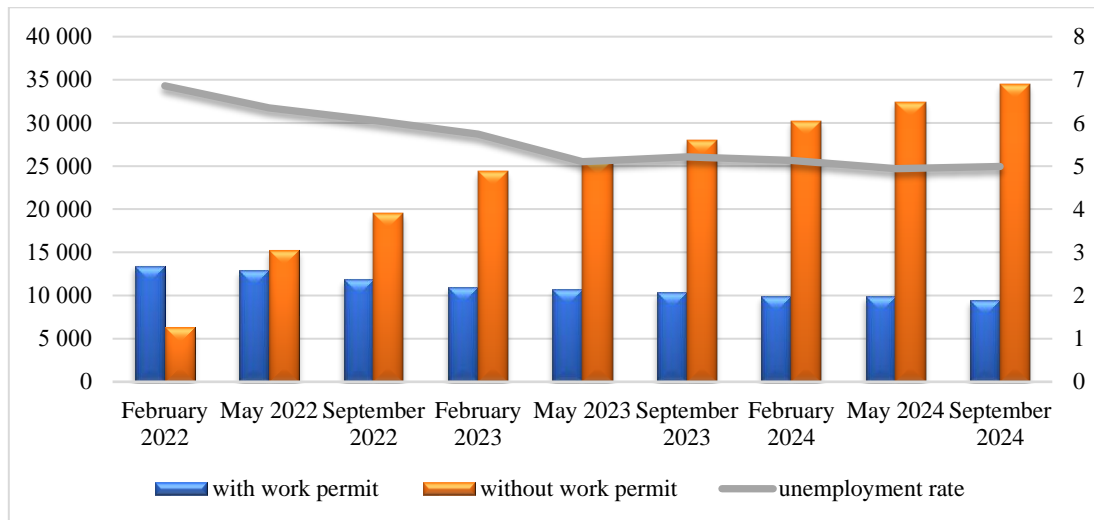
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<sup>24</sup> BEVELANDER, P. (2020): Integrating refugees into labor markets.

<sup>25</sup> VESELKOVÁ, M. – HÁBEL, B. (2023): Labour migrants from Ukraine are better off in Slovakia than refugees, p. 2.

<sup>26</sup> MINISTRY OF INTERIOR OF THE SLOVAK REPUBLIC (2024): Yearbooks.

**Figure 3: Number of employed Ukrainian citizens in Slovakia by type of residence and unemployment rate in %, in February 2022-September 2024**



Source: CENTRAL OFFICE OF LABOUR, SOCIAL AFFAIRS AND FAMILY (2024): Statistics.

The overwhelming majority (79%) of jobs in the Slovak labour market among persons granted asylum were held by women. The given scarcity results from the very disproportion between the female and male refugee population in Slovakia. The number of women of working age is half more than the number of men, due to the inability of men to leave Ukraine as a result of conscription.<sup>27</sup>

Also in Figure 3 we can observe a decrease in unemployment in Slovakia over the period under review, which shows that the Ukrainian refugees did not compete for jobs with Slovak citizens, but on the contrary, helped to reduce the shortage of skilled labour in Slovakia.

Despite this scarcity, we can observe a negative trend in the correlation between the public opinion of the Slovak population regarding the inflow of Ukrainian refugees and the overall unemployment rate in the country. At the beginning of the military conflict in Ukraine, a representative sample of the Slovak population showed a strong sense of public solidarity with the Ukrainian refugees and a great willingness to support them in the form of material and voluntary assistance.<sup>28</sup> However, according to the results of a Globsec survey in September 2022, 52% of Slovaks had a negative opinion of receiving refugees from Ukraine, the worst result of all V4 countries. One of the key factors behind the negative perception of Ukrainian refugees in Slovakia was concerns about their integration into the country's labour market.<sup>29</sup>

### Conclusion

The principles of integration, such as equality, sharing common values, belonging and the involvement of all population groups in the political, social, cultural and economic life of a country, are essential conditions for the development and prosperity of a given state and society as a whole. For this reason, integration cannot be a one-way process of adaptation of the minority to the life of the majority. Current geopolitical realities are bringing significant changes not only in international relations but also in the societies of individual countries.

<sup>27</sup> MINISTRY OF INTERIOR OF THE SLOVAK REPUBLIC (2024): Temporary refuge.

<sup>28</sup> PAPCUNOVÁ, J. (2023): The public support for displaced ukrainians in slovakia is slowly decreasing.

<sup>29</sup> SZICHERLE, P. – KAZAZ, J. (2022): Perception of Ukrainian refugees in the V4, p. 15.

To ignore or resist these changes is to lag behind the development of international processes and to underestimate the potential they bring with them.

The Slovak Republic is a country with a low proportion of foreigners in society compared with other Member States of the European Union. The vast majority of migrants come from third countries and only 18% from other predominantly neighbouring EU countries. Citizens from Ukraine have long been the majority of foreigners in Slovakia. The war conflict in 2022 only accentuated the given tendency of development and the share of Ukrainians on the territory of the Slovak Republic in 2023 amounted to 57% of the total number of foreigners in the country.

The integration of migrants into a country's labour market is not only of great importance for the migrants themselves, but also represents a significant potential for the country's economic development. Labour migrants or refugees from Ukraine can alleviate the shortage of skilled labour in Slovakia without jeopardising the employment opportunities of the native population. In the long term, Slovakia, as well as other EU countries, will face a number of demographic challenges such as: population ageing, increasing life expectancy, low birth rates and a decline in people of working age. These processes have a negative impact on the social health and economic health of the country. In addition to the ageing of the Slovak population, the country faces the challenge of brain drain, which also poses significant risks to the labour market. The integration of emigrants and labour migrants from Ukraine into the Slovak labour market has the potential to mitigate the negative demographic effects and to support segments of the economy with labour shortages.

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# HUMAN CAPITAL AND THE DEVELOPMENT OF THE COUNTRY'S LABOR MARKET

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**Abstract:** The concept of “human capital” has gained public recognition in Kazakhstan as the country enters a strategic phase of innovative development and increases production competitiveness in the global economic space. This concept reflects pragmatism and a realistic assessment of the current state of human capital worldwide, regionally, and nationally, focusing on the development of social and economic living conditions. The blend of pragmatism and harmony has made human capital a global paradigm for societal development, encompassing all its elements - from technological aspects to economic relationships.

**Keywords:** Human capital, reform, concept, capital, workforce, labor, labor market education, healthcare

**JEL:** E24

## Introduction

Human capital is the investment made in an individual. This includes not only financial resources but also upbringing, education, advice, and guidance - all of which are forms of capital. If a person effectively utilizes this capital, it benefits both themselves and society. A society with individuals possessing high human capital becomes civilized and progressive, eventually evolving into an advanced, leading nation. Does Kazakhstan have such potential? It does, but it requires improvement.<sup>1</sup>

Human capital currently constitutes only 42% of the country's total national wealth, compared to 70% in developed nations. Sustaining human capital depends on the continuous improvement of professional qualifications. Regardless of who a person is, once they stop seeking growth, stagnation begins. In Kazakhstan, many appear content to rely solely on their initial education. According to statistical agencies, only 5% of employed citizens improve their professional skills annually. From 2009 to 2019, the number of large companies offering employee training decreased from 51% to 42%. Moreover, 26% of surveyed adults admitted they “struggle with self-development tasks,” while 25% cited a lack of funds for additional education. The Importance of Self-Development in the Labor Market.<sup>2</sup>

## 1 Labor force structure in the country

The topic of self-development is becoming increasingly relevant in the labor market. Globalization, rapid technological advancements, demographic changes, and heightened quality demands for goods and services are intensifying competition in the labor market and economy. Only individuals equipped with deep knowledge and specific qualifications can maintain stable positions amid such changes. Quality education is essential to achieving this.

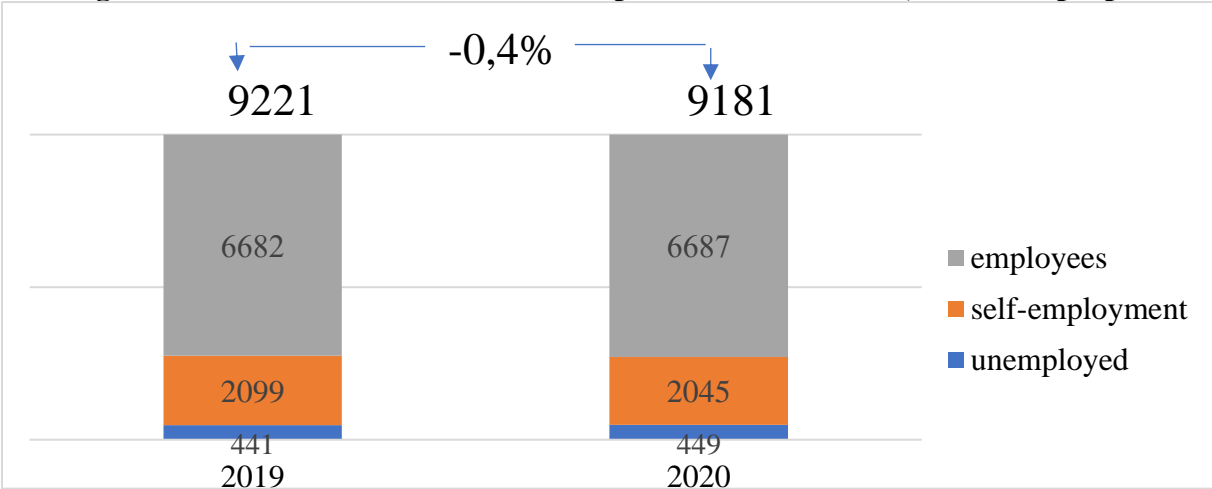
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<sup>2</sup> KAZAKHSTAN INSTITUTE FOR STRATEGIC STUDIES UNDER THE PRESIDENT OF THE REPUBLIC OF KAZAKHSTAN (2023): *Kazakhstan-2023: current trends and the image of the future*. Astana, 2024.

According to economists, one major factor contributing to youth unemployment is the lack of or inadequate quality of education. By the end of 2020, the total workforce slightly decreased (-0.4%) to 9.18 million people (Figure 1).

**Figure 1: Workforce structure in the Republic of Kazakhstan, thousand people**



Source: Bureau of National Statistics

The main changes in the labor force in Kazakhstan were due to a reduction in the number of self-employed people. In 2019, the labor force totaled 8.78 million people, decreasing to 8.73 million in 2020, reflecting a decline of 0.6%. Over the year, the self-employed population decreased by 2.6%, reaching 2,045 thousand people. Within this group, a 3.4% decline in productive self-employed individuals was observed, while the number of unproductive self-employed individuals increased by 5.8%. By the end of 2020, as socio-economic conditions began to improve compared to 2019, the number of salaried employees grew by 5,000 people, reaching 6,687 thousand employees annually. However, the number of unemployed individuals increased by nearly 8,000 people, raising the unemployment rate to 4.9%, an increase of 0.1%.<sup>3</sup>

**2 Analysis of employment by field of activity and type of qualifications of workers**

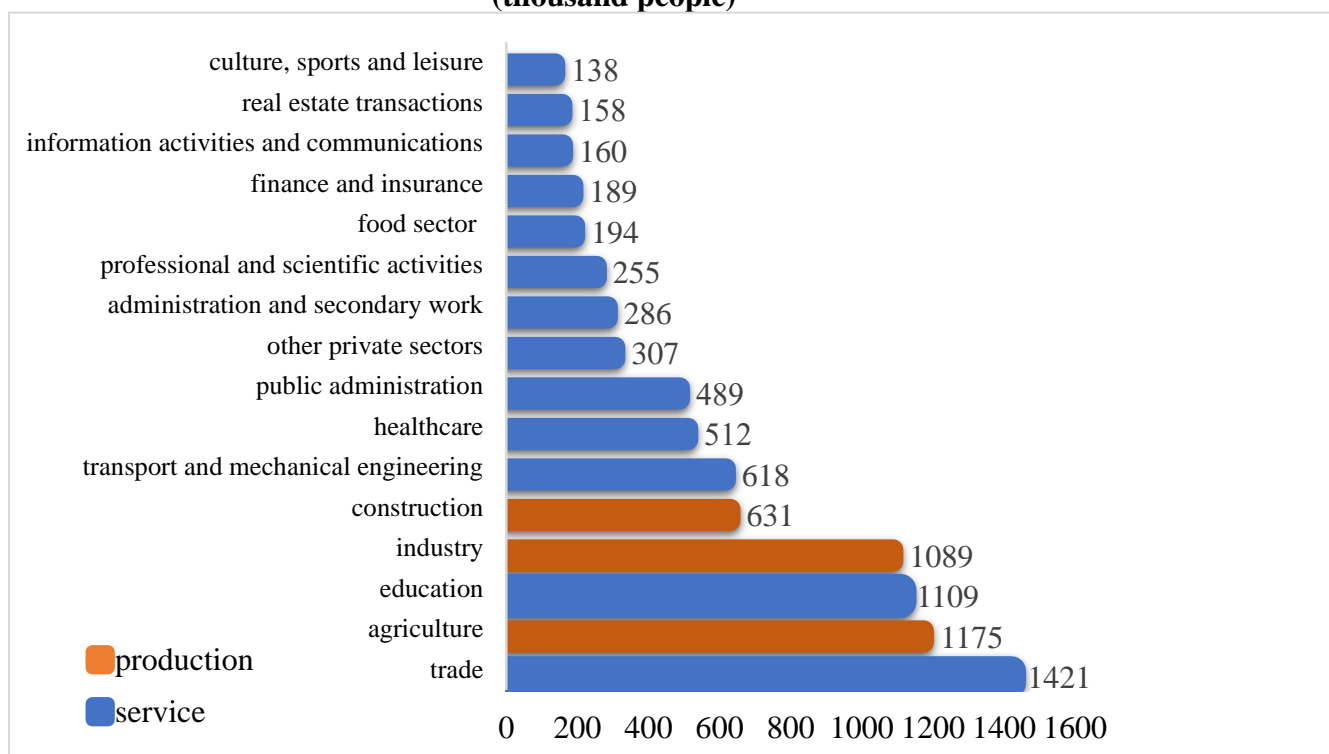
In 2020, growth in employment levels by economic sectors compared to the previous year was observed only in three industries (Figure 2). The healthcare sector experienced a 1.9% increase in employment, driven by heightened demand for therapeutic services amid the pandemic. The real estate sector followed, with a 2.5% growth due to the early withdrawal of pension savings for housing purchases. This trend suggests that employment in this sector is likely to grow further, fueled by the annual increase in housing acquisitions and the expanding network of companies offering related services.

Another area with notable growth in employment was personal services (+3.9%), including beauty salons. This increase was attributed to rising demand for such services following the easing of restrictive measures, as well as the role of these services as a primary source of income for some workers.

On average, over 70,000 graduates each year struggle to find jobs. This is largely influenced by specific factors, as 40% of graduates do not work in their field of specialization. Many young specialists choose professions based on personal opinions or family recommendations, which often do not align with labor market demands. Consequently, they may either switch to unrelated fields, acquire new qualifications, or remain unemployed, unable to secure their place in the job market.



**Figure 2: Employment by sectors of activity in the Republic of Kazakhstan for 2020  
(thousand people)**



Source: Bureau of National Statistics

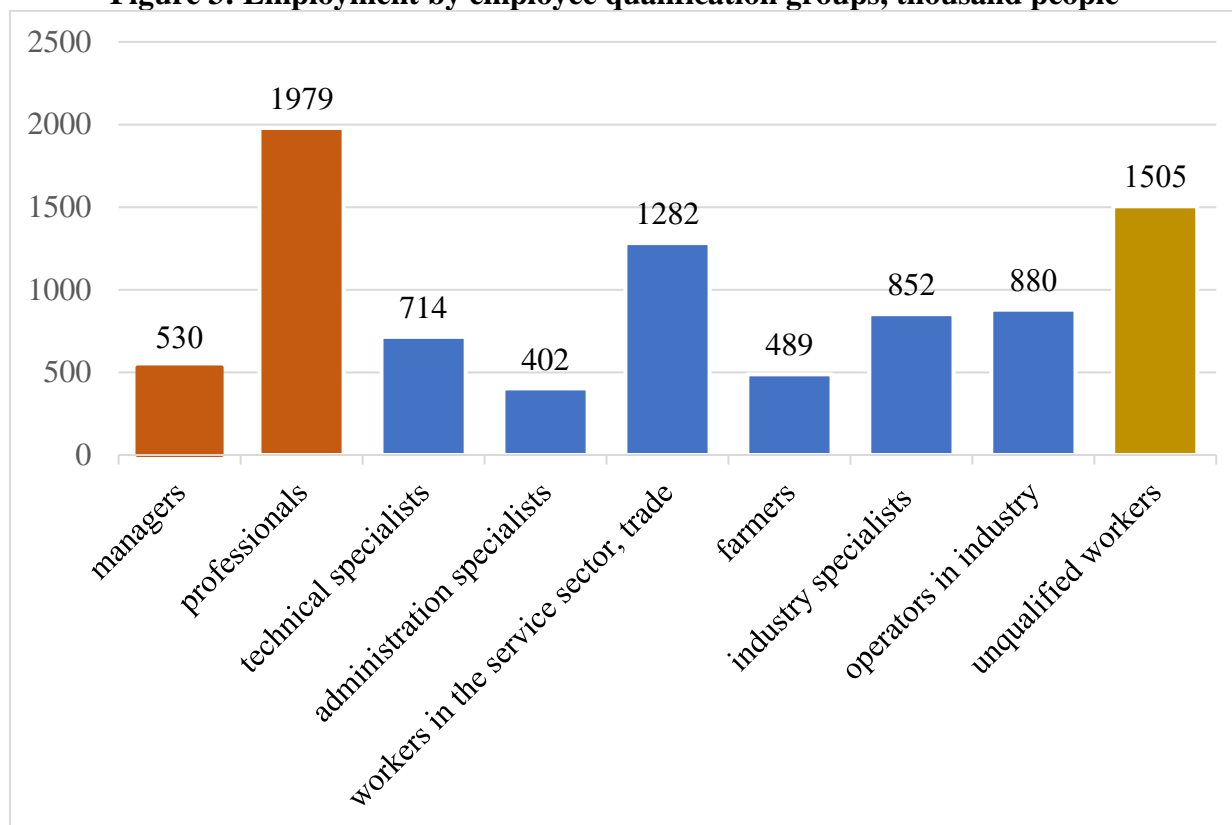
Industries in which there was a decrease in production volumes led to a reduction in the number of employees. This impulse was especially evident during the period of restriction. The decline was most clearly observed in the automotive industry (-3.2%), in the field of art and entertainment (-2.5%), in the field of administrative facilities and support services (-2.3%), as well as in the field of catering services (-1.7%).<sup>3</sup>

Compared to 2019, in 2020, despite the negative impact on the employment of workers in the service and sales sectors during the pandemic, a decrease of 02% or 310 fewer people was revealed at the end of the year.

That is, despite the direct restrictive effect of the measures taken, the pace of employment recovery among workers in the service and sales sectors is more flexible and adaptive. By profession in 2020, more than half of the employed (54% or 4,718 thousand people) worked in medium-skilled jobs, a third (29% or 2,509.2 thousand people) worked in highly qualified professions and 17% (1,505.2 thousand people) worked in jobs whose qualifications are not required at all. In 2020, the qualification structure of the employed has undergone changes in terms of an increase in the number of professionals (+3.3% or 63.4 thousand people), industrial workers (+3.6% or 30.0 thousand people), unskilled workers (+0.6% or 9.4 thousand people) compared to 2019 (Figure 3).

<sup>3</sup> SPANKULOVA, L. (2020): Human capital is the driving force of economic and social development. In: *Egemen Qazaqstan*, 2020.

**Figure 3: Employment by employee qualification groups, thousand people**



Source: Bureau of National Statistics

In other groups, on the contrary, there is a significant decrease. This is primarily for employees in the field of administration (-9.8% or 43.4 thousand people), then for managers and civil servants (-6.2% or 35.1 thousand people), mid-level specialists (-5.7% or 43.2 thousand people), operators of production equipment (-3.7% or 33.9 thousand people), farmers and agricultural workers (-1.8% or 9 thousand people).<sup>5</sup> Abroad, for example in Germany, the career guidance system begins in kindergarten. That is, they strive to ensure that skills begin at an early age.

Undoubtedly, rapid economic and technological development will affect the growth of human education. If previously the knowledge acquired within the framework of technical vocational education reached 10 years without advanced training, today the relevance of skills in many specialties remains only 2 years. The only factor that makes you in demand in such a situation is constant training and search. Digital technologies and artificial consciousness technologies are changing the labor market – professions in the labor market are becoming more complicated, new ones appear, employers in the market, for their part, require complex knowledge and skills from employees.

As a result, the current workforce must master new skills and learn to constantly adapt as new professions emerge. It turns out that in the next five years, 40 percent of the basic skills of today's employees will<sup>5</sup> change, and every second employee (50 percent) will have to undergo retraining.<sup>6</sup>

According to McKinsey, by 2030, 75 to 375 million workers will be forced to retrain, and due to automation, 400 to 800 million people may quit and need to find new jobs.

<sup>5</sup> UNITED NATIONS (2024): Ranking of countries in the world by life expectancy.

<sup>6</sup> KUZMINOV, Ya. I. – OVCHAROVA, L. N. – JACOBSON L. I. (2016): Annual report on social policy: human capital as a factor in socio-economic development. In: *Publishing house. House of the Higher School of Economics*, 2016, pp. 24-327.

The COVID-19 pandemic has allowed people to develop skills that increase resilience to unexpected stresses and structural changes in the labor market. And the staff left without work had to be retrained, adapting them to more complex specialties.

According to the analysis of changes in the structure of activities in the market, the complexity of technologies, according to experts, does not reduce the number of people employed, but, on the contrary, affects the recruitment of more specialized employees, improving the quality of service. For example, in the past, shooting a movie in the mountains required a helicopter pilot and 2-3 more people to support the technical part of the filming process. He's being shot down by a drone right now. However, the advent of drones has not led to a reduction in the number of helicopters and operators. On the contrary, these professions continue to grow among the employed, except that they perform more complex tasks.

In this regard, it is possible to promote the experience abroad, for example, in Singapore. "It is very difficult to make a person learn, and no ideology will help us. Agencies aimed at developing productive employment in Singapore have launched the My Skills Future program with a Single portal that includes any Singapore and performs the following steps. Firstly, they undergo diagnostics of their skills, interests and competencies, and secondly, they study the changes taking place in industries. Thirdly, he gets opportunities for professional development, and the person understands what he needs to explore. Thus, he will be provided with individual mentoring to advise on his future career," experts say.

### **Conclusion**

We see that values and requirements change over months, not years. Now this trend will affect our society as well. According to experts, there are currently not enough specialists in the field of information and communication technologies (ICT).

There are many professionals who have different degrees, but cannot prove their qualifications in practice. Large companies spend a lot of time on training and selecting applicants in the market. This process is stable and attracts the attention of the company's management. When companies buy information systems for production, they have to buy annual technical support from manufacturers and spend 20-30 thousand dollars to train 2-3 engineers. As a result, we pay billions of dollars from the Kazakh budget to manufacturing companies such as IBM, HP, SAP. All this is due to the lack of qualified ICT engineers. According to experts, there is currently no effective system in the country that offers a solution to the recruitment problem. There are no employees in the market who would meet the requirements of employers. And the employer does not want to train and train personnel and invest in them. This is where the contradiction in labor arises.

According to the forecasts of the Center for Workforce Development, there are specialists who have not yet officially appeared, but are more likely to appear in the near future. It includes such professions as an ecotechnologist, a smart home designer, a robotics process engineer, an analytical engineer in the oil and gas industry, and an ecosystem IT architect.<sup>6</sup>

As professions that do not erase their relevance, but require the acquisition of additional skills to meet new modern requirements, they are called: digital cartographer, operator of remote control of trains, operator of additive manufacturing in construction. According to research centers, such specialists as a marketer, construction artists, a call center operator, and a warehouse accountant will gradually begin to leave the labor market.

Human capital is the main wealth. The relevance of this topic is due to the socio-political and spiritual conditions in the modern world. The country will not develop without human capital. After all, it is man who develops scientific progress, language, and science.

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<sup>6</sup> Human capital as a factor of economic growth.

How does a person develop if he does not have intelligence, intelligence, knowledge?  
Therefore, human capital should be at the origin of all programs.

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# PACT ON MIGRATION AND ASYLUM

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**Abstract:** This paper focuses on the European Union's new Pact on Migration and Asylum (Pact), adopted in May 2004. The legislative package, which consists of ten documents, aims to further harmonise European asylum law. The main objective of this paper is to outline the recent developments that led to the adoption of the Pact. It also focuses on two important elements of the Pact: the introduction of a flexible but mandatory solidarity mechanism between Member States and the reform of asylum procedures at the EU's external borders. However, the proper functioning of the reform will depend on the implementation of the amended legislation and funding.

**Keywords:** European Union, Pact on Migration and Asylum, asylum  
**JEL:** K37, K33

## Introduction

The management of migration and asylum remains one of the main concerns of Europeans. In the wake of several international crises, European countries have experienced a significant increase in the number of people seeking international protection. As a result, public and policy debates on migration and asylum have been high on the political agenda in Europe. The idea of improving the existing European Union (EU) rules on the irregular arrival of asylum seekers has been discussed since the migration crisis of 2015-2016. This crisis exposed major deficiencies in the European asylum system, especially when it comes under pressure. The EU has responded to these shortcomings with the Pact on Migration and Asylum (Pact). Despite its name, the Pact only deals with irregular migrants who apply for asylum. The Pact does not attempt to address migration in general or the problems that Member States face together in relation to both regular and irregular migration. The legislative package adopted aims to further harmonise asylum law in the EU. The Pact strikes a balance between Member States with external borders, who want more help in dealing with asylum seekers, and those with internal borders, who argue that too many migrants enter and move around the EU without permission.

The main objective of this paper is to identify the recent developments in European asylum law that led to the adoption of the Pact and to analyse selected new provisions of the Pact. The research method used in this paper is a qualitative one, using primary data sources obtained directly from official EU websites and secondary data in the form of a literature review.

## 1 Steps towards a new Pact and its content

The history of the Pact on Migration and Asylum dates back to 2016, when the discussions in the Council on the reform of the EU asylum law began.<sup>1</sup> The Commission announced its intention to improve the EU asylum system and launched the new Pact, which was presented in September 2020.<sup>2</sup> The proposal for the Pact was made in the midst of the covid pandemic and the drastic reduction in movement that it caused. Once the pandemic was over, irregular

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<sup>1</sup> DEL MONTE, M. – ORAV, A. (2024): *Solidarity in EU asylum policy*, p. 2.

<sup>2</sup> EUROPEAN COMMISSION (2020): *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum*.

migration and the arrival of asylum seekers in Europe resumed in greater numbers. In addition, millions of Ukrainian refugees arrived in EU Member States following Russia's invasion of Ukraine in February 2022. In 2022 and 2023, many European countries found their refugee processing systems overwhelmed by the large numbers of asylum seekers. This led to a growing acceptance in European politics and public opinion of a restrictive approach to asylum, towards more control, fewer rights and fewer opportunities for entry. The agreement on the Pact was reached by the Member States on the basis of the common goal of ensuring better control of arrivals, which means fewer opportunities to apply for asylum at Europe's external borders. The purpose of the Pact was not to facilitate asylum, but to regulate, harmonise and make its management more predictable in order to avoid conflicts between Member States.<sup>3</sup>

After lengthy consultations, the European Parliament and the Council formally adopted the legislative package of one directive and nine regulations in May 2024. Most of the reforms in the new Pact aim to improve existing frameworks. The Pact on Migration and Asylum consists of these recently adopted documents:

- Reception Conditions Directive;<sup>4</sup>
- Qualification Regulation;<sup>5</sup>
- Asylum Procedure Regulation;<sup>6</sup>
- Border Return Procedure Regulation;<sup>7</sup>
- Union Resettlement and Humanitarian Admission Framework Regulation;<sup>8</sup>
- Asylum and Migration Management Regulation;<sup>9</sup>
- Amending Regulation to Facilitate Screening;<sup>10</sup>
- Screening Regulation;<sup>11</sup>
- Eurodac Regulation;<sup>12</sup>

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<sup>3</sup> GONZÁLES ENRÍQUEZ, C. (2024): *The EU Pact on Migration and Asylum: context, challenges and limitations*, p. 4.

<sup>4</sup> Directive (EU) 2024/1346 of the European Parliament and of the Council of 14 May 2024 laying down standards for the reception of applicants for international protection.

<sup>5</sup> Regulation (EU) 2024/1347 of the European Parliament and of the Council of 14 May 2024 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted, amending Council Directive 2003/109/EC and repealing Directive 2011/95/EU of the European Parliament and of the Council.

<sup>6</sup> Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU.

<sup>7</sup> Regulation (EU) 2024/1349 of the European Parliament and of the Council of 14 May 2024 establishing a return border procedure, and amending Regulation (EU) 2021/1148.

<sup>8</sup> Regulation (EU) 2024/1350 of the European Parliament and of the Council of 14 May 2024 establishing a Union Resettlement and Humanitarian Admission Framework, and amending Regulation (EU) 2021/1147.

<sup>9</sup> Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013.

<sup>10</sup> Regulation (EU) 2024/1352 of the European Parliament and of the Council of 14 May 2024 amending Regulations (EU) 2019/816 and (EU) 2019/818 for the purpose of introducing the screening of third-country nationals at the external borders.

<sup>11</sup> Regulation (EU) 2024/1356 of the European Parliament and of the Council of 14 May 2024 introducing the screening of third-country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817.

<sup>12</sup> Regulation (EU) 2024/1358 of the European Parliament and of the Council of 14 May 2024 on the establishment of 'Eurodac' for the comparison of biometric data in order to effectively apply Regulations (EU) 2024/1351 and (EU) 2024/1350 of the European Parliament and of the Council and Council Directive 2001/55/EC and to identify illegally staying third-country nationals and stateless persons and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, amending

- Crisis and Force Majeure Regulation.<sup>13</sup>

The Pact entered into force on 11 June 2024. Two years after its entry into force, the legal instruments making up the Pact will be applicable from mid-2026. The only exception is the Union Resettlement and Humanitarian Admission Framework Regulation that became applicable on 11 June 2024.<sup>14</sup> On 12 June 2024, the Commission adopted a Common Implementation Plan for the Pact on Migration and Asylum.<sup>15</sup> This plan sets out the key actions needed to put the new rules into practice. The next step is for EU Member States to prepare their national implementation plans by December 2024.

According to Gonzales, the main objective of the Pact is internal. It aims to establish similar procedures and standards in all Member States, to define responsibilities and solidarity, so that the management of those who arrive irregularly and request asylum will no longer be a constant source of friction between the countries belonging to the European asylum system.<sup>16</sup> According to the Pact, the EU's new asylum system would include two routes: a stricter border asylum procedure carried out directly at the border, which could include a short detention period, and another, more permissive procedure. The Pact in its current form has been criticised by human rights and humanitarian organisations because the fast-track procedures include lower and substandard safeguards that will put people at increased risk of human rights violations. They warn that Member States will increasingly use these procedures at borders to reject asylum applications without a proper and comprehensive assessment of each individual case.

In the following sections of this paper, we will focus on two important elements of the new Pact: the introduction of a flexible but mandatory solidarity mechanism between Member States and the reform of asylum procedures at the EU's external borders.

## 2 Flexible solidarity in the Pact

Although the EU has been relatively successful in securing its external borders, fighting against irregular migration and increasing cooperation with third countries, Member States have still been reluctant to show solidarity and share responsibility for asylum seekers.<sup>17</sup> The principle of solidarity in asylum and migration policy is enshrined in the Treaties. According to Article 67 (2) of the Treaty on the Functioning of the European Union (TFEU)<sup>18</sup> and Article 80 TFEU, policies on border control, asylum and migration are to be based on the principle of solidarity and fair sharing of responsibility. However, the Treaties only provide for solidarity and fair sharing of responsibility between Member States, not towards refugees and migrants. Del Monte and Orav explain that this has led EU institutions, academics and other stakeholders to propose various ways of making solidarity more operational, including sharing tasks

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Regulations (EU) 2018/1240 and (EU) 2019/818 of the European Parliament and of the Council and repealing Regulation (EU) No 603/2013 of the European Parliament and of the Council.

<sup>13</sup> Regulation (EU) 2024/1359 of the European Parliament and of the Council of 14 May 2024 addressing situations of crisis and force majeure in the field of migration and asylum and amending Regulation (EU) 2021/1147.

<sup>14</sup> Regulation (EU) 2024/1350 of the European Parliament and of the Council of 14 May 2024 establishing a Union Resettlement and Humanitarian Admission Framework, and amending Regulation (EU) 2021/1147, Article 16 (1).

<sup>15</sup> EUROPEAN COMMISSION (2024): *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Common Implementation Plan for the Pact on Migration and Asylum.*

<sup>16</sup> GONZÁLES ENRÍQUEZ, C. (2024): *The EU Pact on Migration and Asylum: context, challenges and limitations*, p. 4.

<sup>17</sup> DEL MONTE, M. – ORAV, A. (2024): *Solidarity in EU asylum policy*, p. 1.

<sup>18</sup> EUROPEAN UNION (2016): *Consolidated version of the Treaty on the Functioning of the European Union.*

and pooling resources at EU level, and providing financial and other forms of compensation to frontline Member States.<sup>19</sup>

Since the migration crisis of 2015-2016, solidarity has become an important political issue and is at the core of the Pact. The unfair distribution of responsibility for asylum seekers among EU Member States has been a bone of contention in the functioning of the Common European Asylum System. It has led to a deterioration of trust between Member States. In 2015, the EU launched an emergency relocation programme to ease the burden on Italy and Greece, which were then experiencing high numbers of migrant arrivals.<sup>20</sup> Under this emergency programme, 34,700 people were relocated from Italy and Greece to other European countries. The compulsory nature of the scheme was opposed by Central European countries, the Czech Republic, Hungary, Poland and Slovakia.<sup>21</sup> As a result, the Commission decided to abandon from the mandatory relocation system. After the end of the emergency programme in 2017, relocations were only carried out on a voluntary basis by certain EU countries, coordinated by the Commission. Finally, a new Voluntary Solidarity Mechanism, based on the Declaration of Solidarity, was launched by 21 European countries in June 2022.<sup>22</sup> It has been supported by 18 Member States (Belgium, Bulgaria, Cyprus, Czechia, Germany, Greece, Spain, Finland, France, Croatia, Ireland, Italy, Lithuania, Luxembourg, Malta, the Netherlands, Portugal and Romania) and 3 associated Schengen countries (Norway, Switzerland and Liechtenstein). Six Member States rejected directly the new mechanism (Hungary, Poland, Slovakia, Austria, Latvia and Denmark). Although it is a temporary instrument, it is seen as a first step towards establishing a permanent and predictable system, rather than the ad hoc arrangements that have been put in place each time a crisis has arisen.<sup>23</sup>

The failure of voluntary solidarity has led the European Commission to propose a binding but flexible solidarity mechanism in a new Pact. The Asylum and Migration Management Regulation seeks to address the dysfunctionality of the previous system and replaces Dublin Regulation.<sup>24</sup> However, it maintains the country of first entry criterion. This means that the Member State of first entry remains responsible for registering and processing asylum applications (Article 17 (1) of the Asylum and Migration Management Regulation). In most cases, this criterion places the responsibility for processing applications on the Member States at the external borders. At the same time, introduces a new mandatory but flexible solidarity mechanism whereby less burdened Member States must offer support to those that receive a higher burden of asylum applications.<sup>25</sup> A system of mandatory solidarity would give Member States three options for dealing with asylum seekers: relocate a certain number, provide a financial contributions, or finance alternative solidarity measures (Article 56 (2) of the Asylum and Migration Management Regulation). The aim of introducing this

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<sup>19</sup> DEL MONTE, M. – ORAV, A. (2024): *Solidarity in EU asylum policy*, p. 1.

<sup>20</sup> Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece. Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece.

<sup>21</sup> DE BRUYCKER, P. (2024): *The new European solidarity mechanism: Towards a fair sharing of responsibility between Member States?*, p. 7.

<sup>22</sup> FRENCH PRESIDENCY OF THE COUNCIL OF THE EUROPEAN UNION (2022): *First step in the gradual implementation of the European Pact on Migration and Asylum: modus operandi of a voluntary solidarity mechanism*.

<sup>23</sup> SANTOS, V. J. (2022): *Flexible Solidarity in the New Pact on Migration and Asylum: A New Form of Differentiated Integration?*, p. 1262.

<sup>24</sup> Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast).

<sup>25</sup> DE BRUYCKER, P. (2024): *The new European solidarity mechanism: Towards a fair sharing of responsibility between Member States?*, p. 3.



flexibility was to accommodate the opposition to relocation expressed by the four Visegrad countries by offering them other ways of showing solidarity with the other Member States. It is based on the assumption that if the mechanism is flexible, those Member States that have strongly opposed mandatory relocation in the past will be more willing to accept a fair share of responsibility for asylum seekers.<sup>26</sup> The Asylum and Migration Regulation does not include a solidarity mechanism to deal with crisis situations caused by a mass influx of persons into a Member State, as this mechanism is part of a separate Crisis and Force Majeure Regulation.<sup>27</sup>

The Commission has the responsibility for identifying Member States under migratory pressure, which covers a large number of arrivals. Migratory pressure refers to a situation brought about by arrivals or applications of third-country nationals that are of such a scale that they create disproportionate obligations on a Member State, even on well-prepared asylum, reception and migration system and require immediate action, in particular solidarity contributions (Article 2 (24) of the Asylum and Migration Management Regulation). Member States under migratory pressure should be able to rely on the use of the solidarity contributions included in the Annual Solidarity Pool. This Pool should identify concrete annual solidarity measures, including relocations, financial contributions and, where applicable, alternative solidarity measures, as well as their numerical scale likely to be needed for the upcoming year at Union level, while recognising that the various types of solidarity are of equal value. The Commission must maintain a ratio between 30,000 relocations and €600 million in financial contributions when proposing the content of the Annual Solidarity Pool (Article 12 of the Asylum and Migration Management Regulation). The 30,000 places to be made available for asylum border procedures may seem rather low, but if well implemented, would significantly exceed previous relocation figures.<sup>28</sup>

Relocation means the transfer of an applicant or a beneficiary of international protection from the territory of a benefitting Member State to the territory of a contributing Member State (Article 2 (22) of the Asylum and Migration Management Regulation). Contributing Member States may indicate preferences for the profiles of persons to be relocated, after which the beneficiary Member State will identify eligible persons. Such a system does not give asylum seekers the right to choose a particular Member State of destination. However, the use of coercion to relocate asylum seekers against their will and the different levels of reception conditions for asylum seekers according to the wealth of Member States are unlikely to ensure the disappearance of secondary movements.<sup>29</sup>

Financial contributions consist of transfers from the contributing Member States to the Union budget for the benefit of another Member State. Benefitting Member States shall identify actions that may be financed by the financial contributions (Article 64 of the Asylum and Migration Management Regulation). Financial contributions should primarily target actions in the area of migration, reception, asylum, pre-departure reintegration, border management and operational support. Financial contributions may also support actions in third countries, provided that they might have a direct impact on migratory flows at the external borders of the Member States or to improve the asylum, reception and migration systems of the third country concerned, including assisted voluntary return and reintegration programmes (Article 56 (2) (b) of the Asylum and Migration Management Regulation).

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<sup>26</sup> SANTOS, V. J. (2022): Flexible Solidarity in the New Pact on Migration and Asylum: A New Form of Differentiated Integration?, p. 1253.

<sup>27</sup> Regulation (EU) 2024/1359 of the European Parliament and of the Council of 14 May 2024 addressing situations of crisis and force majeure in the field of migration and asylum and amending Regulation (EU) 2021/1147.

<sup>28</sup> DE BRUYCKER, P. (2024): *The new European solidarity mechanism: Towards a fair sharing of responsibility between Member States?*, p. 14.

<sup>29</sup> DE BRUYCKER, P. (2024): *The new European solidarity mechanism: Towards a fair sharing of responsibility between Member States?*, p. 16.

Alternative solidarity measures focus on operational support, capacity building, services, staff support, facilities, and technical equipment. These contributions will be counted as financial solidarity, their concrete value being established jointly by the contributing and benefiting Member States. It is the benefiting Member States that will make a request for this kind of solidarity (Article 65 of the Asylum and Migration Management Regulation).

Member States shall have full discretion in choosing between the different types of solidarity measures or a combination of them (Article 57 (4) of the Asylum and Migration Management Regulation). This flexibility is welcome, not only may it persuade Member States reluctant to relocate to participate in the system, but also because physical transfers such as relocation are much more difficult to implement than other forms of solidarity such as financial transfers.<sup>30</sup>

De Bruycker explains, that the introduction of a solidarity mechanism was necessary because the previous system of unfair distribution of responsibility for examining asylum applications has been left almost untouched by Asylum and Migration Management Regulation. He sees the adoption of the flexible solidarity mechanism as a real novelty and a major achievement for the EU, but explains that some of the political tensions remain unresolved and that its implementation will be the real measure of its success.<sup>31</sup>

### **3 Screening, asylum and return procedures**

The new Pact aims to establish a three-stage seamless migration process, which includes screening, border asylum procedures and border return procedures. They are regulated by the Screening Regulation, the Asylum Procedure Regulation and the Border Return Procedure Regulation respectively. These regulations ensure that the same procedures and procedural standards apply to all asylum applicants across EU Member States.

Screening is the first step in the new procedure and includes a preliminary health check, a preliminary vulnerability check, an identity check, the registration of biometric data and a security check. It also involves the completion of a screening form and referral to the appropriate procedures (Article 8 (5) of the Screening Regulation), such as asylum or return (Article 18 of the Screening Regulation). Screening can take place at the external borders of the EU, or within the territory. At the external borders, screening applies to three categories of non-EU nationals who do not fulfil the entry conditions set out in the Schengen Borders Code<sup>32</sup>: those apprehended in connection with an unauthorised crossing of the external border of a Member State; those disembarked following search and rescue operations at sea; and those seeking international protection at a border crossing point without fulfilling the entry conditions (Article 5 of the Screening Regulation). Within the territory, screening is to be carried out with respect to non-EU nationals, when there is no indication that an "illegally staying" third-country national was subject to controls at the external borders conditions (Article 7 of the Screening Regulation). Screening at borders should take place within a maximum of seven days and screening within the territory within three days (Article 8 of the Screening Regulation). The main aim of the Screening Regulation is to prevent the entry of "bogus" asylum seekers, i.e. those whose main motivation for migrating is economic and who clog up national asylum systems.

The screening phase is followed by the asylum procedure. The new Asylum Procedure Regulation ensures that the same procedures and procedural standards apply to all asylum

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<sup>30</sup> DE BRUYCKER, P. (2024): *The new European solidarity mechanism: Towards a fair sharing of responsibility between Member States?*, p. 16.

<sup>31</sup> DE BRUYCKER, P. (2024): *The new European solidarity mechanism: Towards a fair sharing of responsibility between Member States?*, pp. 7, 9.

<sup>32</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (codification).

seekers in all EU Member States. The Pact extends the use of border asylum procedures. Border procedures are an exceptional type of asylum procedure in the sense that they provide for derogations from rights and standards on elements such as entry into the territory, restrictions on freedom of movement or the right to an effective remedy.<sup>33</sup> At present, processing asylum applications at the border is not an obligation but an option for Member States. Past experience with border procedures has been controversial due to inadequate reception conditions and lengthy processing times. Asylum Procedure Regulation presents two scenarios for such procedures. The first allows for a degree of discretion. It applies in the following cases: when an asylum application is made at an external border crossing point or in a transit zone; after apprehension in connection with an unauthorised crossing of the external border; after disembarkation in the territory of a Member State after a search and rescue operation at sea; or in the context of relocation (Article 43 of the Asylum Procedure Regulation). The second makes border procedure mandatory, which is an important new feature of the reform. This mandatory border procedure will be applied in the following cases where asylum applicants: are considered to have intentionally misled the authorities by presenting false information or destroyed documents; pose a danger to national security or public order; are from countries of origin with low recognition rates at first instance (countries that have a recognition rate of 20 % or lower, according to the latest available yearly Union-wide average Eurostat data) (Article 45 of the Asylum Procedure Regulation). These three grounds, in particular the last one, could lead to the mandatory application of border procedures in many cases.<sup>34</sup> Those currently subject to the mandatory procedure on the basis of the last ground would include, for example, applicants from Pakistan, Bangladesh or Colombia.

On the contrary, among the top 10 citizenships that received first instance decisions on asylum application in 2023 Syrians and Venezuelans (both 94%) and Afghans (80%) had the highest recognition rates.<sup>35</sup> As a result, the number of persons whose attempt to enter the asylum procedure is rejected at the outset can be expected to increase. Under the new rules, those subjected to a border procedure are not authorised to enter the territory of the Member State (Article 43 (2) of the Asylum Procedure Regulation). During the examination of their application, they are obliged to stay in specific facilities at or near the border (Article 54 of the Asylum Procedure Regulation). Border procedures include decisions on inadmissibility as well as decisions on the merits of cases where there are grounds for accelerating the processing of an asylum application (Article 44 (1) of the Asylum Procedure Regulation). The duration of the border procedure for the examination of applications for international protection should be as short as possible while ensuring a full and fair examination of the application. In any event, it should not exceed 12 weeks. This period is extended to 16 weeks in the case of relocation to take account of the time needed to transfer the asylum seeker from the Member State of first entry to the Member State of relocation (Article 51 of the Asylum Procedure Regulation). In cases where Member States do not apply border procedures, asylum claims are examined under the in-territory procedures.<sup>36</sup>

The Pact also establishes border return procedures when an application is rejected following an asylum border procedure. Border return procedures must be completed within 12 weeks from the moment the person no longer has the right to remain and is not allowed to remain in the Member State (Article 4 (2) of the Border Return Procedure Regulation).

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<sup>33</sup> TSOURDI, E. (2024): *The new screening and border procedures: Towards a seamless migration process?*, p. 7.

<sup>34</sup> TSOURDI, E. (2024): *The new screening and border procedures: Towards a seamless migration process?*, p. 8.

<sup>35</sup> EUROSTAT (2024): *Asylum decisions - annual statistics*.

<sup>36</sup> TSOURDI, E. (2024): *The new screening and border procedures: Towards a seamless migration process?*, p. 8.

Tsourdi hopes, that "a seamless link between asylum and return within the framework of a border procedure will render returns more efficient and raise the current return rates. In reality, return outcomes hinge on a number of factors, such as the cooperation of the countries of origin, or the practical feasibility of return".<sup>37</sup> The return of failed applicants still depends on agreements with the countries of origin, which are often non-existent or weak. The Pact cannot solve this problem, which depends on the EU's foreign policy.<sup>38</sup>

### Conclusion

The removal of internal border controls in the EU has led to the gradual development of several EU policies, including asylum and migration. However, the mass influx of refugees and irregular migrants into the EU in 2015-2016 exposed the shortcomings of these EU policies. In order to resolve the ensuing crisis, the EU decided to reform the current asylum policy with a Pact on Migration and Asylum. Most new Pact reforms seek to improve existing frameworks.

The new rules combine mandatory solidarity to support Member States that cannot cope with the number of asylum seekers on their territory with flexibility for Member States to choose their contribution. This reform is an essential step towards improving burden-sharing among EU Member States, which is one of the critical shortcomings of the current asylum system. We can only hope that the flexible but mandatory solidarity mechanism will help to ensure a fair burden-sharing between Member States. The new border migration process represents a significant development and has the potential to improve efficiency, mutual trust between Member States and asylum policy implementation. The proper functioning of the seamless migration process at the borders will depend on the implementation of the amended legislation, in particular the application of mandatory arrangements and funding.

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<sup>37</sup> TSOURDI, E. (2024): *The new screening and border procedures: Towards a seamless migration process?*, p. 9.

<sup>38</sup> GONZÁLES ENRÍQUEZ, C. (2024): *The EU Pact on Migration and Asylum: context, challenges and limitations*. p. 5.

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# INTERNATIONAL INVESTMENT LAW – TOWARDS REFORM OR FRAGMENTATION?

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**Abstract:** During its relatively short existence, the system of international investment protection has come under much scrutiny. Many shortcomings crystallized, which led to the efforts of some countries to reform the very content of this legal protection, as well as to reform the system for resolving disputes arising from the violation of international investment agreements between foreign investors and host states containing such investment protection provisions. Several countries voiced their concerns with respect to transparency and legitimacy of this investment protection regime and proposed reforms. Over the past decade, there has been an effort to translate these reform plans into practice through a retreat from the so-called first-generation type of investment agreements and to gradually shift towards the enforcement of the modified content of investment protection, as well as to the introduction of new ways of resolving potential investment disputes. The aim of this paper is to examine whether this trend can be designated as reform or rather fragmentation of international investment protection.

**Keywords:** International investment protection – ISDS reform – European Union – trade agreements – foreign direct investment

**JEL:** K33

## Introduction

In the timespan of over sixty five years, international investment law has seen a rich and fruitful lifetime of evolution and expansion that went hand in hand with the process of economic globalization. Thus, the protection of international investments is an area of international law that has been subject to a rather dynamic development. In recent decades, the system of legal protection of international investments and the resolution of international investment disputes has been subject to intense criticism from the professional and lay public. The lack of transparency, predictability, coherence of arbitral decisions and the legitimacy of the investment arbitration system led to an intensified effort to reform the existing system. One of the most vocal opponents of the original system of investment protection was the European Union. It had found an active partner in its efforts to substantially reform the system in some of its economic partners. The Comprehensive Economic and Trade Agreement concluded with Canada (CETA)<sup>1</sup> and a number of other economic agreements shifted the investment treaty-making towards a greater regulatory space for host states and provided for other dispute resolution mechanisms than the first generation investment treaties. Between 2017 and 2023, India terminated 68 of its bilateral investment treaties with the aim of renegotiating new investment treaties based on India's 2015 model bilateral investment treaty.<sup>2</sup>

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<sup>1</sup> European Commission: EU-Canada Comprehensive Economic and Trade Agreement (CETA), available at: <https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/canada/eu-canada-agreement-en>

<sup>2</sup> IISD: India Sends Termination Notice to 68 Countries With a Request to Renegotiate, International Treaty News, 1 July 2023, available at: <https://www.iisd.org/itn/en/2023/07/01/india-sends-termination-notices-to-68-countries-with-a-request-to-renegotiate/>



Recently, the 2023 AFCFTA Protocol on Investment<sup>3</sup> also shows a shift towards securing the regulatory space of the host state and also bringing about a list of obligations upon the foreign investor as well. However, the recent practice in new investment treaty-making shows that the approach of key players in international economic relations has not always been in sync. The USCMA, on the other hand, brought changes as well, but with a different approach than the new agreements cited above.

Thus, the question arises whether the implementation of new scope of investment protection will actually lead to a reform or rather to a fragmentation of the system of international investment protection.

## **1 Historical Development of International Investment Protection**

Historically, the first bilateral investment treaty was concluded on November 25, 1959 between Germany and Pakistan.<sup>4</sup> It marked the start of a long journey that has led to over 3,000 bilateral investment treaties being concluded worldwide. After the rather slow initial twenty years of international investment law development, the pace in the investment-treaty-making has gained momentum, when during the late 1980s and early 1990s, more than 1,500 investment treaties or treaties with investment provisions were concluded worldwide. In the first decade after the conclusion of the historically first BIT, additional 71 investment treaties were concluded.

In the following decade, 1969-1979, the number of concluded bilateral investment treaties rose to 165 and this number more than doubled by 1989, with a total of 385 bilateral investment treaties concluded by 1989.<sup>5</sup> However, the most intensive treaty making period proved to be the last decade of the twentieth century, mostly responding to the west-east investment boom following the collapse of the Soviet Union and the new era of economic development for Soviet Union's former satellite states. The five-fold increase in the number of bilateral investment treaties (1857 in 1999),<sup>6</sup> however, cannot be solely explained by the increase in the number of investment treaties concluded between the „old“ EU member states and the CEE countries, which were yet to join the club in the following decade (2004, 2007, 2013). However, these bilateral investment treaties – namely 275 - made up only a portion of the large pool of investment treaties concluded in that period. The number of countries that concluded an investment treaty rose from 63 in 1989 to 833 in 1999.<sup>7</sup> Thus, a large portion of these investment treaties was concluded by developing countries outside of Central and Eastern Europe, including investment treaties aimed at enhancing South-South economic cooperation. With respect to the number of concluded treaties in particular time periods, the most active periods were definitely the two decades from 1989-2009.<sup>8</sup>

According to UNCTAD's International Investment Agreements Navigator, currently, there are a total of 2,834 bilateral investment treaties concluded out of which there are 2,221 bilateral investment treaties in force. In addition, there are a total of 476 treaties with investment provisions concluded, out of which there are 395 of them in force. Altogether, the total number

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<sup>3</sup> WTI: Protocol to the Agreement Establishing the African Continental Free Trade Area on Investment, 2023, available at: <https://edit.wti.org/document/show/e5d51824-c467-4e24-922b-3fb376d89550>

<sup>4</sup> Gesetz zu dem Vertrag vom 25. November 1959 zwischen der Bundesrepublik Deutschland und Pakistan zur Förderung und zum Schutz von Kapitalanlagen, Bundesgesetzblatt Nr. 33, 1961, available at: <https://investmentpolicy.unctad.org/international-investment-agreements/treaties/bit/1732/germany---pakistan-bit-1959->

<sup>5</sup> UNCTAD: Bilateral Investment Treaties 1959-1999, UNCTAD/ITE/IIA/2, United Nations New York and Geneva 2000, available at: <https://unctad.org/system/files/official-document/poiteiid2.en.pdf>

<sup>6</sup> Ibid.

<sup>7</sup> Ibid. <https://unctad.org/publication/bilateral-investment-treaties-1959-1999>

<sup>8</sup> UNCTAD: World Investment Report 2024, available at: <https://unctad.org/publication/world-investment-report-2024>

of concluded international agreements with investment provisions reached 3,310, whereby 2,616 of these are still in force.

Clearly, the highest number of international investment agreements – almost 1,300 - was signed during the last decade of the twentieth century, which was presumably affected by the fall of communist regimes and the enhancement of investment activity of capital-exporting countries towards these regions. The intensity of investment treaty making kept its momentum also over the the entire first quarter of the twenty-first century (2000-2023), when there were additional over one thousand seven hundred international treaties signed that either exclusively dealt with investment protection and promotion of investment or were designed as broader economic treaties with separate investment chapters of provisions. According to UNCTAD World Investment Report 2024, in 2023, additional 29 international investment agreement were signed.<sup>9</sup>

## **2 Changes to the Established Investment Protection Regime**

In the meantime, however, there were a number of cases of withdrawals from investment treaties. Among the most prominent ones – be it for slightly different reasons – are the termination of all or many bilateral investment treaties by Bolivia, Ecuador and also India and termination of many investment treaties by Indonesia, Kenya, South Africa, as well as the termination of all intra-EU BITs, *i.e.* bilateral treaties previously concluded between the member states of the European Union.

There have been a number of papers published with respect to the motivations of these countries to terminate their investment agreements as well as the economic aftermath in terms of influx of new foreign investment from countries with which these investment treaties have been terminated.

In 2017, Ecuador became the fifth country to have terminated all its bilateral investment treaties. In 2012, Ecuador was faced with an arbitration award in favor of an US investor, the oil company Occidental, in which the investor was awarded damages amounting to 2.3 billion USD for the termination of the concession by the Ecuadorian government.<sup>10</sup> Although in 2015, this award had been partially annulled by the ICSID Annulment Committee based on the grounds of manifest excess of powers of the tribunal,<sup>11</sup> and the award was reduced to 1,061,775,000 USD. Nevertheless, this decision came only after Ecuador already terminated all of its bilateral investment treaties. Prior to the termination of the investment agreements, in 2013, the Ecuadorian President Rafael Correa established a commission tasked with the audit of the entire Ecuadorian investment regime investment treaties (CAITISA).<sup>12</sup> The commission finalized their work in 2015 with a set of recommendations, *inter alia*, to terminate all existing investment treaties and replace them with new instruments, including new investment treaties radically limiting the scope of investment protection, denouncing international investment arbitration as the dominant investor-state dispute settlement method and focussing rather on litigating potential investor-state disputes through the domestic court system. Although, for a transition period, the commission proposed creating an appellate mechanism, and establishing a permanent international or regional investment court, with permanent judges.

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<sup>9</sup> Ibid.

<sup>10</sup> Occidental Petroleum Corporation and Occidental Exploration and Production Company v. The Republic of Ecuador, ICSID Case No. ARB/06/11, available at: <https://www.italaw.com/cases/767>

<sup>11</sup> Occidental Petroleum Corporation and Occidental Exploration and Production Company v. The Republic of Ecuador, ICSID Case No. ARB/06/11, Decision on Annulment of the Award, available at: <https://www.italaw.com/sites/default/files/case-documents/italaw4448.pdf>

<sup>12</sup> International Institute for Sustainable Development: Ecuador's Audit on Investment Treaties: CAITISA Reports Leaked, February 29, 2016, available at: <https://www.iisd.org/itn/en/2016/02/29/ecuadors-audit-on-investment-treaties-caitisa-reports-leaked/>

This coincides with the longterm discussions on the ISDS reform endorsed by the European Union since 2015.<sup>13</sup>

With respect to the effect of the termination of the bilateral investment treaties on the influx of foreign investment, as one research concluded: „After Ecuador terminated its BIT with Uruguay in 2008, FDI from the country increased 420 percent, from an annual average of \$6.3 million before termination to \$32.6 million after termination.“<sup>14</sup> Another research showed that „Bolivia terminated its BIT with Spain in July 2012, but FDI inflows from Spain more than doubled, from an annual average of \$163 million before termination to an annual average of \$457 million after termination.“<sup>15</sup> Yet another research showed that „After South Africa terminated its BIT with Germany in August 2014, FDI stock from Germany in South Africa increased from an annual average of 93 billion rand before termination to 95 billion rand after termination.“<sup>16</sup> In addition, „Indonesia terminated its BIT with the Netherlands in June 2015, and saw investment inflows from the country increase from an average annual \$715 million net outflow before termination to a \$1.7 billion net inflow after termination.“<sup>17</sup>

Although a few examples are not sufficient to prove the case, there is a lack of research showcasing the positive correlation between the number and composition of investment treaties signed and the volume of investment influx from that particular capital exporting country. However, even if the existence of an investment protection treaty between the capital exporting and the host country might not be the decisive factor in the investor’s decision-making process, and other factors, such as the corporate income tax regime, availability of cheap and skilled workforce and other conditions and incentives favourable to investors might prove to have a higher relevance or value for investors, that does not mean that the existence of investment protection does not play a role in the process. It may be considered a part of the mix of factors. In addition, the mere termination of an investment treaty does not necessarily mean the complete withdrawal of protection for foreign investment in that particular host country. The termination of bilateral investment treaties does not exclude the host states entering into individual investment contracts with particular investors which, quite frequently, also contain provisions on dispute settlement via international investment arbitration mechanism in cases of violation of the contract by the host state. On the other hand, such contracts may also include enforceable obligations also for investors which renders them more just.

Another example of a recent development in the approach host states take towards bilateral investment treaties is the case of India. Between 2017 and 2023, India gave notice to terminate 68 of its bilateral investment treaties. There are indications that the country has continued to experience robust and growing investment inflows. Inter alia, India terminated its BIT with the Netherlands in December 2016. FDI from the Netherlands increased from an annual average of \$3.4 billion before termination to \$3.8 billion after termination.“<sup>18</sup> India’s reported aim was to renegotiate new investment treaties based on their (India’s) 2015 model bilateral investment treaty.<sup>19</sup> Since 2016, India has signed 5 new investment treaties (Uzbekistan 2024, UAE 2024, Brazil 2020, Kyrgyzstan 2019, Belarus 2018), of which 2 are

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<sup>13</sup> European Commission: Reform of the ISDS Mechanism, available at: [https://policy.trade.ec.europa.eu/enforcement-and-protection/dispute-settlement/investment-disputes/reform-isds-mechanism\\_en](https://policy.trade.ec.europa.eu/enforcement-and-protection/dispute-settlement/investment-disputes/reform-isds-mechanism_en)

<sup>14</sup> Public Citizen Research Brief: Termination of Bilateral Investment Treaties Has Not Negatively Affected Countries’ Foreign Direct Investment Inflows, April 2018, available at: [https://www.citizen.org/wp-content/uploads/pcgtw\\_fdi-inflows-from-bit-termination\\_1.pdf](https://www.citizen.org/wp-content/uploads/pcgtw_fdi-inflows-from-bit-termination_1.pdf)

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> IISD: India Sends Termination Notice to 68 Countries With a Request to Renegotiate, International Treaty News, 1 July 2023.

currently in force. The 2015 India Model BIT introduced new approach to investment-treaty making in that it aimed at balancing the investor rights with investor obligations, such as the compliance with national laws and implementing – be it voluntarily – the internationally recognized standards of corporate social responsibility.<sup>20</sup> With respect to recourse to international investment arbitration as a means of international investment dispute settlement, the model BIT lists a rather comprehensive list of conditions precedent that must be complied with prior to the parties' access to the general types of investment arbitration (ICSID or ad hoc).<sup>21</sup> Thus, although there are some novelties with respect to substantial provisions of investment protection, there seem to be no innovative means of investor-state dispute settlement. Only slightly more complicated access to it.

Another example is Kenya which terminated its bilateral investment treaty with the Netherlands in 2023. According to some researchers: „Kenya's decision reflects a growing global trend of rethinking outdated treaties that often prioritize corporate interests over public welfare.“<sup>22</sup>

On 24 October 2019, the EU Member States signed an agreement for the termination of intra-EU bilateral investment treaties.<sup>23</sup> This termination agreement entered into force on 29 August 2020. It came as a result of a decade long process of legal debates between the European Commission, EU Member States and the investment arbitration community about whether the bilateral investment treaties signed between old EU Member States and then non-EU Member States prior to their accession to the EU, were still *va lid* and in compliance with EU law after both their signatories became members of the European Union. The final verdict on this issue came with the decision of the Court of Justice of the European Union<sup>24</sup> within the *Achmea v. Slovak Republic* investment arbitration.<sup>25</sup> In this decision the Court of Justice of the European Union ruled that investor-state arbitration clauses in the intra-EU bilateral investment treaties are incompatible with EU law because the investor-state arbitration dispute settlement mechanism contained in intra-EU bilateral investment treaties “...could prevent those disputes from being resolved in a manner that ensures the full effectiveness of EU law, even though they might concern the interpretation or application of [EU] law.”<sup>26</sup>

The CJEU namely held that: „Articles 267 and 344 [of the TFEU] must be interpreted as precluding a provision in an international agreement concluded between Member States [...] under which an investor from one of those Member States may, in the event of a dispute concerning investments in the other Member State, bring proceedings against the latter Member State before an arbitral tribunal whose jurisdiction that Member State has undertaken to accept.“<sup>27</sup>

This, as the CJEU concluded, could have an adverse affect on the autonomy of EU law. This is due to he fact that such arbitral tribunal established under the BIT would have no power

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<sup>20</sup> India Model BIT (2015), available at: <https://edit.wti.org/document/show/d0eac9a8-2de6-44a8-9e9f-2986b8817aa9>

<sup>21</sup> Ibid.

<sup>22</sup> SOMO: Kenya Terminates Bilateral Investment Treaty with the Netherlands, 11 November 2024, available at: <https://www.somo.nl/kenya-terminates-bilateral-investment-treaty-with-the-netherlands/>

<sup>23</sup> [https://finance.ec.europa.eu/publications/eu-member-states-sign-agreement-termination-intra-eu-bilateral-investment-treaties\\_en](https://finance.ec.europa.eu/publications/eu-member-states-sign-agreement-termination-intra-eu-bilateral-investment-treaties_en)

<sup>24</sup> CJEU: Judgment of the Court (Grand Chamber) of 6 March 2018, Case C-284/16, *Slowakische Republik v Achmea BV.*, Request for a preliminary ruling from the Bundesgerichtshof, Document 62016CJ0284, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62016CJ0284>

<sup>25</sup> *Achmea B. V. v. Slovak Republic*, UNCITRAL, PCA Case No. 2008-13 (formerly *Eureko B. V. v. Slovak Republic*), available at: <https://www.italaw.com/cases/417>

<sup>26</sup> Ibid. At 13.

<sup>27</sup> *The Slovak Republic v. Achmea B. V.*, CJEU Case C-284/16, Judgment, 6 March 2018, RLA-109, para. 60.

to request the CJEU for a preliminary ruling in instances where it would be applying EU law (such as the provisions concerning the freedom of establishment or free movement of capital). Thus, the termination agreement implements the March 2018 European Court of Justice judgment, where the Court of Justice found that investor-State arbitration clauses in intra-EU bilateral investment treaties (“intra-EU BITs”) are incompatible with the EU Treaties. That renders them invalid under the EU law. The invalidity of the underlying agreement that served as the basis for an arbitration proceeding is a ground to request the setting aside of such an arbitration award by court. This is exactly the fate of arbitration award rendered in the *Achmea v. Slovak Republic* case. The impact of this decision is far-reaching as it potentially could affect all arbitration awards issued under intra-EU bilateral investment treaties. However, practically speaking, the situation is more complex. Although, theoretically, the CJEU’s decision might have an effect on investment arbitration proceedings based on intra-EU bilateral investment treaties that are being held or enforcement of which is being sought within the EU Member States, it has not always been the case. The arbitral tribunals act independently and usually refer to their establishment under an international treaty (the bilateral investment treaty) claiming that EU law has no precedence over the general rules of international law concerning the validity of international agreements.

„A similar decision has been taken by the CJEU with respect to the ECT’s arbitration clause’s compliance with EU law and thus its validity. In 2021, the CJEU rendered a decision in *Republic of Moldova v Komstroy* adopting the policy views expressed by the Commission, and broadening the scope of its findings in *Achmea*, the CJEU determined that „intra-EU arbitration (*i.e.*, between an EU investor and an EU Member State) under the ECT is also incompatible with EU law.“

Based on previous research by practitioners in the field of international investment arbitration, there are „at least 76 investment treaty tribunals that have considered the intra-EU objection and all have unanimously rejected it (whether under intra-EU BITs or the ECT). At least 50 of these 76 tribunals have rejected the intra-EU objection specifically founded on the basis of CJEU’s *Achmea* decision.“<sup>28</sup>

One of such cases is *Muszynianka v. Slovak Republic*,<sup>29</sup> a case initiated under the Poland-Slovakia bilateral investment treaty in 2017, thus, prior to the CJEU’s 2018 judgement in *Slovak Republic v. Achmea*. In this case, the objection on jurisdiction has been raised by the Slovak Republic, supporting its argument with the 2018 CJEU judgment. However, the arbitral tribunal in *Muszynianka v. Slovak Republic* states that „the Tribunal “shall itself decide on its jurisdiction”. Similarly, under Article 21(1) of the UNCITRAL Rules, the Tribunal “shall have the power to rule on objections that it has no jurisdiction, including any objections with respect to the existence or validity of the arbitration clause [...]”. In other words, the Tribunal has *Kompetenz-Kompetenz* and in the exercise of such power, it must analyze whether there is a valid consent to arbitrate under Article 7 of the BIT. It cannot abandon this mission and, instead, simply endorse the ruling of another adjudicatory body.“<sup>30</sup>

Furthermore, the tribunal concluded that it was not convinced with the CJEU’s analysis, as the CJEU only addressed the issues of EU law, ignoring its interplay with the rules of general international law: „In any event, the CJEU’s interpretative authority extends to the interpretation and application of the EU Treaties.<sup>332</sup> It does not encompass an exclusive

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<sup>28</sup> Gibson Dunn: The Latest Chapter of the Intra-EU Investment Arbitration Saga: What it Entails for the Protection of Intra-EU Investments and Enforcement of Intra-EU Arbitral Awards, February 4, 2022, available at: <https://www.gibsondunn.com/the-latest-chapter-of-the-intra-eu-investment-arbitration-saga-what-it-entails-for-the-protection-of-intra-eu-investments-and-enforcement-of-intra-eu-arbitral-awards/>

<sup>29</sup> Spoldzielnia Pracy *Muszynianka v. Slovak Republic*, UNCITRAL, PCA Case No. 2017-08, available at: <https://www.italaw.com/cases/9006>

<sup>30</sup> *Ibid.* at para. 214.

or ultimate mandate in respect of the interpretation of the BIT or the VCLT rules on treaty conflicts. Moreover, to decide whether Article 7 of the BIT is inoperable on the ground of the EU Treaties, one must interpret not only the EU Treaties but also the BIT and assess their interaction. A decision by the CJEU on EU law does not prejudge the critical questions under Articles 30 and 59 of the VCLT of whether the BIT and the EU Treaties govern the same subject matter; and, if so, whether there is a normative conflict between the EU Treaties and the BIT. The CJEU has not addressed these issues in *Achmea*, but has no exclusive authority to do so in any event. A review of the *Achmea* Judgment shows that the CJEU carried out no conflict analysis under the VCLT.<sup>31</sup>

Despite the case not being dismissed on jurisdiction grounds, no compensation has been awarded in this case. Thus, the „test through enforcement proceedings“ did not take place. Hypothetically, in case of an award with compensation claims brought forward for enforcement in an EU Member State, it is reasonable to expect that the defendant would be successful in bringing the case before EU courts to achieve the setting aside of the arbitration award due to the invalidity of the underlying arbitration clause in an intra-EU bilateral investment agreement.

This approach has been spread also to Intra-EU arbitration based on the Energy Charter Treaty. In the 2021 CJEU's decision in *Republic of Moldova v Komstroy*, „adopting the policy views expressed by the Commission, and broadening the scope of its findings in *Achmea*, the CJEU determined that intra-EU arbitration (*i.e.*, between an EU investor and an EU Member State) under the ECT is also incompatible with EU law.“<sup>32</sup>

Thus, the availability of the classical investor-state dispute settlement method via international investment arbitration has become even more limited. Regarding the new EU standards on substantive investment protection, A groundbreaking change in the field of regulation of substantive and procedural provisions in international investment agreements was the Comprehensive Economic and Trade Agreement concluded between the European Union and Canada (2016) (hereinafter also "CETA"). In addition to the innovative provisions on the issue of preserving a broader framework of possibilities for host states to regulate matters of public interest without violating the provisions on the protection of the rights of foreign investors, as was often the case in older investment agreements, CETA also brought revolutionary proposals in the field of resolving potential investment disputes. At the time of signing the agreement, the EU and Canada also decided to adopt the CETA Joint Interpretative Instrument, which should reflect a joint commitment to progressive trade, guaranteeing the right to regulation in the public interest, which should lead to the achievement of legitimate public policy goals.

The European Union has long declared its interest in ensuring effective international investment protection and an effective dispute settlement mechanism. The agreement should therefore be able to promote foreign investment through the investment court system (ICS), which will guarantee investors certainty and predictability in the resolution of disputes and a level of transparency on par with domestic or other international courts, while at the same time preserving the right of host states to regulate in the public interest.

The EU's intention regarding the direction in which potential investment disputes should be resolved in the future follows directly from the provisions of CETA. One of the main aspects of the EU's vision in this area is the introduction of a multilateral investment court (MIC) and an appeals mechanism.

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<sup>31</sup> Ibid. at para. 215 and 216.

<sup>32</sup> EURLEX (2021): Judgment of the Court (Grand Chamber) of 2 September 2021, République de Moldavie v Komstroy LLC., Request for a preliminary ruling from the Cour d'appel de Paris, Case C-741/19.1

Recently, the 2023 AFCFTA Protocol on Investment<sup>33</sup> also shows a shift towards securing the regulatory space of the host state, but also bringing about a novel feature to the substantive provisions of the treaty, similarly as in the India Model BIT (2015), namely a list of obligations upon the foreign investors in terms of business ethics, human rights, labour standards and environmental protection. With respect to international investment dispute settlement, it still remains unclear as to the shape and form of this procedure, since the Protocol itself refers to an annex that still remains to be finalized. Given that the Protocol will replace 173 intra-African BITs, many of them old generation, its adoption is an immensely important step for African investment and ISDS. In addition, all treaty members should align their external investment treaties with the provisions of this protocol.

The USCMA, on the other hand, completely scrapped the investor-state dispute settlement through international investment arbitration between the US and Canada. Some limited access to ISDS remained for potential specific investor-state disputes between investors and host states between the U.S. and Mexico. Despite Canada implicitly accepted the EU vision of a future investment court establishment, this by no means found its way into the renegotiated USCMA.

### Conclusion

Thus, the recent practice in new investment treaty-making shows that the approach of key players in international economic relations with respect to shaping the new era of international investment protection is far from unified. The diversified approaches taken in CETA, USCMA, new approach by important global players such as India through its Model BIT, 55 African members of the AFCFTA imply a certain level of convergence in that they all limit easy access of international investors to the old-fashioned investment arbitration system. Although some have not abandoned it completely, the trend shows towards severe limitations thereof. On the other hand, especially the approach of developing nations has strongly shifted towards achieving a higher level of equilibrium between the rights and obligations of investors to conduct their business dealings in the host states with respect to human, environmental and labour rights. Since most of these new provisions have not yet been tested in practice, some of the provisions have not even been finally adopted, such as the Annex to AFCFTA Protocol on Investment or the actual establishment of a court-like mechanism for settling investment disputes, it is early to conclude on any actual trends. The theory, however, shows that the gap is widening between different approaches to the investment law reform and it remains to be seen whether the current evident fragmentation will once converge into a solid new set of globally preferred rules on international investment protection.

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<sup>33</sup> WTI: Protocol to the Agreement Establishing the African Continental Free Trade Area on Investment, 2023, available at: <https://edit.wti.org/document/show/e5d51824-c467-4e24-922b-3fb376d89550>

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# VASUDHAIVA KUTUMBAKAM IN MODI'S NATIONAL SECURITY POLICY<sup>1</sup>

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**Abstract:** Article evaluates the influence of the principle of Vasudhaiva Kutumbakam on the national security policy of India under the prime minister Narendra Damodardas Modi governance. The paper is based on the assumption that the philosophy of Vasudhaiva Kutumbakam helps India to gain the leading role on the international stage using different approaches and tools more attractive for its partners than used by other major players. On the basis of this principle it was possible for Modi to consolidate and improve the internal and external security of India. In this sense, India gradually worked on its position of a strong and pivotal actor in the international security relations of the Global South.

**Keywords:** Vasudhaiva Kutumbakam, national security, India, Naréन्द्रa Dámódardás Módí

**JEL:** F53, F54, K33

## Introduction

The 18th G20 summit, comprising major economies from around the world, during India's presidency, adopted the theme of Vasudhaiva Kutumbakam or "One Earth-One Family-One Future", what had to affirm the value of all life – human, animal, plant, and microorganisms – and their interconnectedness on the planet Earth and in the wider universe. The Indian Prime Minister (PM) Narendra Damodardas Modi (Modi) used this phrase in a speech at World Culture Festival, organized by Art of Living, adding that "*Indian culture is very rich and has inculcated in each one of us with great values, we are the people who have come from Aham Brahmasmi to Vasudhaiva Kutumbakam, we are the people who have come from Upanishads to Upgraha.*"<sup>2</sup>

Vasudhaiva Kutumbakam is a Sanskrit phrase found in Hindu texts such as the Maha Upanishad, written a thousand years ago, which means "*The World Is One Family.*"<sup>3</sup> According to various interpretations this phrase or better principle emphasizes a global perspective, prioritizing the collective well-being over individual or family interests. It encourages to think about the welfare of others, fostering global solidarity and responsibility, especially in addressing crucial issues like climate change, sustainable development, peace, and tolerance of differences.<sup>4</sup> The original verse can be found in Chapter 6 of the Maha Upanishad Vi.71-73<sup>5</sup>

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<sup>2</sup> PM Modi's address at the inauguration of 2016 World Culture Festival by Art of Living in New Delhi: PM Modi at World Culture Festival: When you look at a country through prism of art, you realise its internal strength. The Indian Express. New Dehli. March 12, 2016. [Cited 11. 11. 2024].

<sup>3</sup> DNA of non-violence engrained in our society: PM. In: *Times Now*. 2 September 2014.

<sup>4</sup> GUPTA, A. – WADHWA, A. (2020): *India's Foreign Policy: Surviving in a Turbulent World*. pp. 53-54.

<sup>5</sup> MOSES, J. (2002): *Oneness*, p. 12. SEELAN, R. (2015): *Deconstructing Global Citizenship*, p. 143.

SINGH, BP. – DALAI LAMA (2008): *Bahudhā and the Post 9/11 World*, p. 51. HATTANGADI, S. (2000): महोपनिषत् (Maha Upanishad). WARRIER, K. (1953): *Maha Upanishad, Theosophical Society*.

and is considered the most important moral value in the Indian society, that is why this Maha Upanishad's verse is engraved in the entrance hall of the Parliament Of India.<sup>6</sup>

As was already pointed out the concept echoed in the Maha Upanishad, Vasudhaiva Kutumbakam encapsulates the essence of Sanatan Dharma, emphasizing the interconnectedness of all living beings and the collective responsibility for the welfare of the global family. Sanatan Dharma, often referred to as the eternal or universal way of life, is not confined to a set of rigid doctrines but rather embraces a flexible and inclusive approach to spirituality. It recognizes the diversity of paths leading to a common goal—spiritual enlightenment and the realization of the interconnected nature of all existence. The values embedded in Vasudhaiva Kutumbakam remain even more relevant today, transcending the boundaries of time and culture. In a world marked by diversity and differences, this ancient philosophy encourages individuals to recognize the shared humanity that unites them. The concept recognizes that knowledge knows no borders, students and scholars from different countries can work together to address global challenges, share insights, and collectively contribute to the progress of humanity.<sup>7</sup>

India's policy, even foreign policy, which is based on five virtues (Panch sheel): mutual respect for each other's territorial integrity and sovereignty, mutual non-aggression, mutual non-interference, equality, and mutual benefit and peaceful coexistence, contents the principle of Vasudhaiva Kutumbakam, based on the concepts of Sabka Saath (all together), Sabka Vikas (development of all), Sabka Vishwas (all trust each other), what means that nowadays India sees the entire world community as one big global family whose members live in harmony, work and grow together and with each other, and they trust each other.<sup>8</sup> This principle or in other words the principles of Sanatan Dharma can provide valuable insights into resolving contemporary conflicts such as the collective West-Russian conflict or Israel-palestinian people or Arab world conflict, if there is such will between all parties involved. By applying the values of interconnectedness and shared humanity, diplomatic efforts can be guided towards political dialogue, understanding and collaborative solutions that prioritize the welfare of the global family. The leaders can use these principles to find common ground and promote understanding between different communities. Accepting the common humanity of all individuals involved can pave the way for peaceful coexistence and resolution. But it has to be noted that applying these principles and values does not undermine the complexity of geopolitical issues or the historical context of conflicts. However, fostering a mindset rooted in the idea of a global family can contribute to building and finding common ground, ultimately leading to more sustainable solutions.<sup>9</sup>

The goal of the article is to introduce the philosophy of Vasudhaiva Kutumbakam and evaluate its contribution and the benefits of its principles on the national security policy of India under the Modi's governance. The main assumption here is that this philosophy helps India to develop and gain the leadership role not only within the Global South but also on the wider international stage using such approaches and tools that are more attractive to its partners than those used by other major players. Based on those principles, Modi was able to consolidate and improve India's internal and external security. In this sense, India gradually worked its way to its current position of a strong and pivotal actor in the international security relations nont

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<sup>6</sup> SHAH, S. – RAMAMOORTHY, V. (2014): *Soulful Corporations*, p. 449.

<sup>7</sup> Vasudhaiva Kutumbakam G20 - Meaning, History, Significance And Importance. „Vasudhaiva Kutumbakam – वसुधैव कुटुम्बकं“. Vasudhaiva Kutumbakam: The 'World is One Family' Concept in Hinduism, Global Unity, and Peace. [Cited 11. 11. 2024]

<sup>8</sup> BRHLÍKOVÁ, R. (2023): *India's position in the security relations of the changing world order*, p. 15.

<sup>9</sup> Vasudhaiva Kutumbakam G20 - Meaning, History, Significance And Importance. „Vasudhaiva Kutumbakam – वसुधैव कुटुम्बकं“. Vasudhaiva Kutumbakam: The 'World is One Family' Concept in Hinduism, Global Unity, and Peace. [Cited 11. 11. 2024].

only in the Global South. It could be stated that instead of hard power, India bet on soft power. Through analysis, evaluation and synthesis, the article tries to describe the connection between the Vasudhaiva Kutumbakam and the practical steps of the Prime Minister Modi's government in the field of security policy by solving internal security issues such as of separatism and terrorism and external security problems on the borders with China or Pakistan.

### **1 Consolidation of internal security policy**

The Indian Prime Minister Narendra Damodardas Modi's entire life is connected to politics. He is a real political man. Before he became the Prime Minister of India on May 26, 2014, he was the chief minister of Gujarat from 2001 to 2014 and member of parliament for Varanasi. He is a member of the Bharatiya Janata Party (BJP) and of the Rashtriya Swayamsevak Sangh (RSS), a right-wing Hindu nationalist paramilitary volunteer organization, to which he was introduced at the age of eight. Since then, he gradually rose through the party hierarchy, becoming general secretary in 1998 and held elected positions. To the present, he is the longest-serving prime minister outside the Indian National Congress and the first Indian PM to be born after the country's independence from the British Empire in 1947. He is described as a Hindu nationalist, pro active in politics resulting in bold and outcome driven policy with a vision. People sees him as a motivator and powerful communicator.<sup>10</sup>

According to observers, Modi is a man with unique persuasion power, strong beliefs and sincere intentions. His personal conviction about India's role in the international system, stemming from its spiritual and civilizational roots that sees the world as a family (vasudhaiva kutumbakam) and happiness for all (sarve bhavantu sukhinah), was integrated into policymaking. This includes punishing schedule for himself as well. Such approach won him trust of the people including the Indian diaspora, so they are willing to backs his many initiatives.<sup>11</sup>

During his 10-year rule, he focused on transforming India into a modern, global power, which would become a global manufacturing and technological hub. First of all, he launched the "Make in India" campaign on September 2014, what attracted significant foreign investment and helped to boost the manufacturing sector even in security and military sector. The next step was the Swachh Bharat Abhiyan (Clean India Mission) to eliminate open defecation by 2019. The mission was successful in reducing open defecation by over 90%. The same year he opened the program of Jan Dhan Yojana (People's Wealth Scheme) with the goal of providing bank accounts to all Indians – women and men. The scheme has been successful in opening over 450 million bank accounts, many of them for the poor and unbanked. On November 2016, Modi ordered the ban of higher denomination currency notes (Rs 500 and Rs 1,000) to weed out black money and end corruption. Under his rule, India experienced rapid economic growth when in 2022 the Indian economy grew at a rate of 8.7%, making it the fastest-growing major economy in the world. He made a significant investments in infrastructure including roads, railways, airports, and ports, what helped to improve connectivity and boost that economic growth. He also launched initiatives promoting digitalization, including the Digital India program and Aadhaar biometric ID system what helped to improve access to government services and boost digital economy with the aim to open the Indian Silicon Valley. Under his leadership the central government has also taken a number of landmark

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<sup>10</sup> The rise and journey of Narendra Modi: Timeline. The Hindu.com. Updated - June 06, 2024 01:07 pm IST. ISSN 0971-751X. [Cited 11. 11. 2024].

<sup>11</sup> DOVAL, A., K.C. (2022): *Tackling Adversaries through Strong and Effective National Security Policies*, p. 346.

decisions, right from the abolishment of Article 370 in Jammu and Kashmir to introducing the women's reservation bill in Parliament.<sup>12</sup>

Several steps have been taken to ensure social harmony and inclusive growth. The Muslim Women (Protection of Rights on Marriage) Act, 2019, which banned triple talaq and other similar forms of talaq, was passed, and 10 per cent reservation for economically backward sections of the unreserved category was introduced. The 14th Finance Commission has made important recommendations to increase the share of states in decentralisation of central taxes. All these are transformational changes that bear the stamp of a Prime Minister who has a vision for India's future.

His approach to global affairs is based on linking foreign policy with strong domestic growth. This has allowed him to pursue a more assertive foreign policy and to establish ties with major powers such as the United States, Japan, and Australia, while maintaining above-standard relations with Russia and solving the border issues with China within the BRICS summit in Kazan, Russia in 2024. He has also played a leading role in regional organizations such as the South Asian Association for Regional Cooperation (SAARC) and the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC).

Coming from state Gujarat that witnessed communal riots in 2002, described by some analysts as a pogrom approaching genocide,<sup>13</sup> Modi began to push for creation of national vision of homeland security and change the deeply rooted status quo thinking and archaic attitudes resisting any change. He believed that India can be taken seriously internationally only if it will be strong internally. By promoting India as preferred destination for investment and strategic partnership, it was very important to ensure the internal security and safe and stable environment free from rebellions and riots. The key task was to find the balance for the use of soft and hard power, advancing national interests in polarized environment and implementing results-based security policies. Modi has done this by changing procedures and insisting that such important strategic reviews of national security as the annual DGP (Directors General of Police) conferences and combined commanders' conferences be held outside the capital city Delhi. He also insisted on delegation of planning and execution of specialized tasks to professionals.

The National Security Council Secretariat (NSCS) has been restructured to address future challenges. Its roles and functions have been institutionalised in the “Allowance of Business” rules and reflect a special focus on science and technology, innovation and non-traditional security including maritime security, economic security, climate change and weather warfare. Its structures dealing with external, internal, intelligence, cyber and military domains have been further strengthened. Close coordination between the NSCS and NITI Aayog ensures that the security and development initiatives of the Prime Minister are implemented in a coordinated manner. The creation of the post of Chief of Defence Staff (CDS) with the Department of Military Affairs (DMA) has helped to integrate defence planning, conduct joint operations and facilitate inter se prioritisation of resources among the armed forces. The joint structures in cyber, space and special operations function directly under the CDS. Creation of Defence Cyber Agency, Defence Space Agency and Armed Forces Special Operations Division were some of the other steps taken to meet future challenges. In line with PM Modi's vision of Aatmanirbhar Bharat, several indigenous projects have been fast-tracked to ensure self-reliance and promote “Make in India”. After the successful sea trials of IAC 1 (Vikrant) on 4 August 2021, indigenous shipbuilding has seen a major boost. 36 warships are on order at domestic shipyards. Several squadrons of indigenous Light Combat Aircraft

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<sup>12</sup> NARENDRA MODI. *Times of India*. [Cited 11. 11. 2024].

<sup>13</sup> DHATTIWALA, R. – BIGGS, M. (2012): *The Political Logic of Ethnic Violence: The Anti-Muslim Pogrom in Gujarat*, 2002. WARD, B. (2014): *Rioting as Maintaining Relations: Hindu-Muslim Violence and Political Mediation in Gujarat*. India, pp. 18-37.

(LCA) and their variants and the Arjun Main Battle Tank will be procured for the armed forces. Brahmos cruise missile has been integrated with SU-30 MKI and AEW&C aircraft has been inducted. Foreign Direct Investment in defence has been increased from 49 per cent to 74 per cent under automatic route. GST rates on domestic maintenance, repair and overhaul (MRO) have been reduced to 5 per cent. This will boost both civil and military MRO activities in India. The Prime Minister has also set an ambitious defence export target of USD 5 billion by 2025. Indian embassies have been empowered to promote defence exports. India's flagship exhibitions Aero India and Def Expo, as well as Defence Minister's Conclave have become regular and have gained visibility. Defence Industry Corridors in Uttar Pradesh and Tamil Nadu will provide special incentives to companies involved in defence manufacturing. The aim is to become self-sufficient in the production and repair of military equipment, thereby reducing defence expenditure and saving funds that can be invested in other sectors.<sup>14</sup>

Based on his own experience from Gujarat, Modi understands the complexities of security policymaking what leads him to find an implementable solution for every problem. According to Doval, efforts have been made to build a seamless, coordinated national security apparatus and intelligence network and targeted intelligence-led operations have helped prevent and respond to threats quickly.<sup>15</sup> Modi's goal was to create structures within the state that would be able to bring real-time response and inter-agency synergy. Various relevant parties dealing with terrorism have been strengthened through capacity building and systemic improvements. Since then India has not seen any major terrorist attacks or unrest in the hinterland beyond Jammu and Kashmir and some regions Punjab despite numerous attempts by extremist groups.<sup>16</sup>

Fight against Left-Wing Extremism (LWE) requested new combined approach. Focused ground operations along with measures on the ideological front were introduced mainly in Dandakaranya region in south of Chhattisgarh. Intelligence-led coordination between central forces and state police and action against "Urban Naxals" progressed simultaneously together with the infrastructure development in backward districts, LWE affected areas and border states. Emphasis was placed on both development and security objectives. This Aspirational Districts Development Programme, combined of security and development objectives, covers many of the LWE affected district and led to better communication and regional connectivity, development of electrification, health and education facilities. This led to continual decrease of LWE violence and gradual declining of its influence. Moreover, Modi's government started to talk to insurgent groups and address the concerns of Northeast ethnic groups what led to the signing of settlement agreement with groups like the Achik National Volunteer Council (ANVC) in Meghalaya in 2014, the National Liberation Front of Twipra led by Sabir Kumar Debbarma (NLFT-SD) in Tripura in 2019, Bodo groups in Assam in 2020, a framework agreement with the National Socialist Council of Nagaland (Isak-Muivah) in August 2015, and the resolution of the Bru/Reang issue between the state governments of Mizoram and Tripura in January 2020. The Armed Forces Special Powers Act (AFSPA) of 1958 was abolished from Meghalaya and some districts of Arunchal Pradesh.<sup>17</sup>

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<sup>14</sup> DOVAL, A., K.C. (2022): *Tackling Adversaries through Strong and Effective National Security Policies*, p. 357-359.

<sup>15</sup> Ibid. p. 341-342.

<sup>16</sup> Terrorist groups like Al-Qaeda, separatist movements like Jamaat-ul-Mujahideen (JMB), Sikhs for Justice (SFJ) and Jammu and Kashmir Islamic Front (JEL-J&K), as well as entire network of Students Islamic Movement of India (SIMI) and Indian Mujahideen (IM), have been identified, banned, neutralized and broken both within and outside the country in collaboration with the National Intelligence Service and other security agencies involved, as well as the army and with the support of friendly countries. Based on accurate intelligence, preventive measures against terrorist infrastructure across the Indian border were taken in Myanmar in 2015 without any casualties on the part of security forces personnel.

<sup>17</sup> IZSÓFOVA, B. (2022): *Čína a India v kontexte orientalizmu*.

The Modi government has also honoured the sacrifices of its security forces – both civilian and military – as well as civilians by establishing the Police Memorial, the National War Memorial and introducing One Rank One Pension. The Statue of Unity was inaugurated on 31 October 2018, to symbolise the government's commitment to national integration and India's unity in diversity in the spirit of Vasudhaiva Kutumbakam philosophy. In order to achieve broad inclusivity in security management and to change the overall view of the status of women in the security forces (army and police) and to prevent gender discrimination, a Permanent Commission for Women in the Armed Forces was created, a larger number of women were included in the security forces, including fighter squadrons of the Indian Air Force, and women soldiers were enrolled in the Indian Army as well as in Sainik schools. Such homeland security approach together with civil-military fusion helped to ensure the development of the state's infrastructure f. e. by completing around 11,400 km of roads and six bridges in the border areas. Union Ministry of Road Transport and Highways coordinates its activities closely with the Defence Ministry what led to identification of almost twenty-nine stretches of highways that can be converted into aircraft runways in an emergency. For joint civil-military use, thirty military airfields and seven Advance Landing Grounds have been opened what will support the Prime Minister's project of regional air connectivity scheme named "Ude Desh ka Aam Nagrik" (UDAN). For the first time, a long-term and holistic approach is being taken for infrastructure development.

## **2 National interest and security above all**

As was already mentioned the Prime Minister Modi's general approach is to further national interests overriding all other options including any political costs. This applies to both domestic politics and, especially, to India's foreign policy and security. His position and approach is „India First“ together with the principles and philosophy of Vasudhaiva Kutumbakam – world as a family. This is also reflected in Modi's foreign and security policy actions where he managed to link national security policy with international policy. After assuming office as Prime Minister in 2014, Modi implemented a "neighborhood first" policy, as illustrated by the invitation of India's South Asian neighbors to attend Prime Minister Modi's swearing-in ceremony in May 2014. This can be considered an unprecedented act in the history of India, but not a one-time thing. Modi continued to maintain cooperation and South Asian consensus even through the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC) and it was who proposed to step up cooperation with this region in the security domain.<sup>18</sup>

Modi's first official visit as Prime Minister was to Bhutan, and he was the first Indian Prime Minister to visit Nepal in seventeen years. He managed to conclude a long-delayed land boundary agreement with Bangladesh, involving the arduous task of exchanging enclaves. India also respected the international verdict on the settlement of the maritime boundary with Bangladesh. Modi has forged new relationships with the Maldives and Sri Lanka, leading to the expansion of the India-Maldives-Sri Lanka trilateral maritime security initiative by including three more countries – Mauritius, Seychelles and Bangladesh – in a modernised "Colombo Security Conclave", to ensure greater coherence and cooperation on matters beyond maritime security to address other common security challenges including terrorism, radicalisation, human trafficking and organised crime, and cybersecurity. He visited also all the Central Asian countries early in his tenure and proactively engaged with West Asian nations including Saudi Arabia, the UAE, Israel and Oman. The Organisation of Islamic Cooperation (OIC) invited an Indian foreign minister to address it for the first time. To maintain relations

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<sup>18</sup> DOVAL, A., K.C. (2022): *Tackling Adversaries through Strong and Effective National Security Policies*, p. 346.

with this region is very important not only because it houses India's largest diaspora abroad, channelling significant amounts of remittances back home, but Modi understands this relations more boarder and in both directions in terms of investments, trade and enhancing cooperation in defence, intelligence, cyber, renewable energy, agriculture, space, security, fight against terrorism.<sup>19</sup>

Prime Minister Modi has made significant effort to establish personal relationships with world leaders such as Russian President Vladimir Putin, US Presidents Barack Obama and later Donald Trump, Japanese Prime Minister Shinzo Abe, Chinese President Xi Jinping and heads of state/government of all major powers including France, Australia, European Union, Israel, West Asian partners and the United Kingdom too.<sup>20</sup> Building personal relationships is his constant feature and has also brought significant benefits to India. An example is the special relationship with Russia and the Russian President, which helped India get rid of royalties. For decades, India manufactured defense items with Soviet, now Russian, collaboration. In addition to payments for other items, India followed the practice of paying "license fees" or „royalties“ for every item manufactured in India. Even after paying for the transfer of technology costs and domestic production of all items – the practice of paying royalties continued – as was part of the original contract. Such a practice was believed to be too sacred to be challenged. Modi completely changed this practice after he came to office when he found out that even for the domestically produced T-72 tanks, „royalties“ were being paid to the Russian original equipment manufacturer and that the royalty clause had no time or other limits. As a first step to abolish this practice, he asked his office not to continue this practice in future and to review all old contracts accordingly. When that failed, his office failed, Modi himself spoke to Russian President Putin and was able to convince him of the irrationality of such a practice with his rational arguments and articulate skills. Modi, in terms of India First policy, emphasizes that when decisions are taken, agreements are signed and contractual obligations are entered into, it must be done with due regard to the long-term consequences of such actions. Similarly, indigenous production of AK-203 assault rifles in India, with 100 per cent technology transfer and no royalty clause was not possible without the Prime Minister constantly monitoring its progress—from negotiations with the Russians to the establishment of the facility in Amethi.<sup>21</sup>

This approach of his led to India no longer being associated with Pakistan<sup>22</sup> or viewed from the prism of non-alignment alone. Not to mention India's involvement in various

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<sup>19</sup> Both India and the Gulf Cooperation Council (GCC) states do not view this relationship only from the standpoint of Pakistan. These countries understand the impact of radicalization and terrorism on civil society. Excellent intelligence cooperation resulted in the deportation of nearly 150 terrorists and hardened criminals to India from 15 countries—mostly from Gulf nations—in the past seven years.

<sup>20</sup> BRHLÍKOVÁ, R. (2023): India ako regionálna mocnosť globálneho juhu.

<sup>21</sup> DOVAL, A., K.C. (2022). Tackling Adversaries through Strong and Effective National Security Policies, pp. 356, 361.

<sup>22</sup> Despite the Prime Minister's best efforts to engage with Pakistan in an attempt to create an environment for peaceful relations, India has witnessed terrorist attacks that were planned and executed from Pakistan - in Pathankot (January 2016), Uri (September 2016) and Pulwama (February 2019). The lackluster response to the numerous bomb attacks in Indian cities has earned India the familiar nickname of a "soft state." Modi has therefore decided to adopt tough tactics and send a message to Pakistan that such and other incidents will no longer be tolerated, and has deployed hard power, albeit in a calibrated and restrained manner. Specifically, it targeted the infrastructure of the terrorists. There was no collateral damage to innocent civilians. There were no casualties on the Indian side. A clear message was sent that hostile acts would lead to retaliation. At the same time, a joint effort was made within the Financial Action Task Force (FATF) and the United Nations Security Council (UNSC). The FATF placed Pakistan on the grey list in June 2018, urging it to implement a 27-point action plan to curb money laundering and terrorist financing. From this list Pakistan was removed in October 2022 according to Aljazeera. HUSSAIN, A. (2022): Pakistan removed from global „terrorism“ financing list.



international organizations.<sup>23</sup> In recent years, India has intensified security and intelligence cooperation with the US and the UK to the point where these countries share core technologies and best practices with it, moving beyond buyer-seller relationships. The scope and frequency of bilateral military exercises have expanded to improve interoperability. The US has even labeled India as a major non-NATO ally, granting it STA-I status, which allows for the transfer of key technologies, and in its strategy documents calls it the world's largest democracy.

Concerning security, India is working with all strategic partners, because it is clear that security threats in the 21st century are borderless and broad, beyond traditional areas. They cannot be addressed in isolation, but only through cooperation by all. Maintaining the security of global assets (on which world trade revolves), rejecting unilateral actions aimed at challenging the international order based on the rules of international law, and combating global terrorism and radicalization are in line with Prime Minister Modi's principles and philosophy of Vasudhaiva Kutumbakam. The impact of climate change, energy security, cybersecurity, human and drug trafficking, illegal migration, cooperation in the civil nuclear and space sectors are other areas that are coming to the fore.

### Conclusion

After ten years in power, it can be said that Prime Minister Narendra Modi has succeeded in transforming India into a modern state and rising power. He is an example of a politician with a vision who implements necessary political steps with prudence and courage. He understands that a leader must come up with new ideas, plans, and practical suggestions to stay one step ahead in all aspects. His initiatives can be divided into three stages: (1) consolidation through the development of attitudes, (2) promotion of political will, and (3) implementation of transformation. He believes that national will is the most important component of national power and nation's determination to protect itself from hostile forces is the most important aspect of national security. Without this, technological and military power have no meaning. Every step Modi has taken in security policy must be assessed through the lens of his vision for the nation. His background in a strongly nationalist regime based on the principles of the Vasudhaiva Kutumbakam has instilled in him a strong sense of civilizational awareness and a long-term strategic vision for India's future. He believes that only strong economy, human capital, technological excellence and strong national consciousness are the guarantee of India's security. His commitment to nation-building, his belief in India's potential and unique leadership style play important role in designing strong and effective national security policy.

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<sup>23</sup> India's engagement in international organizations, including its ambition to become a permanent member of the UN Security Council, deserves a separate study.

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# ELECTIONS TO REGIONAL COUNCILS IN THE CZECH REPUBLIC IN 2020-2024 IN A COMPARATIVE PERSPECTIVE

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**Abstract:** The electoral system in the Czech Republic represents a key mechanism of democratic participation of citizens. Significant attention is paid to the analysis of regional elections to regional councils in 2020 and 2024 in a comparative perspective, pointing to the decline in voter turnout and the change in political preferences, with the dominance of the ANO movement. Populism and changing attitudes towards the European Union are other important factors shaping Czech politics. Future legislative changes to electoral rules will provide new opportunities to strengthen democratic principles and voter participation in decision-making. Overall, the article illustrates the interaction between civic participation, the political environment and real changes in the culture of political deliberation in the Czech Republic.

**Keywords:** electoral system, elections, Czech Republic, regional councils, ANO

**JEL:** D72

## **Introduction**

Electoral systems are the cornerstone of any democratic system because they are the mechanism by which citizens express their political will and influence governance and decision-making processes at all levels. In the Czech Republic, electoral systems have evolved in line with political change and the needs of society, with elections to regional councils proving to be an important part of this process.

The aim of this article is to analyse the regional council elections in the Czech Republic, in particular to compare the results and trends of the last two electoral cycles (2020 and 2024). The article also assesses the impact of planned legislative changes on the electoral process and political culture, thus contributing to the understanding of the evolution of the Czech political environment.

To carry out this analysis, we used combined methods. Qualitative analysis of the literature, which provides an in-depth review of theoretical concepts and relevant studies, while comparative analysis allows for the assessment of regional election results and the identification of changes in policy preferences. Quantitative methods involve the analysis of statistical data on elections, which will provide an objective basis for assessing political trends. In this way, the article provides a comprehensive and up-to-date view of the electoral system in the Czech Republic and its impact on political life and civic engagement.

## **1 Electoral system in the Czech Republic**

In modern democracies, elections can be seen as a key mechanism and the main form of expression of the sovereignty and political will of the people. Elections represent the interests of different social groups in office and are one form of real participation in politics for citizens. In addition, they provide an opportunity to influence government: to retain or change presidents, parliaments and governments, to make them accountable to the people, to change the political course, etc.

It is the electoral system that is one of the elements of the political system of a society, which is closely related to the party system. This system is one of the most important decisions

of any democratic state, which concerns not only young democratic countries, but also developed countries that are trying to adapt (modify) their electoral systems in accordance with the new political reality. The choice of electoral system has a significant impact on the future political life of a country, which, once established, in most cases remains practically unchanged and political interests stabilise around it, taking into account the realities it establishes.<sup>1</sup>

According to information from the Ministry of the interior of the Czech Republic, the electoral system can be simplistically defined as the way in which seats are allocated to candidates according to the outcome of the vote. Thanks to the way it is determined, the final electoral result depends to a significant extent. The electoral system in the Czech Republic includes two main models as follows:

- proportional representation system - seats are allocated to the political parties standing for election in proportion to the number of valid votes they have received from the electorate. According to the principles of proportional representation, elections to the Chamber of Deputies of the Parliament of the Czech Republic, regional and municipal councils and the European Parliament are held in the Czech Republic.
- majority voting system - the candidate who gets more votes than any other candidate is elected. If this does not happen, there is a second round of elections, to which the two most successful candidates advance. According to the principles of the majority system, elections to the Senate of the Parliament of the Czech Republic and the election of the President of the Czech Republic are held in the Czech Republic. The fundamental difference with the list-based proportional electoral system is that the voter votes for a specific candidate/person, not for a political party. Therefore, we can speak in this case as a highly personalized system.

In the Czech Republic, we can distinguish types of elections primarily according to the body that is filled through elections. Voters have the right to vote:

- President of the Republic;
- Chamber of Deputies of the Parliament of the Czech Republic;
- Senators of the Senate of the Parliament of the Czech Republic;
- members of the European Parliament for the Czech Republic;
- members of county councils;
- members of municipal councils.<sup>2</sup>

This article focuses on regional elections and analyses this selected area of the electoral system in the Czech Republic. According to the Constitutional Act No. 347/1997 Coll. on the Establishment of Higher Territorial Self-Government Units, counties are higher territorial self-government units. Among other things, counties are higher territorial self-government units according to Article 99 of the Constitution of the Czech Republic. The elections themselves and the conditions for exercising the right to vote are regulated by sub-constitutional legislation. According to Article 102(1)(1) of the Constitution, representatives to county councils are elected for a four-year term of office on the basis of universal, equal and direct suffrage.

In 1997, members of the Civic Democratic Alliance submitted a proposal to divide the Czech Republic into 13 regions. The Christian Democrats also agreed with them. According to them, the elections should have been held in 1998 together with the local and senate elections. The Czech Government adopted a proposal for the division of the territory into 13 regions, the distribution of which was based on the variant of the Minister of the Interior Jan Ruml and the Minister of Justice Vlasta Parkanová. The proposal adopted by the government accepted the number of 13 regions, but instead of the Jihlavský Region, it proposed to exclude the capital city of Prague and classify it as a region. In October 1997, a compromise was adopted, based

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<sup>1</sup> KLYMKOVA, I. – OSTAPENKO, M. (2011): *Vybory i vyborči systémy*, [online]. [Cited 02. 10. 2024].

<sup>2</sup> MINISTERSTVO VNITRA ČESKÉ REPUBLIKY (2021): *Volby v ČR*. [online]. [Cited 02. 10. 2024].

on the recommendations of a parliamentary committee, which would have established 14 regions, including Prague and Jihlavský Region.<sup>3</sup>

On the basis of the above-mentioned proposal, the Chamber of Deputies of the Parliament of the Czech Republic adopted on October 23, 1997 Constitutional Act No. 347/1997 Coll. on the Establishment of Higher Territorial Self-Government Units, which was supported by a constitutional majority of eight deputies. It was supported by the deputies of the Christian and Democratic Union - Czechoslovak People's Party, the Civic Democratic Alliance, with the exception of three deputies of the Czech Social Democratic Party and 42 deputies of the Civic Democratic Party. Only two parties voted against, both at opposite poles of the imaginary right-wing horizontal ideological spectrum.<sup>4</sup>

As of today, the territory of the Czech Republic is divided into three size groups of regional councils: with 65 representatives (Středočeský, Juhomoravský and Moravskoslezský), with 55 representatives (Jihočeský, Ústecký and Olomoucký) and with 45 representatives (Plzeňský, Karlovarský, Liberecký, Královéhrad). Since 2000, there has been no change in the size of councils in any of the regions, as the population has not changed significantly in any of them. It is the number of inhabitants of a region that influences the number of members of regional councils, which is determined by law.<sup>5</sup>

Elections to representative regions are held only in the territory of the Czech Republic and are held by secret ballot on the basis of universal, equal and direct suffrage, according to the principles of proportional representation. The President of the Republic shall announce the type of election no later than 90 days before it is to take place, so that it is held within a period beginning on the 30th day before the expiry of the electoral term and ending on the day of its expiry. Voting shall take place in 13 regions of the Czech Republic (except for the elections in the capital city of Prague, which shall be held simultaneously with the elections to the municipal councils).

A voter for regional councils is a citizen of the Czech Republic who has reached the age of at least 18 years on at least the second day of the election and who is registered as a permanent resident of the municipality that belongs to the territorial district of the region on the day of the election. The exceptions for voters are obstacles to the exercise of the right to vote on election days, which are:

- statutory restriction of personal liberty on account of imprisonment;
- restriction of legal capacity to exercise the right to vote;
- statutory restriction of personal liberty for the protection of public health;
- the performance of service as a conscript abroad or the performance of service as a reservist abroad.<sup>6</sup>

Any citizen of the Czech Republic who has reached the age of 18 at least on the second day of the election may become a member of the regional council. The candidate in question shall be registered as a permanent resident of a municipality belonging to the territorial district of the county. In addition, the candidate shall not have a statutory restriction on his or her personal liberty by reason of a prison sentence and shall not be deprived of his or her legal capacity to exercise the right to vote.<sup>7</sup>

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<sup>3</sup> ŠULÁK, T. (2001): Krajské volby 2000. In: *Vydavatelství Univerzity Palackého, Olomouc. Volby 2002. Zastupitelstva obcí, Český statistický úřad, Praha*, p. 18.

<sup>4</sup> ŠVEC, K. (2010): Analýza voleb do krajských zastupitelstev v roce 2008 v kontextu teorie koalic a srovnání s volbami v roce 2000 a 2004. In: *Acta Politologica*, Vol. 2, No. 2, pp. 186-204. ISSN 1803-8220.

<sup>5</sup> KRPÁLKOVÁ, S. – PROCHÁZKA, O. – VOSÁTKA, P. (2022): *ČSÚ a zpracování výsledků voleb*. Praha: Český statistický úřad, 2022.

<sup>6</sup> MINISTERSTVO VNITRA ČESKÉ REPUBLIKY (2021): *Volby do zastupitelstev krajů - základní informace pro voliče*. [online]. [Cited 15. 10. 2024].

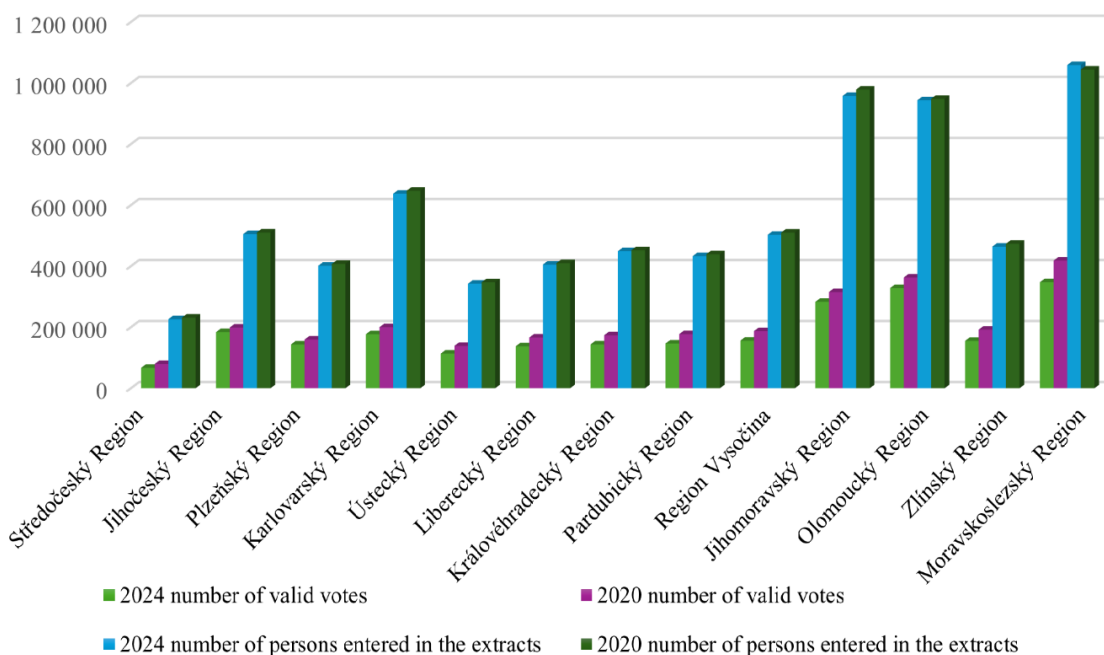
<sup>7</sup> MINISTERSTVO VNITRA ČESKÉ REPUBLIKY (2021): *Volby do zastupitelstev krajů - základní informace pro kandidující subjekty a jejich kandidáty*. [online]. [Cited 05. 10. 2024].

An important fact remains that 2024 is the last year in which elections in the Czech Republic were held on the basis of current and established practice. Thus, at the beginning of 2024, the Parliament of the Czech Republic approved new electoral legislation in the form of the Electoral Administration Act and the so-called Amendment Act. The latter amends all laws that in some way touch on the issue of elections. Their approved entry into force in 2026 clearly indicates that the next elections to local government bodies will be held under the new electoral legislation, which brings, first of all, a fundamental modernization of elections, extensive digitalization in the form of a central information system for election administration and a number of other updates. Lawmakers in the Chamber of Deputies are also currently discussing the possibility of postal voting for Czech citizens who live abroad for a long time, and if Parliament approves it as proposed, it should be in force in next year's elections to the Chamber of Deputies.<sup>8</sup>

## 2 ELECTIONS TO COUNTY COUNCILS IN THE CZECH REPUBLIC

Based on the above information, we would like to stress that the aim of this chapter is to analyse the last two regional council elections, namely 2020 and 2024, in a comparative perspective. Thus, the different coalition structures will be compared within and between regions, as well as within each election, or within the local government unit as a whole, during the above-mentioned electoral cycles.

**Figure 1: Number of valid votes cast in the election and number of persons on the permanent electoral roll**



Source: Český statistický úřad

In 2024, the number of participating voters in the elections to the representative counties was 32.91% of the total number of persons registered in the extracts from the permanent electoral rolls (7,325,529 people), whereas in 2020 the number of participating persons reached 37.95% of the total number of registered voters (7,399,299 people). Based on the above data, we can observe a decrease of 5.04% in 2024 compared to 2020. In 2020, the highest number

<sup>8</sup> AQE ACADEMY (2024): Krajské a senátní volby v praxi. [online]. [Cited 10. 10. 2024].

of voters voted in the Pardubický Region and the Zlínský Region, 41% of the total number of registered people; in contrast, in 2024, the highest number of valid votes in the regional council elections was registered in the Jihočeský Region and the Region Vysočina, 36% of the total number of registered people (Figure 1).

Based on data from the Statistical Office of the Czech Republic, 8,269 candidates from 95 political groupings took part in the 2024 elections. The largest number of candidates represented the interests of the political movements ANO and Piráti (Table 1). In the 2020 regional council elections, 9,711 candidates from 85 political groupings stood for election, with the SPD and ANO parties fielding the largest number of candidates (Table 1). Reanalysis of the data shows the following: there were 1,442 more candidates in the 2020 regional elections compared to 2024, and at the same time there were 10 fewer political parties registered in 2020 than in 2024.

**Table 1: Number and name of political movements in regional council elections**

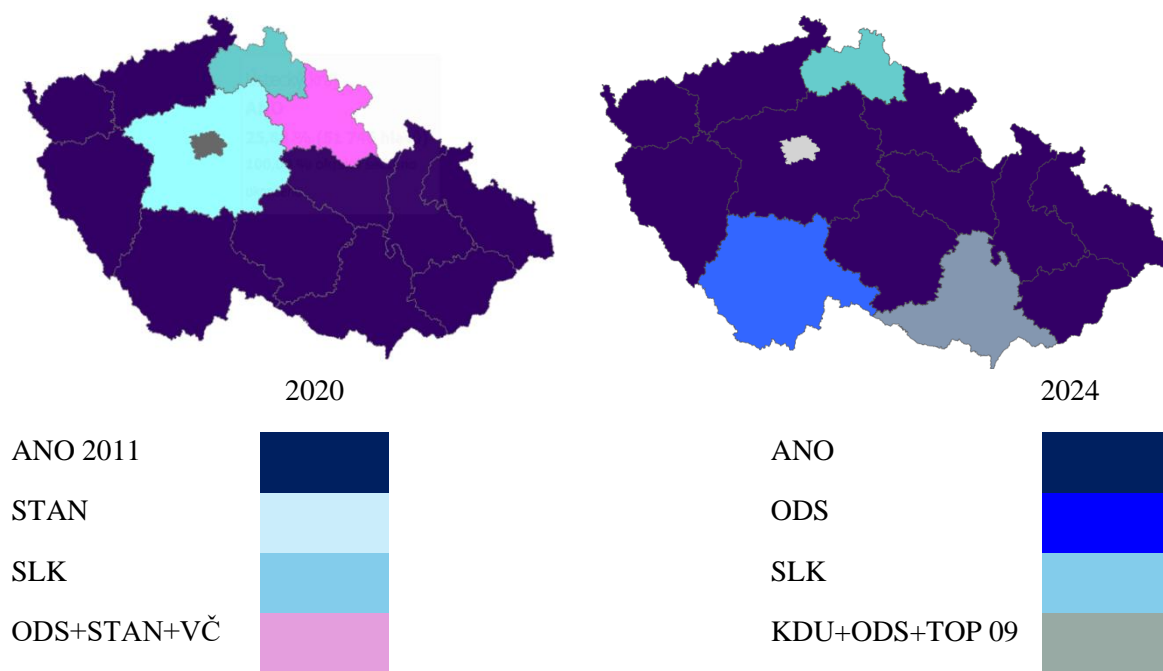
2024		2020	
Candidate list, name	Number of candidates	Candidate list, name	Number of candidates
ANO	733	SPD	740
Piráti	673	ANO	732
PŘÍSAHA	579	KSČM	728
SOCDEM	521	Piráti	668
SPD+Trikol+PRO	359	Trikolóra	574
ODS	279	ČSSD	572
STAN	226	Rozumní	534
Svo+SPD+Tri+PRO	179	ODS	350
ČSNS+KSČM	167	STAN	289
SPD+Trikolora	160	KDU-ČSL	240

Source: Český statistický úřad

Election results in the Czech Republic have shown that Andrej Babiš's ANO movement won the last two regional council elections in the Czech Republic (Figure 2). In 2024, ANO won 35.38% and the result increased by 13.56% compared to the previous elections. The ANO movement failed in the elections in only three regions, namely in the Liberecký Region, where the SLK won the last two terms with 1.66% in 2024 and 1.93% in 2020. Also in the last elections ANO failed in the Jihočeský Region, where voters decided on the victory of ODS with 5.89% and in the Juhomoravský region, where the KDU+ODS+TOP 09 party won with 5.50%. In 2020 ANO was not ahead in the Kralovehradecký Region, where the winner was ODS+STAN+VČ with 8.99% of the total number of valid votes, and in the Stredočeský Region STAN won with 20.06%. Figure 2 graphically shows the regions of the Czech Republic with movement victories over the last two electoral periods.



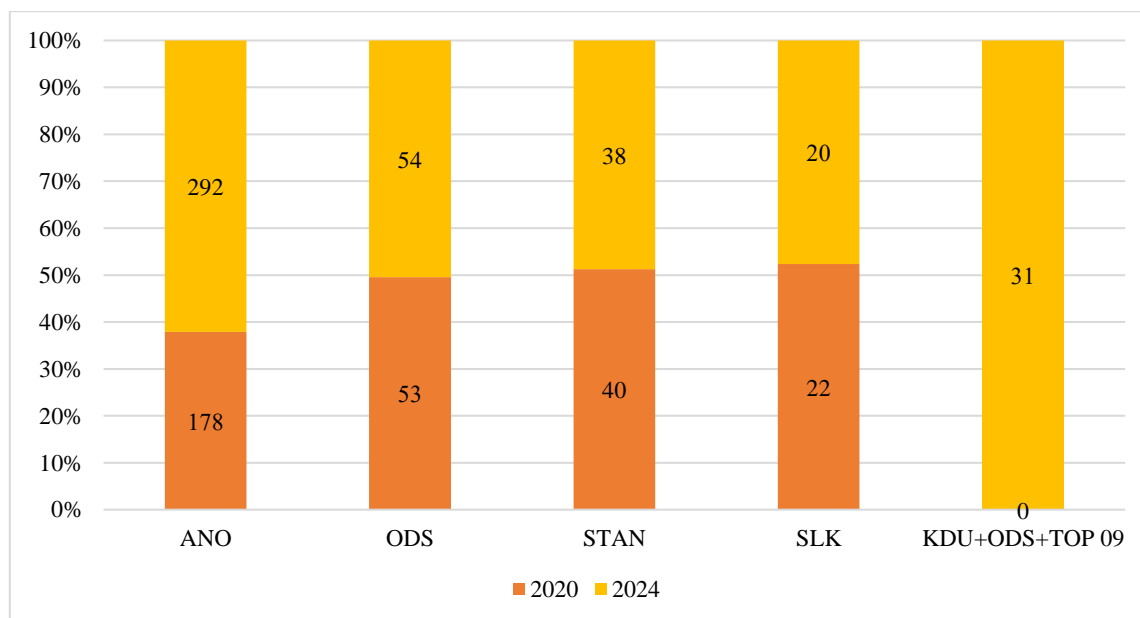
**Figure 2: Election results**



Source: Český statistický úřad

Figure 3 shows the number of seats won by the participating movements in the last two regional council elections in the Czech Republic.

**Figure 3: Number of seats allocated on the basis of the election results**



Source: Český statistický úřad

The next analysis presents the best results for each political party. Figure 3 shows that the largest number of seats in the last two regional council elections was won by ANO with a total of 292 seats in 2024, 114 more than in the 2020 elections. ODS came in second place, with one more seat than in the previous elections. In the political movement STAN the number of mandates in 2024 has decreased by two mandates and amounts to 38, the same decrease is also represented by the SLK movement, but at the same time a lower number of mandates,

with a total of 20 in 2024. The political party KDU+ODS+TOP 09 did not win any mandate in the elections in 2020, but in 2024 it occupied 31 mandates, thanks to the voters of the Juhomoravský Region.

The most important fact remains that ANO is the biggest populist party, which always gets around 30% of the vote. Founded in 2011 and led by billionaire industrialist Andrej Babiš, the ANO movement is characterised as a technocratic or centrist populist party with no clearly defined ideological foundations. In its early days, the party asserted itself by appealing to voters by emphasising its own expertise in communication skills and its ability to run the state effectively, while accusing established political parties of incompetence and corruption.<sup>9</sup> According to De Lange (2007), the ANO party has recently been moving rhetorically and electorally towards an economic centre-left alliance with nativist and authoritarian attitudes, and thus closer to the pattern typical of other far-right political parties in contemporary Europe. In 2013 ANO became part of a coalition government as a partner of the Social Democrats (SPD) and the Christian Democrats. After the 2017 elections, it became the leading ruling party in a minority coalition with the SD, which was supported by the Communist Party of Čech and Moravy for most of the election period. And from 2021, after the parliamentary elections, ANO took over as the leading opposition party.<sup>10</sup>

The slogan of the ANO party's election campaign for regional councils was: "We will give you back what the Fiala government took from you". "Our goal is to win positions in the leadership of the regions and to start repairing the damage that the Fialova government has done. It has failed the citizens all along the line," Andrej Babiš told the Czech newspaper.<sup>11</sup> Based on Andrej Babiš's claim that Fial's government has failed the citizens, ANO presents itself as an alternative that is capable of correcting previous mistakes and redistributing political resources for the benefit of communities.

## Conclusion

An analysis of the electoral systems and results of the 2020 and 2024 regional council elections in the Czech Republic reveals significant trends and dynamics affecting the country's politics. While elections provide an opportunity for citizens to express their will and influence political processes, the decline in voter participation points to potential problems in mobilising and engaging the public in the democratic process. It is also clear that ANO, as the dominant force in the last elections, has evolved and adapted to changing political realities, demonstrating its flexibility and ability to win the support of different electoral groups.

The upcoming legislative reform promises to modernise the electoral process, including digitisation and the introduction of new practices such as postal voting for citizens living abroad. These changes could have a positive impact on voter turnout and widen access to elections.

In conclusion, it is important to emphasise that monitoring and analysing electoral trends as well as the responses of political parties to current challenges will be crucial for understanding the future of the political system in the Czech Republic. Efforts to make political dialogue more transparent, accessible and engaging citizens will be crucial for strengthening democratic values and mutual trust in political institutions.

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<sup>9</sup> HAVLÍK, V. (2015): The Economic Crisis in the Shadow of Political Crisis: The Rise of Party Populism in the Czech Republic. In: *Kriesi, H. & Pappas, T. S. (Eds.), European Populism in the Shadow of the Great Recession*, 2015, pp. 199-216.

<sup>10</sup> HAVLÍK, V. – KLUKNAVSKÁ, A. (2024): The Race of Populists: The 2024 EP Elections in the Czech Republic. [online]. In: *2024 EP Elections under the Shadow of Rising Populism. (eds). Gilles Ivaldi and Emilia Zankina. European Center for Populism Studies*. [Cited 22. 10. 2024].

<sup>11</sup> ČESKÉ NOVINY (2024): Hnutí ANO staví kampaň do krajských voleb na kritice současné vlády. [online]. [Cited 23. 10. 2024].

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# A TURBULENT YEAR FOR SLOVAKIA 2024

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**Abstract:** This year could be called a super election year in Slovakia due to two important elections: presidential elections and the European Parliament elections. Slovak nationalist-left government candidate Peter Pellegrini won the country's presidential election in 2024, cementing the grip of pro-Russian Prime Minister Robert Fico over the country.<sup>1</sup> Fico, who took power for the fourth time last October, has turned the country's foreign policy to more pro-Russian views and initiated reforms of criminal law and the media, which have raised concerns over weakening the rule of law<sup>2</sup>. Peter Pellegrini became Slovakia's sixth president since the country gained independence after the split of Czechoslovakia in 1993 and succeeded Zuzana Čaputová, the country's first female head of state. Pellegrini's victory means that he will support the government's aims and efforts, and will not be in an opposition like the previous liberal president Zuzana Čaputová. With Pellegrini's win, Fico rebounded from two straight presidential election losses. PM Robert Fico was defeated at the presidential vote by Andrej Kiska 10 years ago while Čaputová claimed victory over a candidate he supported in the 2019 ballot. Liberal opposition party Progressive Slovakia (PS/Renew) emerged victorious in the European elections in Slovakia with 27.8% of the vote and six seats, beating Robert Fico's Smer-SD, initially seen as the frontrunner, which secured 24.8% of the vote and five seats. The result was not unexpected, but polls had begun to shift in Smer-SD's favor following the assassination attempt of Fico. Smer-SD recalled that the majority of seats were won by representatives of national and conservative forces, which sends a clear signal to Brussels to change EU policy. The Smer-SD leaders think that the citizens gave a clear order for a change in EU policy when, in a record turnout, they overwhelmingly rejected the EU's approach to the war in Ukraine, the sending of arms and progressive ideology in the form of the Green Deal and the denial of traditional values," the party claimed.

**Keywords:** Slovakia, presidential election, European Parliament elections, political parties, politics

**JEL:** N40

## Introduction

The presidential elections in Slovakia, which were scheduled in April, had utmost importance. The former head of state, Zuzana Čaputová, did not participate in the elections, which made them crucial. She did not hide the fact that she would not run due to intense pressure on her and her family. It is no secret who organized this pressure. It was the leader of the party Smer-SD and the new prime minister of Slovakia, Robert Fico. It is possible that such pressure on the head of state facilitated Fico's rise to power. Slovak political circles assume that Čaputová agreed to most ministers from Fico's government, even those facing criminal investigations, due to threats from the then opposition politician. In Slovakia, a presidential veto can be easily overcome – it only requires another vote with a simple majority. Nevertheless, the president of Slovakia had certain powers critical for Fico. First of all, it is the president who proposes the candidacy of the prosecutor general, making it difficult to gain full control over

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<sup>1</sup> BALOGOVÁ, B. (2024): Fico wins.

<sup>2</sup> ONDERČANIN, L. (2024): Pellegrini's victory will strengthen pro-Russian voices in Central Europe.

the country. Besides, PM Fico's party supported the candidacy of the then-speaker, Peter Pellegrini, for the president. Officially, the Hlas-SD leader confirmed his decision on participating in the presidential elections in mid-January. His opponent, a diplomat Ivan Korčok, announced his candidacy for president in 2023. There were more presidential candidates, but the expectation was that Pellegrini and Korčok were the most serious candidates for the presidential function in the country. The fact that the de facto presidential election campaign in Slovakia had already unofficially started sooner (legally supposed to begin in mid-January) indicated the importance of these elections for the future of Slovakia.

Between 6–9 June 2024, millions of Europeans participated in shaping the future of European democracy on the occasion of the European elections. It is a unique moment when we can all collectively decide on the future of the European Union. Voting is always important, be it at local, national or European level. It is an excellent opportunity to have your say on topics you care about. This is a decisive year. Elections took place in over 50 nations around the world — but what, specifically, lied ahead for Europe, and the European Union? The recent European Parliament elections were a make-or-break moment, as the composition of the parliament and its MEPs determines the future of key policy initiatives. In 2024, decisions (or the lack thereof) significantly shape the trajectory of the EU — both domestically and internationally. Questions about social and economic stability, rule of law and unity within the 27-nation bloc loom large.

### **1 The Election of the President in Slovakia**

The presidential elections in Slovakia featured a crowded field, but it was sure that the biggest winner could be the prime minister if he could get his candidate elected. While this might help Robert Fico push through his agenda, the economy would remain a thorn in his side.

Slovakia knew that it would get a new president in 2024, after the incumbent, Zuzana Čaputová, had announced in June 2023 that she wouldn't seek re-election in the presidential vote. Among the country's most popular leaders, Slovakia's first female president hasn't been spared the bricks and bats that are part and parcel of the vicious, polarized political debate in the country. Indeed, this divorced mother of two, lawyer and standard bearer for progressive causes is currently suing the new prime minister, Robert Fico, for lies she claims he and his Smer-SD party spread about her during the rancorous September parliamentary election campaign.

Fico, a pugilistic pro-Russian populist, long ago abandoned civility, proportionality and accuracy in his pursuit to regain power after being dumped out of office in 2018 following mass street protests in the wake of the contract killing of investigative journalist Jan Kuciak and his fiancée, Martina Kušnírová. Fico is driven more by power than money, which explains his no-holds-barred approach to completing a remarkable political comeback in 2023. That power supposed to be enhanced in 2024 if the three-party coalition, led by Smer-SD, that governs Slovakia can get its candidate, Peter Pellegrini, elected as president. Although, at first, he did not announce his decision on whether to run or not for a longer time (until mid-January), Pellegrini, the then-speaker of parliament and chairman of the coalition Hlas-SD party was expected to be a candidate.

There are only two basic rules regarding the voting system in Slovakia. Every Slovak citizen who has reached the age of 18 on the day of the elections can vote for the president. Voting is only possible on Slovak territory though. This year, a total of 11 candidates ran in the first round of this year's presidential election. Opinion polls suggested that two of the candidates were clear favorites from the start: Peter Pellegrini and Ivan Korčok. Even, these public opinion polls indicated the second round would be a tight battle between Peter Pellegrini, leader of the Hlas-SD party and Ivan Korčok, a professional diplomat who served as foreign minister between 2020 and 2022.

The first round of the presidential election was held on March 23, 2024, when surprisingly, the former diplomat Ivan Korčok (42.51 percent and 958,393 votes) outran Speaker of Parliament and Hlas-SD party leader Peter Pellegrini (37.02 percent and 834,718 votes). Voters who did not want to completely hand over the country to a government attacking the rule of law, independent media and civil society won the first round of a “referendum” on Prime Minister Robert Fico.<sup>3</sup> At the same time, in the second round, it was obvious that the future president would also be decided on by people who would hand over this office, without hesitation, to former judge Štefan Harabin and his disinformation group. However, Korčok’s victory in the second round was not certain, because he needed further support. Pellegrini had made it through despite not saying anything voters would remember. He didn’t promise anything that Fico hadn’t already promised. A collection of political clichés about peace and a dignified life was sufficient to come in second.<sup>4</sup>

A final duel between Peter Pellegrini and Ivan Korčok was long expected, but after the first round it was more Korčok vs. Pellegrini – and that has somewhat changed the dynamics of the campaign. After Korčok won the first round, the Pellegrini campaign seems to have realized that smiling, avoiding confrontation and proclaiming their candidate’s love for “peace” may not suffice to carry their candidate into the Presidential Palace after all.

The last week of campaign, which was truncated by the Easter holidays, brought a more confrontational tone into the campaign, in contrast to the somewhat tepid offering before the election’s first round. The ruling coalition has been accusing Korčok of planning to bring down their government, of wanting to give up Slovakia’s right of veto in the European Council, and even of plotting to “drag Slovakia into war”. Politicians from Pellegrini’s Hlas-SD party have alleged that Korčok would send Slovak troops to Ukraine, to which Korčok has responded, accurately, that such a decision is not even within the competence of the president. Prime Minister Robert Fico, who has played a supporting role in the Pellegrini campaign, has taken to promoting an absurd narrative about Korčok, spread initially in the disinformation media, that links him to the 1999 NATO bombing of Belgrade.<sup>5</sup>

After a surprise victory in the first round, former foreign minister Ivan Korčok emerged as a winner in three of opinion polls. However, Peter Pellegrini, the speaker of parliament, has an equal chance of winning the second round. The margin in the polls, with the exception of one survey, was exceedingly narrow.

The polling stations reopened in Slovakia after two weeks, as runoff voting for the country's presidential election began. The brief but intense campaign was replete with smears and apprehensions, in contrast to the dreary campaign preceding the first round. In contrast to the first round, where Pellegrini was favored, the majority of polls favor the former diplomat this time around, albeit with a modest margin.

The second round, held on April 6, was a surprise to many again, because in a contrast to the opinion polls, the results of the run-off elections showed that Speaker of Parliament, Peter Pellegrini, will become Slovakia’s next president. Pellegrini received 53.12 percent (1,409,255 votes), while Korčok ended up in second place with 46.87 percent (1,243,709 votes).<sup>6</sup> The Statistics Office ended the counting process at 2:00 on April 7 morning, when it announced on its website that all the votes had been counted. The turnout in the runoff round reached 61.14 percent. This is the second-highest turnout since 1999, when the president was elected directly for the first time.<sup>7</sup>

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<sup>3</sup> DLHOPOLEC, P. (2024): Slovakia votes for president in runoff election.

<sup>4</sup> STATISTICAL OFFICE OF THE SR (2024): List of Candidates.

<sup>5</sup> TERENZANI, M. (2024): Pellegrini’s “peace”-driven campaign falls apart ahead of round two.

<sup>6</sup> DLHOPOLEC, P. (2024): Peter Pellegrini wins Slovak presidential election.

<sup>7</sup> STATISTICAL OFFICE OF THE SR (2024): Presidential Election.

Shortly before midnight, Korčok congratulated Pellegrini on becoming the president-elect and said that he hopes Pellegrini will act without orders coming from the government. Korčok has been a vocal critic of the current government, which has carried out purges in the police and cancelled the Special Prosecutor's Office to stop the investigation of high-profile corruption. It is attempting to change the Penal Code and to get the public broadcaster RTVS under its control. Dozens of people who served under the previous Smer-SD-led governments have been convicted of corruption and other serious crimes.

In response to the smear campaign waged against him by Pellegrini and his team several days before the runoff round, the former diplomat said he would never forget it Pellegrini and the ruling coalition portrayed him as a "war president".

Korčok is a strong supporter of Ukraine, like President Zuzana Čaputová, but Peter Pellegrini has been calling for peace in Ukraine a long time and opposing any military aid to the country. In his campaign, he also claimed that Korčok would send Slovak soldiers to Ukraine to fight in the war. However, this is not a presidential power. It looks like the fear decided the election and Pellegrini won despite the fact that his campaign was non-transparent.

After midnight, Pellegrini pledged that the ruling coalition would remain stable and he would support the government. He's been nicknamed a "minion" by the public since late 2023. During the post-parliamentary election talks, the Hlas-SD chair claimed that he wouldn't be anyone's minion. Thus far, his party has supported all the moves announced by the Smer-SD-led coalition. Besides, Pellegrini kept repeating the government's position on the war in Ukraine, and that Slovakia would remain on the side of peace, not on the side of war. Fico's cabinet halted military aid to its neighbor last year, but his cabinet continues to support commercial arms deals, including those concluded by state-owned firms.

As for his campaign, he said that it wasn't based on marketing, nor on a fight against anyone. Pellegrini, who mimics the positions of populist PM Fico when it comes to the country's foreign policy, didn't respond to Korčok's accusations.

It was very interesting to watch PM Robert Fico standing by the president-elect and celebrating. It's known that their relationship isn't ideal. Ahead of the second round, Fico said that Pellegrini was not "an ideal candidate". Fico ran for president in 2014, but he lost to entrepreneur and philanthropist Andrej Kiska. He had received almost 900,000 votes, significantly less than Pellegrini's 1.4 million votes.

Pellegrini had been Smer'-SDs top party official for many years. He left in 2020, two years after the murder of investigative journalist Ján Kuciak and after Smer-SD lost the 2020 parliamentary election, pledging that he would never sit in a government with Fico. Pellegrini then established his new party, Hlas-SD, which Fico didn't like. Still, they formed a ruling coalition last year, also with the Slovak National Party.

However, after this presidential election, Robert Fico has his own president.<sup>8</sup> After ten years, the democratic counterbalance to autocrats was moving out of the Presidential Palace. The palace symbolically returned to the days when it still served the communist pioneers. This time there will probably not be a boisterous Smer-SD choir singing on the balcony, but even Peter Pellegrini's victory sounds similar to Fico's statement that they are the ones who rule now. At the same time, the outcome of the presidential election clearly shows that Slovakia is a divided country and it does not belong entirely to Smer-SD and Robert Fico.<sup>9</sup>

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<sup>8</sup> NICHOLSON, T. (2024): Slovak presidency goes to PM Fico's proxy.

<sup>9</sup> STOKLASA, R. – LOPATKA, J. (2024): Pellegrini wins Slovak presidential election in boost for pro-Russian PM Fico.

## 2 European Parliament Election in Slovakia

The European Union remains too complicated and distant for many people in the country, despite the fact that Slovakia joined the EU 20 years ago. Information about how the EU works has been incorporated into the curriculum only in recent years.

In a fact, the Slovak people are the most aware of the European Parliament of all European Union bodies. However, it is the Court of Justice of the European Union and the European Prosecutor's Office that people trust more, even if people are not as familiar with them as with the parliament. According to several polls only 10 percent of respondents knew the European Court of Auditors. It may have caught people's attention in early 2023 when then Slovak lawmaker Martin Klus tried to become an auditor despite lacking the necessary qualifications in finances and audit. Nominated by the then Eduard Heger cabinet, the nomination was perceived as a political trade-off, since the offer came out of nowhere and at a time when the Heger administration no longer held a majority in parliament. The European Parliament did not approve the nomination. Today, auditor Katarína Kaszasová represents Slovakia in the European Court of Auditors, trusted by 63 percent of Slovaks.

In general, the interest of people in Slovakia in the European elections has been the lowest of all member states for such a long time. There are several factors that can explain this. The first, and to a large extent the key one, is that the political parties have not been interested in these elections. They have deemed them to be second-category elections, where "useless" politicians are placed. This is reflected in the campaigns for these elections and the financial resources the parties invest in them. Secondly, the reason for the low participation is the general ignorance about how the European Parliament works, why we should participate in the elections and what effects these elections have on our future. They have been uninteresting because they, and their meaning, have been unknown. It's a direct result of neglected education about the EU in our schools.<sup>10</sup>

However, this year the campaigning was a little bit different. We could see it when despite of the assassination attempt, PM Robert Fico had a last-minute entrance to the European election campaign. In his 14-minute-long video, Fico pinned most of the blame for what had happened to him in May on what he calls the "anti-government" media that he says is financed by US billionaire George Soros, foreign non-governmental organizations, and the opposition. He was talking about the opposition and that it was unable to assess where its aggressive and hateful politics had led a section of society, and it was only a matter of time before a tragedy would occur. He added that all these actors will downplay the attack.<sup>11</sup> In fact, numerous public figures, NGOs and representatives of what he calls the 'anti-government' media all publicly condemned the attack immediately after it happened. The Prime Minister noted that he had repeatedly talked about the possibility of an attack on a Slovak government official, even communicating this fear to EU and NATO ambassadors in Slovakia

In the monologue, he ignored threats that opposition leaders and the president have been receiving. Nor does he acknowledge that he has himself contributed to the divide in society thanks to the dehumanizing language that he has long used to attack his opponents. For example, he has compared President Zuzana Čaputová to a rat. PM Robert Fico also criticized the war in Ukraine and the EU, and talks about his government's sovereign foreign policy. He accuses several large western democracies and international organizations of being unable to accept other views. For example, he mentions his refusal to take illegal migrants in, his withdrawal of Slovak soldiers from Iraq, and his policy of halting Slovakia's military support for Ukraine. In his perspective, not all western democracies were "happy" about the aforementioned decisions. He continued to criticize the EU for not standing up for the Smer-

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<sup>10</sup> VANČO, M. (2024): Poll: Slovaks know little about EU institutions, but their trust is immense.

<sup>11</sup> TRANSPARENCY INTERNATIONAL SLOVENSKO (2024): Only three political parties had transparent European election campaign.



SD-led opposition in the years 2020-2023 when, Fico alleges, the parties then in government tried to abuse the rule of law and eliminate the opposition.

Finally, when the official results were released, PM Robert Fico and his Smer-SD could also celebrate, although they did not win the elections. It was Progressive Slovakia (PS), a leading pro-European opposition force led by former European Parliament deputy chair Michal Šimečka, who won its second victory in the Slovak European elections.<sup>12</sup> The party took 27.81 percent, the State Commission for Elections and Control of Financing of Political Parties confirmed on June 9. In 2019, PS won these elections and scored 20.11 percent in alliance with the Spolu party.<sup>13</sup>

Prime Minister Robert Fico's Smer-SD, a ruling party that formed its fourth government last October, came second, taking 24.76 percent, despite the polls published before the two-day election moratorium on June 5 indicating the party's potential victory. The party did not shy away from exploiting a shooting incident from mid-May, in which Fico was seriously injured, in an attempt to win the European elections.

Regardless, the result in the European elections is a success for both PS and Smer-SD. They each obtained two more seats. The new European Parliament will have six MEPs for PS, and five for Smer-SD. The far-right party Republika, led by MEP Milan Uhrík, came third with 12.53 percent, despite the fact that it is not represented in the Slovak parliament. President Peter Pellegrini's party, Hlas-SD, finished fourth with just 7.18 percent, which is not good considering its strong position in the Slovak parliament. Hlas-SD took one seat, while Republika increased the number of its seats to two. The opposition Christian Democratic Movement (KDH), chaired by MEP Miriam Lexmann's husband and Prešov Region governor Milan Majerský, scored 7.14 percent. However, the party will no longer hold two seats, as was the case in the 2019-2024 term, but only one.<sup>14</sup>

The elections were a disaster for the nationalist right-wing Slovak National Party (SNS), which sits in the government with Smer-SD and Hlas-SD, as well as for the liberal Freedom and Solidarity (SaS), the conservative Slovakia political party led by ex-PM Igor Matovič, the Hungarian minority party Alliance, and the conservative party Democrats (even though the party recorded a better result than in the parliamentary elections in 2023). None of these parties were able to secure a seat, meaning that Slovakia and SaS will no longer be represented in the European Parliament.

In Slovakia, a country with 5.5 million citizens, the turnout in the elections was high by Slovak standards: 34.38 percent. Slovakia has been notorious for having the lowest turnout in these elections. As many as 1,505,706 people cast a vote on June 8, 2024. Fifteen MEPs from five different parties will represent Slovakia in the next term in the European Parliament, seven of them women.

The most controversial are from the far-right political parties and the coalition leader Smer-SD. For example, Slovakia's far-right politician Milan Mazurek of the Republika party has appeared on the Brussels-based news outlet Politico's list of "the 23 kookiest MEPs".

The website describes Mazurek as a "smiling racist". The same level of scariness, according to the outlet, is represented by the Polish MEP Grzegorz Braun, who destroyed a Jewish religious symbol and a Christmas tree with EU and Ukrainian flags; along with Romania's pro-Russian MEP Diana Șoșoacă and Germany's pro-Russian MEP Petr Bystron.<sup>15</sup>

The 30-year-old far-right Slovak is the second MEP on the Republic Party's list (its other MEP, Milan Uhrík, is too extreme for the Identity & Democracy group). The shaven-headed Mazurek has been convicted for making racist remarks about Roma people,

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<sup>12</sup> BEŇO, M. (2024): Slovakia delivers one of few liberal party victories in EP elections.

<sup>13</sup> SILENSKÁ, N. (2024): Pro-EU liberals triumph over Fico's Smer in Slovak EU elections.

<sup>14</sup> NMS MARKET RESEARCH SLOVAKIA (2024): Opinion polls – European Parliament Elections in Slovakia.

<sup>15</sup> WAX, E. – COKELAERE, H. (2024): The 23 kookiest MEPs heading to the European Parliament.

and a former school classmate quoted Mazurek as saying that the Holocaust was a scam, that he smiled as he visited the Auschwitz death camp, and that he used to go around beating up Roma people in his youth.

Interesting fact is that Mazurek is the first Slovak politician to have lost a seat in the Slovak parliament following a ruling that found him guilty of racist comments against the Roma. He was then a member of the far-right People's Party Our Slovakia, also known as the ĽSNS party. The politician, who joined Republika in 2021, does not believe that the Holocaust happened, according to his former friend. The Republika leader and MEP, Milan Uhrík, said in the past that he did not know if the Holocaust happened because he was not a historian. Uhrík apologized for the comment last year.

During the coronavirus pandemic, Mazurek mocked infectious diseases expert Peter Sabaka on social media. He called him a "Covid prophet", "fascist creature", and a "criminal". In the past three years, the court ordered Mazurek to pay thousands of euros to the doctor, delete the content about Sabaka from his social media, and apologize to him. Uhrík, like his party, also defamed and attacked scientists during the pandemic.

In the European elections in 2019, ĽSNS's number two on the slate failed to win a seat in the European Parliament. He received 39,496 votes. Mazurek then concluded that life in a big Western European city was not his cup of tea.

Five years later, one of the candidates on Republika's slate, Mazurek took 71,656 votes in the European elections and announced that Republika has set to work on building a strong patriotic faction in the European Parliament. In a fact, 23 MEPs from seven different countries are necessary to form a political grouping in the European Parliament.

Besides the two representatives of the far-right, there is one more controversial politician, who made it to the European Parliament. Only after the group around (now president-elect) Peter Pellegrini left to form the Hlas-SD party in 2020, and (now Defense Minister) Robert Kaliňák stepped down from his position as vice-chairman, did Ľuboš Blaha rise to prominence in the Smer-SD party leadership. While for Smer-SD, Blaha has become a significant social media draw for voters in the conspiracy scene, the opposition considers him one of the most aggressive coalition politicians and has for years referred to him as "the MP who shall not be named". He is a fan of Russian President Vladimir Putin's policies, an opponent of the US, and one of the most loyal colleagues of Smer-SD leader Robert Fico.<sup>16</sup>

## Conclusion

The Fico-led ruling coalition took control of the presidency in June. That is the main outcome of the presidential election run-off in Slovakia, which Peter Pellegrini won on April 6, with 53.12 percent of the vote. His opponent, Ivan Korčok, received 46.87 percent. Peter Pellegrini took over the presidency from then-president Zuzana Čaputová in June 2024.

Pellegrini won the Presidential Palace for the ruling coalition, but he also won a way out of the Robert Fico-led ruling coalition for himself. This time last year, and in the months that preceded the September parliamentary election, he had been eyeing the prime-ministerial chair – by far the most powerful in Slovakia's constitutional set-up. That did not work out, and he opted to join the coalition under his political patriarch Robert Fico – despite the fact that the two men had not seen eye to eye since Pellegrini deserted Fico's Smer-SD party to establish Hlas-SD party in 2020. Fico once labelled Pellegrini a "traitor", but on election night the two men hugged in front of the cameras as they celebrated the latter's election win.<sup>17</sup>

Pellegrini's presidency was part of a larger scheme not of his own design. Just a few months before he announced his candidacy, ahead of the September election, he was still saying

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<sup>16</sup> KATUŠKA, M. – HAJČÁKOVÁ, D. (2024): Putin admirer, influencer, long-term politicians. Who are the newly elected Slovak MEPs?

<sup>17</sup> TEREZANI, M. (2024): And then they took the Presidential Palace.

that he felt young, full of energy and ready for an executive post. That was when he still believed had a shot at the premiership. Then came Hlas-SD party's disappointing third place in the September parliamentary election, the return of Fico – and with it a marked change of Peter Pellegrini.

We can say that another obstacle in Robert Fico's rapid transformation of Slovakia according to the model of Orbán's Hungary has disappeared. Voters in Slovakia strengthened the influence of pro-Russian forces in Central Europe when they elected a candidate who opposes military and financial aid to Ukraine. Pellegrini copied Hungarian Prime Minister Viktor Orbán's tactics from the 2022 election, when the government claimed that the opposition wanted to drag Hungary into war. However, the most important outcome of this presidential election is that Pellegrini's victory will make Robert Fico stronger, as he can now push his agenda without any opposition in the Presidential Palace. Fico's return to power is extraordinary, despite the fact that many considered his political career to be over after resigning from office, along with protests following the murder of journalist Ján Kuciak.

The whole European Union campaign had been cast in the light of the center and left forces seeking to hold off a surge of the far right between July 6 and July 9, and in a fight between those who seek closer EU unity with greater powers against those like Slovak Prime Minister Robert Fico, Hungarian Prime Minister Viktor Orbán and Italian Prime Minister Giorgia Meloni who seek to swing the pendulum back to the member states themselves.

In Slovakia, the leading pro-European party Progresívne Slovensko (PS) headed by former European Parliament deputy chair Michal Šimečka won its second victory in the Slovak European elections.

The party took 27.81 percent of votes, followed by PM Robert Fico's Smer-SD with 24.76 percent, despite the polls published before the two-day election moratorium on June 5, indicating the latter's potential victory. In an attempt to win the elections, the party did not shy away from exploiting a shooting incident from mid-May, in which the PM was seriously injured.

PS's election leader and former PM Ľudovít Ódor received the highest number of preferential votes, a total of 294,944. He was followed by Smer-SD's Ľuboš Blaha with 187,020 votes. Of the 15 seats for Slovak MEPs, PS will have 6, Smer-SD 5, the far-right Republika led by MEP Milan Uhrík 2, and 1 belongs to KDH and Hlas each. Interestingly, Republika is not represented in the Slovak parliament.<sup>18,19</sup>

The turnout in Slovakia reached 34.4 percent, historically the highest for EP elections in the country. Then-President Zuzana Čaputová was pleased with the turnout, saying that the outcome demonstrated that the majority of voters in Europe still wish to be represented by parties of the democratic center. The highest turnout of 44.53 percent was in the Bratislava Region, while the lowest of 28.33 was in the Košice Region. When it comes to municipalities, 90 percent of all voters cast a vote in Potok, Ružomberok district, while only 1.03 percent came to vote in Lomnička, Stará Ľubovňa district.

According to Transparency International Slovensko, only parties Progresívne Slovensko, KDH (Christian Democratic Movement) and SaS (Freedom and Solidarity) carried out a transparent EP election campaign, while Smer-SD and Hlas-SD carried out the least transparent campaign.

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<sup>18</sup> STATISTICAL OFFICE OF SR (2024): European Parliament Elections 2024 – Political Parties' Mandates.

<sup>19</sup> POLITICO (2024): Slovakia — European election 2024 results.

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# TURKIC VECTOR OF TURKEY'S FOREIGN POLICY TOWARDS CENTRAL ASIA<sup>1</sup>

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**Abstract:** Over the past two decades, Turkey's foreign policy has significantly strengthened the search for the country's new identity and position in international relations. This has been significantly reflected in Turkey's activities in Central Asia, where it offers consolidation under Turkish leadership to the nations with which it shares cultural and linguistic roots. In the initial stage of the Turkic Project implementation, the emphasis was placed on strengthening cultural ties. Later on, however, Turkey's priorities were shifted towards the politico-economic and military aspects of interaction with its Central Asian partners. The article highlights Ankara's possibilities and limitations regarding the geopolitics and geo-economics of the post-Soviet countries. Currently, only the South Caucasus is included in Turkey's priority foreign policy interests. This is also due to historical traditions. Turkey's intention to expand its reach into Central Asia and become a new centre of cultural and political gravity, as an engine of the pan-Turkic integration project, draws it into a confrontation with Russia, which will view Turkic projects "in the near abroad" with resentment.

**Keywords:** foreign policy, historical heritage, Turkism, national interests

**JEL:** F53, F55

## Introduction

Since their independence, Central Asian countries have experienced the impact of various competing socio-economic, political, ideological and cultural projects. Several of these projects have a common background in Turkey, which intends to bring Azerbaijan and the five Central Asian republics together around Turkey and help them enter the Turkic world.<sup>2</sup> The idea of expanding to post-Soviet Eurasia with the "one nation, six states" formula was already outlined by Turkish President Abdullah Gül (President from 2007 to 2014). Later, it was fully endorsed by the current Turkish President Recep Tayyip Erdoğan. In the initial phase (in the 1990s) of the Turkic Project implementation, the emphasis was placed on strengthening the cultural ties between the Turkic-speaking countries. However, in the following years up to the present day, Turkey's priorities have focused on the politico-economic and military aspects of interaction with its Central Asian partners. We published an article with a similar focus a decade ago. We are returning to the issue of Turkism, a phenomenon that has undoubtedly acquired a new dimension in the third decade of the new millennium. Using the methods of analysis, synthesis and description, we discuss the current state of affairs and highlight the possibilities and limitations of the "Turkic vector" in Turkey's foreign policy towards Central Asia.

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<sup>2</sup> ČECH, L. (2013): Turkish Foreign Policy and Its Activities in the Asian Vector, pp. 82-103.

## 1 What are Turkey's interests in Central Asia?

Turkey's interests and goals in Central Asia are determined by the factors inherent in Ankara's modern foreign policy, which focuses on its global position. Turkey wants to be one of the centres that shape the processes in strategically important regions, such as Southern Europe, the Mediterranean, the Middle East and the Caucasus. It has increased its economic and military potential in recent years, and considers itself as an important energy crossroads,<sup>3</sup> and is motivated in this respect not only by political ambitions but also by economic interests. These are also present in Ankara's aspirations in Central Asia, where Turkey offers consolidation under its leadership to nations with which it shares cultural and linguistic roots.

What is more, Turkish authorities are taking into account the growing number of advocates of common Turkic values based on the legacy of neo-Ottomanism and are working to spread them worldwide. As Russian Orientalist M. Kirchanov notes, "Neo-Ottomanism has become a form of cultural and political legitimization of the Turkish elites' attempts to increase the influence of the Republic of Turkey in the international arena."<sup>4</sup> Turkey also takes into consideration the changes in the geopolitical situation in Eurasia in connection with the conflict in Ukraine and the fact that the resources of Russia, which undoubtedly remains a key partner of the Central Asian states, are largely diverted to the conflict in Ukraine. This gives Turkish politicians and businessmen reason to hope that new opportunities will open up for them in Central Asia, both in the economic sphere and in areas related to regional security.

The goals and intentions of modern Turkish policy in Central Asia can be defined as follows:

- to replace Eurasian economic integration with a project aimed at accelerating the consolidation of the Turkic-speaking countries of the region within the framework of the Organisation of Turkic States;<sup>5</sup>
- to improve Turkey's relations with Central Asian energy producers and take advantage of this transformation into a major hub for pumping oil and gas to Europe;
- to intensify joint efforts with the EU concerning the Trans-Caspian Gas Pipeline project aimed at transporting gas across the Caspian Sea;
- to assist Central Asian countries in developing logistics corridors as well as energy and trade routes bypassing Russia;
- to support Kazakhstan and Azerbaijan in their efforts to create the Trans-Caspian International Transport Route (TITR),<sup>6</sup> which is regarded as an alternative to Russian trade and transport routes.

The trade and economic interaction between Turkey and Central Asian countries, which has intensified considerably in the last decade, is influenced by Turkey's economic growth. The country is seeking new markets for its investments and goods. What is more, the economies of Central Asian countries require new investments, and Turkish investments, in addition to Russian, Chinese and European ones, are considered to be such. The energy factor

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<sup>3</sup> The possibility of creating a site in the Black Sea region off the coast of Turkey to export gas to other countries, especially Europe, to replace lost Russian supplies was also discussed by the Russian President in October 2022 after the Nord Stream 1 and Nord Stream 2 undersea gas pipeline explosions. In 2024, Turkey's chances of implementing such a project have diminished. For more details, see: Postavki turkmenskovo gaza cherez Azerbajdzhan: Ankara oglasila plany v sfere energetiki. [online].

<sup>4</sup> KIRCHANOV, M. B. (2023): Neosmanizm kak intellektualnaya legitimacija vnešnej politiki Turcii [Neo-Ottomanism as an intellectual legitimacija in the current policy of Turkey], p. 91. [online].

<sup>5</sup> For example, in November 2020, Kyrgyz Foreign Minister Ruslan Kazakbayev, in a meeting with Turkish Minister Mevlüt Çavuşoğlu, pointed out that the members of the Organisation of Turkic States must strengthen their economic relations, establish a joint investment fund and build its centre in Kyrgyzstan (author's note).

<sup>6</sup> Kazachstan: uzbecké tovary cez prístav Aktau (2023). [online].

also plays an important role as it is linked to Turkey's intention to build new routes for energy supplies to Turkey and the EU, bypassing Russia and Iran.

Turkey also has a cultural and linguistic influence on Central Asian countries, greatly facilitated by state policies of the ruling elites who initiated the quest for civilisation. Within its framework, the idea of Turkic unity is often presented as a much more attractive alternative than maintaining common cultural, historical and linguistic ties with Russia. The context of such a search is, in many cases, a consequence of the Turkish policy of capturing the cultural codes of other countries. We see the transition of several Central Asian countries from the Cyrillic alphabet to the Latin alphabet. Turkmenistan was the first country in the region to make such a transition in the 1990s. Uzbekistan followed, and the process has begun in Kyrgyzstan and Kazakhstan, which plans to complete the transition to the Latin alphabet in 2025.

Interestingly, defence and security ties between Turkey and Central Asian countries have been growing rapidly in recent years. They are not yet as mature as relations with Azerbaijan, with which Turkey has important defence agreements. These are the Agreement on Strategic Partnership and Mutual Assistance signed on 16 August 2010 and the Shusha Declaration on Allied Relations signed on 15 June 2021.<sup>7</sup> In the declaration, the two states pledged to coordinate their actions on strategic, regional and international issues. They also agreed on cooperation in the field of defence industry, joint modernisation of their armies and mutual military assistance. If the territorial integrity or independence of one of the signatories is threatened, they should not only hold joint consultations but also "coordinate the actions" of their armed forces. Based on the declaration, Azerbaijan should soon start producing Turkish drones, which helped this South Caucasus state gain the upper hand in its recent war with the Armenians.<sup>8</sup>

However, the trend towards deeper interaction with Turkey in the military-political sphere is already visible. This is facilitated by the expansion of the Turkish military-industrial complex and its intensive involvement in the production and export of drones,<sup>9</sup> which have become an important part of the modern defence-industrial complex. Turkey has started to become more oriented towards foreign markets. Ankara has also sought to take advantage of the changes in regional security in Central Asia, which were linked to the withdrawal of the US military contingent from Afghanistan and the Tajik-Kyrgyz armed conflict that took place in 2022. Since the parties did not submit any requests for assistance or mediation to the Collective Security Treaty Organisation, it was not involved in this conflict. But it was this circumstance that immediately became the subject of discussion in the Western media, which interpreted the events in Afghanistan and Central Asia in a very peculiar way: since global players are no longer able to effectively maintain regional security, Turkey can take over this responsibility.<sup>10</sup>

So far, experts have expressed doubts as to whether Turkey will be able to fulfill this task successfully. For example, Ankara's position in the dispute between Kyrgyzstan and the Tajiks can hardly be considered impartial, as it only sent large-scale military aid to Kyrgyzstan in 2022. Similarly, Turkey has acted in the South Caucasus, where it has long supported Azerbaijan in its confrontation with Armenia with arms supplies, including Bayraktar

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<sup>7</sup> GUZAJEROV, R. (2023): Vojenno-techničeskoje sotrudničestvo Turciji i Azerbajdžana: doroga k integraciji? [online].

<sup>8</sup> BARANEC, T. (2021): Nová zmluva pod Kaukazom: Kto napadne Azerbajdžan musí rátať s tureckou odvetou. [online].

<sup>9</sup> The following alternative terms are used in the literature and legislation to refer to unmanned aerial vehicles: unmanned aerial vehicles (UAV); unmanned aerial systems (UAS); remotely piloted aerial systems (RPAS); drones (author's note).

<sup>10</sup> BLANK, S. (2024): Is This Turkey's Hour in Central Asia? [online].



attack drones. Consequently, Turkey secured Azerbaijan a battlefield advantage in the Second Nagorno-Karabakh War in 2020.

Thus, neither in the Caucasus nor in Central Asia has Ankara proved itself as an independent and neutral mediator in conflicts. For the time being, the formation of Turkey's line of conduct in Central Asia is in the process of development, and on some issues Turkey has managed to reach a mutual understanding with other external actors present in the region. Turkey's current interaction with Russia is influenced by the knowledge that its presence in Central Asia largely depends on the position of the Russian Federation, which maintains strong ties with the region. Russia remains interested in cooperation with Turkey, through which, it claims, "it is possible to reduce the negative impact of Western sanctions."<sup>11</sup>

Despite the long-standing differences between Turkey's and China's attitudes towards Uyghurs (the Turkic Muslim Uyghur community inhabiting the Uyghur Autonomous Region of Xinjiang in China), Turkish-Chinese communication related to Central Asia has been generally positive. This is because China has become Turkey's important trading partner within its One Belt, One Road (OBOR) initiative. Sino-Turkish bilateral security cooperation is deepening significantly. Turkey's and China's interests also coincide in the development of new logistics routes. However, this does not preclude Turkey's rivalry in Central Asia with Russia and China, not least in relation to regional security issues. On many issues - especially those related to the ousting of Russia and China from Central Asia – Ankara's position is identical to the strategic intentions of the collective West.

When it comes to the perception of Turkey by Central Asian countries, it is generally positive. This is not only due to cultural and linguistic factors. Turkey's dynamic development has enabled it to become one of the leading regional powers. In addition, Turkey has long attracted labour migrants from Central Asian countries. It is also an important source of investment and an attractive market for export goods from the region. Ankara seeks to use this favourable background to achieve its long-term goal – to expand its influence in Central Asia through political and economic structures operating under the Turkish umbrella, with the Organisation of Turkic States (OTS) being the most important.<sup>12</sup>

## **2 The Organisation of Turkic States - a tool for promoting Turkey's interests**

The Organisation of Turkic States (OTS), formerly called the Turkic Council or the Cooperation Council of Turkic Speaking States, is an international organisation comprising Turkic countries such as Azerbaijan, Kazakhstan, Kyrgyzstan, Turkey and Uzbekistan (as of 2019). Its main objective is to promote comprehensive cooperation among Turkic-speaking states.<sup>13</sup>

Kazakh President Nursultan Nazarbayev was the first to discuss the possibility of such cooperation in 2006. The organisation was established on 3 October 2009 in Nakhchivan. The general secretariat is based in Istanbul. At the 6th Summit, held in September 2018 in the Kyrgyz town of Cholpon-Ata, Hungary was granted observer status. Turkmenistan (as of November 2021), the Republic of North Cyprus (as of November 2022) and the Organisation for Economic Co-operation (as of 2023) also became observers.

The first Turkic Summit organised within the organisational framework of the Turkic Council was the Almaty Summit. It took place on 20-21 October 2011 under the auspices of the President of Kazakhstan Nursultan Nazarbayev and was attended by the President

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<sup>11</sup> GADŽIJEV, A. (2023): Turcija posle majskih izborov 2023 g.: pobeda Erdogana i raspad opoziciji. [online].

<sup>12</sup> Organisation of Turkic States. [online].

<sup>13</sup> Turkic languages are one branch of the Altaic language family, but are sometimes considered a separate language family (author's note).

of Azerbaijan Ilham Aliyev, the President of Kyrgyzstan Roza Otunbayeva and the Turkish Deputy Prime Minister Bekir Bozdag.

The Preamble of the Nakhchivan Agreement declares the will of the member states to abide by the objectives and principles enshrined in the Charter of the United Nations. It defines the main goal of the Organisation of Turkic States - the further deepening of comprehensive cooperation among Turkic-speaking states as well as joint efforts to maintain peace and stability in the region and the world. The member states formally reaffirmed their commitment to democratic values, human rights, the rule of law and good governance.

The founding agreement defines comprehensive cooperation between Turkic states as the main objective of the organisation. The Organisation of Turkic States is working on a variety of projects that are grouped under six cooperation processes: economy, culture, education, transport, customs and diaspora. The projects include establishing the Turkic University Union and writing a common history textbook. The Organisation of Turkic States is also working on ways to boost economic development in the underdeveloped regions of the member states.

The Secretariat brings together Ministers of Economy, Ministers of Education, Ministers of Transport, Heads of Customs Administrations and other senior officials from different ministries and agencies to work on ways to promote cooperation in their respective fields. Working groups develop cooperation projects and issues of cooperation before presenting them to ministers and heads of administrations. One of the recently launched projects is the establishment of a mechanism for closer cooperation between Turkic diasporas around the world.<sup>14</sup>

All these efforts resulted in the foundation of:

- the Parliamentary Assembly of Turkic States (TURKPA);
- the Ankara-based International Organisation of Turkic Culture (TURKSOY);
- the Turkic Academy;
- the Turkic Business Council coordinating economic cooperation;
- the Turkic Culture and Heritage Foundation;
- the Union of Turkic Universities active in the field of higher education;
- the Union of Chambers of Commerce and Industry concerned with the development

of interaction between business communities of Turkic-speaking countries.

Turkey is actively seeking to increase the number of permanent members of the Organisation of Turkic States by the countries of Central Asia. It has so far failed to persuade Turkmenistan to change its observer status, despite all the efforts Ankara has made. The reason for this intransigence is most likely that Turkmenistan values its “permanent and positive neutrality”<sup>15</sup> too much and the leaders of this Central Asian republic fear increased pressure in terms of making some decisions less favourable for Turkmenistan if its status in the OTS changes. At the same time, due to Turkmenistan's isolation from the outside world, Turkey has to assert its influence less openly and more sophisticatedly than in other states in the region.<sup>16</sup>

There is a chance that Tajikistan, the only Persian-speaking state in Central Asia, will accept OTS observer status. Several circumstances may motivate Tajikistan to join the union of Turkic-speaking countries. Firstly, officially, Dushanbe does not want to be left on the sidelines, while its neighbours form a new regional alliance to compete with the Russian-backed Eurasian Economic Union (EAEU), which Tajikistan has chosen not to join. Secondly, Tajikistan is in dire need of foreign investment and hopes to get it by joining the OTS.

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<sup>14</sup> Samarkand: the Summit of the Organisation of Turkic States (2022). [online].

<sup>15</sup> MALYŠEVA, D. (2024): Cental'noaziatskoje napravlenije politiki Turciji. [online].

<sup>16</sup> AVATKOV, V. – RYŽENKOV, A. (2022): Turkmenistan i turkocentričnaja integracija, pp. 68-69. [online].

The infrastructure and logistics projects that this organisation is developing are appealing to Tajikistan.

Through cultural and educational institutions affiliated with the OTS, Ankara promotes various cultural and educational programmes in Central Asia. Similar functions in the region are performed by higher education institutions with Turkish participation - the International Kazakh-Turkish University named after Khoja Akhmed Yassawi in the Kazakh city of Turkestan, the Kyrgyz-Turkish Manas University in the capital of the Kyrgyz Republic Bishkek, etc. The International Turkic Academy plays an important role in promoting Turkic interpretations of the history of Turkic-speaking countries in the scholarly communities of the OTS participants. In particular, it has introduced three textbooks – “General Turkic History”, “Geography of the Turkic World” and “General Turkic Literature” - into the educational process. There is no doubt what direction the study of history in these countries will take: it will inevitably focus on the critique of the civilising project carried out within the Russian Empire/USSR.

We cannot fail to note that the Ankara-based International Organisation of Turkic Culture (TURKSOY) did not comprise only Azerbaijan, Turkey and the four Central Asian republics (Kazakhstan, Kyrgyzstan, Uzbekistan and Turkmenistan). Several Russian autonomous regions (Tatarstan,<sup>17</sup> Bashkortostan,<sup>18</sup> Sakha (Yakutia),<sup>19</sup> Tyva<sup>20</sup> and Khakassia<sup>21</sup>), as well as the Turkish Republic of North Cyprus and the Autonomous Territorial Unit of Gagauzia in Moldova, became observers of the organisation.

TURKSOY annually designates one city the Capital of the Turkic World. In 2012, Astana was the first city to be selected. Since then, this honorary status has been awarded to the cities of Merva, Osh, Khiva, etc. In 2024, the Turkmen city of Anau is the Cultural Capital of the Turkic World,<sup>22</sup> while Astana is this year’s financial centre.

The Organisation of Turkic States is also developing a general information agenda, for which the Alliance of Turkic News Agencies (ATNA) was established in Istanbul on 6 November 2023. In addition to the international news agency named Anadolu Agency (Turkey) and AZERTAC (Azerbaijan), it includes other Central Asian news agencies such as CABAR (Kyrgyzstan), QAZCONTENT (Kazakhstan) and UZA (Uzbekistan). Kubanychbek Omuraliev, Secretary General of the Organisation of Turkic States, described the establishment of the collective media in the OTS as a “historic event” and stressed that “ATNA represents a new foundation for broad-based cooperation in the field of mass media, which was laid by the countries of the OTS.”<sup>23</sup>

The OTS is not only concerned with cultural, humanitarian and information issues. Significant attention is paid to economics, politics and military cooperation, which is referred to in the OTS documents as “strategic coordination”. However, the foundation of a military-political alliance, which is often referred to as the “Army of Turan” and could be an alternative to the CSTO, is still unrealistic. Turkey lacks the financial capacity to do so

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<sup>17</sup> Tatarstan is a republic of the Russian Federation. It is located in Eastern Europe at the confluence of the Volga and Kama rivers.

<sup>18</sup> Bashkortostan is a republic of the Russian Federation. It is part of the Volga Federal District. It borders Perm Krai, Sverdlovsk and Orenburg Oblasts, as well as the republics of Tatarstan and Udmurtia. The republic lies at the foot of the Southern Ural.

<sup>19</sup> Sakha (Yakutia) is the largest of the republics of the Russian Federation. It is located in the eastern part of the country in Siberia and is part of the Far Eastern Federal District.

<sup>20</sup> Tyva (Tuva until 2000), is a republic of the Russian Federation located in southern Siberia.

<sup>21</sup> Khakassia, officially the Republic of Khakassia, is a republic of the Russian Federation in the southern part of Siberia and forms the eastern border of that country. Within the Siberian republics of Russia, it is the smallest in area (author's note).

<sup>22</sup> KARKI, B. (2023). The Turkmen city of Anau has been declared the Turkic Cultural Capital of the World for 2024. [online].

<sup>23</sup> Alyants tjurkickich informacijonnyh agenstv sozdan v Stanbule (2023). [online].

and prefers military-political activities in other areas of its foreign policy (the Middle East and the South Caucasus).

The Organisation of Turkic States politically supports the regionalisation processes taking place in Central Asia. The Declaration approved at the 10th Summit of the Heads of State of the Turkic Community, held in Astana on 3 November 2023, stresses the role of the regularly held Consultative Meetings of the Heads of State of Central Asia... "in developing, promoting and deepening neighbourly relations among the states, ensuring security and stability in the region, and strengthening fraternal ties among the peoples of Central Asia."<sup>24</sup>

The question arises as to what extent the integration processes initiated by Turkey are intended to gradually detach the countries of Central Asia from Russia. The geography of external relations in the OTS is noteworthy. It prioritises cooperation with the organisations such as the OSCE, the Organisation of Islamic Cooperation (OIC), the Organisation of Economic Cooperation, the Conference on Interaction and Confidence-Building Measures in Asia and several others. The OTS plans to obtain observer status at the UN General Assembly and the OIC. At the same time, none of the structures (CIS, SCO, EAEU) of which the Central Asian participants of the OTS are members are included in the list of its partners. The reason for Ankara's "oblivion" is quite understandable: it is not interested in interacting with associations that are its competitors in the Central Asian region. However, the position of the Central Asian countries, which are in solidarity with Turkey in the choice of the OTS partners, raises questions about their views on the integration processes in the CIS as well as on the problems of maintaining security in post-Soviet Eurasia. Ankara is interested in building "the Southern Arc" of Turkic states. It relies on the closest members of the OTS - Azerbaijan and Kazakhstan. It is the latter that has long and willingly developed cooperation with Turkey in various fields.

### **3 Kazakhstan as a significant supporter of the orientation towards Turkey and the Turkic World**

Kazakhstan and Turkey have long been developing international cooperation, including multilateral international structures.<sup>25</sup> Both states have been leaders of Turkic integration, with culture as the unifying platform. Kazakhstan initiated the first pan-Turkic project, the International Organisation of Turkic Culture (TURKSOY), which was established in 1993. During the presidency of N. Nazarbayev, Kazakhstan also started off the creation of several other pro-Turkic organisations. The administrative centre of the Turkestan region, the city of Turkestan, was declared by Nazarbayev to be the cultural and spiritual centre of the Turkic World. In 1991, the International Kazakh-Turkish University, named after Ahmad Yasawi,<sup>26</sup> was opened there, where education in Kazakh, Turkish, Russian and English languages began.

The focus on Turkey and the Turkic World continued in Kazakhstan's policy even after Nazarbayev left his presidency. The new leadership of the republic is paying the same attention as before to the popularisation of the Turkic cultural and linguistic tradition.<sup>27</sup> The meeting, which was held by the Turkic Academy in Astana on 29 May 2023 following the initiative of

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<sup>24</sup> Declaration of the Tenth Summit of the Organisation of Turkic States. Astana, Kazakhstan (2023). [online].

<sup>25</sup> ČECH, L. (Kazakhstan and its Place in the "Turkic World" According to Turkey (Türkiye), pp. 66-73. [online].

<sup>26</sup> Ahmad Yasawi (1093 - 1166) was a Turkic poet and Sufi, an early mystic who had a strong influence on the development of Sufi orders throughout the Turkic world. Yasawi is the earliest known Turkic poet, and a pioneer of popular mysticism. He founded the first Turkic Sufi order, the Yasawiyya, which spread very quickly to Turkic-speaking areas (author's note).

<sup>27</sup> BALEHA, A. (2022): Bilaterálne obchodné vzťahy medzi Kazašskou a Tureckou republikou: výzvy a perspektívy, pp. 39-47.

the Council of Elders of the OTS, resulted in the appointment of the Turkic World Common Alphabet Commission. The Atatürk International Conference entitled “The Integrative Role of the Common Turkic Alphabet: Scientific and Social Aspects” was held at Al-Farabi Kazakh National University in Almaty on 27 October 2023. It was organised by the Turkic Academy and the Supreme Council for Culture, Language and History. During his state visit to Turkey in May 2022, President Kassym-Jomart Tokayev, expressed confidence in the importance of popularising Turkic unity and strengthening mutual understanding between countries united by common history, culture, language and mentality. In the Joint Statement signed after the meeting, Tokayev and Erdoğan declared the transition of Turkey and Kazakhstan to an “expanded strategic partnership.”<sup>28</sup> In a meeting with President Erdoğan, who arrived in Astana on a state visit to attend the 10<sup>th</sup> OTS summit, Tokayev said: “Turkey is our brotherly nation and Kazakhstan’s closest and most reliable strategic partner.” The President of Kazakhstan also announced that in honour of the “brotherly country” and to commemorate the 100th anniversary of the proclamation of the Republic of Turkey in 1923, one of Astana’s streets would be given the name “Anadolu” (Anatolia - in Turkish). In the south of Kazakhstan, a park called “Turkish” would be opened in the city of Shymkent, and a monument to Atatürk would be erected in Almaty.<sup>29</sup>

As far as Turkey’s economic presence in Kazakhstan is concerned, it is as modest as in other Central Asian countries. In 2021, the volume of trade between Turkey and Kazakhstan reached just over USD 5.3 billion. By comparison, trade turnover between Kazakhstan and Russia in the first six months of 2022 exceeded USD 11.6 billion.<sup>30</sup> The task set by the Kazakh government to achieve a trade turnover with Turkey of USD 10 billion over the last decade has not been accomplished.

The military dimension of cooperation between Kazakhstan and Turkey, which is gaining momentum, is a particularly interesting area of our research. Back in 2011, the presidents of Kazakhstan and Turkey signed an agreement on the creation of a joint venture for the production of military-industrial products. It was the Kazakhstan Aselsan Engineering (KAE) plant, opened in 2013 in the largest special economic zone in Kazakhstan “Astana - New City”. Kazakhstan Engineering Company owns 50% of the plant, 49% belongs to the national Turkish company Aselsan and one percent is owned by the Committee for Defence Industry under the leadership of the President of Turkey.<sup>31</sup> Several hundred officers of the Kazakh army have been trained at military universities in Turkey. On September 13, 2018, during the official visit by Nursultan Nazarbayev, the Intergovernmental Agreement on Turkish-Kazakh Military Cooperation was signed in Ankara (it came into force on March 26, 2021). It covers 21 areas, including military training and education of Kazakh military personnel, joint military exercises with Turkey, military intelligence and peacekeeping operations.<sup>32</sup>

In 2024, Kazakhstan will become the first country to manufacture ANKA reconnaissance and strike drones, which were developed by Türk Havacılık ve Uzay Sanayii for the Turkish military in 2013. According to a memorandum signed by Kazakhstan Engineering and Turkey’s leading aerospace company Turkish Aerospace in Ankara on May 10, 2023, the assembly of drones for the Republic’s armed forces, as well as their maintenance, repair and personnel training will be carried out in Kazakhstan.<sup>33</sup>

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<sup>28</sup> Joint Statement of President of the Republic of Kazakhstan Kassym- Jomart Tokayev and President of The Republic of Türkiye Recep Tayyip Erdoğan on Enhanced Strategic Partnership (2022). [online].

<sup>29</sup> Glava gosudarstva vstretilsja s prezidentom Turciji Redžepom Tajipom Erdoğanom (2023). [online].

<sup>30</sup> MIKOVIC, N. (2023): Turkey’s Pipeline Politics in Central Asia. [online].

<sup>31</sup> SERIKPAJEV, D. (2023): Optika, svjaz, bojevyje moduli: kak v Kazachstane proizvodjat oborudovanije dlja silovikov. [online].

<sup>32</sup> O ratifikaciji Soglašenija mežu Pravitel’stvom Respubliki Kazachstan i Pravitel’stvom Tureckoj respubliky o vojennom sotrudničestve. Zakon respubliky Kazachstan ot 20 dekabnja 2019 goda № 281-VI ZRK. [online].

<sup>33</sup> Kazachstan i Turcija planirujut sovместno sobirat’ bespilotniki (2022). [online].

A cooperation agreement signed in July 2023 with the Directorate of Military Factories and Shipyards (ASFAT) of the Turkish Ministry of Defence sets out a proposal for the production of naval equipment and warships for the Kazakh Navy in the Caspian Sea. Supplies of Turkish products are expected to go through Azerbaijan to the Kazakh ports of Aktau and Kuryk,<sup>34</sup> which could make Turkey an influential player in the Caspian Sea.

Kazakhstan also participates in military exercises organised by Turkey. One of them (Ephesus-2022) took place from 29 May to 9 June 2022 in Turkey, where military personnel practised combat training of special forces units during joint land and sea operations and landings. In November 2022, Kazakh military personnel, along with their counterparts from the OTS (except for Uzbekistan and Turkmenistan), participated in counter-terrorism exercises held at the Turkish Special Forces Training Centre in the city of Isparta.

Turkey and Kazakhstan have also been working on establishing joint transport logistics. This line of cooperation became particularly active in 2022, after the start of Russia's so-called special military operation (military aggression) against Ukraine, as a result of which Central Asia gained importance as an important transport hub. The numerous Western sanctions against Russia, a significant part of which banned Russia's use of logistics infrastructure in the European direction, have objectively contributed to this. In these changed conditions, Kazakhstan has begun to actively seek alternative routes through which it could supply Europe with goods and energy resources.

The Trans-Caspian International Transport Route plays a significant role as Astana considers Turkey and Azerbaijan the most important partners. If this route is successfully built, Turkey will become a key hub in the system of transporting commodity flows from the East to Europe. What is more, it will provide Kazakhstan with comprehensive assistance in the development of this logistics project. Therefore, we should not be surprised that Kazakhstan praises Turkey, the OTS and the Turkic integration. This attitude was obvious in an interview given by the President of Kazakhstan to the Azerbaijani news agency APA on the eve of his visit to Baku (11-12 March 2024). After listing the enormous advantages of the OTS, the President of Kazakhstan said: "Great hopes and expectations are aroused by the desire of Turkic countries to develop cooperation in a wide range of issues, starting with transport corridors, continuing with economy, ecology, science, education, art, tourism, sports, and ending with research on hitherto unknown aspects of our common history."<sup>35</sup>

Turkey's strategic choice of Kazakhstan in favour of Turkic integration is thus becoming a reality. Time will tell whether this foreign policy direction will be sustainable for Kazakhstan in the long term and whether it will stand the test of the current crisis in Turkey and Europe.

## Conclusion

Relying on different structures as well as cultural and linguistic aspects dominated by Pan-Turkism, Ankara managed to launch an integration project in Central Asia that became an alternative to the current Russian one. In this respect, Turkey, which has often declared its commitment to the Eurasian world, has been helped by introducing the elements of multi-vectorism in its foreign policy. This has suited the Central Asian countries quite well in their efforts to avoid the strained relations between the West, Russia and China, as well as in their attempts to expand the circle of their economic and political partners. It should be stressed that the collective West was interested in the Turkic integration project from the beginning and was

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<sup>34</sup> BALIJEV, A. (2024): Kazachstan prodvigajet Turciju v Kaspijskij bassejn. [online].

<sup>35</sup> TOKAJEV, K. Ž. (2024): Kazachstan i Azerbajdžan vstupajut v novuju eru sotrudničestva – Intervju Prezidenta Respubliki Kazachstan Tokajeva informacijonnomu agenstvu APA v preddveriji jevo gosudarstvenno vizita v Azerbajdžan. [online].

no stranger to the idea of pushing Russia out of Central Asia by any means. Moreover, the objectives of Turkey and the West coincided in mapping out new routes to the natural resources of Central Asia. If we take a close look at the “Great Turan” project, which was declared by the Organisation of Turkic States and in which Ankara is actively involving the post-Soviet Central Asian republics, we can find some similarities with the EU’s “Eastern Partnership” programme. However, based on its experience and disappointment with the EU accession negotiations, Turkey is increasingly supporting its Central Asian integration activities. Therefore, it is not at all certain whether Turkey will facilitate the West’s interest in Eurasia.

The second question is whether Ankara can influence geopolitical changes in the post-Soviet countries. In reality, today we are only talking about the South Caucasus - the region belonging to Turkey’s priority foreign policy interests due to its historical traditions. In Central Asia, however, Turkey has not offered the countries any alternative to a security system comparable to the guarantees provided by the CSTO (which is often criticised, but is no less reliable). What is more, Turkey has not been able to become a full-fledged donor country promoting the international development of the Central Asian region since Ankara’s ability to support the expansion of its political influence through investment is extremely limited.

The complex domestic political situation in Turkey itself, which is experiencing its worst economic crisis in years, is also playing a role, as it is coupled with political uncertainty created by, among other things, the municipal elections held on 31 March 2024. Erdoğan’s rivals have achieved impressive victories in many major cities, including Ankara and Istanbul. It can also be assumed that Turkey’s desire to establish itself in Central Asia as a new centre of cultural and political gravity, as the engine of the “pan-Turkic” integration project, will draw it into a confrontation with Russia, which will view Turkic projects “in the near abroad” with resentment.

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# ISLAMIZATION OF IRANIAN EDUCATION SYSTEM

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**Abstract:** Iran has been under the political leadership of the clerics since 1979. Politics based on the religious principle is manifested in a widespread process of Islamization of social life, including in the field of education. The aim of this paper is to characterize the process of Islamization of the Iranian educational system with emphasis on the implication of Islamic elements in the learning process and the gender issue.

**Keywords:** Islamic Republic of Iran, education system, islam, islamization

**JEL:** F50

## Introduction

The post-revolutionary period has brought fundamental changes to the Iranian education system. Demographically, the Islamic Republic of Iran is a multi-ethnic state, with a population comprising several ethnic groups and members of several religions, such as Islam, Judaism, Christianity, Zoroastrianism and Bahá'ism. Although the Constitution of the Islamic Republic of Iran guarantees freedom of religion, specifically in Articles 12 and 13,<sup>1</sup> the attention given to marginal religions in the educational process is minimal. Thus, in terms of curriculum, the application of Shi'ite thought is predominantly.<sup>2</sup> Reform processes related to the field of education have been influenced primarily by the process of the Islamization of the educational process. This reform can be divided into two main areas of change. The first area focuses on the selection and training of future teachers. In the immediate post-revolutionary period, selection of teachers was made on the basis of their attitude towards the ideas of the Islamic Revolution, with the proviso that opponents of these values were not to take their place in teaching Iranian youth. Currently, the recruitment and training processes for teaching staff are subject to rigorous testing and an emphasis on the application of Islamic values in their educational process in the various faculties of education.<sup>3</sup> The second area relates to changes in the students' learning process itself. There has been a gradual increase in the amount of educational time devoted to religious education, and a resumption of the teaching of the Arabic language, in which, according to tradition, the Qur'an itself is revealed. Significant in this respect are the reform efforts of the 1980s, which brought an emphasis on Islamic education into the teaching process, adapting curricula and books to incorporate as far as possible the teaching of Shi'a elements not only during religious instruction but also in other subjects.<sup>4</sup>

The paper is only a basis for further detailed research on the issue and so within the paper we work with basic qualitative methods, the most important of which is the qualitative method based on content analysis of documents.

## 1 Education system in Islamic Republic of Iran

Since 1979, Iran has been under the political leadership of the clerical circles known as the ulama, headed by the country's supreme spiritual leader known as the rakhbar. This position is currently held by Ayatollah Ruhollah Khamenei. The state religion of the country

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<sup>1</sup> Constitution of the Islamic Republic of Iran. [online].

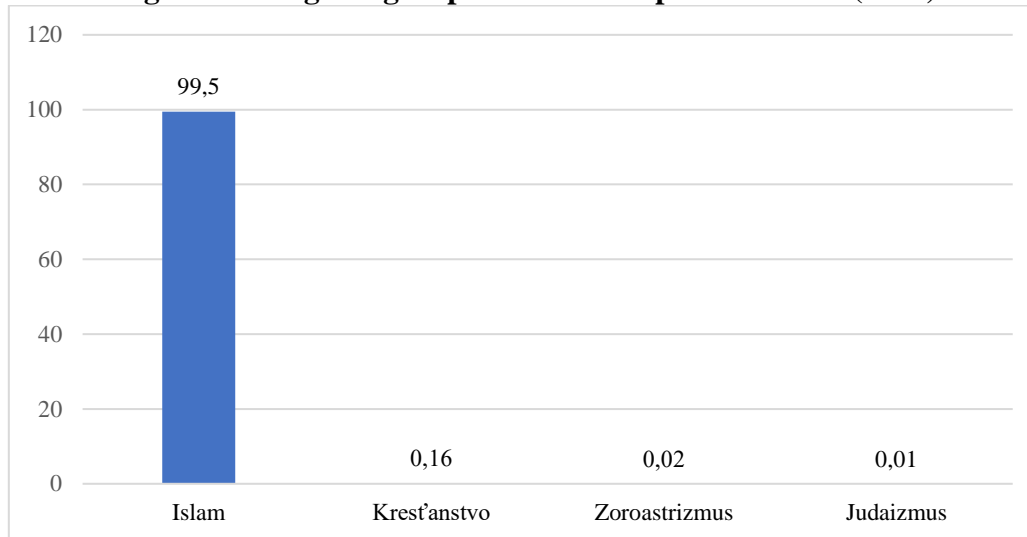
<sup>2</sup> HASANPOUR, A. – BATMANI, S. – BOLANDHEMATAN, K. (2022): Barriers to multicultural education in Iran. In: *Journal for Multicultural Education*, pp. 352-353.

<sup>3</sup> PAIVANDI, S. (2012): The meaning of the Islamization of the school in Iran. In: *Education in West Asia*, pp. 7-8.

<sup>4</sup> Ibid.

since 1504 has been Shi'a Islam, specifically one of its offshoots known as the Twelve Imams' Shia. The everyday reality of Iranian society has been marked by the presence of elements of Islam within the public life of the population since the 1970s. Today, 95% of Iranians adhere to the Islamic faith. Of these, the Shia branch makes up the bulk of all Muslims, the remainder being members of the Sunni branch of Islam. Other religious groups represented among Iranian society include Jews, Christians and Zoroastrians.<sup>5</sup>

**Figure 1: Religious groups in Islamic republic of Iran (2016)**



Source: Own processing based on UN Data: *Population by religion, sex and urban/rural residence*. Available online: <https://data.un.org/Data.aspx?d=POP&f=tableCode%3A28>

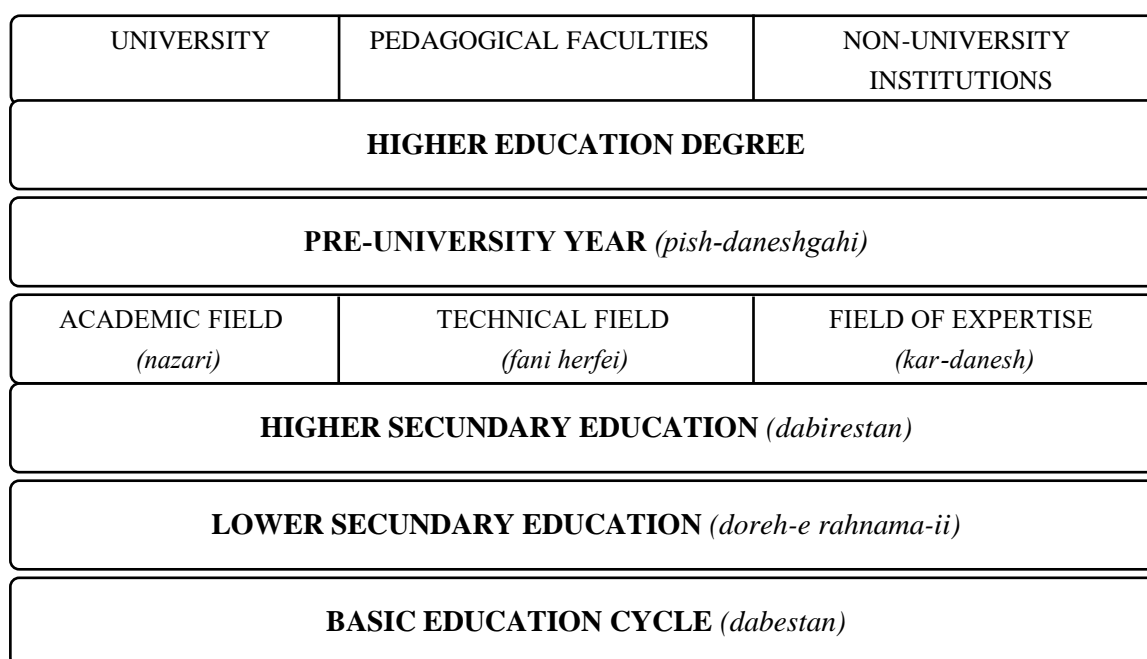
The pervasiveness of religious elements within the education system is an essential part of the way in which the theocratic regime seeks to establish religious principles within society. The level of educational attainment linked to the quality of the teaching process is also linked to the performance of the economy itself. Investment in human capital development can make a significant contribution to increasing the competitiveness of an economy vis-à-vis foreign producers. At the same time, education also has a major impact on the formation of Iran's middle class and civil society, which has played an important role in all major internal political changes in the country over the long term, including its role during the revolutionary period of the 1970s and 1980s. The Islamization of the educational process is thus part of a broader plan by Iranian ideologues to create a strong dependency and interconnectedness between the state and society.

The Iranian education system consists of primary, secondary and tertiary levels of education (Figure 2). Primary education of nine years is compulsory and free. During this period, students receive the basic general overview necessary for their further development. After completing the primary stage (*doberstan*) and the lower secondary stage (*doreh-e rahnama-ii*), students have the option of studying at three different types of educational institutions in the higher secondary stage (*dabirestan*). The academic field (*nazari*) consists of the possibility of studying in four areas, which are humanities and literature, experimental sciences, mathematics and physics, and also Islamic theology. Within the technical area (*fani herfei*), they have the choice of specialising in areas such as industry, the service sector or agriculture. The vocational field (*kar-danesh*) emphasises above all the maximum practical training of students, thus preparing them more rigorously for their future profession. After completing this part of the three-year course, students have the opportunity to establish themselves in the labour market or to continue their studies at an institution of higher education.

<sup>5</sup> UN DATA: *Population by religion, sex and urban/rural residence*. [online].

Before entering college, students must complete a pre-university year of instruction (*pish-daneshgahi*), which is facilitated by special centres. During this period, they prepare for the admission process (*Konkor*). Within higher education, there are three types of institutions to choose from - universities, centres specialising in teaching future teaching professions, and non-university institutions providing non-formal vocational education.<sup>6</sup> In Iran, pupils and students can attend both state and private schools. Although private schools were banned in the post-revolutionary period, over time and in view of the difficulty of financing state schools, the regime has returned to allowing this type of schooling.<sup>7</sup> In the following section, we will deal primarily with the primary, secondary and tertiary levels of education, with an emphasis on the pervasiveness of Islamic values themselves in terms of their scope.

**Figure 2: Iranian education system**



Source: Own processing based on World Education Services: *Education in Iran*. Available online: <https://wenr.wes.org/2017/02/education-in-iran>

## 2 Primary and secondary education

For primary and secondary education, the Islamic Revolution marked the beginning of significant changes in the curriculum. Elements of Iranian Islamic ideology gradually began to infiltrate the teaching process and the amount of time devoted to each subject changed. There was a reduction in the amount of time allocated to humanities subjects and, conversely, an increase in religious instruction in schools, including the introduction of compulsory prayers. It is estimated that about a quarter of the daily teaching is related to the teachings of Shi'a Islam.<sup>8</sup> Their overlap is also visible in subjects that in secular societies abstract from any connection to spiritual doctrine. Lessons devoted to the teaching of history have begun to focus more on the genesis and development of Islam itself than on the period of pre-revolutionary Iran, and there has been a significant increase in history lessons. While in secular societies the introduction of transcendental principles within the sciences has been abandoned,

<sup>6</sup> WORLD EDUCATION SERVICES: *Education in Iran*. [online].

<sup>7</sup> MOINIPOUR, S. (2021): The Islamic Republic of Iran and children's right to education: acceptability and adaptability. In: *Human Rights Education Review*, pp. 9-10.

<sup>8</sup> POWELL, D. V. – CWICK, S. (2017): Education in Iran: Limitations Imposed by Theocracy. In: *International Journal of Learning, Teaching and Educational Research*, pp. 47-48.

the opposite trend can be observed in post-revolutionary Iran. The teaching of subjects such as biology or geology largely focuses its attention on the importance of these principles. An example is the approach to Darwin's theory of evolution, as in this context the narrative of the first man and woman created by God is primarily promoted. After 1979, the socio-economic sciences also began to feature more prominently in the curriculum. Thus, in the course 'Iranian Economics', students have the opportunity to become more familiar with the socio-economic specificities of the Islamic Republic of Iran, with an emphasis on elements of the Islamic economic model.<sup>9</sup> At the same time, the teaching texts also reflect Islam's approach to the question of the relationship between man and woman, with no physical contact between the two sexes to be found in them. At the same time, women are depicted in the illustrations wearing the traditional Muslim garment, the hijab.<sup>10</sup> The penetration of Islamic values is also visible in the process of selecting educators. Achieving the desired qualitative aspect of potential teachers is ensured by a number of programmes within the established teacher training centres, which are under the responsibility of the Ministry of Education of the Islamic Republic of Iran. Significant emphasis is placed on the ability of teachers to sufficiently understand and know how to implement Islamic values in the learning process.<sup>11</sup> This required predisposition can be interpreted in the context of the extent to which lecturers are able to demonstrate their loyalty to a state system closely linked to Shi'i Islam. Islamisation can also be seen in the context of the increasing number of Shi'a clerics serving in teaching positions. The increase of the clerical community's connection with the educational process is also visible in Iran in recent years, with the gradual establishment of unofficial educational institutions run by clerical leaders. In early 2024, a law was passed giving these facilities official status, allowing the construction of more similar schools attached to mosques.<sup>12</sup> Meanwhile, the dominant role of spiritual leaders in the educational process was curtailed in the country with the advent of the secularisation of the education system in the 1920s, when Islamic schools (maktabs) were replaced by secular educational institutions.<sup>13</sup>

### 3 Islamisation of Iranian universities

The changes brought about by the Islamic Revolution in Iranian education were not only in the field of primary education, but were also reflected in the activities of Iranian universities. The university environment was seen in the context of an opinion-forming instrument that plays an important role in shaping the political life of the country. This importance was also demonstrated during the revolutionary period itself, when it was students who formed the fundamental driving force in the overthrow of the Shah.<sup>14</sup> Although the number of students enrolled in higher education in Iran has been on a downward trend (4.35 million students in 2015 to 3.62 million in 2017), mainly due to the low fertility rate in the country<sup>15</sup>, the attention paid to universities by the regime has long been high. Both the quantity and quality of research projects by Iranian academics has been on a long-term upward trend. The Islamic

<sup>9</sup> GODAZGAR, H. (2001): Islamic ideology and its formative influence on education in contemporary Iran. In: *Directory of Open Access Journals*.

<sup>10</sup> HEDAYATI, N. et al. (2017): Gender-Specific Religious Moral Dilemmas in Iranian Schools. In: *The Power of Resistance*, p. 370.

<sup>11</sup> MOINIPOUR, S. (2021): The Islamic Republic of Iran and children's right to education: acceptability and adaptability. In *Human Rights Education Review*, p. 32.

<sup>12</sup> SINAIEE, M.: *Clerics Taking Over Iranian Schools With Hardliner Support*. [online].

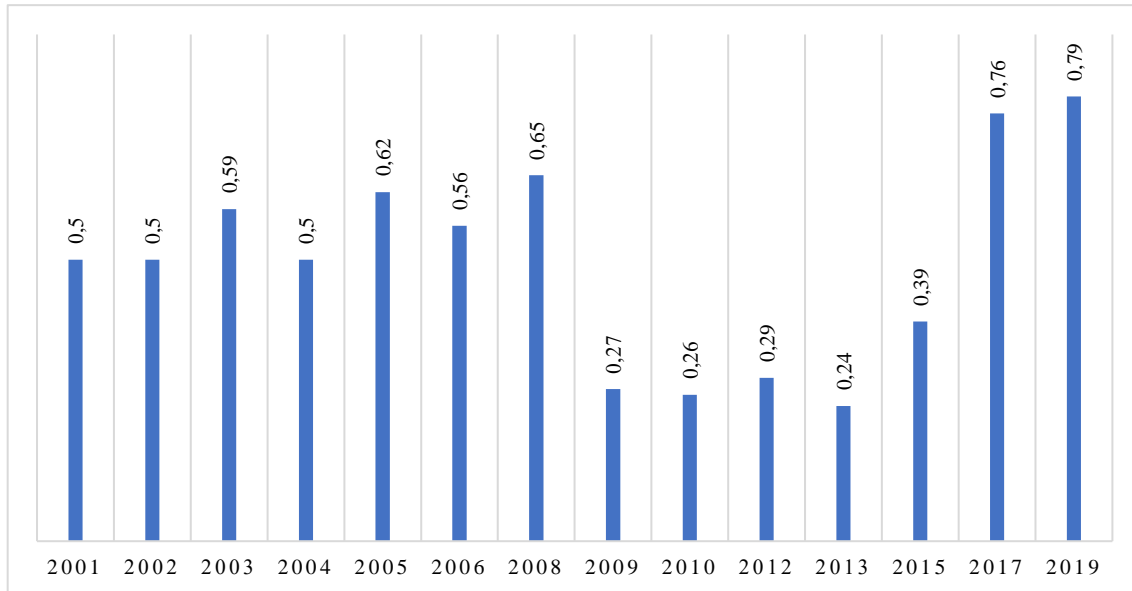
<sup>13</sup> ZAHIRINEJAD, M. (2022): Education and Cultural Change in the Modernisation of Iran: The Role of Shi'ite Clerics and the Middle Class. In: *Rocznik Orientalistyczny*, p. 130.

<sup>14</sup> GOLKAR, S. (2017): Politics and the universities in postrevolutionary Iran. In: *International Higher Education*, p. 29.

<sup>15</sup> UNESCO: *UNESCO Science Report: the Race Against Time for Smarter Development*. [online].

Republic of Iran spends approximately 0.8% of GDP on R&D, the highest amount spent in the last twenty years (Figure 3).

**Figure 3: Evolution of government expenditure of the Islamic Republic of Iran on research and development (% of GDP) between 2001-2019**



Source: Own processing based on The World Bank.: Research and development expenditure (% of GDP) - Iran, Islamic Rep. Available online: <https://data.worldbank.org/indicator/GB.XPD.RSDV.GD.ZS?locations=IR>

The early period of the Islamic Revolution saw the closure of Iranian universities for a period of three years and the establishment of the High Council of the Cultural Revolution, made up of experts in the field of the Islamic faith, whose aim was to prepare a programme for the Islamisation of the Iranian education system based on the principles of the Islamic Cultural Revolution.<sup>16</sup> The Cultural Revolution introduced by the country's supreme spiritual leader, Ayatollah Khomeini, was a tool to imply Islamic ideology into the university environment by breaking away from the system established under the Western-aligned monarchy.<sup>17</sup>

The cultural transformation associated with the Islamization of the higher education process that has taken place in Iran and is influencing the educational process up to the present can be divided into three basic levels:

1. *the process of selecting suitable educators,*
2. *the process of selecting students,*
3. *the Islamisation of the curriculum.*

The process of selecting educators who sufficiently demonstrate their commitment to the ideology of the Islamic Revolution was the responsibility of the Commission for the Selection of Professors during the period of Iran's Cultural Revolution, with approximately 20,000 educators being excluded from the university teaching process in the initial phase.<sup>18</sup> The university management was replaced by a seven-member University Governing Board consisting of faculty members, student representatives and a non-faculty

<sup>16</sup> MEHRAN, G. – ADLI, F. (2020): Islamization And Indigenization of Faculties of Education in the Islamic Republic Of Iran, p. 3.

<sup>17</sup> KAMYAB, S. (2014): Education and religion in Iran: An annotated bibliography. In: *International comparative perspective on religion and education*, p. 257.

<sup>18</sup> GOLKAR, S. (2012): Cultural Engineering Under Authoritarian Regimes: Islamization of Universities in Postrevolutionary Iran. In: *Digest of Middle East Studies*, p. 2.

member. An important attribute for their selection was the denomination of the members of the board, as they had to be of Muslim faith.<sup>19</sup> The process of selection and selection gradually began to involve the students themselves. This had already begun in the period immediately after the revolution, when many students with political links to the previous regime were forced to leave the universities.<sup>20</sup> Prospective students were subjected to entrance examinations designed to test their moral character and suitability for their studies from the perspective of Islamic values. Thus, students were not only evaluated on the subject matter of the field in which they expressed interest, but their social status and loyalty to the revolutionary ideology were also examined.<sup>21</sup>

The process of Islamization of the curriculum can be interpreted as a systematic effort to "purge" secular Western elements from the educational process in the context of Iran's Cultural Revolution. The creation of an Islamic society that is not influenced by Western thought has necessitated extensive revision of syllabi even at the university level. Courses that expanded awareness of Islamic issues were given space within the curriculum. The teaching of the Qur'an or Islamic morality thus became a compulsory part of the university curriculum, irrespective of the field of study.<sup>22</sup> Curricula and syllabi were changed, especially in the humanities, which were perceived in Iran as a tool of Western influence. The teaching of economic and social subjects was also subject to change. The teaching of Western elements of economic thought was replaced by the teaching of Islamic principles in the economic model, such as the interest-free economy or the approach to the problem of limiting private property.<sup>23</sup>

#### 4 Gender issue

The issue of gender equality is quite a debated topic in the context of post-revolutionary Iran. A legal system based on the application of the principles of Islamic Sharī'ah law imposes largely different rights and obligations on the female population as opposed to Western legal systems. The UN Convention on the Rights of the Child was signed by Iran in 1991 and ratified in 1994. In signing this Convention, a reservation dealing with those parts that might in any way contradict Islamic Sharī'ah law was used by Iran and later applied. In this way, Iran chose not to apply the following parts of the Convention.<sup>24</sup> The issue of gender equality is quite a debated topic in the context of post-revolutionary Iran. A legal system based on the application of the principles of Islamic Sharī'ah law imposes largely different rights and obligations on the female population as opposed to Western legal systems. The UN Convention on the Rights of the Child was signed by Iran in 1991 and ratified in 1994. In signing this Convention, a reservation dealing with those parts that might in any way contradict Islamic Sharī'ah law was used by Iran and later applied. In this way, Iran chose not to apply the following parts of the Convention.<sup>25</sup> Gender segregation of pupils within classes or schools is also a conceptual way of applying the Islamic idea in educational institutions. Consequently, teaching is differentiated and curricula are modified according to gender. While in boys' classes

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<sup>19</sup> SOBHE, K. (1982): Education in Revolution: Is Iran duplicating the Chinese Revolution? In: *Comparative Education Review*.

<sup>20</sup> RAZAVI, R. (2009): The Cultural Revolution in Iran, with Close Regard to the Universities, and its Impact on the Student Movement. In: *Middle Eastern Studies*, p. 3.

<sup>21</sup> WINN, M. K. (2016): Women in higher education in Iran: how the Islamic revolution contributed to an increase in female enrollment. In: *Global Tides*.

<sup>22</sup> GOLKAR, S. (2012): Cultural Engineering Under Authoritarian Regimes: Islamization of Universities in Postrevolutionary Iran. In: *Digest of Middle East Studies*, p. 14.

<sup>23</sup> SOBHE, K.: Education in Revolution: Is Iran duplicating the Chinese Revolution? 1982. In: *Comparative Education Review*.

<sup>24</sup> MOINIPOUR, S. (2021): The Islamic Republic of Iran and children's right to education: acceptability and adaptability. In: *Human Rights Education Review*, p. 7.

<sup>25</sup> Constitution of Islamic Republic of Iran. [online].

the emphasis is on teaching a more practically oriented curriculum, in girls' classes there is a preference for teaching subjects related to women's status within family life and the home.<sup>26</sup> It should be noted that gender segregation is a typical phenomenon in Muslim countries.

The implementation of a legal order based on Islamic Sharia law has implications for the social status of women. In 1983, the Iranian regime reinstated the obligation to wear the hijab in public. Enforcement of these rules under threat of sanctions is the responsibility of the Islamic Religious Police (Vice Police). This apparent departure from secular tendencies can also be observed in educational institutions. Wearing the hijab is compulsory in girls' classes in schools.<sup>27</sup>

The status of women in higher education has undergone a turbulent evolution in the post-revolutionary period. In the initial phase, women were excluded from studying in technical faculties. During the 1990s, a gradual increase in the number of women studying in Iranian universities is visible.<sup>28</sup> However, at the beginning of the 21st century, the issue of gender quotas for students applying for third level studies is coming to the fore. This emerging discourse stemmed primarily from concerns about gender imbalance in higher education, where the female population could constitute a significant majority over the male population. Legislation passed by the Iranian parliament represented a limiting element for women's studies in the Iranian higher education environment. The reasoning behind this move was primarily based on the poor employability of university-educated women in the work environment as well as the threat to family values, where women have an important position in the Islamic environment.<sup>29</sup> Further restrictions can be linked to President Mahmoud Ahmadinejad's assumption of office in 2005. The conservative view on the status of women in society was also reflected in the segregation of university students by gender, following the pattern of primary schools in 2009, or the restriction of women's access to education in technically oriented faculties such as the engineering department in 2012.<sup>30</sup> Despite the identification of a number of barriers, a significant increase in the number of women enrolled in higher education can be observed in the Iranian context. While the gross proportion of women enrolled in tertiary education was only 3% of the total number of women of that age in 1978, the proportion increased to 14% in 1996. A positive trend can also be detected in the following period (2000 - 18%, 2005 - 24%, 2010 - 44% , 2015 - 67%). According to the most recent data, the share was 57 % in 2020.<sup>31</sup> Meanwhile, higher education in Iran is currently achieving gender parity in terms of the representation of women in the total number of university students. The proportion of women currently stands at 46.6% (2020) of all students in the third cycle of study.<sup>32</sup>

In the long term, a positive trend can also be observed in the development of other qualitative indicators tracking the level of education, such as literacy rates or the number of pupils attending private and public educational institutions.

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<sup>26</sup> MOINIPOUR, S.: The Islamic Republic of Iran and children's right to education: acceptability and adaptability. 2021. In: *Human Rights Education Review*.

<sup>27</sup> HEDAYATI, N. et al. (2017): Gender-Specific Religious Moral Dilemmas in Iranian Schools. In: *The Power of Resistance*, pp. 366-369.

<sup>28</sup> WINN, M. K. (2016): Women in higher education in Iran: how the Islamic revolution contributed to an increase in female enrollment. In: *Global Tides*.

<sup>29</sup> Ibid.

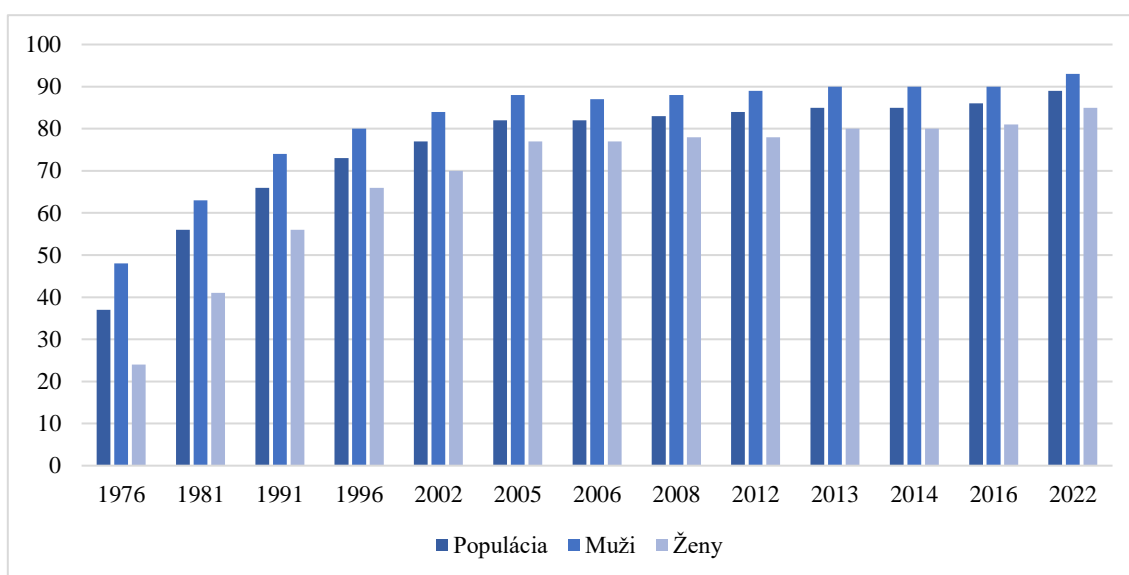
<sup>30</sup> POWELL, D. V. – CWICK, S. (2017): Education in Iran: Limitations Imposed by Theocracy. In: *International Journal of Learning, Teaching and Educational Research*, p. 48.

<sup>31</sup> THE WORLD BANK (2023): *School enrollment, tertiary, female (% gross) - Iran, Islamic Rep.* 2023.

<sup>32</sup> UNESCO: *UNESCO Science Report: the Race Against Time for Smarter Development*. [online].



**Figure 4: Evolution of literacy levels in the Islamic Republic of Iran based on gender (% of people aged 15 and over)**



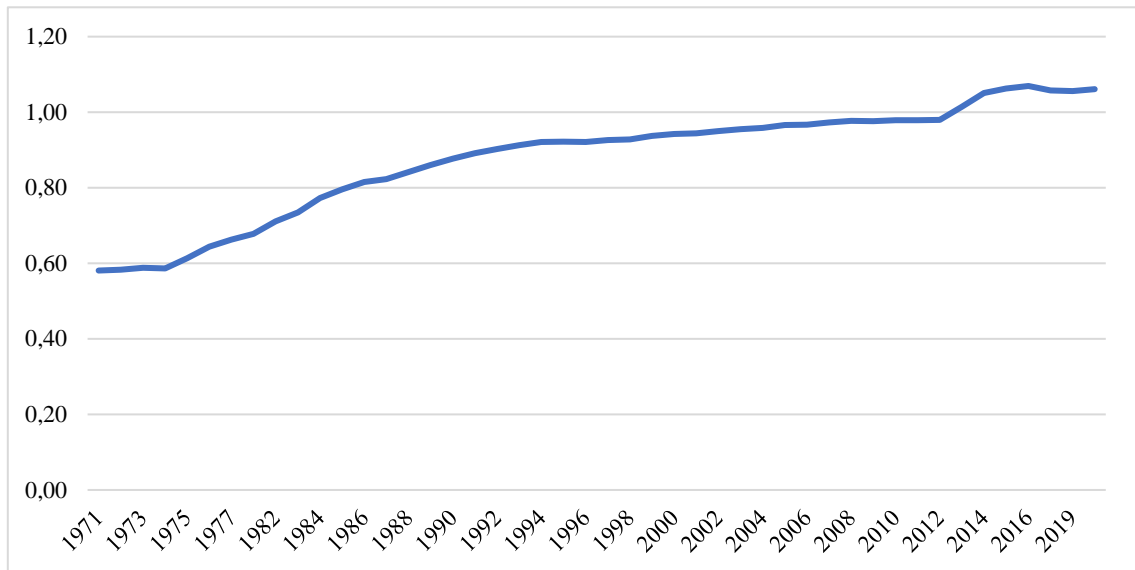
Source: Own processing based on The World Bank: Literacy rate, adult female (% of females ages 15 and above) – Iran, Islamic Rep. Available online: <https://data.worldbank.org/indicator/SE.ADT.LITR.FE.ZS?locations=IR>

From the World Bank data discussing the evolution of literacy levels across the Iranian population over 15 years of age (Figure 4), it is evident that a gradually increasing trend can be observed within this indicator. While in the pre-revolutionary period of 1976 the literacy rate stood at an alarming level of around 30%, during the early development of the Islamic State in the 1980s and 1990s there was a significant positive trend, manifested in a gradual increase in the literate population. In terms of the distribution of literacy between the female and male population, the Islamic Republic of Iran, with literacy rates of 84.9 per cent for women and 93 per cent for men, is currently well above the average for countries in the Middle East (73.9 per cent for women over 15 years of age and 86.3 per cent for men).<sup>33</sup> This positive trend is primarily due to the expansion of the school network in post-revolutionary Iran to less developed provinces with poor educational facilities.<sup>34</sup>

<sup>33</sup> THE WORLD BANK (2023): *Iran, Islamic Rep.* [online].

<sup>34</sup> POWELL, D. V. – CWICK, S. (2017): Education in Iran: Limitations Imposed by Theocracy. In: *International Journal of Learning, Teaching and Educational Research*, p. 48.

**Figure 5: Ratio of females to males in primary schools in Islamic Republic of Iran**



Source: Own processing based on Federal Reserve Bank of St. Louis: Ratio of Female to Male Primary School Enrollment for the Islamic Republic of Iran.

Available online: <https://fred.stlouisfed.org/series/SEENRPR IMFZSIRN>

A positive trend can also be observed in the ratio of females to males enrolled in primary schools (Figure 5). This gender parity index for the gross enrolment ratio in primary schools indicates the ratio of the total number of girls and boys enrolled in primary schools in public and private schools. Although a slight increase can be seen in the pre-revolutionary period, significant changes are particularly visible in the post-revolutionary period.

### Conclusion

Based on the findings, it is possible to define three basic components of the Islamization process concerning the Iranian education system:

1. the institutional component, based on which a scheme of new institutions targeted at harmonizing the educational system with Islamic Shari'ah law was established by the state. In terms of this component, the key area is the process of selection of both teaching staff and students within the various educational institutions in order to maintain the continuity of the transformation of the educational process in the spirit of Islamic values;

2. component of the transformation of the learning process, aimed at the creation of a society in the spirit of Islamic ideas, based on consistent changes in the educational process and the renewal of the curriculum compatible with Islamic doctrine;

3. the application of religious practice in schools, characterized by the implication of Islamic principles also in issues such as the obligation to wear the hijab or gender segregation of classes.

The approach to the issue of education varies according to primary and secondary schools and higher education. At primary and secondary level, the emphasis in the context of Islamic law is primarily on the theological and liturgical aspects of the faith, by requiring and enforcing standards of religious education in schools (appropriate behaviour and practice of the faith - communal prayers, teaching religious education, reading and reciting the Qur'an, teaching Arabic, etc.). The university environment is intertwined with religious aspects, especially in the area of restrictions and rules on appropriate student behaviour. Religious principles and restrictions, represented by legal norms, understandably influence other aspects of science and teaching, thus setting moral-religious limits.

The general emphasis that the state authorities place on education pursues two basic objectives. The first relates to the creation of a skilled workforce in order to build a strong and independent economy capable of competing with foreign producers. In this way, the state also seeks to build up its own scientific and research capacities, while at the same time fulfilling one of the fundamental pillars of the Tawhid economy in Iranian terms - economic self-sufficiency. The second objective is a broad strategy to maintain its power-political position in the country. Thus, through the implication of Islamic values in the learning process, space is created for the construction of a levelled Islamic society that will conform to the demands of a rigid regime while displaying a high degree of loyalty.

Despite the attention paid by the state to the quality of the education system, Iranian education faces a number of shortcomings, primarily related to the affordability of studies. A significant number of families, due to their social disadvantage caused in part by the covid-19 pandemic, are currently forced to rely on assistance from the state or other organisations to ensure their children's schooling. This material deprivation is also reflected in the statistical indicators which show a gradual decline in the number of students starting compulsory schooling.<sup>35</sup>

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# GOVERNMENT STRATEGIES FOR THE TRANSITION TO BATTERY ELECTRIC VEHICLES PRODUCTION IN SLOVAKIA<sup>1</sup>

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**Abstract:** This paper is part of the international research project Shift to electric car production: national strategies in Central and Eastern Europe and its main objective is to map government strategies, policies and financial instruments in Slovakia that support the transition of the Slovak automotive industry to the production of battery electric vehicles. The first part of the paper describes the current state of the transition of the automotive industry in Slovakia. The second part analyzes the main government documents in the field of electromobility to identify the main strategic goals of successive Slovak governments in this field. The last part of the paper describes the available financial incentives and EU funds for the transformation of the Slovak automotive industry to the production of battery electric vehicles.

**Keywords:** automotive industry, battery electric vehicles, government strategies

**JEL:** O25, O38

## Introduction

The global automotive industry is undergoing its greatest disruption in decades. Electromobility and autonomous driving are transforming the industry, as the traditional auto giants are under increasing pressure from Chinese competitors. These changes are also important for Central Europe, as the automotive industry is an important part of the economy in many countries in the region.

Slovakia is also not an exception, as the automotive industry is a crucial sector of the Slovak economy. According to the Automotive Industry Pocket Guide 2023/2024,<sup>2</sup> published by the European Automobile Manufacturers' Association (ACEA), automakers in Slovakia produced 970,000 cars in 2022, making the country the fifth-largest automobile producer in the European Union (EU). Slovakia also leads the world in the number of cars produced per 1000 inhabitants. In 2021, the automotive industry in Slovakia directly employed 16 percent of the total industrial workforce and produced almost 50 percent of the total industrial output.

In order to understand the changes in the automotive industry in Central Europe and to study government policies responding to the rise of electric mobility, a research team from the V4 countries (Czech Republic, Hungary, Poland and Slovakia) and Serbia was formed. As a first step, researchers from the participating countries analyzed government strategies for the transformation of local automotive production to battery electric vehicles. This paper is part of this process, and its main objective is to map these government strategies, policies and financial instruments in Slovakia. The first part of the paper describes the current state of the transition of the automotive industry in Slovakia. The second part analyzes the main government documents in the field of electromobility to identify the main strategic goals of successive Slovak governments in this field. The last part of the paper describes the available financial incentives and EU funds for the transformation of the Slovak automotive industry to the production of battery electric vehicles.

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<sup>1</sup> The paper was prepared within the Visegrad Fund project - Shift to electric car production: national strategies in Central and Eastern Europe.

<sup>2</sup> ACEA (2023): Automotive Industry Pocket Guide 2023/2024.

## 1 State of the play of the transition of the automotive industry in Slovakia

In Slovakia, there are currently four automakers, also known as Original Equipment Manufacturers (OEMs), which are Volkswagen, Stellantis, KIA, and Jaguar Land Rover. Additionally, Volvo is building a new automotive factory, which is expected to be operational by 2026. Presently, most cars produced in Slovakia still use internal combustion engines (ICE), but the production of plug-in hybrid electric vehicles (PHEV) and battery electric vehicles (BEV) is gradually increasing. In 2023, the four OEMs in Slovakia produced 1,050,000 cars, and the combined share of PHEVs and BEVs in total production was 14.9 percent (Table 1).<sup>3</sup>

**Table 1: The production of cars in Slovakia in 2023 with the share of electric cars (PHEV and BEV)**

Producer	Number of cars produced	Number and share of electric cars	
Volkswagen Slovakia	308 990	86 517	28 %
Kia Motors Slovakia	307 600	27 684	9 %
Stellantis	316 440	42 666	13,5 %
Jaguar Land Rover Slovakia	117 000	0	0

Source: Automotive Industry Association of the Slovak Republic.

The Stellantis factory is currently the leading producer of BEVs in Slovakia with the production of the Peugeot e-208 model.<sup>4</sup> The other three OEMs in Slovakia do not produce BEVs at the moment, but all of them have plans to introduce the production of their own BEV models soon. The upcoming Volvo factory, on the other hand, will exclusively produce BEVs.<sup>5</sup> If all goes according to the plans of the automotive companies present in Slovakia, the BEV transition of the Slovak automotive industry should be well on its way.

Slovakia's production of car batteries is weaker compared to its neighboring countries in the Visegrad Group. Presently, no battery factory in Slovakia can produce a significant amount of car batteries. However, a Slovak battery start-up called InoBat has installed its first battery cell production line in Slovakia with a modest capacity of 45 MWh. In collaboration with the Chinese battery producer Gotion High-Tech, InoBat is planning to construct a battery factory with a capacity of 20 GWh, which could potentially reach up to 40 GWh. The factory is scheduled to start production in the second half of 2026 and reach full-scale production in 2027.<sup>6</sup>

## 2 Governmental aims and objectives detected strategic papers

The automotive sector plays a crucial role in the Slovakian economy. Therefore, it is not surprising that the Slovakian government started working on a document addressing the issue of electromobility as early as 2014. As a result, a document called *Strategy for the Development of electromobility in the Slovak Republic and its impact on the national economy of the Slovak Republic*<sup>7</sup> was adopted by the government in September 2015.

The strategy was developed in collaboration with the Working Group for Electromobility, which is a part of the Ministry of Economy of the Slovak Republic.

<sup>3</sup> VLÁDA SR (2024): Informácia k udržateľnosti výroby automobilov v Slovenskej republike v kontexte prechodu na výrobu elektromobilov a k vybraným problémom rozvoja elektromobility.

<sup>4</sup> PRAVDA (2023): Citroën ë-C3: Toto je ona - nová elektrická nádej z Trnavy!

<sup>5</sup> TREND (2024): Volvo má nový model, s ktorým môže prežiť elektromobilitu a naštartovať fabriku v Košiciach.

<sup>6</sup> ENERGIEXPORTAI (2023): Prichádza prvá veľká baterkáreň. Odborníci vysvetľujú, čo znamená investícia v Šuranoch.

<sup>7</sup> VLÁDA SR (2015): Stratégia rozvoja elektromobility v Slovenskej republike a jej vplyv na národné hospodárstvo Slovenskej republiky.

This strategy can be considered as a foundation for the development of electromobility in Slovakia. This strategy aimed to initiate systematic promotion and development of electromobility in the country and facilitate the electric transformation of the Slovakian automotive industry. The policies defined in the strategy have been designed primarily to promote the adoption of electromobility in Slovakia. However, one of the goals of this strategy is to increase foreign investment inflows and job creation in sectors that are linked to the electromobility sector.

The strategy for the development of electromobility was further expanded into *an Action plan for the development of electromobility in the Slovak Republic*,<sup>8</sup> that was adopted by the Slovak government in 2019. The document also reflects the *National policy for the introduction of infrastructure for alternative fuels in the Slovak Republic*<sup>9</sup> (2016) and the *National policy framework for the development of the alternative fuels market*<sup>10</sup> (2016).

The policies described in the action plan still mostly focus on the adoption of electromobility in Slovakia, but one segment (segment nr. 4) deals with the support for battery research, development, and production. These measures aim to support the entire value chain of the battery ecosystem for their competitive and sustainable industrial production. To achieve this goal, the action plan focuses on:

- maintaining investment aid conditions in support of potential investors in the new technology sector with an emphasis on the sustainability of such production, with the smallest possible environmental footprint,
- strengthening the reuse and recycling of batteries, as well as more efficient use of critical materials in their production,
- strengthening domestic research and development of advanced (e.g. lithium-ion) and breakthrough (e.g. semiconductor) technologies in the battery sector,
- strengthening the development of a highly skilled workforce in all parts of the battery value chain by ensuring adequate training, retraining, and up-skilling,
- developing a more detailed analysis of the issue in terms of the close linking of the battery issue to the forthcoming draft raw materials policy, as well as defining the implementation process and financial instruments, and carrying out an environmental impact study on the implementation of the measure.

The Slovak government updated its action plan in 2023, considering the latest national and EU policy developments. The European Union's Fit for 55 package, designed to reduce greenhouse gas emissions by 55% by 2030, was among the policies reflected in the updated action plan. The new set of policies defined in the updated action plan promotes electromobility and evaluates the implementation of policies defined in the 2019 action plan.

Regarding support for battery research, development, and production, the 2023 updated *Action plan for the development of electromobility in the Slovak Republic*<sup>11</sup> reports that Slovakia joined the Important Project of Common European Interest (IPCEI) Batteries and won support for four Slovak IPCEI projects worth 118 million euros. The Ministry of Economy also created a battery working group for battery production with representatives from the state administration, the automotive sector, entrepreneurs, and representatives of the European Investment Bank and the SARIO (investment and trade promotion) agency.

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<sup>8</sup> VLÁDA SR (2019): Akčný plán rozvoja elektromobility v Slovenskej republike.

<sup>9</sup> VLÁDA SR (2016): Národná politika zavádzania infraštruktúry pre alternatívne palivá.

<sup>10</sup> VLÁDA SR (2019): Národný politický rámec pre rozvoj trhu s alternatívnymi palivami.

<sup>11</sup> VLÁDA SR (2023): Akčný plán rozvoja elektromobility v Slovenskej republike 2023.

The issue of sustainable transportation is a part of the *Slovak national plan of the EU Recovery and Resilience Facility*,<sup>12</sup> specifically in component 3. This component includes various reforms and investments that can be linked to the growth of electromobility in Slovakia. However, similar to the previous documents, these investments primarily focus on the development of charging infrastructure for electromobility and do not address the transformation of the Slovak automotive industry to BEV production or the establishment of battery production capacities in Slovakia.

**Table 2: The principles and goals formulated in the government strategies**

	Strategy for the development of electromobility	Action plan for the development of electromobility	Recovery and Resilience Plan	Action plan for the development of electromobility (update)	Information on the sustainability of car production
	2015	2019	2022	2023	2024
Domestic production					x
Domestic development (R+D)		x			
Development of infrastructure for electromobility	x	x	x	x	
Competitive and sustainable vehicle manufacturing/production					x
Adaptation of the transport infrastructure for electromobility					x
Job creation	x				
Attraction of FDI	x				x
Skilled labour force					x

Source: Author's compilation based on government documents.

The Slovak government adopted a new document in February 2024 titled *Information on the sustainability of car production in the Slovak Republic in the context of the transition to electric vehicle production and selected problems of the development of electromobility*.<sup>13</sup> The document aims to ensure the long-term sustainability of the Slovak automotive industry by identifying key factors.

The first factor is the adequate capacity of the transmission and distribution system, as well as an adequate volume of electricity production per territory of the Slovak Republic. The second factor is leveraging the shift in car production to boost the competitiveness of the Slovak Republic's economy. To achieve this, the government wants to encourage foreign investment in high-value-added projects, particularly in research and development and specialized corporate services. The priority will be on projects that enable the development of local expertise and linkages with domestic universities, research organizations, and innovative firms.

<sup>12</sup> VLÁDA SR (2021): Plán obnovy – cestovná mapa k lepšiemu Slovensku.

<sup>13</sup> VLÁDA SR (2024): Informácia k udržateľnosti výroby automobilov v Slovenskej republike v kontexte prechodu na výrobu elektromobilov a k vybraným problémom rozvoja elektromobility.



Ensuring the sustainability of the automotive industry in Slovakia will also require a suitable qualification structure of the workforce to meet the labor market needs of the automotive industry, with a focus on the production of battery electric vehicles (BEVs). Additionally, it will be essential to adapt the transport infrastructure to the sustainability needs of car production in Slovakia. Therefore, it is necessary to remove the long-standing capacity constraints of the transport infrastructure that are affecting the development of not only the automotive industry but also the economy in general.

### **3 Financial incentives for companies available for BEV transition**

The automotive industry in Slovakia receives financial support mainly through regional investment incentives that are available for all industry investors. *The government decree nr. 195/2018*<sup>14</sup> governs state support, which aims to motivate investors to establish new investment projects in regions with higher unemployment rates and attract projects with higher added value. All investors who meet the defined criteria of minimum investment amount, new technological equipment share on eligible costs, and new job creation depending on the unemployment rate in the district and the applied forms of investment aid can avail in investment incentives. In Slovakia, all investment incentive decisions are made on the government level and there is a public list of the investment incentives granted on the website of the Ministry of Economy of the Slovak Republic.

However, the government decree contains a list of priority industries that receive more favorable conditions for investment incentives. The automotive industry is on the list of priority industries, although it has to be mentioned that this list contains a wide range of industries. Investors in these industries must invest in cutting-edge technologies such as autonomous robots, the internet of things, AI, and others to qualify for these conditions, but the automotive industry can easily meet these requirements. Generous state support has always been available for significant automotive investments. For instance, the construction of the Volvo automobile factory received total state support of 267 million euros in 2022 in the form of subsidies for the purchase of tangible and intangible fixed assets. To put it into perspective, this was the largest amount of financial support ever given to a foreign investor in Slovakia.

*To help the green transition of the Slovak industry, the government amended the government decree nr. 195/2018*<sup>15</sup> in March 2024 based on the EU Temporary Crisis and Transition Framework. The amended rules introduce new extraordinary investment subsidies for the sectors strategic for the transition to a climate-neutral economy. These sectors include:

- a) the manufacture of batteries, solar panels, wind turbines, heat pumps, electrolyzers, and equipment for carbon capture and storage equipment,
- b) the manufacture of key components designed and primarily used as a direct input to production products referred to in point (a),
- c) the production or recovery of critical raw materials necessary for the manufacture of products referred to in point (a); or (b).

The country was divided into two zones for new investment subsidies. Zone M2 comprises only of the Bratislava district while the rest of Slovakia makes up zone M1. This is an essential change compared to the standard investment incentives, as investors

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<sup>14</sup> VLÁDA SR (2018): Nariadenie vlády 195/2018, ktorým sa ustanovujú podmienky na poskytnutie investičnej pomoci, maximálna intenzita investičnej pomoci a maximálna výška investičnej pomoci v regiónoch Slovenskej republiky.

<sup>15</sup> VLÁDA SR (2018): Konsolidované znenie nariadenie vlády 195/2018, ktorým sa ustanovujú podmienky na poskytnutie investičnej pomoci, maximálna intenzita investičnej pomoci a maximálna výška investičnej pomoci v regiónoch Slovenskej republiky.

in the Bratislava district are not eligible for them. With this change, the government wants to enable the support of green investments in the Bratislava district. However, it has to be stated that the investors interested in this district have to fulfill more demanding criteria (Table 3).

**Table 3: Criteria for state support for extraordinary investment subsidies for the sectors strategic for the transition to a climate-neutral economy**

	Company size	Zone M1	Zone M2
Minimum value of the acquired fixed tangible assets and intangible fixed assets		10 000 000 euro	20 000 000 euro
Maximum amount of extraordinary investment subsidies		350 000 000 euro	150 000 000 euro
Maximum intensity of extraordinary investment subsidies	Large company	35 %	15 %
	Medium company	45 %	25 %
	Small and micro company	55%	35 %
Maximum intensity of extraordinary investment subsidies granted exclusively in the form of income tax relief	Large company	40 %	20 %
	Medium company	50 %	30 %
	Small and micro company	60 %	40 %

Source: Consolidated version of the government decree nr. 195/2018.

In addition to the official financial subsidies provided by the government, big investment projects might also get financial assistance indirectly. This assistance can come in the form of free or heavily discounted land transfers, as well as other types of induced investments such as connection to the electricity grid and road infrastructure. In the case of the Volvo automotive factory in Košice the government created the Valaliky Industrial Park to facilitate the construction of the factory.<sup>16</sup>

The Slovak Republic is planning to invest EUR 731 million in the Valaliky industrial park. This strategic park covers over 700 hectares, which includes land for infrastructure. Even after the Volvo Cars Slovakia project is fully implemented, around 180 hectares of land will remain available for further investments in production, logistics, R&D, and facilities for public services.

The government is also planning a similar arrangement, albeit on a smaller scale, for the battery factory in Šurany. Although details are scarce at this moment, the plan is to use free land transfer for the battery factory and finance the necessary additional road infrastructure.

Regarding the use of EU funding to transition the Slovak automotive industry to BEV production, there is currently no funding available for this purpose. *The Slovak national plan of the EU Recovery and Resilience Facility* focuses primarily on funding the development of charging infrastructure for electromobility.

<sup>16</sup> TREND (2024): Štátna podpora pre Valaliky dosiahla 730 miliónov. Park vlastní takmer celé potrebné územie.

This is also true for the *Program Slovakia*, the only operation program for EU funds from 2021 to 2027. It includes a component called "Greener, Low-Carbon Europe" which also deals with transportation, but its primary funding focus is on developing sustainable multimodal urban mobility, such as integrated transport systems.

As for *regional aid* and the *Temporary Crisis and Transition Framework (TCTF)*, financial aid available for investors has been covered in the previous section.

## Conclusion

Although the automotive industry is a key part of the Slovak economy, successive governments did not have a comprehensive strategy for transitioning the industry to battery electric vehicle production. The available government strategic documents mainly focus on adopting electromobility in Slovakia, such as providing price support for plug-in hybrid electric vehicles (PHEVs) and battery electric vehicles (BEVs) and developing a system of charging stations.

However, elements of a strategy started to emerge in 2019 with the adoption of the *Action plan for the development of electromobility in the Slovak Republic* which introduced policies aimed at supporting the entire value chain of the battery ecosystem. The implementation of these policies brought limited results, as the only battery factory operating in Slovakia at this moment was created primarily with the help of foreign venture capital, although the state-owned investment fund Slovak Investment Holding became an investor in InoBat in early 2024.

Government strategy started to solidify in 2024 when the current government, led by Robert Fico, adopted a document analyzing the key drivers for the long-term sustainability of the automotive industry in Slovakia. The government also introduced extraordinary investment subsidies that cover strategic sectors, including battery production, to make Slovakia more attractive to potential investors in this industry.

The current successes in the BEV transitions of the Slovak automotive industry, such as the Volvo BEV factory and the Šurany battery plant, have been achieved primarily through ad hoc efforts. However, there is a pressing need for a comprehensive long-term government strategy in this area.

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## 3 SEAS INITIATIVE

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**Abstract:** Our paper deals with the phenomenon of further and possible alternative developments of European integration. The Three Seas Initiative and its predecessor Intermarium from the interwar period can be seen as an additional instrument of Euro integration for former so-called Eastern Bloc countries. In our work we focus on both the past and the future of this project. And as authors, we take into account not only economic aspects, but also geopolitical and historical aspects.

**Keywords:** 3 Seas Initiative (3SI), Europe, Integration, Baltic Countries

**JEL:** P10, P45, R58

### Introduction

The Three Seas Initiative (3SI) deserves close attention due to its implications for geopolitics and economics. It includes 12 (recently 13) nations, mostly from the former Eastern Bloc. In recent years, this initiative has hardly been discussed at the European level and has remained one of several other existing cooperation formats. However, with the outbreak of all-out war in Ukraine, we believe that this initiative has acquired additional geopolitical significance. One can point to the increased influence during Donald Trump's first presidency, as his personal participation in the 2nd Summit of the 3SeI in 2017 increased the summit's impact.

The 3 Seas Initiative (3SI) must be seen as having an important impact on geopolitics and the economy. In the coming years, the strategy of forming new partnerships beyond the European area has become more important and has reached a stage where 3SI can be seen as a potentially progressive step towards deeper European integration. It should not be viewed as a competing initiative but as an extension of existing integration efforts. This article outlines the historical, current and potential future developments of 3SI as a possible significant factor in changing geopolitical development.

### Literature review

In our article we mainly used electronic sources. Because the whole 3SI is a relatively new topic. However, there are several scientific and political initiatives/think tanks, especially in Poland, that deal with 3SI and also with the presentation of its roots. The Polish “3SI Research Center” is one of them. The previous initiative “Polish State of Poland” is the next one. It is also being researched through various university initiatives. However, more effective and truly scientific research can be carried out if the entire 3SI runs longer and enough data is provided for further research.

### 1 History

During the interwar period of the Second Polish Republic (1918-1939), the Intermarium Initiative was seen as a means of expanding potential Polish influence. The term itself means “between the seas”.

If successful, Intermarium would have covered the entire region between the Black Sea, the Baltic Sea and the Adriatic.

The current Polish authors claim<sup>1</sup> that the Central and Eastern Europe (CEE) region offered diverse opportunities for cooperation in the first half of the 20th century. Although not all ideas were considered essential, they all made clear that Russia should be avoided as an unfriendly state and entity and increased the need for CEE integration.

**Table 1: Different concepts of cooperation and integration in 20th century Europe**

a. Idea of Central Europe (Mitteleuropa) - confederated states in the region that recognize German dominance in the CEE region
b. Idea of “United States of Greater Austria” – potential reconstruction of the Austro-Hungarian Empire into a union of 15 confederate states under Austrian leadership
c. The idea of “Cordon Sanitaire” – creation of a belt of independent states separating Germany from Russia. The main goal was to prevent Russia's expansion into Europe and Germany's expansion into Russia
d. The idea of the Intermarium (Mięzymorze) initially aimed to create a federation of Poland, Lithuania, Belarus and Ukraine with possible expansion. The aim was to create unity against Germany and the USSR
e. Polish-Czech-Slovak Union – mainly economic cooperation with potential for further cooperation with other countries in the CEE region

Source: own authors elaboration according to [https://ine.org.pl/wp-content/uploads/2024/01/Three\\_Seas\\_Building\\_the\\_Region\\_ENG.pdf](https://ine.org.pl/wp-content/uploads/2024/01/Three_Seas_Building_the_Region_ENG.pdf)

The geopolitical landscape of the interbellum era, characterized by the presence of Nazi Germany and the oppressive power of the Soviet Union, made the entire plan unfeasible due to a lack of awareness of this reality.

Shortly before the collapse of communism in Eastern Europe (1989), there were efforts at geopolitical and economic consolidation among the states of this region, culminating in the dissolution of the USSR in 1991. The possible resurgence of previous geopolitical concepts was made possible by the Soviet Union's subsequent withdrawal of military units.

From our point of view, the search for an alternative to the EU would have been absurd given the accession of all Visegrád states and all other candidate countries to the European Union (EU).

However, the concept of an additional community of nations with similar political and cultural heritage on the one hand and economic weakness and inadequate infrastructure on the other may have led to a revival of the Intermarium idea and its transformation into the 3 Seas Initiative.

The launch of the initiative was in 2015. This development may also have been accelerated by the Revolution of Dignity, the ATO operation in Ukraine against Russian aggression in 2014 and subsequent waves of migration crises from 2015.<sup>2</sup>

## 2 Current development

The new (initially) Polish-Croatian cooperation began with the renewal of the interwar Intermarium in 2015.

Presidents Duda and Grabar-Kitarovič initiated the idea, and the first summit took place the following year.

But not even the COVID-19 epidemic has slowed down 3SI's further development. In addition, a summit meeting will be held every year until 2024 based on the rotation principle of 3SI members. The entire event is more than just a forum for intergovernmental discussions.

<sup>1</sup> PAWŁUSZKO, T. – BORÓWKA, A. – GĘBSKA, M. – WILCZEK, J. (2023): *Three Seas Building the Region Institute of New Europe Report 2023*.

<sup>2</sup> Ibid.

We can interpret the 3SI Summit as a fruitful basis for cooperation to further discuss future mutual cooperation, which requires deep insights and local knowledge and goes beyond the typical EU project. The idea of strengthening cooperation and cohesion between member states was already present at the first summit.

As already mentioned, the presence of US President Trump during the 2017 summit played an important role with implications for the following years.

The creation of new initiatives within 3SI (Three Seas Business Forum, Three Seas Investment Fund, etc.) followed. The following projects (some of them) that were actually presented as part of the EU projects but received significantly more attention from 3SI:

1. Via Carpathia (motorway network connecting Lithuania with Greece)
2. Baltic Sea-Adriatic Corridor (connecting both regions via motorways and railways)
3. Rail Baltica (connecting the Baltic states with Poland and further connecting with Germany and Europe as such)

The list of 3SI initiatives is not yet complete. We have selected those that have a lasting impact and the greatest European perspective. All of them are included in the EU's long-term plans, all of them will also make their regions more and more independent and will not be forced to maintain the old business cooperation with the Russian Federation. We can say that these projects will help connect Europe better and make the Baltic region and Poland safer.

There still remains an unanswered question: why does the European Union need another platform? Where members discuss these projects and try to gain mutual understanding. The answer is that this region needs a better understanding of its past experiences and historical development, and 3SI is precisely the ultimate way to go deeper into the question of mutual understanding, without pressure from the European Union. In contrast, development takes place within the countries of the region, with the immense need to complete all projects as quickly as possible and to use all financial resources as precisely as possible.

**Table 2: List of 3SI summits (2016-2024)**

1.	2016 Dubrovnik, Croatia	25.-26. 8.
2.	2017 Warsaw, Poland	6.-7.7.
3.	2018 Bucharest, Romania	17.-18.9.
4.	2019 Ljubljana, Slovenia	5.-6. 6.
5.	2020 Tallinn, Estonia	19.10
6.	2021 Sofia, Bulgaria	8.-9.7.
7.	2022 Riga Latvia	20.-21.6.
8.	2023 Bucharest, Romania	6.-7.9.
9.	2024 Vilnius, Lithuania,	11.4.

The list of 3SI summits shows constant evolution and the rotation will continue, with the summit taking place again in Poland in 2025. The next development and possible expansion depends on the extent to which the upcoming accession will reflect the strong (but logical) anti-Russia policies of the original member states (most of them).

### **3 Further possibilities**

Given the ongoing war in Ukraine, the need for mutual cooperation in the military sphere has become a necessity. In 2020, the creation of the Lublin Triangle, the regional alliance between Lithuania, Poland and Ukraine, gained importance after the full-scale war in 2022.

The Lithuanian-Polish-Ukrainian brigade, also stationed in Lublin, was an important tool in the preparation of the ZSU (Ukrainian Armed Forces) for the situation after February

2022. These are just two examples, but with the coming years and the constant threat from the Russian Federation the need for further measures increases military action.

Cooperation will continue, an example of which could be the recent meeting in Sweden, where Nordic/Baltic states, including Poland, “met to discuss transatlantic relations, security in the Baltic Sea region and long-term support for Ukraine.”<sup>3</sup>

And Poland's current successful project "East Shield" with possible prospects for further expansion and cooperation with the Baltic states is an excellent example of the self-confident policy of states that understand the common threats and the activities of their enemies (Russia) and know the instruments which may help eliminate their impact on the national states of the Baltic/Northern Europe.<sup>4</sup>

### Conclusion

We assume that 3SI is a development that cannot be easily understood from a Western European perspective. The historical experiences of the Baltic countries, Poland and Ukraine cannot be resolved through deeper cooperation or dialogue with the current Russian Federation (RF) with its criminal leadership.<sup>5</sup>

The level of violence and utter destruction in Ukraine has reached such a level that the need for deeper cooperation is growing. The policy of the above-mentioned countries towards the Russian Federation is relevant and the need to further develop mutual relations between their Baltic neighbors should not be underestimated, excluding the Russian Federation with both sanctions and physical barriers.

If we mentioned the transport projects under 3SI or simply need greater engagement in the region, the main idea of 3SI will always be the “Cordon Sanitaire”, where Germany is no longer a threat, but the Russian Federation is an even greater one. Without the current military situation, the need for mutual cooperation would not be so urgent. On the other hand, such an alternative development would probably not receive enough attention from European partners in the event of peaceful coexistence with the Russian Federation.

The need for further cooperation arises from the enormous tensions and the growing likelihood of Russia's encroachment into the former sphere of influence (Baltic countries). Every project must be viewed as a matter of national defense.

From a Slovak perspective, such an initiative may seem unusual, but given the historical experience of the region and the long-lasting negative effects of the former Soviet-Russian presence, it is more than logical and positive.

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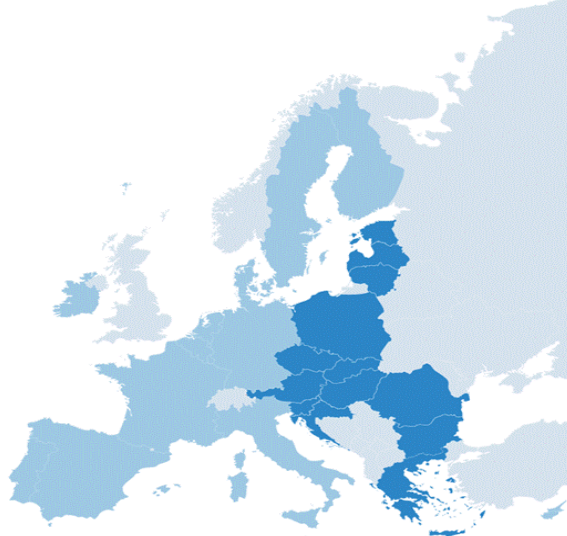


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**PICTURES/MAPS:**

**1. Map of 3 Seas Initiative with the current member incl. Greece in the year 2024.**



Source: The Three Seas Initiative Research Center (2024).

**2. East shield initiative 2024**



Source: Salvoni, E. Poland begins construction of £1.9bn 'East Shield' along Russia border (2024) *MSN*.

# CHINESE AND INDIAN SERVICE IN WORLD ECONOMY

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**Abstract:** China and India became key players in world economy during the two decades of the 21<sup>st</sup> century with 21% share in world GDP in 2022 and also the key players in international trade in services ranking third (China) and seventh (India) in exports and second (China) and ninth (India) in imports of services. The aim of this paper is to assess the development of Chinese and Indian trade in services during the first two decades of the 21<sup>st</sup> century. We come to conclusion that major changes in trade in services may be seen in Chinese exports and that both countries have a comparative advantage in telecommunications, computer and information services and other business services.

**Keywords:** China, India, services, exports, imports, trade

**JEL:** L80, O53

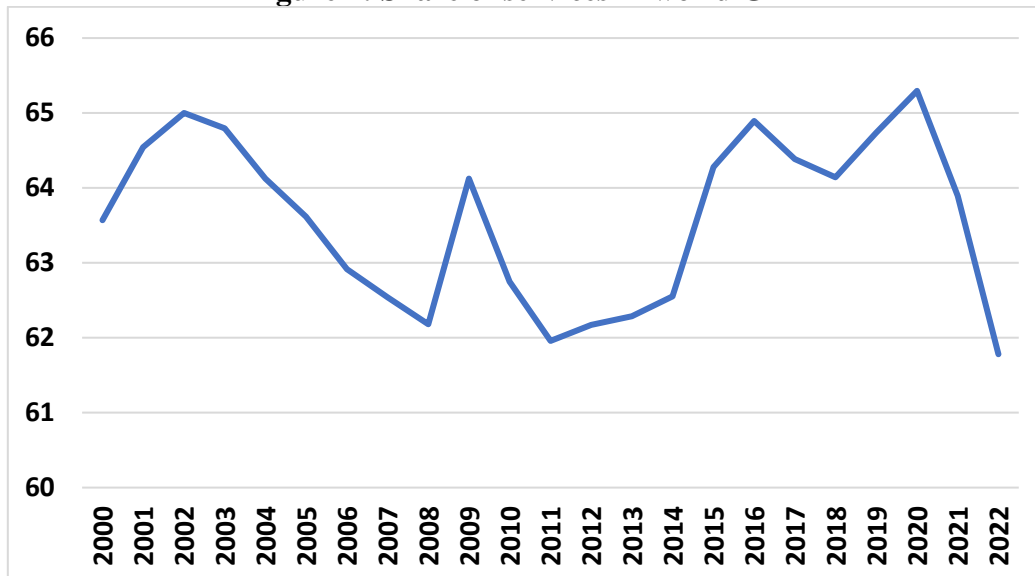
## Introduction

International trade in services has become a key driver of globalization and world economic growth in recent decades. In contrast to trade in goods, which was traditionally seen as dominant, services are becoming increasingly important in international trade relations. International trade in services involves the exchange of intangible products between countries. These can range from financial and insurance services to information technology and telecommunications to tourism, education and professional services. Unlike goods, which are physically transported, services are often delivered electronically or through the movement of people.

Since the beginning of this century, services have accounted for more than 60% of world GDP, as Figure 1 illustrates. The spike in share of services in world GDP in 2009 was mainly due to the global financial crisis. During this time, many sectors in national economies experienced significant downturns, especially manufacturing and construction. On the other hand, many services sectors, such as healthcare, education, and others, are less dependent on real production and are less cyclical proved to be more resilient. Contraction of manufacturing and construction sectors on the other hand contributed significantly less to the GDP. Also, governments, trying to mitigate the impacts of the crisis, introduced stimulus packages that included increased spending on social services, education and healthcare, leading to boosting up the services sector. Significant decrease in services share in world GDP is present in current period, which is mainly due to the COVID-19 pandemic and the measures taken by governments in individual countries to prevent its spread among the population. Due to lockdowns and social distancing, many sectors in services were negatively affected. These are services that rely to a large extent on physical interaction like HORECA sector, transportation, entertainment, personal services.

The aim of this paper is to assess the development of Chinese and Indian trade in services during the first two decades of the 21<sup>st</sup> century. In addition, the paper will also identify possible changes in Chinese and Indian services that have occurred during the 21<sup>st</sup> century. In line with the aim of the paper, we formulate the following research questions: 1. What kind of changes took place in Chinese and Indian trade in services during the first two decades of the 21<sup>st</sup> century? 2. What are Chinese and Indian comparative advantages in services trade?

**Figure 1: Share of services in world GDP**



Source: Own calculations based on WDI. (2024): World Development Indicators. [online].

### **1 Chinese and Indian services**

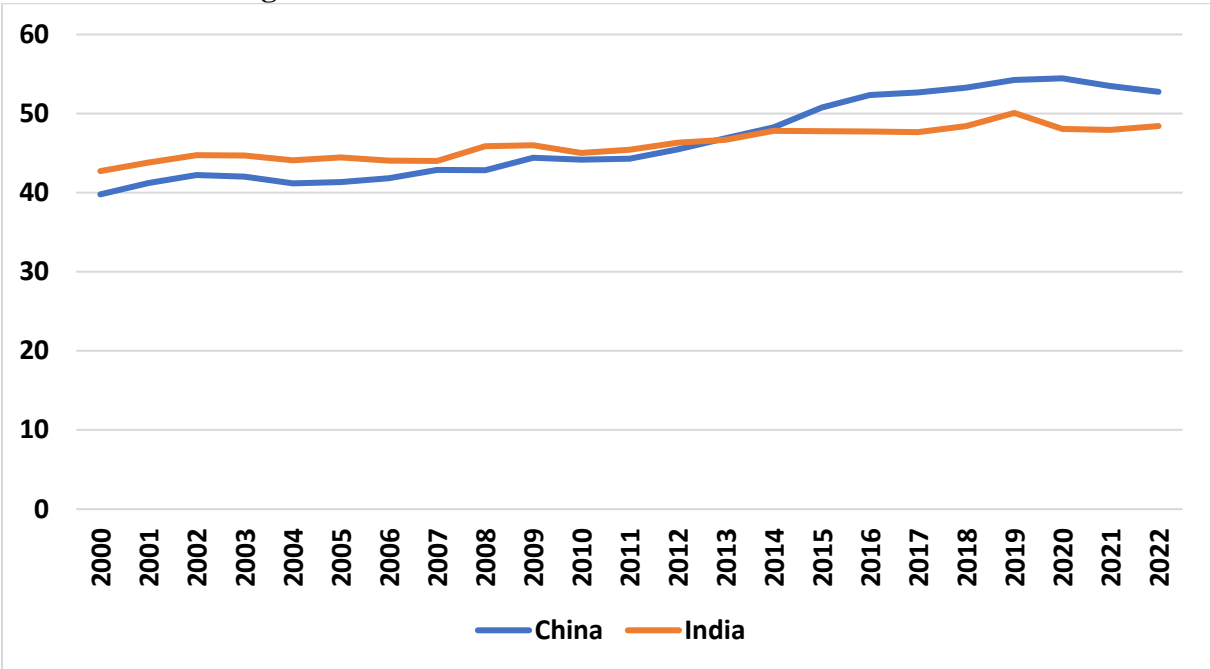
The share of the services sector in Chinese GDP has been steadily increasing, reflecting the country's commitment to a more sustainable and comprehensive economic growth model. It is driven by developments in finance, technology, e-commerce and other knowledge-intensive industries. Although the share of services in China's GDP was not significant in the second half of the 20<sup>th</sup> century, accounting for around one-quarter to one-third, significant growth occurred after 2000. At the turn of the millennium, the share of services in China's GDP was close to 40%; as of 2015, the share of services is more than 50% (Figure 2). During the recent global pandemic, the share of services in Chinese GDP slightly decreased, but did not fall below the 50%. Similar development in the services sector may be also seen in India. Although the share of services in Indian GDP was not very high during the second half of the 20<sup>th</sup> century, averaging 36.5% between 1973 and 1999 (reaching a peak of 42% in 1999), a more significant change occurred during the second decade of the 21<sup>st</sup> century when the share of service in GDP reached more than 46% since 2012 and 50% in 2019. In the light of the global pandemic, the share of services in GDP has fallen to 48% in 2020 and 2021, but further growth in the sector can be observed from 2022 onwards, with a share of 48.4% of GDP.

We note, however, that despite the significant growth in the 21<sup>st</sup> century, the share of services in Chinese and Indian GDP is lower than the world average at 64%. As far as the period 2000-2022 is concerned, we can observe a relatively slow growth in the share of the services sector in both countries GDP. It has remained at 40-50% during 2000-2015 and 50-55% during 2015-2022 for China and 43-48% for virtually the entire period for India (with the exception of 2019, when India reached 50.1%). However, the gradual increase in the share of the services sector in GDP indicates a certain change in both countries orientation from the industrial sector to the services sector, as evidenced by other factors such as the education and skills of India's young workforce and investment in the development of IT infrastructure. As part of the 'new normal', China has also begun to orient its economy towards the services sector.

Comparing the two countries, we see that during the first decade of the 21<sup>st</sup> century, India had a slightly higher share of services in GDP than China. However, in 2010-2013, the situation started to change, and since 2014, China has had a higher share of services in GDP. Figure 2 shows that in recent years, especially since 2016, the gap between the share of services in GDP in China and India has widened. While during the first decade the gap was on average

2.3 percentage points in favor of India, from 2016 to the present the gap is on average 5 percentage points in favor of China.

**Figure 2: Share of services in Chinese and Indian GDP**



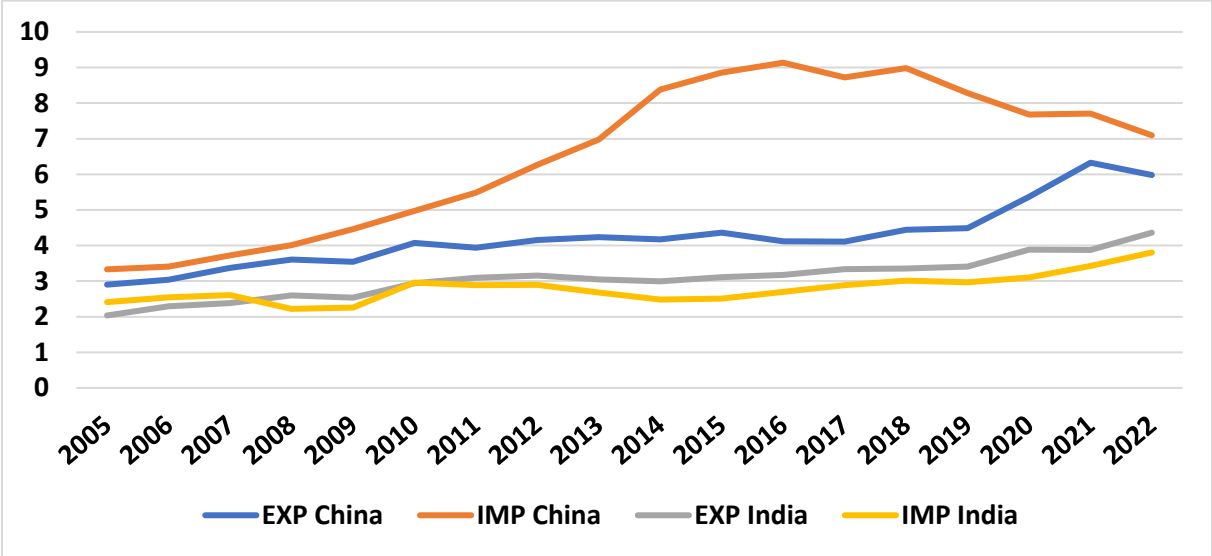
Source: Own calculations based on WDI. (2024): World Development Indicators. [online].

Services also started to contribute significantly to Chinese foreign trade. At the beginning of the 21<sup>st</sup> century, China’s share in world exports and imports of services was relatively low at 2%, but its share grew slowly and was already around 4% before the global financial crisis in 2008. As can be seen in Figure 3, the share of Chinese exports and imports in world trade in services has been more or less equal, with a higher share of imports than exports. The change and significant growth in China’s trade in services occurred in the second decade of the 21<sup>st</sup> century. From 2010 to 2016, China’s share of imports rose sharply to 9.1%, and in the following years this share fell to the current 7.1% in 2022. On the other hand, the share of China’s exports stagnated at around 4%, the growth in services exports occurred during the COVID period from 2020 to the current 6% in 2022. Since the beginning of the 21<sup>st</sup> century, China has been running a negative balance in trade in services, which is due to the higher value of imports than exports. It should be noted that the balance was relatively low during the first decade, with significant growth occurring during 2014-2016. However, we see a decline in the post-COVID period. Again, similar situation can be seen in India. Services were gradually contributing to the growth of India’s foreign trade volume. In the case of exports, we can observe a growth in the volume of exports except the pandemic year 2020. In 2021, however, there was a growth in the volume of exports by 18% over 2020 and even by 28.6% in 2022 over 2021. The second exception to the growth trend was 2009 (global financial crisis). Looking at the share of India in total world services exports and imports, it is significantly less than China. Although during the first decade of the 21<sup>st</sup> century the shares of both flows were relatively low at 2-3%, during the second decade of the 21<sup>st</sup> century (and especially since 2015), there has been a significant growth in the share of both flows in world exports and imports as shown in Figure 3. In 2022, India’s share in world exports was 4.4% and in world imports 3.8%.

Figure 3 shows that China’s share of world exports and imports of services is much higher than that of India. This share is higher throughout the whole period 2005-2022.

On the other hand, we can observe differences regarding the balance of services in the two countries. While China’s international trade in services shows a negative trade balance over the entire period 2005-2022, India’s international trade in services has achieved a negative balance only during 2005-2007. Since 2008, we observe an opposite trend in India’s international trade in services to that of China, i.e., India’s international trade balance in services is positive.

**Figure 3: Chinese and Indian share in total world exports and imports of services, in %**



Source: Own calculations based on ITC. (2024): Trademap. [online].

**2 Results**

Our analysis uses data from the Center for International Trade’s Trademap database<sup>6</sup>. We draw on data for the period 2005-2022. In this section, we identify the main changes in Chinese and Indian trade in services, as well as their position in the world services market in terms of services exports and imports. In addition, we identify the comparative advantages of Chinese and Indian trade in services. We also use data provided by Grešš (2023)<sup>7</sup> and Grešš and Dziura (2024)<sup>8</sup>.

Table 1 shows major changes in top 10 exporters and importers of services in world economy. We note that China has become one of the most important players in international trade in services during the first two decades of the 21<sup>st</sup> century, which is related to the transformation of China’s economy from an ‘assembly plant’ to a modern service-based economy. While it was not among the world’s top 10 services exporters at the beginning of the century (it was ranked 13<sup>th</sup>), it was already ranked 8<sup>th</sup> in 2005 and 5<sup>th</sup> in 2010. By the end of the observed period, in 2022 China was the 3<sup>rd</sup> most important exporter of services, overtaking many of the world’s advanced economies such as Germany and France. Different situation can be seen in case of India. While in 2005, India didn’t belong to top ten exporters of services (India ranked 13<sup>th</sup>), its position changed during the following years. In 2010, India ranked 8<sup>th</sup> and in 2022 it ranked 7<sup>th</sup>, leaving behind such economies as Singapore, Netherlands and Spain that are more advanced, that economy of India.

Looking at imports, China is an even more significant player. At the beginning of the century it was among the top 10 service-importing countries (9<sup>th</sup> place), in 2005, China ranked 7<sup>th</sup>. By the end of the first decade it was already in 3<sup>rd</sup> place in 2010. Currently, in 2022, it is the 2<sup>nd</sup> most important service importer after the USA, overtaking countries such

<sup>6</sup> ITC (2024): Trademap. [online].

<sup>7</sup> GREŠŠ, M. (2023): Chinese Trade in Services.

<sup>8</sup> GREŠŠ, M. – DZIURA, B. (2024): India’s Foreign Trade in Services.

as Germany, United Kingdom, France and Japan, which were among the most important service importers in the first decade of this century. Again, different development can be seen in India. While it ranked 10<sup>th</sup> in 2005, there was not such a significant change in its position within top world importers of services as was the case of China. In 2010, India ranked 8<sup>th</sup> and fell to 9<sup>th</sup> place in 2022. On the other hand, we conclude that India, since it belongs to top 10 importers of services in the world economy, is a significant player in this sector. Based on the data shown in table 1, we observe that both, China and India, are important economies when it comes to international trade in services in both flows, exports and imports, which suggests their changing and growing role in the world economy, especially in the world trade of services.

**Table 1: Top 10 exporters and importers of services**

<i>Exporters</i>			<i>Importers</i>		
<i>2005</i>	<i>2010</i>	<i>2022</i>	<i>2005</i>	<i>2010</i>	<i>2022</i>
USA	USA	USA	USA	USA	USA
United Kingdom	United Kingdom	United Kingdom	Germany	Germany	<b>China</b>
Germany	Germany	<b>China</b>	United Kingdom	<b>China</b>	Germany
France	France	Germany	Japan	United Kingdom	Ireland
Japan	<b>China</b>	Ireland	France	France	United Kingdom
Spain	Netherlands	France	Italy	Japan	France
Italy	Japan	<b>India</b>	<b>China</b>	Netherlands	Netherlands
<b>China</b>	<b>India</b>	Singapore	Ireland	<b>India</b>	Singapore
Switzerland	Spain	Netherlands	Canada	Italy	<b>India</b>
Canada	Italy	Spain	<b>India</b>	Ireland	Japan

Note: India ranked 13<sup>th</sup> in exports in 2005.

Source: Own calculations based on ITC. (2024): Trademap. [online].

In terms of exports and imports of services and their changes between 2005 and 2022, data are presented in Table 2. We list the top 5 services sectors for each period with the highest share in total services exports and imports for both countries.

In the case of China, changes are particularly visible in services exports. Travel accounted for the largest share of total services exports in 2005, with a share of almost 40%. However, in the following period, its share dropped significantly and it is currently (2022) not even in the top 5 most exported service groups. This fact can be attributed mainly to the impact of the Covid-19 pandemic and the measures introduced by China. Due to strict border controls and quarantine measures, there has been a significant decline in international travel. On the other hand, there has been an increase in domestic tourism. An important component of China's services exports is the other business services group, which accounted for about one-third of services exports, with a decline to about 24% in 2022. The main factories of this decline, in addition to the pandemic, can include the slowdown in global demand for this type of services and also changes in global supply chains. On the other hand, there has been a gradual increase in transport services since 2005. While in 2005 they accounted for only 20.7% of total exports, in 2022 they were the most exported type of services with a share of 35%. The growth of this group of services has been driven mainly by the growth of global trade in the second decade of the 21<sup>st</sup> century as well as by introduction and implementation of the Belt and Road Initiative, which has significantly increased the demand for these services, especially in the areas of maritime transport, logistics and rail transport. In addition, the Chinese

government has also implemented policies to encourage the development of this sector through tax incentives, subsidies and investment in infrastructure development. In terms of service imports into China, no significant change is visible from 2005 to the present, with transport, travel and other business services accounting for the largest share of total service imports, accounting for more than 70%. Regarding transport, it is possible to identify a number of factors that have influenced this group of services to maintain a share of more than a third of total service imports over the long term. One of them is the high economic growth rate of the domestic economy since the beginning of the 21<sup>st</sup> century and the fact that China has been a global manufacturing hub in this period. In addition, there has also been growth in domestic consumption, with demand for imported goods growing, resulting in a growing need for international transportation and logistics services. The second important sector is the travel sector. It accounts for around one quarter of China's total imports, the main factor being China's aforementioned economic growth at the beginning of the 21<sup>st</sup> century and also the rising living standard of the Chinese population, particularly the middle class. The growth in the disposable income of the middle class has led to an increase in this service group. The Chinese government has also liberalized the visa regime for some foreign countries, whose citizens thus do not need visas to enter and stay in the country.

As far as India is concerned, the changes in trade in services are even smaller than for Chinese imports of services. This applies to both exports and imports of services. In the case of services exports from India, we see that the same groups of services emerge throughout the period under review, accounting for more than 90% of total exports from India. Other business services and telecommunications, computer and information services account for two-thirds of total exports, and as high as 71% of total services exports from India in 2022. As far as these two groups of services are concerned, a number of factors are behind their high share in India's total services exports. One significant factor is the large English-speaking population. Since India was one of the British colonies in the past, English is one of the languages used for communication between different regions of India. In addition to this, English is also one of the official languages of India which is used in government, education as well as business. Apart from good command of the language, one of the factors is skilled labor especially in fields like information technology, software development, engineering, computer science. In addition to skills, labor costs, which are relatively low in India, also play an important role. In the second decade of the 21<sup>st</sup> century, the average annual salary of a software engineer was USD 7 000. Thus, both these factors, skilled and cheap labor, contribute significantly to the high share of these service sectors in India's total exports. The Indian government has also implemented policies during the 21<sup>st</sup> century that support these sectors, for example, through the Digital India initiative. The covid-19 pandemic, which has contributed to the growth of global digitization and the growth in demand for information services in previous years, may also be one of the influencing factors. India's foreign trade policy effective from 2023 may also contribute to further growth in these sectors, as one of the main objectives is to increase India's export volume to USD 2 trillion by 2030 from current USD 777 billion.



**Table 2: Type of services and their share in total Chinese and Indian exports and imports of services in %**

<b>China</b>					
<i>Exports</i>					
<i>2005</i>	<i>Share</i>	<i>2010</i>	<i>Share</i>	<i>2022</i>	<i>Share</i>
Travel	39.4	<b>Other business services</b>	32.2	<b>Transport</b>	35.1
<b>Other business services</b>	31.3	Travel	28.3	<b>Other business services</b>	23.8
<b>Transport</b>	20.7	<b>Transport</b>	21.1	Telecommunications, computer and information services	19.6
<b>Construction</b>	3.5	<b>Construction</b>	8.9	<b>Construction</b>	6.2
Insurance and pension services	0.7	Insurance and pension services	1.1	Manufacturing services on physical inputs owned by others	4.7
<b>Share in exports:</b>	<b>95.6</b>	<b>Share in exports:</b>	<b>91.5</b>	<b>Share in exports:</b>	<b>89.4</b>
<i>Imports</i>					
<i>2005</i>	<i>Share</i>	<i>2010</i>	<i>Share</i>	<i>2022</i>	<i>Share</i>
<b>Transport</b>	33.9	<b>Transport</b>	32.7	<b>Transport</b>	36.3
<b>Travel</b>	25.9	<b>Travel</b>	28.4	<b>Travel</b>	25.3
<b>Other business services</b>	19.6	<b>Other business services</b>	17.7	<b>Other business services</b>	11.3
Insurance and pension services	8.6	Insurance and pension services	8.1	<b>Charges for the use of intellectual property</b>	9.6
<b>Charges for the use of intellectual property</b>	6.3	<b>Charges for the use of intellectual property</b>	6.7	Telecommunications, computer and information services	8.2
<b>Share in imports:</b>	<b>94.3</b>	<b>Share in imports:</b>	<b>93.8</b>	<b>Share in imports:</b>	<b>90.6</b>

<b>India</b>					
<i>Exports</i>					
<i>2005</i>	<i>%</i>	<i>2010</i>	<i>%</i>	<i>2022</i>	<i>%</i>
<b>Other business services</b>	34.9	<b>Telecommunications, computer and information services</b>	34.6	<b>Other business services</b>	38.9
<b>Telecommunications, computer and information services</b>	32.3	<b>Other business services</b>	29.5	<b>Telecommunications, computer and information services</b>	32.1
<b>Travel</b>	14.4	<b>Travel</b>	12.4	<b>Transport</b>	12.1
<b>Transport</b>	12.5	<b>Transport</b>	11.3	<b>Travel</b>	6.9
<b>Financial services</b>	2.2	<b>Financial services</b>	5.0	<b>Financial services</b>	2.4
<b>Share in exports</b>	<b>96.3</b>	<b>Share in exports</b>	<b>92.8</b>	<b>Share in exports</b>	<b>92.4</b>
<i>Imports</i>					
<i>2005</i>	<i>%</i>	<i>2010</i>	<i>%</i>	<i>2022</i>	<i>%</i>
<b>Transport</b>	54.4	<b>Transport</b>	40.6	<b>Transport</b>	43.7
<b>Other business services</b>	22.4	<b>Other business services</b>	22.2	<b>Other business services</b>	22.9
<b>Travel</b>	10.2	<b>Travel</b>	9.1	<b>Travel</b>	10.4
Insurance and pension services	6.1	Financial services	5.9	Telecommunications, computer and information services	6.9
Telecommunications, computer and information services	2.4	Insurance and pension services	4.4	Fees for the use of intellectual property	4.2
<b>Share in imports</b>	<b>95.5</b>	<b>Share in imports</b>	<b>82.2</b>	<b>Share in imports</b>	<b>88.1</b>

Note: in bold group of services in top 5 in all three time periods.  
Source: Own calculations based on ITC. (2024): Trademap. [online].

Next, we identify groups of services where Chinese and Indian exports experience comparative advantages. The analysis is based on the Balance of Payments and International Investment Position Manual. Data used to calculate comparative advantage comes from the ITC (2024). We apply Lafay's index (LI) of international specialization to find the comparative advantages using following formula:<sup>9</sup>

$$LFI_j^i = 100 \left( \frac{x_j^i - m_j^i}{x_j^i + m_j^i} - \frac{\sum_{j=1}^N (x_j^i - m_j^i)}{\sum_{j=1}^N (x_j^i + m_j^i)} \right) \frac{x_j^i + m_j^i}{\sum_{j=1}^N (x_j^i + m_j^i)}$$

where  $x_j^i$  is the export of service  $j$  from country  $i$  to the rest of the world,  $m_j^i$  is the import of service  $j$  into country  $i$  from abroad, and  $N$  refers to the total number of traded services. Positive values of LI represent the existence of a comparative advantage with a higher value of LI indicating a higher degree of specialization of the country. The results of calculations of LI for 2022 are presented in table 3.

**Table 3: LI for each service group, 2022**

China		India	
Group of services	LI	Group of services	LI
<b>Other business services</b>	<b>6.3</b>	<b>Telecommunications, computer, and information services</b>	<b>12.5</b>
<b>Telecommunications, computer, and information services</b>	<b>5.7</b>	<b>Other business services</b>	<b>7.9</b>
<b>Construction</b>	<b>2.3</b>	<b>Manufacturing services on physical inputs owned by others</b>	<b>0.2</b>
<b>Manufacturing services on physical inputs owned by others</b>	<b>2.3</b>	<b>Financial services</b>	<b>0.0</b>
<b>Maintenance and repair services n.i.e.</b>	<b>0.5</b>	Construction	-0.1
<b>Financial services</b>	<b>0.2</b>	Government goods and services n.i.e.	-0.1
Personal, cultural, and recreational services	-0.1	Maintenance and repair services n.i.e.	-0.3
Government goods and services n.i.e.	-0.2	Personal, cultural, and recreational services	-0.4
Transport	-0.6	Insurance and pension services	-1.4
Insurance and pension services	-1.7	Travel	-1.7
Charges for the use of intellectual property n.i.e.	-3.2	Charges for the use of intellectual property n.i.e.	-1.9
Travel	-	Transport	15.6

Note: in bold, service groups with LI>1.

Source: Own calculations based on ITC. (2024): Trademap. [online].

Looking at the results, we can see that for both countries, the highest positive LI values are achieved by those service groups that account for the highest share of services exports. In both cases these are other business services and telecommunications, computer and information services. At the same time, these two service groups have much higher LI values than the other service groups, indicating that both countries have comparative advantages in these groups as well as a high degree of specialization. The output in table 3 is consistent with our analysis of exports in both countries. In addition, the group manufacturing services on physical inputs owned by others also achieves positive values. In the case of China, it is among the top 5 most exported service groups, but not in the case of India. The share of this group in India's exports in 2022 was only 0.5%. On the other hand, the figures for the transport services for both countries and for the travel services for India are rather

<sup>9</sup> ZAGHINI, A. (2003): *Trade advantages and specialization dynamics in acceding countries*.

surprising. These groups account for a significant share of total exports from both countries, but the LI calculation shows negative values, which does not suggest a comparative advantage for countries in these service groups. Especially in the case of India, where the LI value for transport is at -15.6. This being said, transport is the third most exported group of Indian services. In China, this group of services even accounts for more than one-third of total exports, but the LI value is negative at -0.6. From the above output, it is clear that there are other factors in both economies that contribute to the higher share of these service groups in total exports.

## **Conclusion**

During the first two decades of the 21<sup>st</sup> century an important trend can be observed in the world economy, which is the share of service sector in world GDP over 60%. Similar development can be seen in the composition of Chinese and Indian GDP, even though their shares of services in national GDP is lower than the world average at 52.8% and 48.4% respectively. Since both countries started to focus their economies towards the service sector in the 21<sup>st</sup> century, we believe that the share of service sector in their national economies will grow even further in coming years together with the increase of their shares in world trade in services.

Regarding the research questions 1. What kind of changes took place in Chinese and Indian trade in services during the first two decades of the 21<sup>st</sup> century? 2. What are Chinese and Indian comparative advantages in services trade? we state the following:

### 1. China

- during the first two decades of the 21<sup>st</sup> century, there were significant changes especially for travel services in China's exports; while in the beginning of the century, this group was most exported group with share of 40% in total exports, in 2022 this group compose only 2.3%; there were also no significant changes in Chinese imports of services.

### 1. India

- during the first two decades of the 21<sup>st</sup> century, there were no significant changes in India's exports or imports of services, and thus India traded the same groups of services throughout the observed period.

### 2. China

- comparative advantages in services can be seen in categories telecommunications, computer and information services and other business services, which compose high share in Chinese exports of services;
- comparative disadvantages may be seen in category transport, which is the most exported service group with the share over one third in total exports.

### 2. India

- comparative advantages in services can be seen in categories telecommunications, computer and information services and other business services, which compose highest share in Indian exports of services;
- comparative disadvantages may be seen in categories transport and travel that are in top 5 service group exports, but the LI values for these groups are negative.

For further research on Chinese and Indian trade in services as well as to the limits of our research, we recommend focusing on the different sub-sectors of services according to the classification of the IMF's Balance of Payments Manual Version 6 and their share in the export and import flows in both countries foreign trade in services in order to identify their comparative advantages in trade in services and formulate recommendations for the further development of this sector in Chinese and Indian economies.

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# THE MIGRATION AND THE DANISH WELFARE STATE IN THE PRE-COVID PERIOD<sup>1</sup>

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**Abstract:** Denmark is a modern state based on liberal values, a generous social system with a relatively welcoming attitude towards migrants. A significant population increase of citizens of non-western countries origin, however, caused independent societies in the country, within which Danish values, norms, and culture were absent. The tightening of migration policy was one of the tools that was supposed to contribute to building a coherent Danish society built on the principle of a strong and sustainable welfare state. In the last twenty years, there has been a tightening of migration policy in Denmark, regardless of whether the left or the right was in power. The Danes adopted an even more restrictive migration policy after the start of the European migration crisis. This has made Denmark the least open European country for migrants.

**Keywords:** Denmark, welfare state, migration, migrants, social benefits

**JEL:** F5, H7, N4

## Introduction

Denmark is a Scandinavian country that accepts migrants into its territory, who thus become part of the Danish state and Danish society. Denmark has its foundations in the principles of civil-egalitarian nationalism, based on the essence of a social welfare state. The Danes are a historically relatively homogeneous population based on relatively strong egalitarian values as well as generous models of social care. The Danish social system is based on four basic premises:

Firstly, the Danish welfare state is described as universalist, promoting equality of status among its citizens. In such a system, the needy is not distinguished from the non-needy. The benefits are available to all citizens.

Secondly, the key feature of the model is the high degree of „de-commodified“ welfare rights. A de-commodified welfare state will thus grant social rights based on citizenship rather than based on market performance, attachment to the labour market.

Thirdly, social rights are granted based on residence. A person is entitled to welfare because s/he has legal residence, and not qua social contributions or citizenship. Fourthly, benefits have traditionally been tax-financed and not based on contributions. Yet, tax payment is not a direct requirement to receive a specific social benefit.

Finally, the Danish welfare model has also been characterised by generous benefits and extensive welfare services.<sup>2</sup>

Silvia Adamo points out that the principles that form the basis of the Danish welfare system are:

- universality - the state provides a large number of services and benefits financed by general taxation,

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<sup>1</sup> This article was prepared within the project VEGA 1/0115/23 Applications of cooperative game theory models in economics and in international relations.

<sup>2</sup> MARTINSEN, D. S. (2020): Migrants' Access to Social Protection in Denmark.

- solidarity - the state is the main provider of social protection,
- the provision of a minimum standard of living - the state is responsible for ensuring a minimum standard of living for all,
- territoriality - benefits are conditional on residence in Denmark, they are not exportable.

The Danes must, therefore, reconcile the issue of social unity and enhanced solidarity in a multicultural context that includes not only the Danes themselves but also migrants living in Denmark.

Several aspects need to be considered, such as the social patterns of the Danes, as well as the specifics of their national traditions. A good immigration policy must be implemented in the light of the country's economic, political processes, which affect the attitudes of the domestic population, i.e., the Danes, on immigration and on the growing cultural diversity associated with the arrival of migrants. Migrants, on the one hand, represent cultural diversity and, on the other hand, become an integral part of the Danish entity as well as their social welfare state.

The migration policy of Denmark, as an EU Member State, is to some extent influenced by the policy of the European Union, even though Denmark is not part of the EU in the field of asylum policy.

Denmark is currently working to address the increase in the number of migrants in its country so that their social system does not collapse, and at the same time so that the Danes do not become a minority in their own country in the future. It should be noted that the number of migrants has decreased significantly since the European migration crisis in 2015 in the countries of the European Union and thus also in Denmark (see Table 1). As can be seen from Table 1, the highest increase in immigrants was recorded at the time of the greatest migration crisis in 2015, after this culmination it had a declining trend.

Denmark's immigration policy has been inspired by the same principles for the past twenty years: a drastic reduction in migratory flows, a strict integration programme, difficult access to citizenship and, from this point on, the willingness to use a non-European third country to process visa applications.<sup>3</sup>

The main reason for the decrease in migrants in Denmark was the introduction of stricter migration policy rules. "Since 2015, immigration policies have been strengthened in Denmark. For instance, immigrants are required to work 37 hours a week to qualify for certain social benefits, and the parliament recently passed legislation making it possible to send asylum seekers to countries outside the EU while their applications are processed."<sup>4</sup> The decline also occurred in 2019 in connection with the Covid-19 pandemic and the measures taken to prevent its spread.

**Table 1: Migration flow in Denmark from 2009 to 2020**

<b>Year</b>	<b>Number of people immigrating to Denmark</b>
<b>2009</b>	68 443
<b>2010</b>	69 200
<b>2011</b>	70 122
<b>2012</b>	72 512
<b>2013</b>	79 218
<b>2014</b>	87 563
<b>2015</b>	98 872

<sup>3</sup> REYNE, D. (2023): Danish Immigration Policy: A Consensual Closing of Borders.

<sup>4</sup> JURGENSEN, A. L. (2020): Migration flow in Denmark from 2009 to 2019.

<b>2016</b>	94 365
<b>2017</b>	89 382
<b>2018</b>	87 329
<b>2019</b>	83 918
<b>2020</b>	70 340

Source: JURGENSEN, A. L. (2020). Migration flow in Denmark from 2009 to 2019.  
DYVIK, E. H. (2024). Immigration to Denmark 2010-2023, by citizenship.

The basic research question is: Does the existence of a good social welfare system have an impact on the increasing number of migrants in the country?

There are many theories that deal with migration and try to clarify it on several levels, due to its interdisciplinary nature. Our basis will be the so-called migration laws formulated by a geographer Ernest Ravenstein, which later expanded theories on "push" and "pull" factors of migration. The definition of the term "migration" formulated by the International Organization for Migration will also serve as a theoretical basis.

The basis for understanding the social welfare state and its impact on migration was provided by an analysis of the works of Agersnap, O., Jensen, A., Kleven, H. (2019), Brochmann, G., Hagelund, A. (2012), Bjørn Hvinden, B., Johansson, H. (2008), Martinsen D.S. - Werner, B. (2018). Further background was also given by the studies of Halton, T. and Nils Holtug, N., and Martinsen, D.S. (2020), Vordingborg, L.A. (2019) who deal with the issue of migration and the factors that affect it. Finally, the European web site on integration, from where we drew migration statistics.

The basic methodological approach in the preparation of the paper was the analysis of the above-mentioned literature, as well as the subsequent interpretation and explanation of the presented attitudes and discourses.

## Results

### 1 Theoretical basis of the definition of migration

The International Organization for Migration (IOM) refers to migration as: "The movement of persons away from their place of usual residence, either across an international border or within a State."<sup>5</sup> In general, "we distinguish between internal/domestic migration, which takes place within the borders of one state, and international migration, in which an individual – a migrant crosses generally recognized state borders from one country to another."<sup>6</sup>

The geographer Ernest Ravenstein developed a theory to explain migration. At the same time, this theory became the basis for the emergence of newer theories devoted to the issue of migration. The "Laws of Migration", as he called his theory, make up seven points, namely:

1. Most migrants only proceed a short distance, and towards centres of absorption.
2. As migrants move towards absorption centres, they leave "gaps" that are filled by migrants from more remote districts, creating migration flows that reach "the most remote corners of the Kingdom".
3. The process of dispersion is inverse to that of absorption.
4. Each main current of migration produces a compensating counter-current.
5. Migrants proceeding long distances generally prefer one of the larger centres of commerce or industry.
6. The natives of towns are less migratory than those from rural parts of the country.
7. Females are more migratory than males.<sup>7</sup>

<sup>5</sup> International Organization for Migration: Key Migration Terms.

<sup>6</sup> PYTELOVÁ, K. (2009): Medzinárodné utečenecké právo a nelegálna migrácia, p. 146.

<sup>7</sup> RAVENSTEIN, E.G. (1885): The laws of Migrations.

It can be stated that with small variations, Ravenstein's Laws of Migration still apply today. He later supplemented this theory with push-pull factors that lead people to migrate. Push factors included, for example, a bad political or economic situation, lack of job opportunities, natural disasters, and others. These are the ones that force people to migrate. On the other hand, there are pull factors that aim to attract people to a particular country, such as obtaining higher wages, education, freedom etc. Migrants generally leave their home countries with the idea of better living conditions in countries other than their own.<sup>8</sup>

### **Development of migration in Denmark**

Through migration, a person strives to improve his life situation, or to gain protection for himself and his loved ones. What are the reasons and causes of human migration? The reasons and causes vary. We can divide them into two basic groups, non-economic and economic.

Non-economic reasons include political situation, military, national, religious, racial, family causes etc. These movements are often spontaneous and sudden, often of a mass or involuntary nature. Migration of a population with non-economic motivation is usually long-term or permanent, involving not only the bearers of labour force, but also their families.

The reasons of an economic nature lie primarily in the different economic levels of individual countries, and thus in the different price of their labour, which moves to countries on a higher economic level. This includes labour surpluses in one country and shortages in another.<sup>9</sup>

The Scandinavian political region has developed partly in isolation from the rest of Europe, while also pursuing its specific migration policy. These countries have always been interesting and unusual for migrants. They were attracted by the social security system, the open and accommodating migration policy as well as the high standard of living of the entire Scandinavian region.

The Nordic countries, to differing degrees and in partially different ways, have had to face problems and dilemmas linked to increased immigration.<sup>10</sup>

It was similar to Denmark, even though it is the smallest country in the region. In the 1960s, the Danish economy was at its peak and many industries prospered significantly. New jobs were created, which were gradually filled by people from Turkey and Pakistan. Employers were therefore permitted to invite guest workers (often also called "foreign workers").

"In 1970, there were approximately 20,000 non-Danish workers in Denmark." As early as the 70s, certain government measures restricted the influx of migrants into Denmark, due to rising unemployment. However, the issue of migration did not appear to be a problem for Danish society during this period, even though refugees from Chile and Southeast Asia continued to arrive.

Later, the rules for migrants entering Danish territory were relaxed. The reason was Danish membership in the EEC, which guaranteed the free movement of all persons (labour) of the European Community.

In the early 1980s, migrants started to return to Danish territory, which was temporarily suspended due to the oil crisis that hit Denmark. "90% of Denmark's energy depended on oil, and the government soon introduced various restrictions on energy consumption."<sup>11</sup>

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<sup>8</sup> PYTELOVÁ, K. (2009): Medzinárodné utečenecké právo a nelegálna migrácia, p. 146.

<sup>9</sup> CIHELKOVÁ, E. (2003): World economy - basic features and trends.

<sup>10</sup> BROCHMANN, G. - HAGELUND, A. (2012): Immigration Policy and the Scandinavian Welfare State 1945-2010. p. 1.

<sup>11</sup> BUSCK, S. - POULSEN, H. (2007): History of Denmark, p. 282.



Most migrant workers came from the Middle East, where countries dealt with the outcomes of war conflicts, crises, and civil unrest. Gradually, a stable model of immigration was created.

In the 70s and 80s, migration was not a central political issue for Danish political elites. In connection to certain problems related to the integration of migrant workers into Danish society, this issue was gradually pushed into the programs of political parties and reached the grounds of parliament.

„In 1983, the Danish Parliament passed a new Aliens Act<sup>12</sup> that was known as Europe's most liberal. The large numbers of immigrants that subsequently came to Denmark, together with integration problems, led to parliament introducing several limitations to the Act in 1980s. At the end of the 1980s, immigration became more important in the political and public debate due to, among other things, the Progress Party (Fremskridtspartiet) strongly highlighting the issue.“<sup>13</sup>

The Danish law went further than the demands of the UN Convention. In 1984, one year after the new Aliens Act was successfully passed through parliament, there was a significant increase in the number of asylum seekers. In 1983 there were some 3,000 applicants in total, in 1985 there were 8,700 applicants, and 9,000 in 1986.<sup>14</sup>

In the early 1990s, there were disputes between the then Minister of Justice Erik Ninn-Hansen and non-governmental political parties over the revision of the Aliens Act. At the time, the minister was in favour of tightening the law and the political parties against it, which ultimately led to the polarization of Danish society in attitudes towards migrants.

As a result of the Danes' dissatisfaction with the integration of immigrant workers into the majority society, there was a partial revision of the mentioned law sometime later. Another reason was the significant increase in foreigners, which was unusual for Danes until then.

Migration had become an important political issue. This was proven also by the result of the general parliamentary elections in 1988 when the strongly anti-immigration Progress Party was able to gain 7 mandates and thus strengthened its position. They had also won a total of 16 mandates in the 179-member parliament. The 7-seat Progress Party became the party with the newest mandates compared to the previous election. (It gained 9% and became the fourth strongest political party). The winning Social Democratic Party strengthened its position by one mandate.

The Danes accepted a number of migrants into their country in the 70's and 80's. These were mostly Turks, and later refugees from the former Yugoslavia in the 90's. "However, 1999 is the main reference year for integration in Denmark, as the topic became a self-standing policy area with its law and ministry, independent from general social affairs."<sup>15</sup>

Economists from the prestigious American Princeton University - Ole Agersnap, Amalie Jensen and Henrik Kleven - completed a study in which they studied the effects of welfare generosity on international migration using a series of large changes in welfare benefits for immigrants in Denmark.<sup>16</sup> They analysed the period between 1980 and 2017, when the level of benefits for migrants varied depending on the political parties in power in Denmark.

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<sup>12</sup> The Danish Aliens Act was first adopted in 1983 and has been amended numerous times. Some of the biggest changes were made in 2011 and 2015 to 2016. In general, it has become increasingly difficult to obtain family.

<sup>13</sup> Danish immigration policy, 1970 -1992.

<sup>14</sup> Ibid.

<sup>15</sup> Governance of Migrant Integration in Denmark. Migrant Integration Information and good practices

<sup>16</sup> AGERSNAP, O. – JENSENOVÁ, A. – KLEVEN, H. (2019): The Welfare Magnet Hypothesis: Evidence From an Immigrant Welfare Scheme in Denmark.

They argue that Denmark provides an ideal setting for studying this question. Firstly, Denmark has one of the most generous welfare systems in the world — benefit rates are even higher than in the other Nordic welfare states — making it a potential welfare magnet. Secondly, motivated by welfare magnet concerns and general anti-immigration sentiments, Denmark has experimented with immigrant welfare schemes that sharply reduce benefits to certain foreign immigrants. In June 2002, shortly after the formation of a new government supported by a far-right anti-immigration party, Denmark introduced a welfare scheme that reduced benefits by up to 50% for immigrants from outside the EU. The welfare scheme was controversial and widely debated. It was repealed in 2012 following the election of a center-left government, and then reinstated in 2015 after the return of a center-right government.<sup>17</sup>

After both above-mentioned restrictions, the number of immigrants decreased. On average 5,000 fewer refugees came to Denmark each year. After 2012, their inflow increased to about the same extent as before.

There are also opinions of other experts who claim that the amount of social benefits has almost no effect on the choice of the country to which the migrant decides to go. There are rather different factors that have a greater impact on which country a migrant chooses, as economist Timothy Hatton of Essex University claims. Among these are the openness of the country's borders and whether migrant compatriots already live in it.

On 1 January 2018, 284,537 third-country nationals lived in Denmark. They represented 5% of the total population. In 2018, most of new residence permits were granted for studies (15,836), work (14,355 plus 20,225 to EU citizens) and family reunification (5,234). Refugee permits made up only 2% of newcomers.<sup>18</sup>

Michaela Clanete Bendixen (former of the Danish non-governmental organization) also explains where the asylum-seekers in Denmark now come from. Since 2013, Syrians have accounted for the greatest numbers, according to “Refugees Welcome”; in 2018 Eritreans accounted for the greatest number of asylum seekers. In 2019, the greatest numbers are from Syria once again with Eritrea, then Morocco, Georgia and Somalia following<sup>19</sup> (see Table 2).

**Table 2: Top 5 Nationalities seeking asylum in Denmark in 2014 – 2018**

2014	2015	2016	2017	2018
Syria 7,210	Syria 8,608	Syria 1,251	Syria 818	Eritrea 656
Eritrea 2,275	Iran 2,787	Afghanistan 1,122	Morocco 308	Syria 598
Stateless 1,140	Afghanistan 2,331	Stateless 488	Eritrea 306	Georgia 396
Somalia 700	Eritrea 1,740	Iraq 491	Afghanistan 176	Iran 196
Russia 520	Stateless 1,734	Morocco 347	Iran 136	Morocco 181

Source: WALLIS, E. (2019). Denmark’s new government softens line on migration.

In 2019, more migrants left Denmark than entered. This situation occurred for the first time since 2011. Based on data from the Danish Ministry of Migration we can say that the main groups of people to leave the country in 2019 were Somalis, Syrians, Iraqis and Bosnians. Most of those who arrived seeking protection were from Eritrea, Iran, and Afghanistan.

The decline in the number of migrants was due to two factors. On the one hand, the Danes have implemented several restrictive measures in recent years to eliminate the influx of migrants and refugees into their country, such as tightening the right of residence, family

<sup>17</sup> Ibid.

<sup>18</sup> Governance of Migrant Integration in Denmark. Migrant Integration Information and good practices.

<sup>19</sup> WALLIS, E. (2019): Denmark’s new government softens line on migration.

reunification, limiting the period of recognition of refugee status and reducing benefits. On the other hand, the decline was due to Turkey closing its borders with the European Union.

Social Democratic minority government, which came to power in 2019, has proclaimed a tough stance on immigration policy in the election campaign. It was a consequence of a general trend across Scandinavia. Social Democratic party (often called Frederiksen's party), and three other parties, namely the Social Liberals, the Red-Green Alliance and the Socialist People's Party agreed, that the policy towards migrants would be softened. This was one of the conditions for concluding a coalition.

„The number of immigrants amounted to 0.61 million people, while the number of descendants reached 0.19 million people.“<sup>20</sup> The number of migrants to Denmark has currently been declining.

"The today's immigrants and their descendants make up 8.5% of the population; projected to rise to 13.1% by 2060."<sup>21</sup> The Danish society is unique in its position on migrants and the solution to this issue, says Nils Holtug, director of the Centre for Advanced Migration Studies at the University of Copenhagen. According to him, it is divided into two groups, those who want to help migrants and perceive them positively, and the others are those who are afraid of them.<sup>22</sup>

According to W. Korpi a J. Palme the Danish welfare state is promoting equality of status among its citizens. It's true, that welfare universalism benefits the middle class as much as the poor, as benefits are available to all citizens. Social policies are not targeted to low-income groups, nor do they depend on labour market participation. The welfare state will thus grant social rights based on citizenship rather than based on market performance.<sup>23</sup>

The existing Danish social welfare state helps migrants to integrate more easily and effectively. At the same time, it becomes an instrument in the hands of the government to regulate migration policy.

Migrants with the right to reside in Denmark have automatically gained access to the social protection schemes of the Danish welfare state. They can get the various cash benefits provided unemployment benefits, family benefits, healthcare, childcare, education, and other welfare benefits.

„The behaviour and actions of immigrants influence the welfare state because immigrants both produce and consume welfare goods. To the extent that immigrants are perceived as representing cultural diversity, special needs, or social marginalisation, they also challenge the work forms of the welfare state and the fundamental legitimacy of the community“<sup>24</sup>

Denmark is one of the Member States of the European Union that spends a large amount of its expenditure on social protection - 31.1% of GDP. The social contribution makes up 18.1% of the total social protection expenditure.

## Conclusion

Migration in general is one of the most significant global challenges. As migratory flows move mainly from poor, less developed countries to developed ones, there is a consequent need,

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<sup>20</sup> JURGENSEN, A.L. (2020): Population in Denmark 2010-2020 by nationality status.

<sup>21</sup> VORDINGBORG, L. A. (2019): An Island for 'Unwanted' Migrants Is Denmark's Latest Aggressive Anti-Immigrant Policy.

<sup>22</sup> VORDINGBORG, L. A. (2019): An Island for 'Unwanted' Migrants Is Denmark's Latest Aggressive Anti-Immigrant Policy.

<sup>23</sup> KORPI, W. – PALME, J. (1998): The Paradox of Redistribution and Equality Strategies: Welfare State Institutions, Inequality and Poverty in Western Countries, p. 661-662.

<sup>24</sup> BROCHMANN, G. - HAGELUND, A. (2012): Immigration Policy and the Scandinavian Welfare State 1945-2010, p. 2.

both on the part of the destination country and on the part of the country of origin, to comprehensively examine, and influence migratory flows and at the same time regulate them.

Migration and related immigration have become a serious problem in many European countries, including Denmark. In the pre-covid period, the Danes showed a high level of reluctance to accept new migrants, which is also evidenced by the tightening of rules and conditions for migrants.

It was the increase in the number of non-Western migrants that has begun to be perceived as a certain threat to Danish liberal values and norms, as well as to the existence of a fair and high-quality welfare state.

According to the Danes, there is a certain correlation between the sustainability of a good welfare state and the implementation of a restrictive and at the same time inclusive migration policy realization. Consequently, the Danes decided to implement a strict integration program based on strong ethnic homogeneity. Nikolai Frederik Severin Grundtvig, the one of the historical figures of Danish nationalism and a member of the Constituent Assembly, contributed to this idea establishment in Danish society. He held the opinion that Danish society is formed of ethnically homogeneous people who share the common history and the language. Therefore, all citizens must be integrated into the national model and adopt the basic values of Danish society.

At the same time, many people are worrying about the sustainability of the Danish welfare state model. This aimed to support the reduction of state aid for migrants, who as "non-members of the national community" may not have access to national solidarity.

It is based on the premise that there are migrants who contribute to the improvement of the welfare state and there are those who only abuse it. Based on the above, the Danish migration policy has been revised to consider not only the integration itself but also the benefits to economic life and the welfare state, while respecting the liberal values that characterize Danish society. It is obvious that the concept of a "strong state" according to the Danish perception has its foundations in a culturally homogeneous population. At the same time, it is based on mutual solidarity between people who were born or live in Denmark.

Danish migration policy has become consensual. Its particularly restrictive nature has a dissuasive effect on aspiring immigrants, as evidenced by the trend in the number of asylum seekers: between 2014, the year before the refugee crisis, and 2019, the year before the COVID health crisis, the total number of asylum applications fell by 82%, from 14,792 to 2,716. The deterrent effect of this migration policy can also be seen in the number of foreigners (excluding asylum seekers) entering Denmark: over the same period (2014-2019), the total number of migrants has fallen from 49,039 to 42,268 (-14%).<sup>25</sup>

The research question is: Does the existence of a good social welfare system have an impact on the increasing number of migrants into the country?

Based on the mentioned facts, we can say that a strong and stable social welfare state has only a minimal impact on the increase in the number of migrants to the country. Other factors have a much greater influence on the migrant's decision to enter and stay in the country, such as the openness of the borders or the migrant compatriots already living in it.

Based on the above facts, we can conclude that a strong and stable welfare state has only a minimal impact on the increase of the number of migrants to the country. Other factors, such as the borders openness or migrants already living there, have much greater influence on a migrant's decision to enter and stay in the country.

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<sup>25</sup> REYNE, D. (2023): Danish Immigration Policy: A Consensual Closing of Borders.

Nevertheless, a certain connection between a strong, stable welfare state is evident, in that the life of migrants as well as their integration into society depends on the quality of the welfare state. A strong welfare state will provide easier integration into society, to obtain a job, or to gain better education.

Today, Denmark is one of the countries with the strictest anti-immigration policies. This is a consequence of the migration crisis, which has affected Europe. Although social protection in Denmark is still primarily tax-financed and several benefits remain universal, the Danish welfare state has undergone considerable change over time.

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# APPLICATION OF ARTICLE 234 OF UNCLOS ON THE EXAMPLE OF CANADA AND THE RUSSIAN FEDERATION

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**Abstract:** Article 234 of the United Nations Convention on the Law of the Sea (UNCLOS) empowers coastal States to enforce non-discriminatory regulations within their exclusive economic zones (EEZs) to mitigate marine pollution in ice-covered areas under extreme climatic conditions. This provision uniquely allows States to adopt regulations beyond Generally Accepted International Rules and Standards (GAIRAS) without approval of any international organisation. The article clarifies the main problems associated with the application of this article, illustrates its genesis and application by the Russian Federation and the USA, supplemented by different positions, primarily by the USA.

**Keywords:** UNCLOS, article 234, ice-covered areas, navigation.

**JEL:** K33

## Introduction

Provision on the permanently ice-covered areas (art. 234) of the Convention on the Law of the Sea (hereinafter) authorizes coastal States to adopt and enforce non-discriminatory laws and regulations to prevent, reduce and control marine pollution from vessels in ice-covered areas within the exclusive economic zone, where particularly severe climatic conditions and the presence of ice covering such areas for most of the year create obstructions or exceptional hazards to navigation, and where pollution of the marine environment could cause major harm to or irreversible disturbance of ecological balance. These regulations must take into account navigation, the protection and preservation of the marine environment on the basis of available scientific data.<sup>1</sup> In the context of different interpretations by States, it is important to note that warships and government ships of foreign States are exempted from this provision under art. 236 of UNCLOS.

Coastal States may only impose standards on foreign ships that do not exceed the Generally Accepted International Rules and Standards (GAIRAS), which usually means legally binding maritime conventions adopted under the auspices of the IMO, with Article 234 being an exception and strengthening the position of coastal States in polar regions. Coastal States may therefore adopt regulations without IMO approval or review.<sup>2</sup>

This article focuses on the application of Article 234 using the example of Canada and the Russian Federation, supplemented with the different view of the USA. It analyzes how Canada has used it in the development of legislation to protect its Arctic waters, discussing legislative measures such as the Arctic Waters Pollution Prevention Act (AWPPA) and other legal instruments. It also highlights the limited possibilities of the United States, which Article 234 does not apply due to its non-ratification of UNCLOS, and describes their positions on the Arctic claims of Canada and Russian Federation. Special attention is paid to the Russian Federation, which has used the provisions of Article 234 to adopt a set of rules governing the safety of navigation and environmental protection in the Northern Sea Route (NSR). These measures include, for example, navigation rules, requirements for the technical

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<sup>1</sup> UN (1982): Convention on the Law of the Sea (1982).

<sup>2</sup> TANAKA, Y. (2019): The International Law of the Sea.

equipment of vessels, and other regulations that strengthen Russia's functional jurisdiction in the Arctic.

The article aims to provide a comprehensive view of the meaning and practical implications of Article 234 in the context of international law of the sea and regional interests in the Arctic, with particular emphasis on the differences in the approach of Canada, the Russian Federation, and the USA to its implementation.

The article was written using a qualitative research method that included the analysis of primary and secondary sources. The primary source was the key text of the United Nations Convention on the Law of the Sea (UNCLOS), while secondary sources included scholarly articles, monographs, and legal analyses that provided interpretations of Article 234, its historical context, and application in specific cases. Attention was paid to a comparative analysis of the approaches of Canada, the Russian Federation, and the United States, taking into account the legislative measures adopted in individual states and their different interpretations of Article 234. This approach allowed for a comprehensive view of the research topic and the identification of key legal and practical issues related to the application of Article 234 in different jurisdictions.

## **1 Article 234 UNCLOS**

It is not explicitly stated that Art. 234 applies to the Arctic, although some authors literally state that it was oversized for the Arctic.<sup>3</sup> This is also confirmed by Solski (2021), who states that Article 234 was negotiated directly and privately between Canada, the United States, and the USSR during the Third United Nations Conference on the Law of the Sea (UNCLOS III). Most of the negotiations took place in private bilateral meetings in various configurations between Canada, the USA and the USSR.<sup>4</sup> The importance of Article 234 of UNCLOS is greatest for Canada and the Russian Federation, as these countries own most of the Arctic coastline. The USA is limited in adopting such regulations due to the non-ratification of UNCLOS to date and in both cases opposes claims about the status of the waters of the Northwest Passage in relation to Canada and the Russian Federation in the case of the Northern Sea Route.

Canada, prior to the Third Conference on the Law of the Sea, had enacted the Arctic Waters Pollution Prevention Act (AWPPA, 1970) in response to the passage of an American oil tanker through the Arctic Straits, which established special requirements for ship construction, crewing and equipment, as well as standards setting a near-zero tolerance for oil pollution discharges. The AWPPA established the authority for Canada to regulate all shipping (including prohibiting it) within 100 nautical miles of its Arctic coast in order to protect the coastal and marine resources of the region from pollution, and also allowed Canada to regulate and control future tanker traffic through the Northwest Passage by establishing a pollution prevention zone outside the Arctic Archipelago, as well as in the waters between the islands.<sup>5</sup> In addition to adopting the AWPPA, Canada expanded the width of its territorial sea from 3 NM to 12 NM (before the adoption of UNCLOS), which allowed Canada to ensure that all vessels navigating the Northwest Passage for any part of the route had to pass through Canadian sovereign waters.<sup>6</sup>

Canada had legitimate grounds to believe that the 1970 AWPPA would lead to international protests from other states and, in order to avoid potential international litigation,

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<sup>3</sup> KOIVUROVA, T. (-): International Law in the Arctic.

<sup>4</sup> SOLSKI, J. J. (2021): The Genesis of Article 234 of the UNCLOS.

<sup>5</sup> BALDASSARRI, E. (2017): "The Northwest Passage: Myth, Environment, and Resources."

<sup>6</sup> TSIIOVALAS, A. – SOLSKI, J. J. (2023): One Map to Rule Them All? Revisiting Legalities Through Cartographic Representations of the Northwest Passage.



entered a reservation to accept the compulsory jurisdiction of the International Court of Justice.<sup>7</sup> Canada ultimately withdrew its reservation to the AWPPA in September 1985.

The standards, the adoption of which the Russian Federation justifies by ensuring maritime safety and preventing pollution of the marine environment, all date from the adoption of UNCLOS. In the past, these were the Regulation for Navigation on the Seaways of the NSR (1991), the Guide for Navigation through the NSR (1995), and the Regulation for Design, Equipment and Supply of Vessels Navigation the NSR (1995), and currently the Rules of Navigation in the Water Area of the NSR (the latest version is from 2020), etc.

Based on Article 234, Canada has also adopted other legal instruments ensuring its functional jurisdiction in Arctic waters - the amended Arctic Waters Pollution Prevention Act (AWPPA, 1985, last amended in 2019), the Shipping Safety Control Zones Order (2010), the Northern Canada Vessel Traffic Services Zone Regulations (2010), and the most recent amendment aimed at implementing the Polar Code, the Arctic Shipping Safety and Pollution Prevention Regulations (ASSPPR, 2017, last amended in 2023).<sup>8</sup>

Maritime transport in ice-covered areas, given the complexity of interventions in resolving ship accidents and the much more difficult elimination of their environmental consequences, represents a real environmental hazard, so the ecological focus of Article 234 is justified. What poses a problem, however, is the unclear definition and interpretation of some aspects of the provision of Article 234. The provision does not precisely define what is meant by the presence of ice, does not precisely characterize particularly severe conditions or delimit the time period “for most of the year”, nor what precise powers the state acquires on the basis of it in its exclusive economic zone. One interpretation may be that the state is not granted greater rights than it has in coastal waters, another that the state acquires broader powers, in particular the powers to unilaterally adopt special requirements for shipbuilding, crewing and equipment. The application of Article 234 to international straits is also uncertain.

Bartenstein (2011) also comments on the interpretation of the English “where” in the UNCLOS – this can have both territorial and temporal meanings, which is not clear from the wording of the article. Dremluga (2017) points out that the term “ice-covered areas” should be interpreted in its usual and not literal meaning, when at the time of the UNCLOS negotiations and for a long time afterwards this term meant a synonym for the Arctic Ocean area, while its literal meaning would limit it to ice-covered areas<sup>9</sup> (which confirms the above-mentioned “dimensioning” of Article 234 to the needs of the Arctic). The above statement makes sense, because in the context of Antarctica it is not possible to adopt regulations based on Art. 234, since the essence of the declaration of an exclusive economic zone is the sovereign rights of the coastal state to resources and Antarctica has a geological continental shelf, but due to the frozen territorial claims of states it cannot have a legal continental shelf, the existence of an exclusive economic zone is excluded in Antarctica.

We must not forget that the relevant regulations can only be adopted on the basis of scientific evidence, they must be non-discriminatory and maritime transport and environmental protection must be correlative. In the context of current climate change, the extent and duration of glaciation in ice-covered areas is also changing and we can argue whether the current legal regulation based on Article 234 will be relevant even if the sea routes are ice-free for most of the year.

There is also no certainty about the application of Article 234 to international straits, which is crucial in the case of the Northern Sea Route (NSR) for the Russian Federation and the Northwest Passage (NWP) for Canada.

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<sup>7</sup> SOLSKI, J. J. (2021): The Genesis of Article 234 of the UNCLOS.

<sup>8</sup> TSIUVALAS, A. – SOLSKI, J. J. (2023): One Map to Rule Them All? Revisiting Legalities Through Cartographic Representations of the Northwest Passage.

<sup>9</sup> NIKITINA, V. (2021): The Arctic, Russia and Coercion of Navigation.

Under UNCLOS (and also the 1958 Convention on the Territorial Sea and the Contiguous Zone), the right of innocent passage applies in the territorial sea of a state, and in the contiguous zone and the exclusive economic zone of a coastal state, vessels of all states have freedom of navigation, which may not be restricted in any way. Unlike the territorial sea, the right of innocent passage does not apply in internal waters, unless internal waters have been constituted using straight baselines,<sup>10</sup> which is the case in some parts of the NSR and NWP. The difference between straight and normal baselines is that normal baselines follow the coastline and straight baselines connect corresponding points of a deeply indented and cut into coastline (or a fringe of islands is located near the coastline).

Canada also relied on this provision of Article 7 of UNCLOS in delimiting its baselines and in 1985 delimited its baselines using the straight-line method. The waters of the Arctic Archipelago thus became part of internal waters, which are considered part of the territory of a State and are subject to State sovereignty. Canada makes the transit of foreign vessels subject to prior consent.

The concessions made by Canada and the USSR during the negotiations on Article 234, apart from an exception for State-owned vessels, were limited to relatively weak guarantees, such as a reference to non-discrimination, a due regard clause and a requirement for scientific evidence, and the availability of mandatory dispute settlement procedures.<sup>11</sup>

The International Maritime Organization (IMO) International Code for Ships Operating in Polar Waters (Polar Code) also applies to Arctic shipping routes. It has been in force since 1 January 2017 and is mandatory under the International Convention for the Safety of Life at Sea (SOLAS) and the International Convention for the Prevention of Pollution from Ships (MARPOL). The Polar Code covers a range of matters relating to the design, construction, equipment, operation, training, search and rescue and environmental protection of ships operating in the inhospitable waters surrounding the two poles. Its purpose is to provide protection for ships and their passengers while protecting the environment. It contains requirements that must be met not only by vessels but also by their crews.

## 2 Northwest Passage

The Northwest Passage (NWP) is a sea route connecting the Atlantic and Pacific Oceans, running between the Arctic Islands in northern Canada and along the northern coast of North America. It consists of a series of straits running between the Arctic Islands, with a total length of approximately 1,500 kilometers. There is not just one route, but seven possible routes, but only some of them are deep enough for navigation. The width of the straits between the islands is somewhere greater than the limit set for territorial waters, but the risks associated with navigation and the remoteness of the region have for many years discouraged states from seeking any economic influence in the area.<sup>12</sup>

The Canadian Arctic Islands form a natural extension of the continent and share a common continental shelf with it.<sup>13</sup> The islands have an area of approximately 2.1 million km<sup>2</sup> and consist of approximately 36,000 islands, making them one of the most complex areas on the Earth's surface.<sup>14</sup> Canada delineated baselines using the straight-line method, thus including the straits between the Arctic islands in its internal waters (September 10, 1985, effective January 1, 1986)<sup>15</sup> in response to the transit of the U.S. Coast Guard icebreaker Polar Sea through the Northwest Passage in August 1985.

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<sup>10</sup> TANAKA, Y. (2019): *The International Law of the Sea*. Third Edition. United Kingdom.

<sup>11</sup> SOLSKI, J. J. (2021): *The Genesis of Article 234 of the UNCLOS*.

<sup>12</sup> HEAD, I. L. (1963): *Canadian Claims to Territorial Sovereignty in the Arctic Regions*.

<sup>13</sup> HEAD, I. L. (1963): *Canadian Claims to Territorial Sovereignty in the Arctic Regions*.

<sup>14</sup> ELLIS, B. – BRIGHAM, L. (2009): *Arctic Council Arctic Marine Shipping Assessment*.

<sup>15</sup> ELLIS, B. – BRIGHAM, L. (2009): *Arctic Council Arctic Marine Shipping Assessment*.

Canada's sovereignty over the Arctic Islands is not in doubt, but Canada's claim to regulate and control access to the NWP, which it claims as its historic internal waters, is problematic.<sup>16</sup> Other states have opposed Canada's claim, which would give it exclusive control over these waters and call the NWP an international strait.<sup>17</sup> The USA and EU have repeatedly protested the Canadian claim since its first official announcement in 1973, and the US reiterated its position in the 1988 Agreement on Arctic Cooperation, which is still in force.<sup>18</sup> The governing agreement states that nothing in it affects the respective positions of the governments of the United States and Canada on the law of the sea in this or other maritime areas or their respective positions vis-à-vis third parties.

The essence of identifying the NWP as an international strait is the right of transit passage under Art. 38 UNCLOS et seq., which is distinct from the right of innocent passage applied in the territorial sea and internal waters, which have been demarcated on the basis of direct baselines. In the case of innocent passage (Art. 17 UNCLOS et seq.), foreign vessels are restricted in that submarines must navigate surfaced, ships may not launch or land aircraft, carry out fishing, survey or research activities and in essence any other activity not directly related to the passage. In the case of transit passage, except for exceptions (if the strait is formed by an island of the state bordering the strait and its mainland and there is another route through the high seas or an exclusive economic zone with similar navigation conditions), these restrictions do not apply to ships. According to UNCLOS, transit passage means the exercise of freedom of navigation and overflight solely for the purpose of uninterrupted and expeditious transit through a strait between one part of the high seas or exclusive economic zone and another part of the high seas or exclusive economic zone.

In the case of internal waters, all foreign vessels – naval, commercial, and private – wishing to enter or navigate through the waters of the Arctic Archipelago would need Canada's consent, and the right of transit passage would not apply.

Tsiouvalas and Solski (2023) list “ephemeral references to the sectoral principle, reliance on historical name, use of direct baselines, and exercise of functional environmental jurisdiction” as Canada's arguments in support of its legitimate title. In bolstering its sovereign claims, Canada also sometimes invoked the millennia-old presence of Inuit in the region and their traditional use of sea ice and waters in its statements.<sup>19</sup>

Canada proceeded slowly in enacting legislation formally claiming the NWP, as even Canadian politicians themselves were uncertain about jurisdiction over Arctic waters at the time.<sup>20</sup> The Canadian government had traditionally referred to these Arctic waters as “Canadian waters,” but the legal basis for such a claim had not been articulated.<sup>21</sup> The passage of the legislation was accelerated by the passage of the first commercial vessel through the NWP.

After the discovery of oil in Prudhoe Bay on the North Slope of Alaska in 1968, American oil companies decided to test the passage of the NWP for tanker oil.<sup>22</sup> The American oil supertanker SS Manhattan did not sail through until 1969 (and again on 1 April 1970) with the assistance of icebreakers. The SS Manhattan was a commercial ship, and the US government refused to apply for official permission to enter the passage on the grounds that it would have implied de facto US acceptance of Canadian sovereignty over the waters,

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<sup>16</sup> CHARRON, A. (2005): The Northwest Passage in Context.

<sup>17</sup> STRUCK, D. (2006): Dispute Over NW Passage Revived.

<sup>18</sup> PROELSS, A. – MÜLLER, T. (2008): The Legal Regime of the Arctic Ocean.

<sup>19</sup> TSIOUVALAS, A. – SOLSKI, J. J. (2023): One Map to Rule Them All? Revisiting Legalities Through Cartographic Representations of the Northwest Passage.

<sup>20</sup> CHARRON, A. (2005): The Northwest Passage in Context.

<sup>21</sup> SOLSKI, J. J. (2021): The Genesis of Article 234 of the UNCLOS.

<sup>22</sup> SOLSKI, J. J. (2021): The Genesis of Article 234 of the UNCLOS.

which the US has never recognized.<sup>23</sup> Although the US disagrees with Canada's claim, the NWP has only been sailed through once without prior Canadian consent.<sup>24</sup>

The first voyage of the SS Manhattan raised concerns about Canadian sovereignty over the passage, and was soon followed by the Speech from the Throne of 23 October 1969, which was the first declaration of the Canadian government's intention to introduce new legislation “providing for measures necessary to prevent pollution in the Arctic seas,”<sup>25</sup> and this legislation, together with other strategies, was intended to exercise functional sovereign control over the passage.<sup>26</sup> The second voyage of the SS Manhattan was therefore conducted under much stricter conditions.

Canada relies on Article 7(1) to declare the straits as its internal waters. The question is whether the baselines were determined in accordance with international law, since at the time they were determined, Canada had not yet ratified the Convention on the Law of the Sea (1982). Canada also refers to the Fisheries Case (United Kingdom v. Norway) of 1951, where the MSD first formulated the prerequisites for the application of direct baselines, since at that time they were not contained in any international law norm. Later, these criteria were reflected in Art. 4 of the Convention on the Territorial Sea and the Contiguous Zone (1958) and later in UNCLOS itself (1982). Canada was therefore entitled to establish them in accordance with the prerequisites set out in the MSD.<sup>27</sup> Another factor of relevance of the aforementioned judgment for Canada is the recognition of the concept of historical claim to coastal waters.

However, for a strait governed by an international legal regime, the strait must meet 2 conditions, which are also used by the USA to argue its position – the geographical aspect according to Art. 37 of UNCLOS and the so-called functional principle, the use of the strait for international navigation. In Art. 37, UNCLOS defines international straits as straits that are used for international navigation between one part of the high seas or exclusive economic zone and another part of the high seas or exclusive economic zone. All seven channels of the passage connect the Davis Strait (high seas) with the Beaufort Strait (high seas), the first condition is met, even though the two channels are considered too shallow for commercial cargo ships.<sup>28</sup> Geographically, the waters of the Arctic Islands therefore correspond to the characteristics of straits, but their use for international maritime navigation is debatable. UNCLOS itself does not specify the extent of international navigation required to declare shipping lanes as international straits.

The views of coastal states on the use of straits for international navigation in the Arctic vary.<sup>29</sup> Advocates of the status of an NWP as an international strait argue that its characterization should not be interpreted as whether it has historically been used for international navigation, but rather whether it is potentially usable for international navigation.<sup>30</sup>

This argument is supported by the MSD judgment in the Corfu Channel case (United Kingdom v. Albania), in which a relatively small amount of international shipping constituted sufficient use for the Corfu Channel to be considered an international strait. However, there is another criterion that both parties avoid using, as it would weaken their position – the relevance of trade. Canada because if the NWP were navigable due to the absence of ice, there would logically be an increase in maritime trade. In the case of the US argument,

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<sup>23</sup> BALDASSARRI, E. (2017): *The Northwest Passage: Myth, Environment, and Resources*.

<sup>24</sup> HARVARD LAW REVIEW (2020): *The Potential-Use Test and the Northwest Passage*.

<sup>25</sup> TSIIOUVALAS, A. – SOLSKI, J. J. (2023): *One Map to Rule Them All? Revisiting Legalities Through Cartographic Representations of the Northwest Passage*.

<sup>26</sup> CHARRON, A. (2005): *The Northwest Passage in Context*.

<sup>27</sup> PROELSS, A. – MÜLLER, T. (2008): *The Legal Regime of the Arctic Ocean*.

<sup>28</sup> CHARRON, A. (2005): *The Northwest Passage in Context*.

<sup>29</sup> ELLIS, B. – BRIGHAM, L. (2009): *Arctic Council Arctic Marine Shipping Assessment*.

<sup>30</sup> HARVARD LAW REVIEW (2020): *The Potential-Use Test and the Northwest Passage*.

this concerns the currently still low level of commercial traffic within the NWP, as military submarines are excluded from this category.<sup>31</sup>

Opening the Northwest Passage to regular shipping would have global economic significance not only for transport, but also for the use of natural resources and for trade relations between countries. The Northwest Passage would shorten the journey from London to Tokyo to 12,870 km compared to the 23,600 km long route around Africa, which was used in the years 1967-1975, when the Suez Canal was impassable.<sup>32</sup>

However, nowadays, in connection with environmental changes in the area and the opening of new sea routes, the attractiveness of these straits is increasing. With the decrease in ice cover, passage through these routes is becoming not only technically possible, but also commercially profitable. However, the diversity of the Arctic islands, the difficult conditions and the unpredictability of glaciation are the reasons why the Northwest Passage is less used compared to the Northeast Passage.

However, according to a 2015 study by York University, the ice in the Northwest Passage will remain too thick and unsuitable for regular Arctic shipping despite climate change. According to Haas (2015), who led the research team, it is difficult to predict the impact of environmental change on NWP glaciation. Further Arctic melting could cause more multi-year ice to be released from the Arctic Ocean and flow into the NWP, making the route even less navigable than it is today.<sup>33</sup>

### **3 Northeast Passage/Northern Sea Route**

The Northeast Passage (NEP) is a sea route connecting the Atlantic and Pacific Oceans, extending from the Barents Sea to the Chukchi Sea. The Northern Sea Route (Се́верный морско́й путь, Northern Sea Route, NSR) is the Russian part of the Northeast Passage located in the exclusive economic zone of the Russian Federation. It does not include the Barents Sea, but since it represents the majority of the Northeast Passage, this name is sometimes used for the entire route. However, the difference lies in the jurisdiction exercised by the Russian Federation over its part of the route and different rules for navigation.

The NSR is the shortest sea route between Europe and the Far East and connects the mouths of Siberian rivers into a single transport system. The length of the main Northern Sea Route - from Cape Zhelaniya to Cape Dezhnev - is 2,150 nautical miles.<sup>34</sup> The entire coastal route is characterized by its relatively shallow depth from the Norwegian-Russian border to the Bering Strait, making it more or less shallow for all maritime operations (the average depth of the Chukchi and East Siberian Seas is 58 meters and 88 meters, respectively).<sup>35</sup>

The NSR and the Arctic in general are of undeniable historical and economic importance to the Russian Federation. Since the 1970s, the NSR has been used seasonally between the ports of Murmansk and Dudinka, and, as in the past, its navigability is still largely dependent on climatic factors. The NSR was used exclusively for domestic purposes during the Soviet era, but is now open to international maritime traffic. In 1991, the Russian Federation opened the Northern Sea Route to non-Russian ships. The MV Nordic Barents was the first vessel to pass through the Northeast Passage. It transported iron ore from Kirkenes (Norway) to Lianyungang (China). The journey took 21 days, which is 16 days less than the journey through the Suez Canal, and the cost savings reached \$ 300,000 per one-way trip.<sup>36</sup> Compared to the Northwest

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<sup>31</sup> CHARRON, A. (2005): The Northwest Passage in Context.

<sup>32</sup> BRITANNICA (2023): Northwest Passage, Trade route, North America

<sup>33</sup> YORK UNIVERSITY (2015): Arctic sea ice still too thick for regular shipping route through Northwest Passage. In: Science Daily.

<sup>34</sup> SAFETY COMES FIRST (-): The Northern Sea Route.

<sup>35</sup> ARCTIC COUNCIL (2009): Arctic Marine Shipping Assessment.

<sup>36</sup> BERGO, H. (2014): Northeast Passage to revolutionize global shipping.

Passage (NWP) through the Canadian Arctic Islands, the NSR has greater potential. Currently, large investments are being made in the Russian part of the Arctic to build ports, restore icebreakers, improve rescue services and satellite coverage.

The Russian Federation claims the four main straits of the Northeast Passage - the Kara Sea, the Vilkitsky Strait, the Dmitry Laptev Strait and the Sannikov Strait - as its internal waters.<sup>37</sup> Internal waters are subject to the absolute sovereignty of the state and, for navigation purposes, share a similar legal regime to that of the mainland or ports. The right of navigation in internal waters is not claimable and all foreign ships wishing to enter internal waters, even without the intention of stopping in a port, must obtain prior permission from the coastal state. This requirement applies equally to all foreign vessels, whether commercial or government. However, in accordance with Article 8(2) of UNCLOS, if areas that were not originally included in internal waters have been included (which applies in this case of the delimitation of direct baselines), the right of innocent passage applies to these waters.

The then USSR established direct baselines in the Arctic by decree in 1985, effectively closing them to international navigation. At the time, the USSR was bound by Article 5(2) of the 1958 Convention on the Territorial Sea and the Contiguous Zone, which preserves the right of innocent passage where direct baselines delimit the territorial sea or the high seas. In 2021, the Russian Federation revised its baselines in the Arctic. Neither the 1985 nor the 2021 legislation contains any claim that the lines delineate a historical claim to internal waters, unlike the 1985 Canadian regulation by which Canada delineated direct baselines in the Arctic.<sup>38</sup>

According to Solski (2020), it seems likely that the only valid argument to support the view that the waters in the straits were considered internal waters before the establishment of direct baselines would be that Russia successfully asserted a historical claim to the waters. The 1985 decree explicitly contains the only list of USSR claims to historical waters in the Arctic. It designates only three areas: the White Sea, the waters of the Bohemian Gulf, and only one bay located in the Federal Republic of Germany – Baydarsky Bay, as waters “historically belonging to the USSR, internal waters.”<sup>39</sup> Overfield (2022) argues that under the then USSR’s own terms, a right of innocent passage existed, and thus continues to exist, in the Vilkit Strait and the Kara Strait, even though they are bounded by direct baselines. Moreover, because the US has explicitly rejected the USSR’s claim to historical legal title in the Dmitry Laptev Strait and the Sannikov Strait, the basic regime should be peaceful passage, even though these are also internal waters.<sup>40</sup>

In order to claim historical waters, it is necessary to demonstrate that other countries respect the exercise of authority over those waters by a given coastal state. In a diplomatic note sent to the Russian Federation on 29 May 2015, the United States disagrees with the Russian Federation’s claim that certain straits used for international navigation on the Northern Sea Route are internal waters of the Russian Federation. It further notes that the legislation characterizes the Northern Sea Route as a historically established national transport communication route and that it does not consider such a term or concept to be established under international law.<sup>41</sup> According to the United States, it is inconsistent with the freedom of navigation within the exclusive economic zone, the right of innocent passage in the territorial sea, and the right of transit passage through straits used for international navigation

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<sup>37</sup> ROSSIJSKAJA FEDERACIJA (2021): Postanovleniye Pravitel'stva Rossiyskoy Federatsii ot 16.11.2021 r.

<sup>38</sup> OVERFIELD, C. (2022): Wrangling Warships: Russia’s Proposed Law on Northern Sea Route Navigation.

<sup>39</sup> SOLSKI, J. J. (2020): New Russian legislative approaches and navigational rights within the Northern Sea Route (NSR).

<sup>40</sup> OVERFIELD, C. (2022): Wrangling Warships: Russia’s Proposed Law on Northern Sea Route Navigation.

<sup>41</sup> OFFICE OF THE LEGAL ADVISER UNITED STATES DEPARTMENT OF STATE (2015): Digest of United States Practice in International Law.

for the Russian Federation to require foreign-flagged vessels to notify the Russian Federation by means of an application for a transit permit and proof of adequate insurance. The US acknowledges that the legislation is based on Article 234 of UNCLOS, but does not believe that Article 234 justifies the coastal state's requirement for prior notification or authorization to exercise navigation rights and freedoms. The same applies to the use of Russian icebreakers and ice pilots.

According to Todorov (2023), Russian national legislation on navigation in the NSR is widely recognized and respected abroad, with the exception of the United States, but is nevertheless the subject of intense debate among international lawyers.<sup>42</sup>

In Article 5, para. 1 of the Maritime Trade Code of the Russian Federation, the Northern Sea Route is defined as “the water area adjacent to the northern coast of the Russian Federation, including internal sea waters, territorial waters, the contiguous zone and the exclusive economic zone of the Russian Federation and limited in the east by the border delimiting the sea areas with the United States of America and the parallel of Cape Dezhnev in the Bering Strait; in the west along the meridian of Cape Zhelaniya to the Novaya Zemlya archipelago, in the east by the coastline of the Novaya Zemlya archipelago and in the west by the Matochkin Shar, Kara Strait and Yugorsky Shar straits.”<sup>43</sup> The amendment introduced the term “water area” or “aquatorium” (“акваториум”). In particular, according to this new definition, the NSR does not exceed 200 NM from the baselines of the Russian Federation. This is an important development, as the 1990 regulations were ambiguous regarding the northern borders of the NSR.<sup>44</sup>

The NSR combines several legal regimes – internal waters, territorial sea, contiguous zone and exclusive economic zone, which entail different scope of rights for other states (exclusion of freedom of navigation, right of innocent passage, right of transit passage), but as a whole it is subject to a single set of rules. In order for ships to enter the NSR waters (water area), they must obtain permission from national authorities. The Rules of Navigation on the Water Area of the Northern Sea Route also stipulate other conditions, such as assistance from icebreakers, etc.

On July 28, 2012, the Russian Federation adopted a new Federal Law No. 132 FZ On Amendments to Certain Legislative Acts of the Russian Federation Concerning Government Regulation of Commercial Shipping in the Water Area of the Northern Sea Route, which amended a number of laws (No. 147 FZ “On Natural Monopolies”, No. 155 FZ “On Internal Sea Waters, Territorial Sea and Contiguous Zone of the Russian Federation”, “Maritime Trade Code”). In 2013, the Northern Sea Route Administration (NSRA) began its activities, the purpose of which was to develop infrastructure and facilitate the process of issuing permits for navigation in the NSR.

Since 2018, the operator of the NSR infrastructure has been the State Atomic Energy Corporation ROSATOM and is responsible for the organization of navigation along the NSR, the construction of infrastructure facilities, navigation and hydrographic support, as well as a system for ensuring maritime safety in harsh Arctic conditions. Thus, currently, in accordance with Clause 3 of Article 5, Clause 1 of the Maritime Code of the Russian Federation, the navigation of vessels in the water area of the NSR is controlled and permits for navigation are issued by ROSATOM (or an organization subordinate to it). By Decree of the Government of the Russian Federation of July 23, 2022 on the basis of Federal Law of June 28, 2022 No. 184 FZ “On Amendments to Article 5 of the Commercial Transport Code of the Russian Federation”

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<sup>42</sup> TODOROV, D. (2023): New Russian Law on Northern Sea Route Navigation: Gathering Arctic Storm or Tempest in a Teapot?

<sup>43</sup> Article 5 (1) Maritime Trade Code of the Russian Federation (2012).

<sup>44</sup> SOLSKI, J. J. (2020): New Russian legislative approaches and navigational rights within the Northern Sea Route (NSR) (earlier version of the article published in *The Yearbook of Polar Law* Vol 12, 2020 by Brill Nijhoff).

and the Federal Law “On the State Atomic Energy Corporation ROSATOM”, the Northern Sea Route General Administration (“Главсевморпуть”, Northern Sea Route General Administration) was established as a federal state budgetary institution. Its main tasks include ensuring the organization of icebreaker assistance along the shipping routes in the Northern Sea Route area, developing shipping routes, deploying icebreakers in the area and their passage along recommended routes within the NSR, taking into account hydrometeorological, ice and navigation conditions, and issuing, suspending, renewing and terminating navigation permits.<sup>45</sup>

The conditions that vessels must meet if they want to navigate the NSR are further specified in the Rules of Navigation on the Water Area of the Northern Sea Route (“Правила плавания в акватории Северного морского пути”) introduced by order of the Ministry of Transport No. 7 of January 17, 2013. They were developed in accordance with the Code of Merchant Marine Transport of the Russian Federation, Federal Law No. 132 FZ, national legislation and international law norms. The Rules of Navigation, which were in force until 2013, were approved by the Council of Ministers of the USSR and fairly adequately reflected the norms of international law.<sup>46</sup> Foreign vessels must obtain permission from national authorities to enter the waters of the NSR. The Rules of Navigation also establish detailed requirements for access to various areas of the NSR, including assistance in icebreaking, with permits for vessels of different ice classes, seasonal conditions and a specific navigation area.

The Rules of Navigation of the Russian Federation were last revised in 2020.<sup>47</sup> They are relevant only for commercial shipping and do not apply to foreign warships and other non-commercial government vessels, which was confirmed by the adoption of the Federal Law of December 5, 2022 No. 510 FZ "On Amendments to the Federal Law "On Internal Sea Waters, Territorial Sea and Contiguous Zone of the Russian Federation" regulating the navigation of foreign warships in the Russian Federation.

The law, which is an amendment to the 1998 law, reflects the concerns of the Russian Federation about the increased military presence in the Arctic Ocean. The law establishes requirements for the entry of foreign warships into the internal waters of the Russian Federation for purposes other than entering a seaport or naval base. The flag state of the warship must apply for entry into the NSR 90 in advance, and no more than 1 warship may be present in the waters unless the Russian government grants special permission. Submarines must surface and identify themselves with their flag when passing through the internal waters of the NSR. For security reasons, the government reserves the right to suspend the passage of warships.

The rules for navigation in the NSR were adopted on the basis of Art. 234 of UNCLOS, but it is important to remember that warships, maritime security ships, other ships or aircraft owned or operated by a State and currently used only for government non-commercial service are exempt from any environmental protection provisions under Art. 236 of UNCLOS, so the NSR regime established under Art. 234 cannot apply to them.

According to Todorov (2023), some interpretations of the new law are exaggerated. The new requirements apply only to internal waters, which form only a small part of the NSR and where states generally have exclusive sovereignty under international law. The Russian government had been requiring permission for the entry of foreign warships even before the adoption of this law (based on a 1999 decree). What the law brings is a limitation to no more than 1 warship. The essence of this dispute and controversial reactions is therefore rather a disagreement in the legal regime of the straits located within the NSR,

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<sup>45</sup> ROSATOM (2023): In 2023, ROSATOM plans to implement nearly a third of the total amount of Russia's dredging operations at 6 sites in the NSR water area.

<sup>46</sup> BALMASOV, S. (2015): Comments and clarification on existing Russian legislation and regulations for navigation on the NSR. Possible regulatory updates in nearest future.

<sup>47</sup> PRAVITELSTVO ROSSIYSKOY FEDERATSII. POSTANOVLENIYe ot 18 sentyabrya 2020 g. N 1487 Ob utverzhdenii pravil plavaniya v akvatorii Severnogo morskogo puti.



which the Russian Federation has delimited with direct baselines and designated as its internal waters.<sup>48</sup> Which again illustrates the different views of Russia and the USA on internal waters and international straits intended for international navigation.

Overfield (2022) on the contrary points out that the Russian Federation could not take measures in the legal regime of the NSR, because foreign warships enjoy an exception from it due to Art. 236 UNCLOS, and therefore did so through the international legal regime of internal waters.<sup>49</sup>

Despite the fact that the NSR (or NEP) currently has the most favorable conditions regarding ice cover and the legal framework that applies to it, it is unlikely that it could compete with the “traditional” routes through the Suez or Panama Canals. It will probably be more of a “seasonal supplement” and a shortcut between Europe and Asia if this route is profitable for a particular voyage. However, the importance of the NSR for maritime transport is not negligible and crucial for the Russian Federation. The more ice-free the Arctic becomes, the more its strategic value will grow. However, the future state of ice is still impossible to predict, and although the decline of the Arctic ice cover could extend the sailing seasons, this does not automatically mean that the conditions for sailing will be simplified. Due to climate change in the Arctic, Arctic shipping routes are expected to become increasingly navigable, which offers new opportunities for more cost-effective maritime transport.

### **Conclusion**

Article 234 of UNCLOS is a unique legal instrument enabling coastal States to regulate activities in ice-covered areas with the aim of protecting the marine environment. Its importance is particularly visible in the Arctic region, where Canada and the Russian Federation have used its provisions to establish legislative frameworks that enable them to protect their coastal waters from environmental risks associated with increased maritime traffic.

Although Article 234 provides coastal States with considerable powers, its lack of precise wording poses challenges in interpretation and application. Ambiguities regarding the definition of “ice-covered areas”, “particularly adverse conditions” and the time frame for its application increase the risk of divergent approaches by States and potential disputes. Furthermore, changing climate conditions, which are reducing the extent and duration of ice cover, raise questions about the future relevance of this article in a region where increased shipping activity is expected.

Canada and Russian Federation have successfully used Article 234 to advance their interests in the Arctic, creating legislation aimed at protecting the environment and ensuring the safety of navigation. However, they also face international challenges, as their requirements for transit control through Arctic routes are perceived by some states, including the United States, as a restriction on the right to freedom of navigation.

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2. BALDASSARRI, E. (2017): “The Northwest Passage: Myth, Environment, and Resources.” [online]. Environment & Society Portal, Virtual Exhibitions 2017, no. 1.

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<sup>48</sup> TODOROV, A. (2023): New Russian Law on Northern Sea Route Navigation: Gathering Arctic Storm or Tempest in a Teapot?

<sup>49</sup> OVERFIELD, C. (2022): Wrangling Warships: Russia’s Proposed Law on Northern Sea Route Navigation.

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# THE POSITION OF THE EUROPEAN COMMISSION IN THE INSTITUTIONAL FRAMEWORK OF THE EUROPEAN UNION

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**Abstract:** The aim of the article is to point out the building of the transnational position of the European Commission from the beginning of its existence and functioning within the first three European integration groupings and later the European Union. In a chronological overview, we will highlight the main events and protagonists shaping the creation of the Commission. The President of the Commission has a major role in shaping the political and economic instruments of the Communities. Using the example of individual representatives, we illustrate how they influence the creation of the Commission and its decision-making activities. When writing the article, we were based on book publications, professional articles and legislative acts of the EU. The crisis phenomena of the last decades strengthened the position of the Commission by using not only formal, but also informal tools resulting from EU legislation.

**Keywords:** European Commission, President of the Commission, transnational principle, intergovernmental principle, crisis

**JEL:** H77

## Introduction

From the beginning of its creation, the European Commission represents a significant transnational element within the forming institutions of the European Communities, later the European Union. It belongs to the seventh institutions of the European Union as defined by the Treaty of Lisbon in Chapter III. of Article 3 in the provision on institutions.<sup>1</sup> Formally, the European Commission is a permanent body that is supposed to represent the interests of the European Union and not to receive instructions from member states.

The European Commission has traditionally acted in the process of European integration in at least 4 roles as a butler who proposes secondary legislation, as a supervisor who checks compliance with Union law, a worker implementing selected EU policies and as a diplomat negotiating international agreements between third countries and third entities.<sup>2</sup>

When writing the article, we used book publications that describe the historical context of the creation and functioning of EC from its creation to the recent past, as well as scientific articles available on the Internet. Book publications describing the last periods of the current Commission are not available, but for this part of the article we used Internet resources and scientific articles on this issue, part of the document study was the Eur-lex database of European legal standards.

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<sup>1</sup> CONSOLIDATED TEXT OF THE TREATY ON EUROPEAN UNION TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION.

<sup>2</sup> ŠLOSARČÍK, I. (2013): *Instituce Evropské unie a Lisabonská smlouva*, p. 65.

## **1. Development of the intergovernmental and transnational principle in Western Europe**

The conflict between transnational and intergovernmental integration efforts has been present since the beginning of integration processes in Western Europe. The first ideas about real integration at the beginning of the 18th century were associated with an intergovernmental approach. In the 19th century, the French philosopher *Henri de Saint-Simon* (1760 – 1825) proposed a political unification of Europe based on the alliance between France and England, which would function on the principle of a bicameral parliament - the upper chamber would be appointed by individual governments and the lower chamber would be elected according to universal suffrage. All these proposals had in common that they were based on "intergovernmental", voluntary cooperation of sovereign states.<sup>3</sup>

Subsequently, however, important representatives of European integration began to promote the ideas of a federative arrangement of European states. Even before the end of World War I in 1918, the Italian industrialist and founder of the Fiat empire *Giovanni Agnelli* (1866-1945) published a book called the European Federation or League of Nations, in which he claimed that the only effective against destructive nationalism, Europe will be federatively organized. Count *Richard Nicolaus Coudenhove – Kalergi* (1894 -1972), who published the book *Pan-Europe* (Pan-Europe) in 1923, which was the inspiration for the movement of the same name, captured the mood of the time even better. The pinnacle of the Pan-European Movement was the proposal of the Pan-European Pact of May 1930, which suggested an internal organization of states, whereby the European states would remain sovereign in a union called the European Union of States. The first formal example of Dante's "transnational" vision was Louis Louchet's initiative in the 1920s. At the Paris Peace Conference in 1919, he declared that the key to peace was the integration of French and German military production, especially industries related to military production - coal mining and steel production. In 1925, the "intergovernmental" form of European cooperation reached its peak with the signing of the "International Steel Agreement", which covered the steel industry of France, Germany, Belgium, Luxembourg and the Saarland. This steel agreement can be considered the first European "transnational" body.<sup>4</sup>

Within the "transnational" initiatives of integration efforts in Western Europe, it is necessary to mention the so-called The "Briand - Kellogg Pact" of 1929, in which 15 states, including France and Germany, renounced war as a means of resolving conflicts. Briand's subsequent activity was to send to the governments of 27 European states the "Memorandum on the European Federalist Union" in 1930, in which he proposed a federalist arrangement of Europe in which "the economic problem would be subordinated to the political problem". Briand obtained the approval of such an idea from the governments of 26 European states, only Great Britain rejected the initiative. At the same time, however, all states (except the Netherlands) insisted on "absolute sovereignty and political independence." Overall, Briand's activity was a loss, as most of the states involved did not want to lose part of their sovereignty.<sup>5</sup>

## **2 Building the transnational position of European institutions**

The ideas of European integration after II. world war they became relevant again. Great Britain became a decisive European power, and the charismatic personality of the prominent British politician and British Prime Minister *Winston Churchill* (1874-1965) raised hopes for the implementation of integration efforts in Western Europe. In a speech on

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<sup>3</sup> BOOKER, CH. – NORTH, R. (2006): *Skryté dějiny evropské integrace*, p. 32.

<sup>4</sup> BOOKER, CH. – NORTH, R. (2006): *Skryté dějiny evropské integrac*, p. 32.

<sup>5</sup> HRIVÍK, P. (2016): *Európska integrácia a základy fungovania Európskej únie*, p. 24.

September 19, 1946 at the University of Zurich, he called for the creation of "a certain kind of United States of Europe", which would be a continuation of Churchill's previous proposals for the creation of an integration group under the leadership of the Council of Europe.<sup>6</sup> In any case, Churchill saw the United States of Europe as based on an alliance of sovereign nation-states.<sup>7</sup> Several European movements were active for the same purpose. On the initiative of Churchill himself, the Movement for a United Europe was established in Great Britain in 1947. This movement was against the creation of supranational bodies and preferred intergovernmental cooperation - i.e. the unionist principle.

The European Union of Federalists, founded in Paris in December 1946 (renamed in 1959 to the European Federalist Movement), demanded the limitation of the sovereignty of individual states so that a certain part could pass to a federal body. Another federalist group appeared in 1947, under the name Movement for a Socialist United States of Europe. Members of the national parliaments of several European states were united by the European Parliamentary Union, which was founded by Coudenhove-Kalegri after returning from the USA in 1947. Its purpose was to concentrate the parliamentarians of European states in one camp so that they could exert pressure on their governments together.<sup>8</sup>

The growing number and diversity of movements inclined to European unification had to be coordinated. In December 1947, the Movement for a United Europe coordination committee headed by W. Churchill was established, which was to ensure the organization of the first assembly, which would take place in May 1948 in The Haag. Under the leadership of W. Churchill, almost eight hundred personalities from 16 states of Western Europe meet at the European Congress or the Haag Congress to discuss the originally federalist arrangement of a united Europe.

The Congress in The Hague divided the participants of the congress into supporters of two directions:

a) transnational (federalist, supranational), which had its supporters in France, Belgium, Italy and the Netherlands and which assumed that the institutions of the European Assembly would receive most of the powers,

b) intergovernmental (unionist, intergovernmental), which was promoted by Great Britain, assumed the establishment of the Council of Ministers, which would guarantee the sovereign status of the states.<sup>9</sup>

Based on the agreements between supporters of the transnational and intergovernmental approach to integration, a proposal for the creation of a pan-European organization was adopted at the European Congress in The Haag. On January 28, 1949, an international conference was held with the participation of France, the United Kingdom of Great Britain and Northern Ireland, and the Benelux countries, which decided to establish the Council of Europe.

Despite the division into countries preferring transnational or intergovernmental integration, the efforts for economic cooperation and the use of the benefits arising from a large market persisted. The result of these efforts was the development of the so-called Schuman plan. *Robert Schuman* (1880-1963), French foreign minister, presented this plan at a press conference on May 9, 1950, a day celebrated as Europe Day because it is considered the birth of a united Europe. Subsequently, Belgium, France, Luxembourg, Italy, the Netherlands and Germany signed the Schumann Declaration and the Council of Europe Assembly approves the Schumann Plan.

The Council of Europe provided the first version of an institutional structure that functioned de facto as an intergovernmental organization, with the establishment

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<sup>6</sup> CORMICK, J. (2000): Poznávanie Európsku úniu, p. 64.

<sup>7</sup> HRIVÍK, P. (2016): Európska integrácia a základy fungovania Európskej únie, p. 29.

<sup>8</sup> FIALA, P. a kol. (2018): Evropská unie, p. 41.

<sup>9</sup> FIALA, P. a kol. (2018): Evropská unie, p. 43.

of the Consultative Assembly within the Council of Europe, which can be considered a form of transnational.<sup>10</sup>

On April 18, 1951, Belgium, France, Germany, Italy, Luxembourg and the Netherlands sign the Treaty of Paris, establishing the European Coal and Steel Community (ECSC - or Montana Union,). The treaty was signed by 8 statesmen, because two representatives from each country signed it for Belgium and the Netherlands. It took about a year before the treaty was ratified. In 4 states, the treaty was ratified almost by demonstration, only in the parliaments of Germany and France the vote was not clear, but in the end the treaty was ratified.

On the basis of the Treaty of Paris, 4 basic bodies of the Community were established: the High Office (later the Commission), the Joint Assembly (later the European Parliament), the Council of Ministers and the Court of Justice. Frenchman *Jean Monnet* was appointed President of the High Office (he held the post from 1952 to 1955) and former Belgian Prime Minister and Foreign Minister *Paul-Henri Spaak* became President of the Common Assembly. The capital of Luxembourg - Luxembourg was chosen as the temporary seat of the ECSC as the seat of the High Authority together with the Council of Ministers and the Court of Justice of the ECSC, while the Common Assembly had its seat in Strasbourg. It was Monnet who determined how the High Office functioned, as it had no internal organizational order at the time, and Monnet introduced chaos into its functioning and often promoted personal opinions.<sup>11</sup> This trait can also be attributed to the fact that Monnet had no formal education and no experience of how an institution of this type was run. Monnet also envisioned an office that would be irrevocable by member states. Member states also had limited options to permanently block the election of the commissioner.<sup>12</sup>

The Council of Ministers was created as a result of Monnet's effort to weaken the influence of elected politicians, so he constantly invented how to outvote Germany and France in particular, later this system was called "voting by qualified majority". The Council of Ministers could thus participate in decision-making, but could not give instructions to the High Office, thus eliminating the role of national governments.<sup>13</sup>

The ECSC became an organization with a high degree of concentration of powers in the hands of the High Office as a transnational institution, but the areas of its activity were defined relatively precisely. The relations between the High Office and the governments of the member states were also strained precisely because of the competences given to the High Office, and it was clear that these competences depend on the level of competences that the member states allow. The high office was financially independent because it obtained so-called own revenues from customs duties and benefits of the common market resulting from the ECSC Treaty and also because Monnet, thanks to his contacts, secured a loan from the USA for the operation of the office. In any case, the High Office was an attempt to establish a kind of transnational government, and in the long term these experiences were beneficial for the institutional design of the European Economic Community.<sup>14</sup>

This situation prevailed until the consolidation treaty on the merger of the EC institutions was signed in 1965. The creation of the ECSC, especially the High Office, with its relatively large competences, was the first case in the history of European integration when the member states gave up their sovereignty in favor of transnational institution. The High

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<sup>10</sup> PLECHANOVÁ, B. (2004): *Institucionální vývoj Európskej únie od Maastrichtské smlouvy k východnímu rozšíření*, p. 25.

<sup>11</sup> PLECHANOVÁ, B.(2004): *Institucionální vývoj Európskej únie od Maastrichtské smlouvy k východnímu rozšíření*, p. 25.

<sup>12</sup> FIALA, P. a kol. (2018): *Evropská unie*, pp. 300-301.

<sup>13</sup> BOOKER, CH. – NORTH, R. (2006): *Skryté dějiny evropské integrace*, p. 32.

<sup>14</sup> PLECHANOVÁ, B.(2004): *Institucionální vývoj Európskej únie od Maastrichtské smlouvy k východnímu rozšíření*, p. 36.

Authority did not fulfill the expectations regarding the common market in coal and in the steel industry, because relatively strong particular interests of the member states, especially France and Germany, prevailed. The expectations that the transnational principle of managing the common market will also be transferred to other sectors of the economies of the member states have also not been fulfilled. The activities of Jean Monnet had an undeniable impact on the functioning of the High Office as a transnational institution, because after his departure from office in 1955, the High Office came under the influence of industry representatives.

The High Office (or commissariat) was composed of 9 members appointed for 6 years on the basis of their general competence, the governments of the member states appointed 8 members, of which at most two could have the same nationality, one member was appointed jointly.<sup>15</sup> An interesting feature of the procedure for the nomination and replacement of commissioners was the possibility of a member state to exercise a veto against individual candidates, but only to a limited extent in the event that a government used the right of veto against two persons when replacing one member.

A test of the functioning of a common European institution as a transnational institution occurred after the outbreak of the Korean War, when Monnet sought to extend integration efforts to the field of defense. Together with his ally René Plaven, his former business partner, who became Prime Minister of the French Republic at that time, they tried to establish the European Defense Community (EOS). Later, this rather unsuccessful initiative, due to the resistance of France in particular, was moved to an initiative under the leadership of Paul-Henri Spak known as the attempt to establish a European political community. The main idea was to combine the ECSC, EOS and this newly created entity into one transnational legal entity. France rejected such a model, which marked the definitive end of EOS. despite the fact that after this failure Monnet resigned from his position, after the change of the French government he focused on the nuclear industry.

### **3. Weakening of the Commission's transnational influence**

On March 27, 1957, representatives of all six ECSC member states signed two treaties in Rome: the Treaty establishing the European Nuclear Energy Community (Euratom) and the Treaty establishing the European Economic Community (EEC). The so-called The Treaties of Rome entered into force on January 1, 1958. The experience of the ECSC was used in the creation of its bodies and institutions<sup>16</sup>. The Council of Ministers became the body with decisive authority, each member state has one representative in it. To differentiate the country's weight, each country had a different number of votes in the voting - Germany, France and Italy each had four votes, Belgium and the Netherlands each had 2 votes and Luxembourg had one vote.<sup>17</sup> The EUROATOM Commission was established as a transnational institution of the ECSC. It consisted of 5 members of different nationalities who were chosen on the basis of their general competence with regard to the special focus of this contract and whose impartiality was fully guaranteed.<sup>18</sup>

The executive and administrative body became the EEC Commission with a secretariat and nine directorates. The first president of the Commission was the German politician and diplomat *Walter Hallstein* (he was in office from 1958 to 1967). The seat of both institutions was Brussels. The EEC Commission was composed of 9 members who are chosen on the basis of their overall ability and whose independence can be fully relied upon. The commission was appointed on the basis of an agreement between the member states, the members were

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<sup>15</sup> ESUO Treaty establishing the European Coal and Steel Community, ECSC Treaty.

<sup>16</sup> VEBER, V. (2004): Dějiny sjednocené Evropy, p. 249.

<sup>17</sup> FIALA, P. a kol. (2018): Evropská unie, p. 300.

<sup>18</sup> Treaty of establishing European Atomic Energy Community.



appointed for 4 years with the possibility of re-election.<sup>19</sup> The Commission was headed by the chairman, who was elected for 2 years, with the possibility of re-election. The President of the Commission was appointed based on the agreement of the member states. The appointment of this post significantly influenced the entire Community - it set the tasks of the Commission and thereby indirectly moderated the speed of the integration process.<sup>20</sup> Politically, the Commission represented a stabilizing element of the Community, because posts in other Community institutions were influenced by the results of elections in member states. The main task of the Commission under his leadership was to build an administrative apparatus. Other Community institutions were the EEC Assembly (later the European Parliament) and the Court of Justice. He performed tasks not only for the EEC but also for the ECSC and EURATOM. The assembly had 142 deputies, who were delegated by the parliaments of the member states.

According to Plekhanova, during this period there was a significant shift of competences towards the intergovernmental level, the legislative-executive monopoly enjoyed by the High Office was abolished and divided between the Commission and the Council, the transnational nature of decision-making was strengthened by the introduction of qualified majority voting. The importance of the distribution of power and influence among the member states also increased.<sup>21</sup>

The so-called the policy of empty seats in 1965 on the part of France heralded a crisis of inter-institutional relations within the Community. It meant a contradiction between the Commission's position and the political reality, namely the reluctance of the member states, especially France, to proceed with the strengthening of transnational institutions. The adoption of the Luxembourg Compromise brought political consequences in that the Commission reverted to a system of unanimous voting on certain points under the Treaties of Rome concerning important national interests of the Member States. In the matter of the Community budget, this meant a weakening of the Commission's influence on the creation of own resources. In a direct confrontation between Hallstein and French President Charles de Gaulle, Hallstein failed to appropriate the image of the head of state.<sup>22</sup>

A significant undertaking in the period of the institutional crisis was the merger of three institutional structures of the Societies, namely three Orders and three Commissions, the Assembly and the Court were joint from the beginning of existence. The merger agreement was signed on April 8, 1965. Walter Hallstein then resigned from his position as chairman of the Commission, which he held for almost 9 years. The Brussels Treaty on the establishment of a joint Council and a joint Commission of the European Communities - the "Unifying Treaty" was signed with the aim of uniting the three then European Communities (EC) - the European Coal and Steel Community (ECSC), the European Economic Community (EEC) and the European Atomic Energy Community (EURATOM). Under the treaty, the three communities remained legally independent, the functioning of their institutions was rationalized by merging their still independent executive bodies, bringing the number of common European institutions to five, and the three community treaties were amended accordingly. The executive bodies were merged into: the Council of the European Communities (today's Council of the European Union), which replaced as a joint body the Special Council of Ministers of the ECSC, the EEC Council and the Euratom Council and the Commission of the European Communities (today's European Commission), which replaced the High Office of the ECSC as a joint body, the EEC Commission and the Euratom Commission. The number

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<sup>19</sup> TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY 1957, Article 157-158 h.t

<sup>20</sup> FIALA, P. a kol. (2018): Evropská unie, p. 304.

<sup>21</sup> PLECHANOVÁ, B. (2004): Inštitucionálny vývoj Európskej únie od Maastrichtskej smlouvy k východnému rozšírení, p. 44.

<sup>22</sup> BILČÍK, V. (2000): Inštitúcie Európskej únie in: Európska integrácia, p. 26.

of commission members was set at 9, the rules on their appointment and functioning were harmonized with the EEC Treaty.

#### **4 The rise of the Commission's transnational position**

When establishing the European Commission, the most important thing is the election of its president. Based on a political agreement, representatives of small and large member states alternate in this function.<sup>23</sup> The President of the Commission until the validity of the EU Treaty was practically nominated on the basis of agreements between the representatives of the member states. He acted as an important factor in the selection of individual commissioners and at the same time assigned portfolios to them. In fact, the overall functioning of the Commission as a whole depended on the chairman's personality, and in a way the chairman's personality was important in promoting the Union's interests.

The 1970s were characterized by the completion of institutional changes, the decision on direct elections to the European Parliament and the strengthening of its budgetary powers, but mainly negotiations on the enlargement of the EEC were initiated. During this period, the number of commissioners and the distribution of portfolios between the respective commissioners and the member states became a problem for the Commission. *Jean Rey* (1967-1970), a former Belgian Minister and Commissioner for External Relations, who temporarily led the Commission until 1970, gradually became the President of the Commission. During this period, the number of Commission members increased to 14, in which the Member States were represented according to their size. In 1970, the Italian politician *Franco Maria Malfatti* (1970-1972) became the president of the Commission for 15 months. However, according to the Merger Treaty, large states were to have 2 representatives and small states 1, and the total number was limited to 9. The Commission, under the leadership of *Francois Xaver Ortoli* (1973-1977), a French politician, established new posts for commissioners from newly acceding states (Great Britain, Denmark, Ireland) and thereby created additional positions in the associated administration, which brought further changes in the institutional structure Commission. It should be taken into account that the number of member countries meant an increased number of negotiating languages. According to Fiala et al. the decreasing importance of the Commission in favor of the European Council was noted. The next President of the Commission, *Roy Jenkins* (1977-1981), a former finance minister of Great Britain, was appointed in early 1977. Jenkins tried to personally supervise the selection of commissioners, preferring to fill the posts with commissioners who had already served in the posts. He also wanted to strengthen the position of the Commission within the institution vis-à-vis the member states and to strengthen the position vis-à-vis abroad at the expense of the European Council. The commission under the leadership of former Luxembourg Prime Minister *Gaston Thorne* (1981-1985) successfully completed the process of the so-called southern enlargement, he also devoted himself to institutional reform, but was considered a weak president. As Kassim points out, only Hallstein (and later Delors) was able to transcend the limitations of the office, even Jenkins himself did not consider his office a job.<sup>24</sup>

In this period, according to Booker, the European Council began to become institutionalized,<sup>25</sup> surprisingly not at all on the principle of an intergovernmental institution. The leaders of the Franco-German alliance German Chancellor Helmut Schmidt and French President Valéry Giscard d'Estaing continued the alliance of their predecessors and accepted Monnet's proposal to create a "provisional government" because "there should no longer be a separate national policy, but only a European policy".

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<sup>23</sup> FIALA, P. a kol. (2018): Evropská unie, p. 326.

<sup>24</sup> KASSIM, H.: The European Commission.

<sup>25</sup> BOOKER, CH. – NORTH, R. (2006): Skryté dějiny evropské integrace, p. 197.

In the middle of the 80s of the last century, the need for a fundamental institutional reform of the Community and, in particular, for the effective functioning of the institutions began to manifest itself more and more. Former French Minister of Finance Jacques Delors (1985-1995), proposed by President Francois Mitterand, became the head of the Commission. He supported the concept of a supranational political union. Its main task was the completion of the common market and the financing of the Community. Through the second package of measures Delors I, the role of the Community was significantly strengthened, with coordination tasks and the authorization to carry out measures in the social and economic area, and these reached the level of other shared policies.<sup>26</sup> Delors continued his term of office 2 more times, but the third term of office was shortened due to the adoption of the EU Treaty until 1995. Delors' commissions operated during several breakthrough periods, whether political-economic changes in Europe or significant economic and institutional changes within Community. During this period, he presented the so-called The Delors report, which presented the plan for building an economic and monetary union, which assumed the completion of the common market, the Commission continued the accession negotiations with Sweden, Finland, Austria. However, the main goal of the Commission was a comprehensive revision of primary EU law, which resulted in the EU Treaty. However, the three-pillar structure was not the result that Delors sought, namely the creation of a supranational political union. The so-called The Maastricht Temple quite clearly divided EU policies into intergovernmental and transnational. Delors arrived in Brussels with strong support from both Bonn and Paris, which gave him a mandate and endowed him with far-reaching personal authority.<sup>27</sup>

Appointing a successor to Delors - former Luxembourg Prime Minister Jacques Santer (1995-1999) was not easy given that, according to the EU Treaty, the new president must be elected in the EP. The new President of the Commission was elected only for the second time, after many discussions, when the Commission was finally approved in the EP as a whole. The most significant fact was the actual cancellation of the so-called of the Luxembourg compromise by adopting the Single European Act, which strengthened the transnational principle of decision-making in the EC.<sup>28</sup> So far, Santer's commission is the only one that had to resign. The reason was a financial scandal, because the Court of Auditors found the Commission's management to be inefficient. The Commission's resignation was also contributed to by the EP's negative attitude towards Santer from the beginning of his nomination for the post of chairman.

During the candidacy for the new President of the Commission, it was not clear whether the new President would "serve out" Santer's term or be elected for the entire term. The EP would welcome the first option, because it would have the opportunity to decide on the composition of the Commission twice. In the end, everything was resolved by the Treaty of Amsterdam, the election of the chairman of the commission was conditional on the consent of the EP. At the same time, the Treaty of Amsterdam gives great powers to the President in setting up the Commission. Romano Prodi (1999-2004), former Italian prime minister, was approved for the position of chairman. The main task of the Commission was to restore its credibility after the previous financial scandal, Prodi personally held talks with the future commissioners and their national governments. During this period, fundamental reforms took place within the Commission and its administrative background. As enlargement to the states of Eastern and Central Europe was envisaged, the Commission prepared proposals for institutional changes after enlargement. The primary law formally did not give the President of the Commission much competence in decision-making within the Commission, and he also had

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<sup>26</sup> KONIG, P. – LACINA L. (2004): Rozpočet a politiky Evropské unie, p. 157.

<sup>27</sup> KASSIM, H.: The European Commission.

<sup>28</sup> FIALA, P. a kol. (2018): Evropská unie, p. 315.

no competence in the final selection of commissioners, he had some authority in the selection of portfolios for individual commissioners.

In the pre-enlargement period, the distribution of political responsibilities among commissioners had a significant impact on the level of agreement between the Commission and the positions of the Member States, and the country affiliation of commissioners is an important guide to their behavior. In decision-making, the modest advantage of small and medium-sized member states was an example of degressive proportionality, which defines not only the Commission, but also the Council and the European Parliament. Small Member States are over-represented in proportion to their population size as the 5 large Member States nominated two Commissioners, while the remaining 10 Member States nominated one each. It was therefore unlikely that the positions of the commission would consistently correspond to the positions of any individual state or group of states. Such impartiality contributed to the legitimacy and authority of the commission.<sup>29</sup>

From the point of view of the composition of the Commission, the period under the leadership of José Manuel Durao Barroso (2004-2014), the former Prime Minister of Portugal, is significant, because the rule of one member state, one commissioner came into force. The Commission began to operate in the period when the largest expansion of the EU to 25 member states took place, it was necessary to deal with multi-year financing for a significantly larger range of net recipients of financial aid from the EU budget. At the same time, new priorities came to the fore, namely energy and environmental protection. The accession of Romania and Bulgaria was also expected. This period is characterized by changes to the primary law of the EU - the preparation of the Treaty on the Functioning of the EU (TFEU). In the second Barroso Commission, the position of High Representative for Common Foreign and Security Policy was established, who also became Vice-President of the Commission. During this period, the Commission primarily dealt with the consequences of the financial and economic crisis and, above all, the economic problems of Greece. The main strategic document of the EC was the Europe 2020 Strategy.

Barroso was the first President of the Commission to make extensive use of the powers deriving from the TFEU. During his two terms of office, he promoted a distinctly presidential style of leadership. Invoking the prerogatives of the office and the need for clear direction following the extension of the "big bang" to Central and Eastern Europe and the rise of Euroscepticism, it was up to the President of the Commission to define the political priorities of the Commission, determine what was discussed in the College and put his name to the important proposal. To support this expanded concept of the presidency, Barroso gave the office a new organizational resource. By transforming the General Secretariat from its traditional function, he was able to use the presence of the General Secretariat in key procedural gaps to ensure the promotion of his political agenda.<sup>30</sup>

After the ratification of the Treaty of Lisbon, the President of the EC is proposed by the European Council by a qualified majority "taking into account the elections to the European Parliament." This vague recommendation is not further specified and allows the Council to propose virtually anyone, as long as it has the support. This was the basis for the process of the so-called Spitzenkandidaten, in which several large European parties supported by the European Parliament (EP) agreed, in order to strengthen the democratic legitimacy of the Commission, that the president of the Commission should be the candidate of the party that won the European elections in 2014. The process of the so-called Spitzenkandidaten did not support the EP candidate, and despite this support, the Council promoted its candidate, Jean-Claude Juncker.

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<sup>29</sup> THOMSON, R. (2008): National Actors in International Organizations The Case of the European Commission.

<sup>30</sup> KASSIM, H.: The European Commission.

The Commission under the leadership of Jean Claude Juncker (2014-2019), former Prime Minister of Luxembourg, was already established under the Treaty of Lisbon. During this period, the number of vice-chairmen was increased to 7 with the aim of better coordination within individual portfolios. During the functioning of the Juncker Commission, two fundamental strategic documents, the so-called Investment Plan for Europe, were presented. The Juncker Plan and the Energy Union for Europe.

The restructuring of the College by Commission President Juncker further strengthened President Juncker's leadership. Juncker was not only the first President to be appointed in the Spitzenkandidaten process and thus able to exercise a personal mandate for his political program, but also the first to have at his disposal the full range of powers resulting from the Lisbon contracts. Juncker undertook a series of organizational and procedural reforms that introduced "new ways of working" to ensure the effective political agenda he presented to the European Parliament in his political guidelines.<sup>31</sup> The appointment of commissioners has also been presidentialised – one of several ways in which the Commission's presidency has been strengthened. The Treaty on European Union required governments to nominate additional Commission members "after consultation" with the candidate for Commission President, which the Amsterdam Treaty changed to "by common agreement". Based on the Treaty of Nice, the President of the Commission gained the power not only to replace individual commissioners, but also to force them to resign. The Lisbon Treaty retained these powers. Although these changes mean a significant strengthening of the powers of the President of the Commission, it is important to emphasize that only the Member States decide who they nominate.<sup>32</sup> In assessing the decision-making position, the Commission strategically considers the formulation and timing of proposals and helps negotiate compromises that are often favorable to its own interests. In fact, the financial crisis and the Eurozone crisis (in the case of fiscal and financial management), the Treaty of Lisbon (in the case of administrative law-making) and the establishment of agencies served to strengthen the powers of the Commission.<sup>33</sup>

The Presidents of the Commission were able to make their personal mark on the office through strong personalities or favorable circumstances,<sup>34</sup> however, over the past twenty years or so, the president has acquired, through successive treaty revisions, the formal and institutional power to become more than first among equals. The fact is that the need to institutionalize the position of the president and his greater influence over the college of commissioners is shown to be a need especially after the enlargement of the EU after 2004. In the case of Barroso and Juncker, it is also possible to use informal tools to strengthen their position, by using the restructuring of the EC administration.<sup>35</sup> Barroso did this by using the General Secretariat to strengthen his position vis-à-vis the other Commissioners, Juncker went further by using his "political mandate" to justify his restructuring of relations between the Commissioners and in 2018 he (controversially) appointed his politically close Chief of Cabinet Martin Selmayr to the position of Secretary General of the Commission.

*Ursula von der Leyen* was elected in the EP as President of the Commission on July 16, 2019, as the first woman to this post, and on December 1, 2019, she officially assumed the position. The former German Minister of Defense (also the first woman in the history of German governments to hold this position), a gynecologist by training, led the EC in a period of not only European, but practically global crises caused by the covid-19 disease and the Russian-Ukrainian military conflict. Immediately after the accession, the EU faced

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<sup>31</sup> KASSIM, H.: The European Commission.

<sup>32</sup> KASSIM, H.: The European Commission.

<sup>33</sup> NUGENT, N. – RHINARD, M. (2016): Is the European Commission Really in Decline?

<sup>34</sup> NUGENT, N. – RHINARD, M.(2019): The 'political' roles of the European Commission.

<sup>35</sup> NUGENT, N – RHINARD, M.(2019) The 'political' roles of the European Commission.

a new situation affected by the disease covid 19. This health crisis pointed out many shortcomings in crisis management in the event of a conflict of transnational and intergovernmental powers. The EU has been unable to counter measures taken by Member States at national level, including measures related to border closures, which have had an unprecedented impact on the exercise of common market freedoms. The only joint activity was the joint purchase of vaccines, in which Ursula von der Layen was personally involved with the representatives of supplier pharmaceutical companies, however, in connection with the purchase, a criminal complaint was filed in connection with the non-transparent purchase process and corruption.<sup>36</sup> The pending financing of the Recovery and Resilience Plan is subject to criticism, the repayment of which is not due to start until 2028. The truth is that "inventing" financial instruments is not the domain of the Layen Commission, as Juncker has already used to strengthen his influence the creation of an investment fund called the European Fund for strategic investments (EFSI) in the amount of EUR 500 billion, while the basic income consists of the contributions of the member states. The reason for establishing the fund was the lack of investment resources to deal with the consequences of the financial crisis. This financial instrument was transformed into the InvestEU program to address the consequences of the crisis caused by the covid-19 disease.<sup>37</sup>

The test of the functionality of the EU's foreign and security policy is the confrontation of EU institutions taking place against the background of the Russian-Ukrainian military conflict, with an emphasis on the competences of the Commission and the President and the High Representative for common foreign and security policy. The goal of creating this function was to ensure the coherence and personification of the overall external activity of the union.<sup>38</sup> ZEFÚ does not explicitly establish competences in the field of EU foreign and security policy, in contrast to the high representative, who leads the common foreign and security policy and ensures the consistency of the EU's external activities.<sup>39</sup> Ursula von der Layen has already visited Ukraine 8 times since the beginning of the conflict, while Josep Borell 5 times. It will therefore be interesting to compare how the new high representative Kaja Kallasová will be involved in the conflict, compared to the old Commission President Layenová, who is starting her second term.

## Conclusions

Since the beginning of the integration process in Western Europe, tools have been sought to strengthen integration through transnational elements. In this period, despite the positive approach, two ways of functioning of integration groups were created, namely on the transnational and intergovernmental principle. From the beginning, the person of Jean Monette represents a strong inclination towards the transnational functioning of the European Communities, and the creation of all the institutions of the Communities was adapted to this. From the beginning of its existence, the European Commission was constituted as a transnational institution with strong powers. In the early days of integration, such a functioning model of the Commission was relatively simple considering the number of member states. Even if in certain phases one can observe signs of the weakening of the function of the transnational institution due to the influence of larger members of the Community (the period of Eurosclerosis on the part of France), tools have always been found to eliminate the negative approach to integration.

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<sup>36</sup> POLITICO (2024): European prosecutors take over Belgian probe into Pfizergate.

<sup>37</sup> REGULATION (EU) 2021/523 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 March 2021 establishing the Invest EU Program and amending Regulation (EU) 2015/1017.

<sup>38</sup> BRHLÍKOVÁ, R. (2012): Európska únia po Lisabone, p. 123.

<sup>39</sup> CONSOLIDATED TEXT OF THE TREATY ON EUROPEAN UNION AND THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION.

The position of the President of the EC and his powers were limited by the primary law of the Community. It depended on the personality and personal involvement of the chairman, what tools, mostly informally, he used to implement political and economic goals. That is why the names of some EC presidents are not widely known, although they are important representatives of the governments of individual member states. The members of the Commission appear to be more important, because in this period important national politicians were proposed to the college of commissioners.

After the adoption of the Treaty of Lisbon, although the powers of the President of the Commission were expanded, the growing number of member states created conflicting situations not only when proposing commissioners from the member states and the corresponding portfolios, but also for the president himself. The argument is that he is a virtually unelected head of the EU, which is not quite a regular argument, because the president is proposed in the Council by the EU member states and usually from the political faction that was the most successful in the EP elections and also appointed him to the position. The EP is finally voting. Even after the assignment of greater competences resulting from the Treaties, chairpersons can use informal tools to strengthen their positions and enforce their strategic intentions. All EC presidents who were elected after the entry into force of the TFEU can serve as examples. On the other hand, member states can strengthen their intergovernmental principle by proposing a distinct national policy, but they can refuse this in the so-called EP to refuse the hearing.

In any case, with a significantly enlarged college, strong presidential leadership is the only option if the Commission is to be able to take coherent and effective action.<sup>40</sup> In times of crisis, the Commission and especially its presidents know how to enforce strategic documents and their financial instruments without major approval complications. Even in the case of ambiguously defined competences. Crises clearly strengthen the position of the Commission and its president.

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# ANALYSIS OF THE IMPACT OF THE FOURTH GAS PACKAGE ON THE EUROPEAN UNION'S ENERGY MARKET AND ITS INTERNATIONAL ECONOMIC RELATIONS WITH THIRD COUNTRIES

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**Abstract:** The European Union has progressively introduced gas regulatory packages since the late 1990s to liberalize gas trade and establish a unified and competitive gas market. This has transformed the EU gas market from a monopolistic structure with vertically integrated enterprises to one where gas suppliers compete and infrastructure operators are unbundled. The Fourth Gas Package, adopted on May 21, 2024, builds on the previous package from 2009 and aligns with the EU's Green Deal and the Fit for 55 plan, targeting emission reductions, market modernization, and the integration of hydrogen and low-carbon gases. Hydrogen should serve as a source of clean energy in the EU's future energy scheme for areas where gaseous energy carriers have an irreplaceable role and where electrification is not suitable. As the primary exploratory method, we used two structured interviews in the article: one with a representative of the Slovak Transmission System Operator and another with a representative of the Regulatory Office for Network Industries. The majority of the article employs a quantitative method in the form of analysis, focusing primarily on the 4th Gas Package.

**Keywords:** European Union, 4<sup>th</sup> Gas Package, Gas infrastructure

**JEL:** F00, P18, P28

## Introduction

Predicting the future of the gas market is a complex task that depends on many factors, including policy, technological developments, energy trends, and economic conditions. Currently, we must consider various trends that significantly shape the future of the gas market. The future of the gas market will also be strongly influenced by the regulatory and legislative decarbonization framework represented by the Fourth Gas Package. The purpose of this legislation is to facilitate the integration of renewable and low-carbon gases, especially hydrogen and biomethane, into the energy system. These steps align with the European Union's long-term efforts to reduce greenhouse gas emissions. In addition to its decarbonization goals, the EU aims to support a modern economy and to integrate and decarbonize the natural gas and hydrogen markets. These objectives are outlined in the European Green Deal and the Fit for 55 package. The Fourth Gas Package, already mentioned, is intended to support these goals legislatively, with its final version adopted by the European Council on May 21, 2024. This package builds on the "Third Energy Package" from 2009. In this article, we will analyze the benefits of the Fourth Gas Package for the energy market and its indirect impact on international economic relations with third countries.

## 1 Analysis of the Fourth Gas Package

The primary goal of the Fourth Gas Package is to support and facilitate the introduction of renewable and low-carbon gases. This new package updates the rules for the operation of gas networks and markets, aligning the gas energy sector with the broader goals of the EU

Green Deal and climate legislation. The package includes measures divided into two implementation phases: until 2030 and beyond. It consists of two components:

1. an update to the Regulation on "internal markets for renewable gas, natural gas, and hydrogen," and
2. an update to the Directive on "common rules for internal markets for renewable gas, natural gas, and hydrogen."

The regulation is part of a set of measures for decarbonizing hydrogen and gas markets, which also includes the directive. Both the regulation and directive are part of the Fit for 55 package. The objective is to create a regulatory framework for dedicated hydrogen infrastructure and markets, integrated network planning, and to reduce the use of fossil fuels and dependence on imported fossil fuels. The European Commission published the first proposal for revising these two documents in December 2021. Since then, the package has been revised under the EU's "ordinary" legislative procedure. It will not undergo further amendments and is awaiting publication in the Official Journal of the European Union. The gas regulation will take effect six months after its publication, while Member States will have two years to adapt their national legislation to the provisions of the new gas directive.

One of the main goals of the package is to create a hydrogen market and establish suitable conditions for such a market, supporting the development of specialized infrastructure and an enabling environment for investments in a blended gas energy market. This market will contain decreasing amounts of fossil (natural) gas and an increasing share of renewable and low-carbon gases of various origins and properties. Specifically, this means:

- Setting conditions to facilitate the rapid and sustained uptake of renewable and low-carbon gases,
- Improving market conditions and increasing gas consumer engagement,
- Better addressing current supply security concerns,
- Tackling price and supply issues at the EU level,
- Recalibrating the structure and composition of regulatory authorities.

The aim of the package is to eliminate all barriers to the development of cross-border hydrogen infrastructure. It enables zero transport tariffs for hydrogen by agreement between neighboring hydrogen infrastructure operators.

### **1.1 Analysis of the Fourth Gas Package - unbundling**

The package similarly does not forget about vertical and horizontal unbundling in the case of hydrogen, just like in the case of gas. From vertical unbundling, it follows that member states must ensure that one entity cannot operate both hydrogen transportation and its production within two years of signing the package, thus attempting to prevent the formation of a monopoly in the market. Horizontal unbundling ensures that operators of gas transmission networks cannot operate hydrogen networks. However, in this case, the state can apply for an exemption, which must be analyzed and assessed by the regulator. The package states this explicitly as follows: "To ensure transparency concerning costs and financing of regulated activities, the activities of hydrogen network operators should be separated from the activities of operators of networks for other energy carriers, at least in legal form and in the accounts of network operators." According to Article 62 of the proposed directive, member states must ensure that hydrogen network operators are separated just like the operators of natural gas transmission systems. Hydrogen networks must be operated separately from the production and supply of energy. Within the planned new framework, hydrogen network operators cannot have:

- the authority to exercise voting rights;

- the authority to appoint members of the supervisory board, management board, or bodies that legally represent the company; or
- to hold a majority stake in a company that performs any functions related to the production or supply of hydrogen.

In general, they cannot have direct or indirect control over such a company. Likewise, hydrogen producers or suppliers cannot exercise the aforementioned rights over the operator of the hydrogen network. Just like operators of gas transmission systems, hydrogen network operators will need to be certified by the national regulatory authority before being approved and designated as operators under Article 65 of the proposed directive.

## **1.2 Analysis of the Fourth Gas Package - network**

Three key changes have emerged in the overall governance, coordination and planning of the network. Firstly, an entity for European distribution system operators will be established. To support hydrogen technologies and infrastructure, a new European hydrogen network operator structure, ENNOH, will be created to support hydrogen infrastructure. ENNOH will be fully independent of the existing European Network of Transmission System Operators for Gas (ENTSOG). ENNOH's tasks will include the development of relevant network codes, in some cases in cooperation with the European Network of Transmission System Operators for Gas (ENTSOG), as well as the development of pan-European, non-binding Ten-Year Network Development Plans (TYNDPs) for the hydrogen sector. ENNOH will consist of certified hydrogen transmission system operators. In January 2024, 36 infrastructure operators met for the first time to discuss the ENNOH statutes and to start the process of establishing ENNOH. These operators include Hydrogen PCI project promoters, members of the European Hydrogen Backbone initiative and other designated operators.<sup>1</sup>

When analysing the 4 gas package and its impact on the network, we must also mention the extension of the demand aggregation mechanism (adopted during the energy crisis in 2022), which is on a voluntary basis. As Mr Rusinak from the TSO states in a structured interview, in the context of setting network tariffs in the case of the hydrogen market, each national regulatory authority must consult with neighbouring national regulatory authorities on the draft tariff setting methodology and submit it to the Agency for the Cooperation of Energy Regulators (ACER). Each NRA shall retain the right to set its own tariff.

For the transport of natural gas, the fourth gas package foresees the addition of hydrogen to the gas infrastructure up to 2%. Hydrogen and renewable gases blended into the gas infrastructure are to receive a rate discount of up to 75%. An important condition in the package is the incorporation of hydrogen and renewable gases into the existing natural gas infrastructure.

After analysing the individual data, we can conclude that the EU is conscientiously preparing its market for the future transition to a hydrogen and renewable gas market, of which the grid is an important part. However, the future development of the European hydrogen network depends on a number of factors such as infrastructure and its necessary expansion with significant investment, the development of efficient ways of producing mainly green hydrogen, the decarbonisation of hard-to-electrify sectors, and investment in innovation and new technologies.

## **1.3 Analysis of the Fourth Gas Package - market**

The legislative framework of the package includes a terminology and certification system for hydrogen and low carbon gases. The new gas package extends the regulation on security of gas supply by extending its scope to renewable and low-carbon gases

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<sup>1</sup> ENNOH (2024): ennoh about us.

and adapting the market to new threats such as cyber threats. The European Union's stance on renewable vs low-carbon gases has long been debated given its importance for incentives, disincentives and transition timelines. The EU's Recast Renewable Energy Directive (RED) (2023/2413) and its delegated acts have contributed significantly to the definition and classification of these gases, but the set of definitions is not yet fully finalis.<sup>2</sup> The gas package represents another important step towards completing this picture. The revised preamble of the Gas Directive states that 'Renewable hydrogen is the most compatible in the long term with the EU's objective of climate neutrality and zero pollution and the most coherent with an integrated energy system'. However, given the limited availability of renewable hydrogen in the near future, "low-carbon fuels such as low-carbon hydrogen can play a role in the energy transition in line with the EU's climate goals, in particular in the short and medium term to rapidly reduce emissions from existing fuels and support the transition of EU customers in hard-to-decarbonise sectors where more efficient or cost-effective options are not available". In this sense, the EU's position is clear. Low carbon fuels are designed to reduce emissions where immediately practical and efficient in the short term, but are not consistent with a long-term vision for the EU economy and energy system.

The package also includes new provisions on solidarity. In the event of a crisis, and even in the absence of agreements between the two parties, a Member State can ask another EU Member State to provide gas supplies on a market basis. Safeguards have also been strengthened with standard provisions for cross-border gas flows during an emergency.

The package redefines the concept of strategic stocks and requires Member States to ensure the efficient use of infrastructure and storage sites, including cross-border exchanges. It also reintroduces joint risk assessment at regional level. The new legislation also allows Member States' transmission system operators to voluntarily introduce a mechanism for the pooling of strategic stocks as a precautionary measure to ensure security of gas supply.

One of the key provisions of the new legislation on international economic relations is to allow EU states to block pipeline gas imports from Russia and Belarus or imports of liquefied natural gas by preventing Russian or Belarusian firms from reserving capacity in the gas infrastructure.<sup>3</sup>

The legislation also requires the European Commission to publish a methodology for assessing the carbon footprint of blue hydrogen (produced by electrolysis of water), which will take into account methane emissions from production, hydrogen leakage and the carbon capture rate for the project. The European Commission is due to publish the methodology in 2025.<sup>4</sup> The legislation also aims to promote the use of sustainable methane.

Hydrogen is planned to be used mainly in hard-to-decarbonise sectors with high GHG reduction potential. In the future, hydrogen is expected to be used mainly in industry and not for domestic heating. However, under the new legislation, customers will be able to choose whether they want to take renewable and low-carbon sources. As a further legislative step, the European Commission proposes to adopt a directive on consumer rights, which includes price regulation and support for vulnerable customers.

The European hydrogen market has great potential but also some significant challenges to overcome to make hydrogen a viable and widely used part of the energy mix. The biggest challenges are the still high cost of producing green hydrogen and the aforementioned necessary investments in infrastructure. Technological challenges and the efficiency of green hydrogen production in particular are also a major issue, as there is still an energy loss in the production of green hydrogen by electrolysis, which means that only a fraction of the energy from the

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<sup>2</sup> EÚ (2023): Smernica Európskeho Parlamentu a Rady (EÚ) 2023/2413.

<sup>3</sup> JURCOVÁ, V. (2024): Nový plynárenský balíček – 3. časť: Plánovanie siete bezpečnosť dodávok i zákaz ruského plynu.

<sup>4</sup> ČEPEROVÁ, K. (2024): Nový plynárenský balíček – 2. časť: Vodík bude dekarbonizovať' prevážne priemysl.

renewable feedstock is actually converted into hydrogen. To ensure affordable green hydrogen, the efficiency of these technologies therefore needs to be increased. Equally problematic are hydrogen fuel cells and hydrogen storage facilities, which are still technically challenging and expensive. Research and development funding will be needed to make these technologies competitive and more affordable. However, the most important factor for the full development of the hydrogen market is demand. Unless the demand for hydrogen is sufficiently developed, the market will not have the incentives to develop.

## **2 Slovakia and the Fourth Gas Package**

Slovakia is still a major player on the European gas market, much larger than Slovakia's geopolitical role on the map of the European Union. Slovakia operates an important and large natural gas transmission network, which represents an important crossroads between East and West and between North and South, thanks to very rational and strategically well-judged investments in Slovakia's North-South interconnection with Poland and Hungary. Slovakia, as an important part of the European transport routes for natural gas and, in the future, for hydrogen, is part of the projects that should enable the transport of renewable hydrogen. These projects have already been mentioned above. In particular, the Central European Hydrogen Corridor (CEHC), which aims to transport hydrogen from Ukraine via Slovakia, then the Czech Republic, to Germany and the rest of the EU<sup>5</sup>, with Ukraine as a serious producer of hydrogen. To prepare the Slovak transport network for hydrogen, several pilot projects have already been carried out with the addition of hydrogen to the gas infrastructure, which have gone well. However, for the transport of pure hydrogen, significant investments will have to be made in the transport infrastructure to fully adapt it for hydrogen transport.

The 4th gas package has a particular impact on Slovakia in the areas of strengthening energy security, increasing competition in the market, decarbonisation and emissions reduction, and consumer protection. According to Mr Milan Sedláček, Director of European Affairs and Strategy at eustream, a.s., the Fourth Gas Package is particularly important in terms of creating a stable and predictable legislative and regulatory framework. Such a framework, which, for example, will determine under what conditions and who can operate hydrogen transmission networks, what their regulation and financing will be, Mr Sedláček states in a structured interview.

## **3 Impact of the Fourth Gas Package on the EU's International Economic Relations with the third countries**

The EU's 4th gas package has had a significant impact on the EU's international economic relations with third countries by introducing stricter environmental standards, promoting renewable energy sources and strengthening energy security. The fourth package gives Member States the possibility to block gas imports from Russia and Belarus by preventing these countries from reserving European gas infrastructure capacity. In this way, the EU wants to strengthen its independence from fossil fuel imports and reduce the risks posed by the EU's dependence on Russian gas. However, such an attitude has a negative economic impact on countries dependent on fossil fuel imports, which includes Slovakia, not only because of price increases, but also because of the loss of transit fees, which make up a significant part of the state budget's revenue. This policy also negatively affects individual exporting countries, which may motivate these countries to diversify their export partners.

The 4th gas package also brings support for the market for renewable hydrogen and low-carbon gases, bringing new opportunities for the EU to work with other countries

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<sup>5</sup> CEHC(2024): Central European Hydrogen Corridor.

on new energy partnerships and transport routes for hydrogen and low-carbon gases. Countries with developed potential for renewable energy production, such as Morocco or Norway, can become key partners for the supply of hydrogen and renewable gases to the EU. This reorientation will help reduce global emissions and encourage investment in sustainable technologies in countries outside the EU. It can also expand the EU's capacity for economic cooperation, as countries such as South Korea, Japan and the US have well-developed hydrogen programmes, which the EU can draw on, but which are also international competitors in the hydrogen market.

The package introduces standards and certification schemes for renewable and low-carbon hydrogen, setting an international framework for sustainable energy solutions in the EU. The move may influence third countries wishing to export to the EU to introduce the same or similar standards. The emerging need to meet strict environmental criteria may also stimulate the development of cleaner technologies outside the EU. At the same time, however, such criteria may present barriers for countries that do not reach the same level of development and sustainability.

The fourth package contains provisions on solidarity between EU Member States in gas supply. In the event of a crisis, a Member State can ask another EU country for assistance on a market basis, which reduces vulnerability to external supply shortages. This approach enhances Europe's energy security and at the same time puts pressure on third countries to maintain stable and predictable gas supplies for the whole EU, which will contribute significantly to the EU's overall energy security.

Through the fourth gas package, the EU is emphasising the need to achieve carbon neutrality and a low-carbon transition, which can be an opportunity for new partnerships with countries interested in developing clean energy. These economic and environmental objectives can lead to increased EU investment in infrastructure and energy projects in developing countries, thereby also supporting their economic growth and technological progress. Overall, the Fourth Gas Package has a transformative impact on the EU's international economic relations with third countries by accelerating the transition to sustainable energy, promoting diversification of resources and creating a new framework for trade and investment in clean energy. The package also strengthens the EU's global position as a leader in climate policy and sustainability.

## **Conclusion**

The future of the European hydrogen market is full of opportunities but also challenges that will require strong public and private sector support, technological innovation, high investment costs and cooperation between EU Member States. The success of this transformation can put Europe at the forefront of the global hydrogen economy, which can have a positive impact on climate goals and the competitiveness of European industry. The adoption and implementation of the 4th gas package, which, although it has been delayed considerably, has provided answers to fundamental questions such as the conditions for investing in the repurposing of the transmission network, clarified how the certification of the transmission system operator will be carried out, what unbundling model is allowed and what rights and obligations the various players in the gas and hydrogen market will have in the future. The package has brought positive changes in the area of vertical and horizontal unbundling for natural gas transmission system operators, who will be able to exploit synergies to a reasonable extent. In conclusion, the Fourth Gas Package represents a pivotal step in the European Union's journey toward decarbonization, resource diversification, and energy security. By setting up a framework that incentivizes the integration of renewable and low-carbon gases—particularly hydrogen—the package aligns with the EU's overarching goals of climate neutrality, resilience, and sustainability as outlined in the European Green

Deal and the Fit for 55 package. At a structural level, the Fourth Gas Package will modernize the gas and hydrogen markets through mechanisms like unbundling and the creation of the European Network of Hydrogen Operators (ENNOH). This transformation establishes the regulatory environment and infrastructure needed for a shift from conventional fossil fuels toward a market inclusive of renewable gases. By ensuring that hydrogen transmission systems are independent of gas networks, the package facilitates a more competitive market and prevents monopolistic practices, fostering a level playing field for investments and innovation. Furthermore, the package introduces a structured approach to European energy solidarity, reinforcing mechanisms that ensure mutual support among EU Member States in times of supply crisis. This strengthens not only intra-EU energy security but also sends a message to third countries about the EU's commitment to energy stability and cooperation. Provisions allowing Member States to limit energy imports from certain geopolitical areas reflect the EU's strategic intent to decrease reliance on potentially volatile fossil fuel supplies, such as those from Russia and Belarus. While this increases EU independence, it also encourages producer countries to seek alternative markets and partnerships. Internationally, the Fourth Gas Package fosters new trade and energy partnerships with countries well-positioned for renewable energy production, such as Morocco and Norway. The framework's focus on certification for renewable hydrogen and sustainable production aligns EU imports with climate goals, setting standards that third countries must meet to access the European market. This potentially drives global advancements in cleaner energy technology, even outside the EU, while creating an incentive structure that benefits partners committed to similar sustainability goals. Despite the considerable promise of the Fourth Gas Package, challenges remain. Significant investment is required in infrastructure, technology, and R&D to make hydrogen and other renewable gases affordable and practical at scale. Technological advancements in green hydrogen production efficiency and storage are essential for these fuels to become economically viable. Demand for renewable gases will also need to be cultivated to stimulate further market growth. For Member States like Slovakia, the Fourth Gas Package has substantial implications. As a major gas transit country, Slovakia's strategic role in the European gas market could evolve significantly with infrastructure upgrades to accommodate hydrogen. The package's regulatory framework offers stability, enabling countries like Slovakia to attract investments while adapting to a low-carbon future. Ultimately, the Fourth Gas Package marks a transformative chapter for the EU's energy landscape and international economic relations. It underscores the EU's global leadership in climate action, facilitating a secure, diversified, and sustainable energy future. The EU's ambitions for a low-carbon energy system drive regional integration, foster international cooperation, and help set a global standard for decarbonized economies—positioning the EU as a pioneer in the energy transition, with broad implications for economic partnerships, market stability, and environmental progress worldwide.

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# RULE OF LAW AND POST-CONFLICT JUSTICE

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**Abstract:** Rule of law is a concept applicable both at the national and international levels, and is widely recognized. Post-conflict justice is tied to a strong position of the rule of law in a state. Or precisely, if the basic principles of the rule of law are absent in a state, peacebuilding in a post-conflict situation may become impossible. The main goal of the paper is to define the rule of law, and alongside to determine related terms, which should theoretically be essential for building post-conflict justice and peace. And a partial goal is to identify at least a few of principles of rule of law in the situation after the signing of the peace agreement in 2005 in Sudan and South Sudan.

**Keywords:** rule of law, post-conflict justice, fragile state, Sudan, South Sudan

**JEL:** L93, K41

## Introduction

The situation and context of armed conflict varies from country to country, and the same applies for each individual post-conflict periods and the exercise of the conditions of peace and justice. In order for post-conflict societies to be able to fulfill the principles of the rule of law, it is usually necessary to deal with issues related to the prosecution, or rather the possible non-prosecution of crimes committed during the conflict, as well as with the creation of a sound legal infrastructure (or infrastructure as such) and with the construction of so-called strong (functioning) institutions. At the same time, the transition to peace in states is not left exclusively to the parties to the conflict, especially given the globalized, interconnected world and the view of the international community as a whole on these situations. Strengthening the rule of law, at national and international levels, is a key goal of the international community, as expressed in multiple statements of heads of state, high-level meetings and resolutions made under the auspices of the United Nations.<sup>1</sup> Recently, there has also been a noticeable effort to strengthen national criminal justice systems with a focus on the rule of law, especially in post-conflict states, given that the restoration of law and order immediately after a conflict is a decisive factor in building of permanent peace.<sup>2</sup> In the practice of the states of the international community, a disparate complex of diverse phenomena can be seen, which have a direct or indirect impact on post-conflict situations in the state and raise questions related to the definitional application of the relevant terms.

In the first part, this contribution deals with what can be understood as the term rule of law, and which possible definitions can be used as a basis, and at the same time contains an outline of the various categories of terms that can be applied in connection with the post-conflict situation. The second part of the article is devoted to the case study of Sudan and South Sudan, respectively the post-conflict situation after the signing of the peace treaty in 2005, through an attempt to briefly define the rule of law for the given situational reality. Due to the effective achievement of the aim, relevant research procedures and methods

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<sup>1</sup> LOPEZ-CLAROS, A. – DAHL, A. L. – GROFF, M. (2020): Strengthening the International Rule of Law, p. 210.

<sup>2</sup> See, for example: HURWITZ, A. – STUDDARD, K. (2005): Rule of Law Programs in Peace Operations, or POTTER, A. (2004): The Rule of Law as the Measure of Peace? Responsive Policy for Reconstructing Justice and the Rule of Law in Post Conflict and Transitional Environments.

were chosen, i.e. basic research methods, especially logical methods (analysis, synthesis, abstraction, induction, deduction), and descriptive-causal methods.

### **1 Philosophical Issues of terminological frameworks of the Rule of Law?**

From an international legal perspective, the term "rule of law" is essentially a controversial term with a volatile content anchoring. In a very simplified way, it could be characterized as the supreme authority of the law over the actions of the government and individual persons, while it is possible to argue that this concept is the result of historical development and is essentially connected to the liberal-democratic form of governance. There are two competing definitions of the concept. In a narrower view, this concept is purely formal and includes the actions of the state in accordance with the legal norms announced by it, which should contain certain minimum criteria for validity. A broader perspective looks at the concept more substantively, and includes into it as well justice and morality.

In the broader sense of the term, into the key principles of the rule of law include superiority of law, separation of powers, known and predictable law, equality, protection of human rights, enforceable law, independent judiciary and right to participate. The first principle refers to the fundamental nature of the rule of law, namely its key function, which is "the rule of law and not of men", as defined by Aristotle in his time.<sup>3</sup> The second principle ensures both the separation of powers in the state and the general application of legal rules without discrimination and enforcement of legal rules in relation to everyone (not only in relation to some selected groups). Two others are linked to this principle, namely that the law must be known and foreseeable so that everyone is aware of the consequences of their actions, and must be applied equally to all persons in similar situations. And thus, that the legal rules must be sufficiently defined and the authority of the government must be sufficiently limited to avoid the application of the law in a non-arbitrary manner. At the same time, it is possible for different groups to be treated differently, but there must be a fundamental requirement that the different treatment has a rational basis. The fifth principle is the substantive embodiment of justice and the protection of human rights, with the fact that it should be primarily helpful in differentiating a government acting within the rule of law from a government operating in accordance with the law (e.g. some elements of the rule of law were also present in Nazi Germany). Access to a fair trial has to be guaranteed in a state with rule of law, with the procedural rules being sufficiently reliable, so that the rules in the state are enforceable in relation to all. This principle is based on the institutional as well as the decision-making independence of the judiciary, while the first mentioned is the independence of the judiciary from the executive and legislative powers in state. Decision-making independence lies in the fact that a judge must decide in a particular case only on the basis of the law and the facts presented to the judge in the given case. The last principle, personified through participation, was also included in the definition of the rule of law by the UN Secretary-General,<sup>4</sup> and essentially indicates that a democratic form of government is a requirement of the rule of law.

At its most abstract level, the rule of law is concerned with constraining the exercise of power within and through a generally applicable normative framework.<sup>5</sup> The basic definition of the rule of law can be established through the understanding of the rule of law as a state that intervenes in the sphere of human and civil rights and freedoms only to the extent that it is

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<sup>3</sup> See ARISTOTLE (1996): *The Politics*. In: *The Politics and the Constitution of Athens*, pp. 87-88.

<sup>4</sup> See U.N. Secretary-General (2004): *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*.

<sup>5</sup> U.N. Human Rights Council (2024): *Role of the rule of law and accountability, at the national and international levels, in the prevention of human rights violations and abuses: study of the Office of the United Nations High Commissioner for Human Rights*, p. 2.

necessary, and even then only on the basis of the constitution and laws, so that it limits human freedom only minimally. It can be stated that there is general agreement at both the national and international levels on the basic elements of the rule of law related to human rights. In this context, it is important to emphasize that most states in the world have acceded to the UN Charter and both international covenants<sup>6</sup>. In essence, the broad acceptance of human rights standards by states in the international community represents a kind of reference point in relation to the concept of the rule of law. And basically, it can be argued that concepts such as justice, the rule of law, and transitional justice are essential to understanding the international community's efforts to strengthen human rights, support of development, promotion of responsible governance, and peaceful settlement of disputes. Lord Ashdown, High Representative for Bosnia-Herzegovina, noted: "In hindsight, we should have put the establishment of the rule of law first, for everything else depends on it: a functioning economy, a free and fair political system, the development of civil society, public confidence in the police and the courts."<sup>7</sup>

The rule of law, like other theoretical normative concepts, is a product of national jurisprudential and political discourse. Before a society's transitions to democracy or good governance, it is generally true that both authoritarian regimes and states in the territory of which an armed conflict is taking place do not observe the settings related to the principles of the rule of law. Among other things, because these are failed and/or fragile states. The restoration or establishment of the rule of law is therefore generally considered a priority desideratum. Transitional or post-conflict justice measures are often expected to help promote peace in conflict-affected countries through means that rely heavily on legal or legalized processes, such as trials.

## 2 Terminological ambiguities of related concepts

For a fragile state, it is generally true that fragility is the basis of violence, or rather the inability to ensure peace and security on its territory. Unstable states are considered a "breeding ground for terrorism."<sup>8</sup> The instability of State causes social, legal and political problems that are a reflection of the "ineffectiveness" of the rule of law in the state, and which lead to the loss of effective control over the state territory (all or only a certain part or parts), and the associated partial or complete collapse of the state, which can subsequently cause a threat to international/regional peace and security through the spillover effect.

As a result of the categorization and classification of states based on their relative stability and efficiency, various indices and quantitative indicators have been created. These include e.g. The Fragile States Index<sup>9</sup> (FSI, formerly known as the Failed States Index) produced by The Fund for Peace and Foreign Policy magazine,<sup>10</sup> the World Bank's periodic lists of fragile states,<sup>11</sup> the Organisation for Economic Cooperation and Development's (OECD) 'States of Fragility' Reports (SFRs)<sup>12</sup> and the Index of State Weakness<sup>13</sup> created by the Brookings Institution. These rankings categorize states in terms of protection of religious

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<sup>6</sup> The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

<sup>7</sup> ASHDOWN, P. (2002): What I Learned in Bosnia, A2.

<sup>8</sup> KAPLAN, S. D. (2008): *Fixing Fragile States: A New Paradigm for Development*, p. 38.

<sup>9</sup> See The Fragile States Index. Available online: Fragile States Index | The Fund for Peace.

<sup>10</sup> See Foreign Policy magazine. Available online: Foreign Policy – the Global Magazine of News and Ideas.

<sup>11</sup> See World Bank's periodic lists of fragile states. Available online: Classification of Fragile and Conflict-Affected Situations.

<sup>12</sup> See the Organisation for Economic Cooperation and Development's (OECD) 'States of Fragility' Reports (SFRs). Available online: States of Fragility | OECD iLibrary.

<sup>13</sup> See the Index of State Weakness. Available online: Index of State Weakness in the Developing World.

freedoms, means of addressing food shortages, GDP growth, degree of corruption reduction in the state, existence of demonstrations and riots, or degree of violence in the state, etc.

To some extent, domestic legal traditions can be considered as decisive and explanatory factor affecting post-conflict justice. For example in the case of some states with Islamic legal system, it is obvious that their connection between Islamic law and the Islamic faith is particularly important for them, which is subsequently reflected in their willingness (or rather unwillingness) to support, or participate in international "forums" (we can include e.g. International Court of Justice and International Criminal Court) which are based on Western legal systems and traditions. It can be stated that legal traditions refer to various social ideas, doctrines and institutions characteristic of a given state, which persist over time, and in essence despite political changes. Merryman and Pérez-Perdomo provide an often-cited definition: „it is a set of deeply rooted, historically conditioned attitudes about the nature of law, about the role of law in the society and the polity, about the proper organization and operation of a legal system...“<sup>14</sup> In this context, it is necessary to highlight the potential difference between legal tradition and legal system. Zartner<sup>15</sup> describes legal tradition as "a set of deeply rooted, historically conditioned attitudes of a society towards the nature of law, the role of law in society, and the establishment and proper organization and functioning of the legal system within the state." Legal systems then essentially identify the processes and procedures that are used to implement the ideas and doctrines of the legal tradition of a given state - ultimately, it is about the interpretation and enforcement of law.

And thus, when determining the congruent mechanisms of post-conflict, in this understanding of transitional justice, the aspects of legal traditions and legal systems characteristic of individual states are taken into consideration. Transitional justice in the post-conflict period is generally understood as a set of legal and political mechanisms with the help of which states should overcome an authoritarian regime or an armed conflict. These mechanisms typically include legal proceedings (both national and international), truth-seeking and reconciliation measures, reparations, or guarantees of non-repetition. Transitional justice toolbox is designed not only to set the individual accountability for crimes committed but also attempts to determine the pattern of structural violence and disclose the truth about the abusing practices of non-democratic regimes at the level of a state.<sup>16</sup> The term can be defined as "a set of legal norms that apply to the entire process of transition from armed conflict to a just and sustainable peace."<sup>17</sup> Transitional justice discourse is very often traced back to the end of World War II and the legacy of the International Military Tribunal (IMT) in Nuremberg.<sup>18</sup> The legacy of the Nuremberg Trials, apart from ending impunity for perpetrators of international crimes, was also to deal with the post-conflict "legacy". In this context, it can be stated that the pursuit of "heritage" in practice is noticeable through the creation of various international tribunals and courts, which was essentially completed with the establishment of the International Criminal Court. „The field of post-conflict justice includes many well-known initiatives, from the International Criminal Court (ICC) trying accused war criminals in The Hague to the United States organizing massive

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<sup>14</sup> MERRYMAN, J. H. – PÉREZ-PERDOMO, R. (2007): *The Civil Tradition: An Introduction to the Legal Systems of Europe and Latin America*, p. 2.

<sup>15</sup> ZARTNER, D. (2014): *Courts, codes, and custom: Legal tradition and state policy toward international human rights and environmental law*, p. 27.

<sup>16</sup> LACHOWSKI, T. (2017): *Transitional Justice in Ongoing Conflicts and Post-War Reconstruction: Reintegrating Donbas into Ukraine*, p. 38.

<sup>17</sup> IVERSON, J. (2014): *Contrasting the Normative and Historical Foundations of Transitional Justice and Jus Post Bellum: Outlining the Matrix of Definitions in Comparative Perspective*, p. 91.

<sup>18</sup> ELSTER, J. (2004): *Closing the Books: Transitional Justice in Historical Perspective*, p. 78.

programs to rebuild the justice systems in Afghanistan and Iraq.<sup>19</sup> The 20th century is characterized by the proliferation of international organizations and legal institutions, most of which copy Western legal traditions.

### **3 Case studies: Sudan vs South Sudan and Rule of Law?**

In relation to Sudan, this qualitative analysis is connected to the narrowly defined post-conflict period after the signing of the so-called The Comprehensive Peace Agreement (CPA) in 2005, which primarily led to the creation of the new state of South Sudan. The aim of the analysis is to briefly highlight the long-standing armed conflicts (which cause state fragility) in the context of the relationship between the southern and northern regions of Sudan, through simplified summary of factual reality of conflict situations. At the same time, the analysis focuses on outlining at least certain elements of the rule of law, both in the conflicts itself and in the quasi-post-conflict period (after the signing of the CPA) in the context of both states.

Before independence, Sudan was under joint administration of Great Britain and Egypt from 1898, with the northern and southern regions being administered separately until 1947. From that year on, political power fell into the hands of the northern elite, which consisted mainly of Arab ethnic groups. After independence, this led to constant fighting between the northern and southern regions. The armed conflict in Sudan lasted for about fifty years, approximately from 1955-6 to 2005, with a break between 1972 and 1983. Essentially the longest-lasting civil war (in the international legal sense – NIAC non-international armed conflict) began with Sudan gaining independence, which caused the south to be dominated by the north, which in turn led to the southerners being denied a share in power. Between 1955 and 1972, a civil war occurred between the Northern and Southern regions of Sudan that resulted in an estimate of 500.000 civilian casualties.<sup>20</sup>

In 1972, the government of President Jaafar Nimeiri negotiated a peace agreement with the South that lasted almost eleven years, but in 1983 there was a resumption of violence due to the continued economic and political marginalization of the South and the growing strength of political Islam in the North. To ensure his own political survival, Nimeiri introduced nationwide sharia law. Humanitarian groups estimate that during the second phase of the civil war, which began in 1983, about 2 million people died,<sup>21</sup> mainly from malnutrition and disease, and the number of internally displaced persons exceeded 4 million. These conflicts have opposed many groups such as Muslim-Christian, Arab-African, nomad-sedentary, etc., as they have laid the ground to Sudan's development in all its forms, whether economic, social or legal.<sup>22</sup>

A military coup brought Omar Hassan al-Bashir to power in 1989, who was "re-elected" in undemocratic elections in 2000. His rule was characterized by authoritarianism, with the proviso that he naturally concentrated all effective political power in himself, or rather in his political party or various supporters. Members and supporters of The National Congress (NC) Party and the fundamentalist National Islamic Front (NIF) „continued to hold key positions in the Government, security forces, judiciary, academic institutions, trade unions, professional associations, and the media.“<sup>23</sup>

During the transitional period following the adoption of the CPA, South Sudan became semi-autonomously governed for 6 years. Based on the CPA, the Interim National Constitution

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<sup>19</sup> BAYLIS, E. (2014): Function and Dysfunction in Post-Conflict Justice Networks and Function and Dysfunction in Post-Conflict Justice Networks and Communities, p. 627.

<sup>20</sup> BLACK PAST (2020): 'First Sudanese Civil War 1955-1972'.

<sup>21</sup> BLACK PAST (2018): 'Second Sudanese civil war 1983-2005'.

<sup>22</sup> PARMAR, S. (2007): An Overview of the Sudanese legal System and Legal Research.

<sup>23</sup> U.S. Department of State (2004): Country Reports on Human Rights Practices – 2004, SUDAN.

was created, applicable to the whole of Sudan (North and South), as the legal framework and supreme law. The term “rule of law” / “supremacy of the rule of law” can be found in Article 4 para. a, Article 25 para. e, Article 128 para. 2 and Article 144 para. 3 of the Interim National Constitution of the Republic of Sudan as a principle guiding the “devolution and distribution of powers between all levels of government”, the judiciary as well as the “Sudan National Armed Forces and the Joint/Integrated Units.”<sup>24</sup> At the same time, the mandate of The Interim Constitution of Southern Sudan (ICSS) was adopted through the CPA, which was a reflection of the search for a proper governance model for the future state of South Sudan.

In July 2011, South Sudan gained independence from Sudan, becoming the 55th African state. While President Salva Kiir has called for a new beginning of tolerance, love, and unity<sup>25</sup> a "militarized, corrupt, neo-patrimonial system of governance"<sup>26</sup> has led to ethnic violence, civil war, and a humanitarian crisis since 2013. In 2018, President Salva Kiir and Riek Machar (between whom the conflict primarily took place) signed in Addis Ababa the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) in Addis Ababa, which provided for the establishment of and the Revitalized Transitional Government of National Unity (RTGoNU). According to the UN, 1.4 million South Sudanese people are internally displaced, 2.2 million are refugees and asylum seekers abroad, and 6.5 million face persistent food insecurity.<sup>27</sup>

Historical, social and political factors have (understandably) shaped the Sudanese legal system, including legal traditions that are a legacy of the colonial era, a historically Arab-dominated central government, and a system of informal laws that apply within respective religious, ethnic or tribal communities. According to International Crisis Group, Sudan is divided by religion (70 per cent Muslim, 25 per cent animist, 5 per cent Christian), ethnicity (between African and Arab origin Sudanese), tribe and economic activity (between nomadic and sedentary cultures).<sup>28</sup> The complexity and lack of transparency of the given legal system ultimately make it impossible to get a comprehensive overview. Sudan is a party to relevant human rights international treaties including the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the African Charter on Human and Peoples’ Rights. These treaties are also an integral part of Sudan’s Bill of Rights. The judicial system is contradictory and includes community means of dispute resolution through local chiefs known as sultans. In addition to the Supreme Court and the Constitutional Court, the Sudanese judicial system includes four types of courts: ordinary courts, which mainly hear criminal and civil cases; special mixed security courts, military courts and tribal courts that apply customary law to resolve disputes over land and water rights and family matters. Due to ethnic and religious diversity, individual judicial bodies also differ from tribe to tribe and from community to community. The authoritarian regime has led to the arbitrary dismissal of qualified judges and prosecutors, and at the same time, the existing legal system does not ensure real protection of fundamental human rights and fundamental freedoms, also due to the adoption of military decrees and so-called emergency laws. And despite the fact that the 2005 constitution „provides for an independent judiciary; however, the judiciary (is) largely subservient to the President or the security forces, particularly in cases of crimes against the state.“<sup>29</sup> Administratively, South Sudan consists of ten decentralized states and seventy-nine districts, with the president unilaterally expanding the states from the original ten states

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<sup>24</sup> HATEM, E. (2010): Rule of Law in the Sudan, p. 2.

<sup>25</sup> WORLD BANK GROUP (2011): South Sudan’s President Dedicates Independence to Fallen Heroes.

<sup>26</sup> DE WAAL, A. (2014): When kleptocracy becomes insolvent: root causes of the civil war in South Sudan, p. 348.

<sup>27</sup> See UNHCR, South Sudan Refugee Crisis Explained.

<sup>28</sup> See ICG Conflict History – Sudan.

<sup>29</sup> U.S. Department of State (2004): Country Reports on Human Rights Practices – 2004, SUDAN.

recognized by the constitution to thirty-two states in 2014. The judicial system in South Sudan is similar to the north in that it consists of both statutory and “customary” courts. The relationship between the two also remains unclear, with no clearly defined rules, despite the formal subordination of customary courts to statutory courts. This ambiguity is compounded by the fact that customary courts are linked to the executive branch, and administered by local governments. South Sudan has adopted English as its official language, and common law as its legal system. This has resulted in the majority of legal graduates being unable to practice their profession, either because they speak Arabic or because they have an education from the north, which is based on Sharia.

### Conclusion

The challenge of establishing the rule of law, especially in developing and post-conflict societies, is complex and multi-faceted.<sup>30</sup> Several decades of armed conflict on the territory of Sudan caused its militarization, it means that on the one hand, the Sudanese authorities did not fully control the state territory at the time of signing the peace treaty, and on the other hand, state power was entrusted almost exclusively to the military and security forces, which usually represents the greatest threat to the establishment justice, rule of law, peace, mechanisms for the protection of human rights and means leading to sustainable development. A positive surprise was the adoption of the Comprehensive Peace Agreement (CPA) and the subsequent Interim National Constitution, on the basis of which Sudan, as well as South Sudan, committed to adhering to the principles of the rule of law. However, not one of the two mentioned states managed to break out of the spiral of violence, not only but also as a result of the inconsistent implementation and observance of the rule of law. Decades of overly centralized government, the absence of the rule of law, huge disparities in development between the center and the regions, and weak or no administrative capacity have ultimately led to the failure to establish a state of peace in both Sudan and South Sudan.

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<sup>30</sup> PIMENTEK, D. (2010): Rule of Law Reform Without Cultural Imperialism? Reinforcing Customary Justice Through Collateral Review in Southern Sudan, p. 2.

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# THE EUROPEAN UNION'S EVERYTHING BUT ARMS INITIATIVE: EVALUATION OF ITS EFFECTIVENESS IN THE CASE OF EASTERN AFRICAN COUNTRIES<sup>1</sup>

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**Abstract:** The EU is a major player in providing non-reciprocal unilateral trade preferences to developing and least developed countries. The present paper focuses on the Everything But Arms (EBA) initiative that grants LDCs with duty- and quota-free access to the EU market. The aim of this paper is to evaluate the effectiveness of the EU's EBA initiative in the case of Eastern African LDCs by analysing the evolution of their export performance and diversification in trade relations with the EU during the implementation of this initiative. The results indicate that some Eastern African countries have improved their export performance, notably the value and diversification of exports, while other countries have failed to make use of trade preferences granted by the EU. It seems that the EBA initiative alone is not sufficient to increase and diversify exports of some least developed countries.

**Keywords:** Eastern Africa, European Union, Everything But Arms, export performance, Generalised System of Preferences, least developed countries

**JEL:** F13, F63

## Introduction

In general, trade preferences refer to commercial advantages provided in international economic relations by a country or group of countries to another country or group of countries, as well as within a group of countries to each other. It represents differential (special, preferential) treatment that favours some countries over others. Trade preferences may be unilateral or reciprocal. The latter ones occur when two or more countries offer each other trade concessions not offered to third countries.<sup>2</sup> This type of trade preferences is implemented through regional trade agreements (RTAs), which are defined by the WTO as “reciprocal trade agreements between two or more partners, not necessarily belonging to the same region.”<sup>3</sup> Within the WTO system, RTAs are an exception to the non-discrimination principle. On the other hand, unilateral trade preferences are non-reciprocal trade benefits granted by one country or group of countries to another without expecting anything in return. These preferences are usually provided by advanced economies to developing countries in support of their socio-economic development. Under the WTO, non-reciprocal unilateral trade preferences are referred to as preferential trade arrangements (PTAs). Although trade preferences are of a discriminatory nature within the multilateral trading system, the “Enabling Clause”, adopted under GATT in 1979, permits WTO members to grant differential and more favourable treatment to less developed countries.<sup>4</sup>

Unilateral trade preferences are mostly granted through the Generalised System of Preferences (GSP) and other non-reciprocal preferential schemes, such as the African Growth and Opportunity Act (AGOA), representing the US initiative for sub-Saharan African countries, or Trade preferences for countries of the Western Balkans, which are provided

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<sup>2</sup> FAO (2005): Non-reciprocal Agricultural Trade Preferences.

<sup>3</sup> WTO (2024): Regional trade agreements and the WTO.

<sup>4</sup> WTO (2024): Special and differential treatment provisions.

by the European Union.<sup>5</sup> Under the GSP, advanced economies provide non-reciprocal preferential treatment, such as lower or zero import duties, to some or all products imported into their markets from selected developing countries. The GSP was instituted in 1971 under the aegis of the United Nations Conference on Trade and Development (UNCTAD) with the objective of reducing poverty and supporting economic development in developing countries by promoting growth and diversification of their exports. Fifteen economies currently offer non-reciprocal trade preferences to developing and least developed countries within the GSP system.<sup>6</sup> The European Union's Generalised Scheme of Preferences is "widely recognised as the most progressive in terms of coverage and benefits."<sup>7</sup> The EU's Generalised Scheme of Preferences comprises three arrangements such as Standard GSP, GSP+, and Everything But Arms (EBA). The present paper focuses on the EU's Everything But Arms initiative that provides least developed countries (LDCs) with duty- and quota-free access to the EU market for all products except arms and ammunition.

The aim of this paper is to evaluate the effectiveness of the EU's Everything But Arms initiative in the case of Eastern African least developed countries by analysing the evolution of their export performance and diversification in trade relations with the European Union during the implementation of the EBA initiative. To reach the aim of this paper, we analyse the value of total goods exported from Eastern African LDCs to the EU market, the product structure of their exports using UNCTADstat data at the 3-digit level of Standard International Trade Classification (SITC), as well as the degree of concentration of goods exported to the EU market using the Herfindahl-Hirschman Index. This paper is organized as follows. Section 1 provides an overview of the European Union's Generalised Scheme of Preferences with a special emphasize on the Everything But Arms initiative. Section 2 presents methodology and data used to reach the aim of this paper. Section 3 includes results and discussion on the effectiveness of the EU's EBA initiative. Last section concludes the present paper with the main findings.

## **1 Overview of the EU's Generalised Scheme of Preferences**

Non-reciprocal unilateral trade preferences granted by some developed countries, consisting in the reduction or elimination of import duties and other trade barriers, are important for many poor and vulnerable countries, especially due to export facilitation and promotion. It is expected that preferential trade access to developed countries' markets contributes to developing countries' export growth that generates additional export earnings and, at the same time, increases the volume of domestic production, which increases employment, reduces poverty and accelerates economic growth of the beneficiary countries. Non-reciprocal trade preferences are most commonly provided through the Generalised System of Preferences, which represents "a voluntary trade measure implemented by developed countries that provide an advantageous tariff treatment to imports from developing countries."<sup>8</sup> Although national GSP schemes share some characteristics, they do not constitute a homogeneous set of measures.

The European Union has been providing non-reciprocal trade preferences under the GSP scheme since 1971, as well as under other preferential trade arrangements.<sup>9</sup> The main objectives of the EU's GSP include contributing to poverty reduction by expanding developing countries' exports, as well as promoting sustainable development and good

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<sup>5</sup> A full list of non-reciprocal preferential schemes (PTAs) that are being implemented by WTO members can be found in the Database on Preferential Trade Arrangements provided by the WTO (<https://ptadb.wto.org>).

<sup>6</sup> WTO (2024): List of PTAs.

<sup>7</sup> EUROPEAN COMMISSION (2024): Generalised Scheme of Preferences.

<sup>8</sup> UNCTAD (2023): The Generalized System of Preferences. How much does it matter for developing countries?

<sup>9</sup> WTO (2024): List of PTAs.

governance.<sup>10</sup> Currently, the European Union's GSP consists of three schemes. First, the Standard GSP provides low and lower-middle income countries, as classified by the World Bank, with a partial or full removal of customs duties on two-thirds of EU tariff lines. Second, the GSP+ is provided in the form of duty elimination on two-thirds of EU tariff lines to vulnerable developing countries that ratified 27 international conventions on human and labour rights, environmental protection, and good governance. A vulnerability is assessed based on the low degree of export diversification and insufficient integration within the international trading system.<sup>11</sup> Regarding the Standard GSP and GSP+, the condition is that a beneficiary country does not have preferential access to the EU market through another arrangement. Third, the Everything But Arms initiative is destined for the least developed countries (LDCs), as classified by the United Nations, providing them with duty- and quota-free access to the EU market for all products (7,200 products in total) except arms and ammunition. As compared to the Standard GSP and GSP+, LDCs are automatically granted the benefits of the EBA initiative even if they have other preferential trade arrangements with the European Union. A full list of GSP beneficiary countries according to the three arrangements is reported in Table 1.

**Table 1: List of beneficiary countries of the European Union's GSP**

<i>Arrangement</i>	<i>Beneficiary countries</i>
<b>Standard GSP</b>	Congo, Cook Islands, India, Indonesia, Kenya, Micronesia, Nigeria, Niue, Syria, Tajikistan
<b>GSP+</b>	Bolivia, Cabo Verde, Kyrgyzstan, Mongolia, Pakistan, Philippines, Sri Lanka, Uzbekistan
<b>Everything But Arms</b>	Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia*, Central African Republic, Chad, Comoros Islands, Democratic Republic of the Congo, Djibouti, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Lao PDR, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Myanmar, Nepal, Niger, Rwanda, Sao Tome & Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, Zambia

Note: \*In 2020, the European Commission temporarily withdrew the tariff preferences granted to Cambodia under the EBA arrangement due to human rights violations.

Source: EUROPEAN COMMISSION (2023): List of GSP beneficiary countries.

The Everything But Arms preferential scheme was adopted in 2001 initially for 49 least developed countries.<sup>12</sup> As can be seen in Table 1, 47 countries currently benefit from duty-free and quota-free access to the EU market under the EBA scheme. However, the EBA trade preferences can be temporarily withdrawn if a particular country violates human and labour rights. This is the case of Cambodia as decided by the European Commission on 12 February 2020.<sup>13</sup> The European Union's EBA initiative aims to increase export volumes and support export diversification of the least developed countries by facilitating their access to the EU market. According to Inama, the main features of the EBA scheme include deep tariff reduction, large product and country coverage, unlimited period of time and stability of trade preferences.<sup>14</sup> In contrast to other GSP arrangements, the EBA is not a subject to periodical renewal, which offers the stability of market access and higher certainty for exporters,

<sup>10</sup> GSPHUB (2024): About the EU GSP.

<sup>11</sup> GSPHUB (2024): About the EU GSP.

<sup>12</sup> EUROPEAN COMMISSION (2024): Access2Markets. Glossary.

<sup>13</sup> GSPHUB (2024): About the EU GSP.

<sup>14</sup> INAMA, S. (2006): Erosion of trade preferences and Aid for Trade initiative: towards a new paradigm?

as well as facilitates investment decision.<sup>15</sup> On the one hand, the least developed countries may specialize more in the products in which they have comparative advantage due to quota- and duty-free access to the EU market and wide product coverage under the EBA scheme. On the other hand, it is also expected that the EBA initiative promotes industrialization and diversification of the beneficiary countries' economies.

The scientific literature on the effectiveness of the EBA initiative, when it comes to meeting its objectives, is controversial. Cernat et al. find that the EBA initiative have moderate welfare and trade gains for LDCs, with the largest gains being recorded for sub-Saharan African countries.<sup>16</sup> On the other side, Gradeva and Martínez-Zarzoso find that the EBA trade preferences alone do not increase the least developed countries' export performance, especially due to the trade diversion effect.<sup>17</sup> They argue that the EBA regime with additional development assistance in the form of infrastructure and supply capacity may enhance exports of LDCs. Some authors also examine the EBA initiative's effects on individual beneficiary countries. For instance, Khorana et al. find that trade preferences provided under the EBA scheme reduced working poverty in Bangladesh.<sup>18</sup> Mihret Ayele finds that the EBA trade preferences have a negative effect on Ethiopia's export performance.<sup>19</sup> He adds that it may be partially caused by insufficiently diversified export structure, domestic supply-side constraints and poor logistics.

## 2 Methodology and Data

In line with the fact that the EU's Everything But Arms initiative focuses on increasing export volumes and promoting export diversification of the least developed countries, the aim of this paper is to evaluate the effectiveness of this initiative in the case of Eastern African countries by analysing the evolution of their export performance and diversification in trade relations with the European Union during the implementation of the EBA initiative.

According to the UNCTAD, Eastern Africa consists of eighteen countries out of which fourteen are classified by the United Nations as least developed countries: Burundi, Comoros, Djibouti, Eritrea, Ethiopia, Madagascar, Malawi, Mozambique, Rwanda, Somalia, South Sudan, Uganda, United Republic of Tanzania and Zambia.<sup>20</sup> This paper analyses the changes in the volume and product diversification of Eastern African least developed countries' exports to the EU from the entry into force of the EBA scheme in 2001 to the present, and therefore South Sudan, which gained independence in 2011, is not included in the analysis.

To reach the above-mentioned objective, we go through the following steps. First, we analyse the evolution of total merchandise exports from Eastern African least developed countries to the European Union over the period 1999-2023, i.e. before the implementation of the EBA initiative and now. Second, we analyse the structure of the most exported goods from Eastern African least developed countries to the EU market at the three-digit level of Standard International Trade Classification (SITC) in 2023 as compared to 2000 (i.e. the year before the EBA became effective). Third, we analyse the degree of diversification (or concentration) of goods exported from Eastern African LDCs to the EU.

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<sup>15</sup> GRADEVA, K. – MARTÍNEZ-ZARZOSO, I. (2010): The Role of the Everything But Arms Trade Preferences Regime in the EU Development Strategy.

<sup>16</sup> CERNAT, L. et al. (2003): The EU's Everything But Arms Initiative and the Least-developed Countries.

<sup>17</sup> GRADEVA, K. – MARTÍNEZ-ZARZOSO, I. (2010): The Role of the Everything But Arms Trade Preferences Regime in the EU Development Strategy.

<sup>18</sup> KHORANA, S. et al. (2021): Developmental relevance of Everything but Arms: Implications for Bangladesh after LDC graduation.

<sup>19</sup> MIHRET AYELE, G. (2021): The Effect of Everything But Arms Trade Preference on the Exports of Ethiopia: Empirical Evidence Using Gravity Model.

<sup>20</sup> UNCTAD (2024): UN list of least developed countries.

Export diversification reflects “the degree to which a country’s exports are spread across a large number of products and/or trading partners.”<sup>21</sup> Conversely, export concentration indicates a small number of export items and/or export markets. In this context, product diversification (or product concentration) and market diversification (or market concentration) can be distinguished. There is strong evidence that countries with more diversified export basket tend to grow faster than ones with non-diversified economy due to job creation, stability of export earnings and other factors.<sup>22</sup> Therefore, export diversification (i.e. exporting new products or adding higher value to existing exports) can be considered an important step towards sustainable economic growth and development.

The Herfindahl-Hirschman Index (*HHI*), also known as product concentration index, is employed to measure the degree of product diversification or concentration in Eastern African countries’ exports to the European Union. We calculate a normalized *HHI* of the product concentration of merchandise exports for a country *j* using the following formula:<sup>23</sup>

$$HHI_j = \frac{\sqrt{\sum_{i=1}^N \left(\frac{X_{i,j}}{X_j}\right)^2} - \sqrt{\frac{1}{N}}}{1 - \sqrt{\frac{1}{N}}}$$

where  $X_{i,j}$  denotes the value of exported product *i* from country *j* to the European Union,  $X_j$  is the value of total exports from country *j* to the EU, and *N* stands for the number of exported products at the three-digit level of Standard International Trade Classification. The *HHI* ranges from 0 to 1, where closer to 0 indicates diversified export structure while closer to 1 signifies concentrated export structure. Simply put, the larger the value of the Herfindahl-Hirschman Index, the higher the product concentration of a country’s export basket. The data comes from the UNCTADstat statistical database.

### 3 Results and Discussion

The most recent data show that the European Union as a whole does not represent the most important export partner of Eastern African LDCs in 2023, with the exception of Comoros, Ethiopia, Madagascar and Malawi.<sup>24</sup> For the remaining Eastern African least developed countries, the EU is the second, third or even the seventh and ninth most important export partner. Among the largest export markets for other countries of the region are the United Arab Emirates, China and India. The situation was different in 2000, when the EU represented the most important export market for all Eastern African LDCs except Djibouti, Somalia and Zambia.<sup>25</sup> Other important export markets included individual EU member states (especially Germany, France and the United Kingdom) as well as the United States. This indicates that despite duty-free and quota-free access into the EU market during the implementation of the EBA initiative, the position of the European Union, as the largest export market for Eastern African LDCs, has changed in favor of other economies, especially some Arab states and large emerging markets.

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<sup>21</sup> UNCTAD (2018): Export Diversification and Employment.

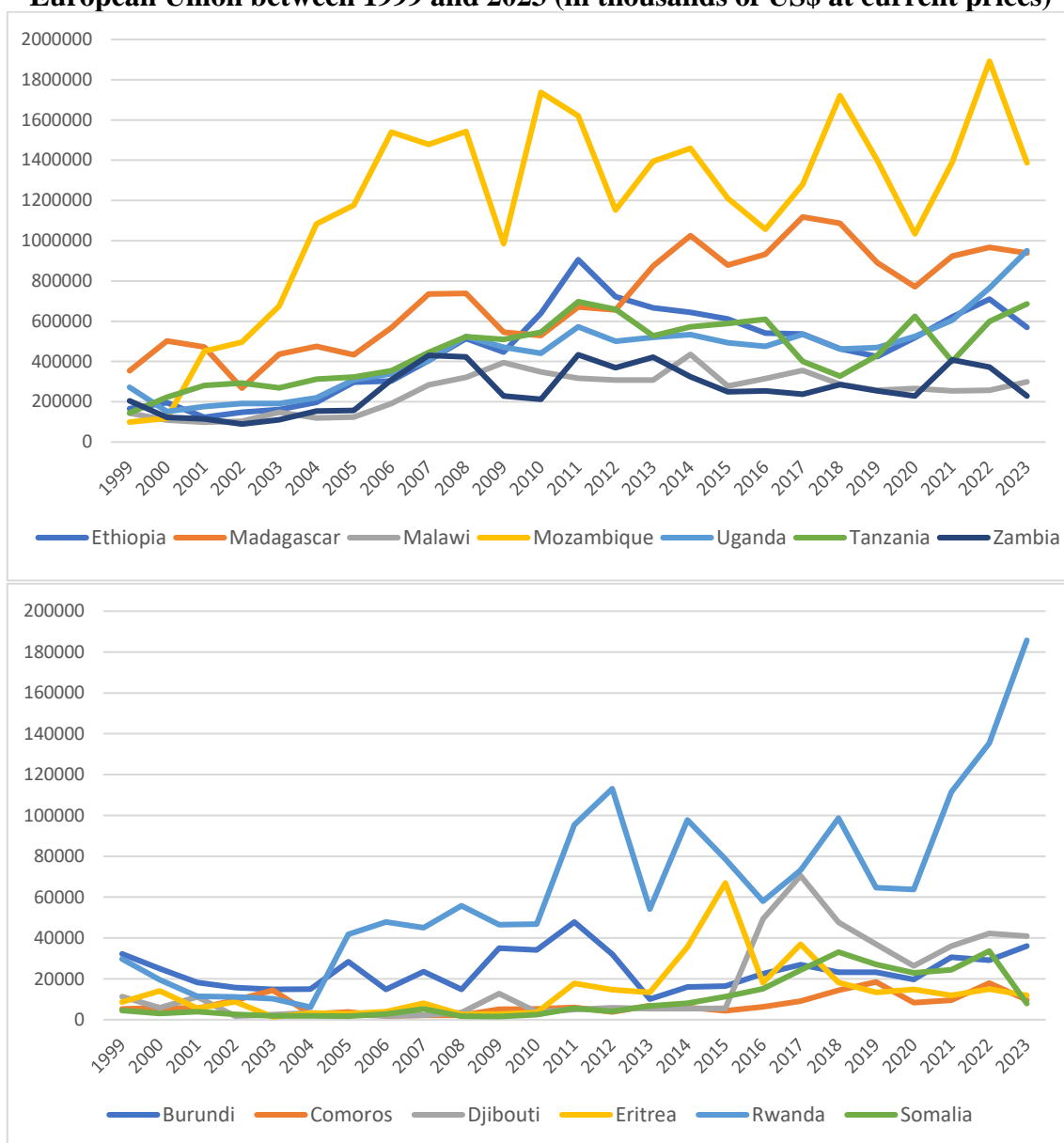
<sup>22</sup> UNCTAD (2024): Trade Preferences Outlook 2024.

<sup>23</sup> UNCTAD (2019): Export Product Concentration Index.

<sup>24</sup> UNCTADstat (2024): Data centre. International trade.

<sup>25</sup> UNCTADstat (2024): Data centre. International trade.

**Figure 1: Evolution of total merchandise exports from Eastern African LDCs to the European Union between 1999 and 2023 (in thousands of US\$ at current prices)**



Source: UNCTADstat (2024): Data centre. International trade.

Figure 1 depicts the evolution of total merchandise exports from Eastern African least developed countries to the EU market over the period 1999-2023. Figure 1 is divided into two charts according to the value of total merchandise exports in 2023. The first chart consists of Eastern African LDCs that exported more than USD 200 million worth of goods to the EU in 2023, while the second chart shows countries with relatively lower value of exports. In general, the value of exports from Eastern African countries to the EU has increased during that period. It is important to note, however, that if we had access to data on merchandise exports adjusted for inflation, the results would likely have been different in some cases. Most Eastern African least developed countries, namely Djibouti, Ethiopia, Madagascar, Mozambique, Rwanda, Uganda, the United Republic of Tanzania, have significantly (more than threefold) increased the value of their exports to the EU market between 1999 and 2023. The largest increase in exports occurred in the case of Mozambique, followed by Rwanda and the United Republic of Tanzania (Figure 1). On the other side, the value of exports from

Burundi, Comoros, Eritrea, Malawi, Somalia and Zambia have increased only to a very small extent between 1999 and 2023. The lowest increase can be observed in the case on Burundi and Zambia, which increased exports to the EU by only 12% between 1999 and 2023.

Figure 1 indicates that some Eastern African LDCs have taken advantage of the unilateral trade preferences granted by the EU’s EBA initiative to increase the volume of their exports, while other countries in the region have not sufficiently exploited this opportunity. This can be explained by several factors. First, many economies of the region face supply-side constraints,<sup>26</sup> i.e. resource scarcity (finance, physical and human capital, technology) and low production capacity, resulting in weak export performance. Second, inadequate infrastructure and poor logistics usually limit production and export possibilities of least developed countries. Third, non-tariff barriers, such as technical standards, rules of origin, sanitary and phytosanitary measures and other barriers, which are more commonly used in agricultural and food products than manufactured goods,<sup>27</sup> often hinder LDCs’ access to the EU market. Fourth, weak institutions and insufficient export support from governments also restraint the production and export capacities of domestic companies. Fifth, political and economic instability disrupts production and trade. Eastern African least developed countries, except for Malawi and Rwanda, are classified by the the OECD as fragile and conflict-affected countries, whereas Burundi, Eritrea and Somalia are considered as extremely fragile contexts.<sup>28</sup> Producers and exporters in fragile states face many challenges.

Table 2 reports the main commodity groups at the three-digit level of SITC classification exported from Eastern African LDCs to the European Union in 2000 (the year before the EBA became effective) and 2023. It can be observed that Eastern African countries continue to rely on a small number of export items, especially primary products, which makes them vulnerable to external economic shocks arising from price volatility on international commodity markets. Eastern African countries dependent on exports of primary products to the EU market include coffee-exporting countries, such as Burundi, Ethiopia, Rwanda and Uganda, exporters of other agricultural products (tobacco, tea, sugar, cotton, cloves, vanilla, fish, shrimps, etc.), such as Eritrea, Madagascar, Malawi, Somalia and the United Republic of Tanzania, as well as exporters of ores, metals and fuels, such as Mozambique and Zambia. With the exception of Djibouti, agriculture and natural resources sectors remain the backbone of Eastern African economies, as can be seen in the structure of their exports. However, countries such as Eritrea, Ethiopia and Madagascar also export textiles, apparel and clothing articles to the European Union. On the other hand, Comoros and Djibouti have a relatively diversified export structure with a high share of manufactured goods in their exports to the EU market. Table 2 shows that during the implementation of the EBA initiative, there have been no significant changes in the product structure of Eastern African least developed countries’ exports to the EU towards goods with higher added value.

**Table 2: The most exported commodity groups from Eastern African LDCs to the EU**

<i>Country</i>	<i>Year</i>	<i>1<sup>st</sup></i>	<i>2<sup>nd</sup></i>	<i>3<sup>rd</sup></i>
<b>Burundi</b>	2000	Coffee and coffee substitutes (88.3%)	Non-monetary gold (5.5%)	Raw hides and skins (1.9%)
	2023	Coffee and coffee substitutes (90.5%)	Ores and concentrates of base metals (3.5%)	Non-ferrous base metal waste (2.2%)
<b>Comoros</b>	2000	Spices (62.4%)	Essential oils, perfume (28.6%)	Fruits and nuts (2.3%)

<sup>26</sup> GRADEVA, K. – MARTÍNEZ-ZARZOSO, I. (2010): The Role of the Everything But Arms Trade Preferences Regime in the EU Development Strategy.

<sup>27</sup> UNCTAD (2024): Trade Preferences Outlook 2024.

<sup>28</sup> OECD (2022): States of Fragility 2022.



	2023	Essential oils, perfume (37.7%)	Spices (34.2%)	Ships, boats & floating structures (15.9%)
<b>Djibouti</b>	2000	Furniture & parts (31.6%)	Passenger vehicles (10.2%)	Cathode valves & tubes (8.8%)
	2023	Medicaments (15.0%)	Perfumery, cosmetics (14.4%)	Coffee and coffee substitutes (8.4%)
<b>Eritrea</b>	2000	Fresh, chilled or frozen fish (20.5%)	Non-monetary gold (20.0%)	Leather (19.2%)
	2023	Fresh, chilled or frozen fish (50.8%)	Women's clothing of textile fabrics (22.8%)	Men's clothing of textile fabrics (14.5%)
<b>Ethiopia</b>	2000	Coffee and coffee substitutes (70.7%)	Leather (9.3%)	Parts of engines and motors (6.7%)
	2023	Coffee and coffee substitutes (45.4%)	Crude vegetable materials (28.8%)	Articles of apparel of textile fabrics (4.6%)
<b>Madagascar</b>	2000	Articles of apparel of textile fabrics (22.2%)	Crustaceans and mollusks (15.4%)	Men's clothing of textile fabrics (6.2%)
	2023	Spices (17.0%)	Nickel (15.1%)	Crustaceans and mollusks (9.1%)
<b>Malawi</b>	2000	Unmanufactured tobacco (82.8%)	Sugar, molasses and honey (5.2%)	Coffee and coffee substitutes (5.2%)
	2023	Unmanufactured tobacco (85.0%)	Vegetables, roots, tubers, prepared (9.9%)	Tea and mate (1.6%)
<b>Mozambique</b>	2000	Crustaceans and mollusks (50.4%)	Aluminium (12.4%)	Cotton (12.2%)
	2023	Aluminium (51.7%)	Natural gas (15.9%)	Coal (10.5%)
<b>Rwanda</b>	2000	Coffee and coffee substitutes (67.8%)	Ores and concentrates of base metals (7.3%)	Raw hides and skins (1.4%)
	2023	Coffee and coffee substitutes (37.5%)	Crude vegetable materials (12.8%)	Ores and concentrates of base metals (7.3%)
<b>Somalia</b>	2000	Crude vegetable materials (31.9%)	Automatic data process. machines (10.2%)	Fresh, chilled or frozen fish (9.5%)
	2023	Crude vegetable materials (77.2%)	Non-ferrous base metal waste and scrap (5.3%)	Essential oils, perfume (2.9%)
<b>Uganda</b>	2000	Coffee and coffee substitutes (60.2%)	Unmanufactured tobacco (10.2%)	Fresh, chilled or frozen fish (7.1%)
	2023	Coffee and coffee substitutes (64.5%)	Crude vegetable materials (8.9%)	Fresh, chilled or frozen fish (6.3%)
<b>Tanzania</b>	2000	Fresh, chilled or frozen fish (37.0%)	Coffee and coffee substitutes (22.8%)	Unmanufactured tobacco (11.3%)
	2023	Unmanufactured tobacco (18.2%)	Coal (15.0%)	Coffee and coffee substitutes (13.1%)
<b>Zambia</b>	2000	Crude vegetable materials (20.4%)	Miscellaneous no-ferrous base metals (18.1%)	Copper (15.2%)
	2023	Copper (41.6%)	Pig iron & spiegeleisen, sponge iron (16.3%)	Unmanufactured tobacco (11.1%)

Note: The percentage share of a commodity group in total exports to the EU is shown in parentheses.

Source: UNCTADstat (2024): Data centre. International trade.

Table 3 reports the values of the Herfindahl-Hirschman Index (product concentration index) of Eastern African least developed countries' merchandise exports to the EU market in selected years. With a few exceptions (Djibouti, Madagascar and the United Republic of Tanzania), the structure of Eastern African countries' exports to the EU is highly concentrated in a small number of commodity groups, especially primary products and resource- and labour-intensive manufactured goods with lower added value. As regards variations in the values of the Herfindahl-Hirschman Index over time, the results are different. On the one hand, Eastern African countries such as Comoros, Djibouti, Ethiopia, Rwanda, Uganda and the United Republic of Tanzania record lower *HHI* values in recent years compared

to the situation at the turn of the century, which indicates product diversification of their exports to the EU market. It can be observed that some Eastern African LDCs (Djibouti, Ethiopia, Rwanda and the United Republic of Tanzania) that have diversified the product structure of their exports have also significantly increased the value of their exports to the EU market. On the other hand, in the case of Burundi, Eritrea, Madagascar, Malawi, Mozambique, Somalia and Zambia, the *HHI* values rather increased, indicating a higher degree of concentration of goods exported to the European Union during the implementation period of the EBA initiative. Eastern African least developed countries that have recorded a higher degree of concentration of goods exported to the EU market in recent years compared to the beginning of the 21<sup>st</sup> century (Burundi, Eritrea, Malawi, Somalia and Zambia) have also recorded only slight increase in the value of exports to the EU during the period considered.

**Table 3: Herfindahl-Hirschman Index of merchandise exports to the EU market**

<i>Country</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>	<i>2007</i>	<i>2015</i>	<i>2021</i>	<i>2022</i>	<i>2023</i>
<b>Burundi</b>	0.727	0.868	0.728	0.832	0.812	0.742	0.815	0.896
<b>Comoros</b>	0.552	0.629	0.820	0.606	0.608	0.512	0.471	0.486
<b>Djibouti</b>	0.240	0.285	0.336	0.212	0.420	0.195	0.209	0.193
<b>Eritrea</b>	0.414	0.288	0.392	0.653	0.626	0.608	0.569	0.522
<b>Ethiopia</b>	0.716	0.691	0.467	0.455	0.466	0.552	0.543	0.510
<b>Madagascar</b>	0.201	0.251	0.259	0.249	0.274	0.284	0.269	0.232
<b>Malawi</b>	0.735	0.809	0.778	0.826	0.811	0.808	0.919	0.837
<b>Mozambique</b>	0.515	0.499	0.749	0.592	0.644	0.502	0.519	0.522
<b>Rwanda</b>	0.796	0.634	0.781	0.585	0.381	0.275	0.348	0.374
<b>Somalia</b>	0.237	0.284	0.250	0.573	0.707	0.624	0.751	0.749
<b>Uganda</b>	0.775	0.582	0.426	0.456	0.574	0.610	0.649	0.633
<b>Tanzania</b>	0.365	0.407	0.358	0.368	0.320	0.293	0.245	0.275
<b>Zambia</b>	0.311	0.289	0.305	0.432	0.674	0.502	0.505	0.431

Source: Own calculations based on data from UNCTADstat (2024): Data centre. International trade.

## Conclusion

Some advanced economies, including the European Union, grant unilateral non-reciprocal trade preferences to developing and least developed countries, notably under the Generalised System of Preferences initiated in 1971. The EU's GSP reduces or eliminates import duties and some other trade measures applicable to products imported into the EU market from selected developing countries. It is aimed at promoting growth and diversification of exports and thereby reducing poverty and supporting economic development in developing countries. The European Union's GSP consists of three arrangements such as Standard GSP, GSP+ and Everything But Arms, which together benefit 65 countries. This paper focused on the EBA initiative that represents a special arrangement for least developed countries, providing them with duty-free and quota-free access to the EU market for all products except arms and ammunition. The aim of this paper was to assess the effectiveness of EBA initiative in the case of thirteen Eastern African LDCs by analysing the evolution of their export performance and diversification in trade relations with the European Union during the implementation of that initiative.

Several Eastern African least developed countries, such as Djibouti, Ethiopia, Madagascar, Mozambique, Rwanda, Uganda, the United Republic of Tanzania, have improved their export performance in trade relations with the European Union in terms of the value and diversification of exported goods during the implementation of the EBA initiative. However, other Eastern African LDCs, namely Burundi, Comoros, Eritrea, Malawi, Somalia and Zambia, have experienced only a limited increase in the value of exports and, at the same

time, a higher degree of concentration of goods exported to the EU market during the implementation of the EBA initiative. This can be explained, amongst other things, by the structural challenges they face, such as supply-side constraints, inadequate infrastructure, technical barriers to trade, political and economic instability and other constraints. Therefore, it seems that duty-free and quota-free access to the EU market alone is not sufficient to increase export performance of many least developed countries. Trade preferences under the EBA initiative should be accompanied by the elimination of other non-tariff barriers, as well as relevant development assistance that would support production and export capacities of Eastern African and other least developed countries.

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# TRENDS OF THE INFORMAL ECONOMY IN LATIN AMERICA

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**Abstract:** The informal sector accounts for an average of 35% of GDP in Latin America and the Caribbean. Informal employment represents nearly 52% of the workforce in the region. Significant differences are observed when comparing across income groups of countries: high-income countries (32.1%), lower-middle-income countries (50%), and low-income countries (85%). The countries with the highest levels of informal economy are Bolivia, Guatemala, and Peru, while those with the lowest levels are Uruguay, Chile, and Costa Rica. The aim of this contribution is to characterize trends in the informal economy in Latin America in the 21st century. A typical worker in the informal sector is a woman, a young or older worker with lower levels of education. Informal employment dominates in rural areas. The pandemic temporarily reduced the informal sector in the region, but after recovery, it returned to pre-crisis levels and continues to grow. Compared to the formal sector, it experienced a faster recovery. The 21st century brings challenges (digitalization, climate change) for the informal sector.

**Keywords:** Informal economy, grey economy, Latin America, Caribbean

**JEL:** E26, J46, O17, O54

## Introduction and theoretical framework

The concept of the informal economy first appeared in an ILO report on Kenya in 1972. At that time, the informal economy was defined as a way of doing things, and informal sector workers were considered working poor because they did not earn enough for their livelihood.<sup>1</sup> Informality is associated with this phenomenon of the working poor because it is linked to precarious, low-income jobs that do not allow workers to escape poverty.<sup>2</sup> It is estimated that workers in the informal sector are three to four times more likely to be poor than formal workers.

Thirty years later, the ILO revised its definition. This time, the informal economy was defined as a sector of the economy, encompassing all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements. Thus, it "explains informality as the avoidance of government regulations and taxes with the aim of providing a way for families to subsist."

De Soto, Gerxhani, and Hart also studied the informal sector. One of the characteristic features of the informal economy is considered to be its easy entry. The concept of the informal economy can include small self-employed urban labor<sup>3</sup> and unpaid care work provided by family members. According to the definition of occupation or employment, informal occupation does not include production work for personal use.<sup>4</sup> Furthermore, the segments of the informal sector include wage workers, the entrepreneurial sector, and domestic work.

The informal economy is also described as a "diversified set of economic activities, enterprises, jobs, and workers that are not regulated or protected by the state".<sup>5</sup> This sector includes unregistered businesses, self-employed individuals, and work outside the regulated

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<sup>1</sup> OCAMPO, J. A. (2011): *The Oxford Handbook of Latin American Economics*.

<sup>2</sup> ILO (2024): *Strategy for the Promotion of Formalization in Latin America and the Caribbean*, p. 12.

<sup>3</sup> HART, K. (1973): *Informal Income Opportunities and Urban Employment in Ghana*.

<sup>4</sup> ILO (2024): *Strategy for the Promotion of Formalization in Latin America and the Caribbean*, p. 14.

<sup>5</sup> EUROPEAN PARLIAMENT (2021): *The informal economy and coronavirus in Latin America: Briefing*.

framework. The informal economy thus encompasses labor relationships that are not subject to protective obligations established by labor or social regulations, either by law or in practice.

Gerxhani compared studies on the informal economy in developed and developing countries, finding no significant differences in their informal markets. Both cases include unregistered work, tax evasion, unregulated or unlicensed businesses, illegality, and sometimes criminal activities. The biggest difference between the informal economy in developing and developed countries lies in the income value for employees in the informal sector. Generally, in developing countries, it is marked by small-scale and survival activities, while in developed countries, the informal sector generates low incomes.<sup>6</sup>

The informal sector absorbs workers in regions with high population growth and rapid urbanization because the formal sector is unable to provide sufficient employment opportunities. Other reasons include barriers to entry into the formal economy, such as excessive regulation, high taxes, bureaucracy, and the capacity of institutions to provide adequate education. In some cases, it is also driven by the convenience of employers (especially in domestic services or seasonal work). The informal sector can either be a general phenomenon in a given economy or be concentrated in specific industries. It is typically highest in countries, regions, or areas with high levels of poverty and unemployment, where informal employment represents an escape from poverty and a means of survival. The informal sector is not burdened by barriers to entry, but on the other hand, these jobs often fail to meet the standards of decent and dignified work.

It is also important to distinguish where informality arises. There is the so-called informal work among wage employees in formal enterprises and the informal entrepreneurial sector. The causes of these differ: the primary cause of informal employment among wage employees in formal enterprises is the non-compliance with labor laws, often due to ignorance of the law or the inability to cover the costs associated with formalizing jobs. On the other hand, the largest segment in the informal entrepreneurial sector comprises micro-enterprises and self-employed individuals, whose main challenges are a lack of capital, the small scale of their operations, or low productivity. Due to their inability to cover the costs of formalization, they enter the informal economy. Beyond these two categories, informality also arises in domestic work.

Till today, no consensus has been reached in the literature regarding its definition. The informal economy has multiple synonyms: “underground,” “shadow,” “grey,” “informal,” “unofficial,” “unobserved,” “hidden,” “parallel,” “second,” “black,” “cash,” or “household” economy.<sup>7</sup> These varied terms further complicate efforts to achieve a unified definition. The main characteristic common to all definitions is the fact that economic activities are hidden from official authorities and regulation.<sup>8</sup>

Currently, the black economy is not considered part of the grey economy, although there exists a form of complementary relationship between them. The consequences of the informal economy are far-reaching and affect not only workers in the informal sector but also those in the formal sector.

It is estimated that in 2018, more than 60% of the world’s workforce was employed in the informal sector.<sup>9</sup> Regions with the lowest levels of informal economy include North America (excluding Mexico), Northern and Western Europe, and East Asia (Japan, China).<sup>10</sup> It

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<sup>6</sup> GERXHANI, K. (2004): *The Informal Sector in Developed and less Developed Countries: A Literature Survey*, p. 267.

<sup>7</sup> OECD (2019): *Latin American And Caribbean Competition Forum - Session I: Informal Economy in Latin America and the Caribbean: Implications for Competition Policy*.

<sup>8</sup> MEDINA, L. – JONELIS, A. – CANGUL, M. (2017): *The Informal Economy in Sub-Saharan Africa: Size and Determinants*. IMF Working Paper No. 17/156.

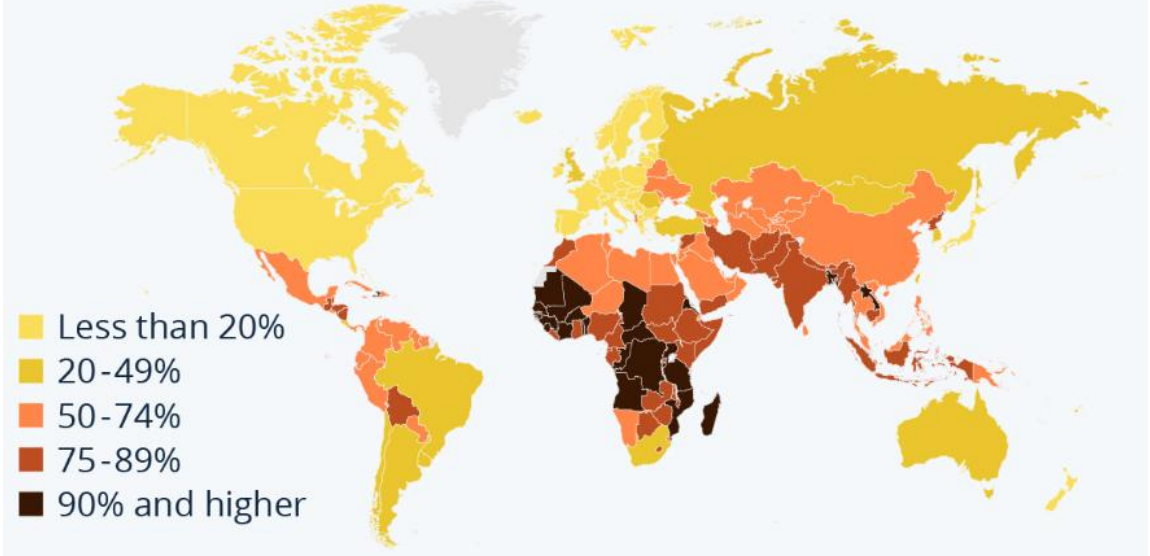
<sup>9</sup> EUROPEAN PARLIAMENT (2021): *The informal economy and coronavirus in Latin America: Briefing*.

<sup>10</sup> STATISTA (2023): *Mapping The World’s Informal Workforce*.

is estimated that the share of informal employment across Europe ranges between 10–20%, with Finland having the lowest rate due to strict labor market regulation and a high level of trade union organization. On the other hand, some European countries have relatively high levels of informal employment and economy, such as Romania, Bulgaria, Greece, and Italy - countries in Southern and Eastern Europe.

In general, informal employment dominates in countries in Africa, South Asia (75% and higher), some countries in Southeast Asia, and Latin America and the Caribbean (50% and higher). Additionally, a higher rate of informal employment is concentrated in countries of the Global South. The highest rate of informal employment is in Sub-Saharan Africa - particularly in West and Central Africa (Chad, the Democratic Republic of Congo, Mauritania, Mali, etc.), with rates ranging from 90% to 97%.<sup>11</sup>

**Figure 1: Share of informal employment in total employment, by country (in percent)**



Source: STATISTA. (2023): Mapping The World’s Informal Workforce.

Globally, the rate of informal employment is higher among men than women (60% vs. 55%). However, excluding China and Russia, in low- and lower-middle-income countries, women are more likely than men to work in the informal sector. The sectors with the highest rates of informality in the global economy include agriculture, construction, retail and street vending, domestic services, manufacturing and craftsmanship, transportation and logistics, and tourism. Rural residents are twice as likely to be employed in the informal economy as urban residents.<sup>12</sup>

The aim of the paper is to characterize the informal sector in the Latin America and Caribbean region by analyzing current trends. It also focuses on comparing the rate of informal employment throughout the 21st century. The objective is to determine the extent to which informal employment has changed quantitatively and qualitatively since the beginning of the 21st century across the region as a whole, as well as in selected countries (based on data availability).

**1 The Informal Economy in Latin America: Current State**

The widespread informal economy in Latin America is a structural issue. The informal sector contributes significantly to the GDP of several countries, although precise

<sup>11</sup> ILO (2024): *Statistic on the Informal Economy*.  
<sup>12</sup> STATISTA (2023): Mapping The World’s Informal Workforce.

estimates vary. On average, its share in regions such as Latin America is approximately 35% of GDP.

The scope of the informal, or grey, economy is often assessed based on the employment rate in this sector. According to the latest available data, informal employment accounts for nearly 52% of the workforce across the Latin America and Caribbean region. Significant differences can be observed when comparing countries by income groups: in high-income countries, the rate of informal employment is lower (32.1%), approaching levels seen in Southern and Eastern Europe. Middle-income countries employ about half of their workforce in the informal sector, while low-income countries have almost 85% of workers engaged in informal employment. The countries with the highest levels of informal economy in the region are Bolivia, Guatemala, and Peru, while those with the lowest levels are Uruguay, Chile, and Costa Rica.

Informal employment has developed predominantly in rural areas. Today, more than 75% of jobs in rural Latin America fall under the shadow economy. In contrast, in urban areas, this figure is below 45%. In both cases, we observe a high rate of informal employment, but rural areas show a significant lead. The rate of informal sector employment is nearly balanced between genders (52% men and 50% women). However, women's participation in the informal sector exceeds that of men in most Latin American countries, except for the largest South American economies (Brazil, Argentina, Colombia) as well as the Dominican Republic and Uruguay.

The sectors with the most widespread informal work include agriculture, construction, domestic services, trade, manufacturing, and mining (Table 1). Women contribute significantly more in specific areas (referred to as the "feminization of informal employment"), particularly in domestic services (92.5%), services (63.0%), and trade (50.6%). These sectors are typically characterized by lower productivity and income. In other sectors, male labor predominates.

**Table 1: Informal employment rate by economic activity and sex, in percentages (2022)**

Sector	Women	Men	Total
Agricultural and livestock	87.7	78.7	<b>80.8</b>
Mining and quarrying	25.9	25.4	<b>25.4</b>
Manufacturing	47.6	31.7	<b>37.7</b>
Electricity, gas and water	23.3	18.9	<b>19.8</b>
Construction	29.9	73.8	<b>72.0</b>
Trade	60.6	47.4	<b>54.1</b>
Transportation	23.9	53.0	<b>48.9</b>
Finance	27.5	27.3	<b>27.4</b>
Services	40.7	31.6	<b>37.3</b>
Domestic services	76.9	65.1	<b>76.1</b>

Source: ILO. (2024): *Strategy for the Promotion of Formalization in Latin America and the Caribbean*, p. 25.

As we demonstrated earlier, informal employment predominates in the agricultural sector. However, in Latin America, there is traditionally a high rate of informality even outside the agricultural sector. We illustrate the values in the non-agricultural sector using selected countries (Table 2). In 2019, Bolivia, Ecuador, El Salvador, and Paraguay showed the highest rates of informal employment in the non-agricultural sector (over 60% of total employment in this sector). The lowest rates were observed in Uruguay and Chile, with values between 20% and 30%. In most countries, the rate ranges between 35% and 65%. The most vulnerable groups



in non-agricultural employment are women, young adults, older adults, and less-educated workers.<sup>13</sup>

**Table 2: Percentage of informal employment in the non-agricultural sector (2019)**

	<b>Total</b>	<b>Men</b>	<b>Women</b>
<b>Argentina</b>	49.4 %	49.4%	49.4%
<b>Bolivia</b>	79.1 %	77.5 %	81.2 %
<b>Brazil</b>	44.9 %	43.4 %	46.7 %
<b>Chile</b>	27.8 %	26.3 %	29.7 %
<b>Colombia</b>	57.3 %	55.2 %	59.7 %
<b>Costa Rica</b>	36.8 %	32.6 %	42.7 %
<b>Dominican Rep.</b>	51.1 %	52.1 %	49.9 %
<b>Ecuador</b>	65.8 %	64.7 %	67.2 %
<b>El Salvador</b>	63.8 %	56.9 %	71.4 %
<b>Panama</b>	46.7 %	46.6 %	46.8 %
<b>Paraguay</b>	63.4 %	61.4 %	65.9 %
<b>Peru</b>	59.9 %	54.2 %	66.5 %
<b>Uruguay</b>	23.6 %	24 %	23.2 %

Source: ILOSTAT (2024): SDG indicator 8.3.1.

In terms of employment type, the rate of informal employment is highest among self-employed individuals (86% in rural areas and 75% in urban areas). The rate of informality is higher in the private sector (35.2%) compared to the public sector (9.8%). Additionally, there is an inverse relationship between informal employment and enterprise size: the highest rate of informal employment is found in microenterprises (67%), followed by small and medium enterprises (14.5%), and finally large enterprises (6%). In all cases, informal employment is higher in rural areas than in urban areas. Overall, the rate of informal employment is up to 1.7 times higher in rural areas than in cities.

Generally, higher levels of education correlate with lower participation in the informal economy. This trend is also evident in Latin America: over 76% of Latin Americans with the lowest level of education, over 52% with a medium level of education, and over 27% with the highest level of education work in the informal sector. The differences related to education level are more pronounced in rural areas compared to urban areas (Table 3).

Another observed trend in informal employment in Latin America is its high prevalence across age groups. In 2018, it was estimated that 78% of Latin Americans over the age of 64, over 62% of those aged 15–24, and nearly 60% of the working-age labor force were employed in the informal sector. Employment in the informal sector is most widespread among so-called vulnerable groups, such as poor youth and impoverished women. Other vulnerable groups include individuals with low education levels, migrants, part-time workers, and rural populations in general. Informal employment affects 72% of workers in the lowest income quintile.<sup>14</sup>

<sup>13</sup> EUROPEAN PARLIAMENT (2021): *The informal economy and coronavirus in Latin America: Briefing*.

<sup>14</sup> FORLAC-ILO (2014): *Recent experiences of formalization in Latin America and the Caribbean*.

**Table 3: Informal employment rates by sex, educational attainment and area, percentages (2022)**

	Total	Urban	Rural
<b>Low educational attainment</b>	<b>76.2</b>	<b>70.4</b>	<b>84.5</b>
<b>Women</b>	80.9	74.9	91
<b>Men</b>	73.5	67.7	81.3
<b>Medium educational attainment</b>	<b>52.1</b>	<b>48.4</b>	<b>72.7</b>
<b>Women</b>	54.6	51.3	76.4
<b>Men</b>	50.6	46.4	70.8
<b>High educational attainment</b>	<b>27.1</b>	<b>26</b>	<b>45</b>
<b>Women</b>	27.1	26.3	41.7
<b>Men</b>	27	25.7	48.1
<b>Total</b>	<b>49.6</b>	<b>44</b>	<b>75.5</b>

Source: ILO (2024): *Strategy for the Promotion of Formalization in Latin America and the Caribbean*, p. 24.

Note: Low educational attainment- up to six years of schooling, High educational attainment- 13 years or more of education.

## **2 Reasons and Impacts of the Informal Economy in Latin America**

The causes of the high levels of informal economy in Latin America align with general theoretical insights. These include weak labor market regulation and low efficiency in enforcing formal employment practices. For most countries, additional factors include low economic development, the significant role of the agricultural sector in production and exports, high poverty rates, elevated inflation, inflexible labor markets, high levels of corruption and bureaucracy. Employment in the informal sector serves as a means to avoid poverty or to secure basic survival conditions. Informal employment also has strong historical roots, such as the tradition of street vending in countries like Bolivia or Mexico, which reflects a certain cultural influence.

Lastly, Latin American societies exhibit a low level of trust in institutions at various levels, which diminishes confidence in labor market regulations and employment standards. Latin American institutions are generally weak, with insufficient capacity and resources, and lack coordination in implementing regulatory and formalization strategies.

The limited interest in formalizing employment in these countries is also influenced by the prevalence of the shadow economy, i.e., illegal activities. This is due to a lower demand for formal jobs and higher earnings in the shadow economy, as well as the economic and political power of employers operating within it. Moreover, formal businesses in areas with high levels of illegal activities face additional security costs.

The informal economy negatively impacts labor productivity, economic growth,<sup>15</sup> labor unionization, the number of contributors to social security schemes, enrollment rates in education<sup>16</sup> inequality, and, in the long term, the purchasing power of the population. Latin America generally shows consistently low labor productivity, high inequality, and challenges in ensuring equitable social security. Reducing informality is a key component in efforts to address inequality and social exclusion.<sup>17</sup>

The high level of informality in the region affects millions of Latin Americans who lack social security coverage. The majority of such workers (and their families) live in rural areas

<sup>15</sup> OECD (2019): *Latin American And Caribbean Competition Forum - Session I: Informal Economy in Latin America and the Caribbean: Implications for Competition Policy*.

<sup>16</sup> VULETIN, G. (2008): *Measuring the Informal Economy in Latin America and the Caribbean*.

<sup>17</sup> FORLAC-ILO (2014): *Recent experiences of formalization in Latin America and the Caribbean*.

and among the self-employed, where informality is most prevalent. Low levels of informal employment combined with high social security coverage are observed only in Uruguay and, to some extent, in Brazil and Costa Rica. Conversely, most Latin American countries (e.g., Bolivia, Peru, Jamaica, Panama, and El Salvador) exhibit high levels of informality and low levels of social security coverage. There is an inverse relationship between informal employment and social coverage. Exceptions include Argentina and the Dominican Republic, where, despite higher rates of informal employment, social security covers a larger share of the population. No countries were recorded with both low levels of informal employment and low levels of social security coverage (Figure 2).

**Figure 2: Informal employment vs. Population covered by social protection**



Own processing according to ILO. (2024): SDG indicator 1.3.1., STATISTA. (2024): Informal employment as percentage of total employment in selected countries in Latin America and the Caribbean as of 2023.

Increased productivity is the main driver of a country’s economic growth. Productivity levels in Latin American economies need to be improved (reflected in higher output per capita) to ensure economic growth and reduce informality. Experts acknowledge the significant role of economic growth in reducing informality (provided that appropriate productive development policies are implemented). However, they consider economic growth alone insufficient without the implementation of effective strategies and programs, such as integrated economic, social, and labor policies within the framework of sustainable development.<sup>18</sup>

**3 Trends in the 21<sup>st</sup> century**

Over the past 20 years, some Latin American economies have made significant progress in reducing informal employment. At the beginning of the 21st century, several countries experienced a notable decline in informal employment (Table 4), partly due to more dynamic economic growth (4.8% between 2003 and 2007)<sup>19</sup> driven by high global demand for Latin

<sup>18</sup> FORLAC-ILO (2014): *Recent experiences of formalization in Latin America and the Caribbean*.

<sup>19</sup> FORLAC-ILO (2014): *Recent experiences of formalization in Latin America and the Caribbean*.

American exports. Despite the global financial crisis, the region managed to recover relatively quickly and continued to show growth. The creation of formal jobs persisted until the mid-2010s, when the prices of primary commodities began to decline.

**Table 4: Declines in informality, by country (percentage point change)**

Countries	Period	Change
Argentina	2003-2012	↓14.5
Brazil	2002-2012	↓13.9
Ecuador	2009-2012	↓10.8
Mexico	2010-2013	↓0.7
Paraguay	2001-2011	↓5.8
Peru	2004-2012	↓6.6
Colombia	2009-2012	↓2.3
Dominican Rep	2005-2010	↓10.7
Uruguay	2004-2012	↓15.1

Source: FORLAC-ILO (2014): *Recent experiences of formalization in Latin America and the Caribbean*.

Subsequently, we examined changes over the past decade, which was marked by economic stagnation and regional crises between 2015 and 2019. These challenges negatively impacted job formalization, which either stagnated or, in some cases, saw a resurgence of the informal sector. Among the countries that had reduced informality in the previous period, further progress in reducing informal employment was observed only in Paraguay, Mexico, Colombia, and Brazil (Table 5). Out of the 15 countries studied, 8 achieved a reduction in the share of informal employment between 2014 and 2023, while 7 experienced an increase.

Despite the positive expectations at the start of the 21st century, many countries still show no progress in reducing the informal sector. These include diverse nations spanning different income groups: Uruguay and Panama (high-income), Argentina, the Dominican Republic, Peru, Ecuador, and Guatemala (upper-middle income). The informal sector expanded the most in Ecuador and Panama.

On the other hand, the most significant reductions in informality were observed in Chile, a high-income country, followed by Colombia and Brazil (upper-middle-income countries). In Bolivia, the poorest country among those studied (a lower-middle-income country), the informal sector was reduced only minimally and remains the Latin American country with the most widespread informal sector.

**Table 5: Informal employment in selected countries (2014-2023)**

	2023	2014	change
Bolivia	84.92	85.2	↓0.28
Guatemala	79.73	78.1	↑1.63
Peru	71.65	68.6	↑3.05
Ecuador	68.15	57.9	↑10.25
El Salvador	67.45	69.3	↓1.85
Paraguay	66.84	70.1	↓3.26
Mexico	56.33	58.7	↓2.37
Panama	56.13	48	↑8.13
Colombia	55.93	63.4	↓7.47
Dominican Rep	55.68	54.2	↑1.48
Argentina	50.45	47.2	↑3.25

Brazil	37.85	44.8	↓6.95
Costa Rica	37.1	41.2	↓4.1
Chile	27.36	38.9	↓11.54
Uruguay	26.44	23.6	↑2.84

Source: STATISTA (2024): Informal employment as percentage of total employment in selected countries in Latin America and the Caribbean as of 2023.

In general, the informal sector in Latin America and the Caribbean has shrunk over the past decade. However, when comparing countries based on their income levels (World Bank classification), we observe that the reduction in the informal sector occurred only in the groups of lower-middle-income countries and high-income countries (Table 6).

**Table 6: Informal employment in Latin America and the Caribbean, according to World Bank Group country classifications by income level**

	2023	2014	change
Latin America and the Caribbean, all countries	51.8	51.3	↑0.5
Latin America and the Caribbean, lower middle-income countries	83.6	84.5	↓0.9
Latin America and the Caribbean, upper-middle-income countries	50.8	50.2	↑0.6
Latin America and the Caribbean, high-income countries	32.1	33.6	↓1.5

Source: own calculations, based on ILOSTAT (2024): SDG indicator 8.3.1.

It holds true that with higher income or GDP per capita, the level of informality decreases in Latin America. Latin American countries can be categorized into four groups: 1. Countries with high levels of informal employment and low GDP per capita (PPP), 2. Countries with high levels of informal employment and high GDP per capita, 3. Countries with low levels of informal employment and low GDP per capita (PPP), 4. Countries with low levels of informal employment and high GDP per capita (PPP). The majority of Latin American countries fall into the first group. Brazil, as the largest economy in the region, is a country with a low level of informality and an average GDP per capita. The countries with the most positive outcomes are Uruguay, Chile, and Costa Rica, which are among the most developed nations in the region (Figure 3).

**Figure 3: Informal rate vs. GDP per capita**



Own processing according to STATISTA (2024): Informal employment as percentage of total employment in selected countries in Latin America and the Caribbean as of 2023, WORLD BANK (2024): GDP per capita PPP.

### 3.1 Impact of the COVID-19 Pandemic

The most significant trend in recent years has undoubtedly been the COVID-19 pandemic, which led to the worst economic and social crisis in Latin America and the Caribbean in the past decade. While crises typically result in an increase in the informal sector at the expense of the formal sector (counter-cyclical behavior), the pandemic saw a decline not only in formal employment but also in informal employment. In fact, in Latin America, the decline in informal employment was greater than that of formal employment.

The pandemic temporarily reduced the number of employed individuals overall. This was particularly impactful in Latin America, where a significant share of the workforce is engaged in jobs tied to tourism or various personal-contact services within the informal economy. The informal sector was disproportionately affected because most of its industries were not included in countries' so-called essential infrastructure. Additionally, terminating informal employment is easier than formal employment. Many of these informal jobs are also characterized by the so-called feminization of employment, making women particularly vulnerable. Other highly affected groups included young workers, older populations, and low-skilled workers. The reduction in informal employment did not lead to an increase in formal employment but rather to inactivity and higher overall unemployment. It is estimated that the informal economy suffered income losses of up to 80%, and poverty levels increased by more than 50%.<sup>20</sup>

In addition to reduced economic activity caused by mobility restrictions, the crisis also led to an increase in social inequality. Workers in the informal sector are not covered by insurance, social security, or healthcare benefits. Losing informal employment means no legal entitlement to unemployment benefits or other support during the pandemic, unlike workers in the formal sector. This lack of safety nets contributed to a rise in income inequality across the region.

Another significant issue was the quality of healthcare and unequal access to medical services, compounded by insufficient infrastructure. During the pandemic, this resulted in inadequate and poorer access to healthcare services (e.g., respirator usage), medications, and, in extreme cases, even death. Many countries faced a healthcare crisis, exacerbated by delays in vaccination. Only a few countries initiated vaccination relatively early (Argentina, Chile, Costa Rica, Mexico), with Chile being the most effective. After the state of emergency ended, employment in the region gradually recovered, with informal employment leading the way. This recovery increased the share of informal employment within total employment. The informal sector experienced a faster employment rebound, contributing to over 70% of net job growth in most countries.<sup>21</sup> The International Labour Organization reports that informal employment accounted for approximately 40% to 95% of the net increase in employment between Q3 2020 and Q2 2023. By mid-2023, the regional informality rate stood at 48%, slightly below the 2019 record of 49%.<sup>22</sup> The most significant recovery in informal employment was among young people. Despite the revival of economic activity after the pandemic, the trend of increasing numbers of "working poor" persists, driven by accelerating inflation.

### Discussion and Conclusions

The persistently high rate of informal employment remains a critical issue. Of particular concern is the weak social coverage and protection for the population in Latin America, as well as the high prevalence of the "working poor." The working poor phenomenon poses

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<sup>20</sup> EUROPEAN PARLIAMENT (2021): *The informal economy and coronavirus in Latin America: Briefing*.

<sup>21</sup> ILO (2024): *Strategy for the Promotion of Formalization in Latin America and the Caribbean*.

<sup>22</sup> ILO (2023): *2023 Labour Overview: Latin America and Caribbean*, p. 6.

a significant obstacle to further development and sustainable economic growth. The COVID-19 pandemic further exposed the structural problems of the region, including high levels of inequality - not only in terms of income but also socially. High informality exacerbates this situation. Increasing formal employment could help reduce inequality and stimulate stagnant economic growth.

The ILO has developed a series of recommendations and principles to reduce informality in the region. These include: increasing productivity in the formal sector, ensuring compliance with labor laws, segmenting the informal sector and tailoring solutions to specific segments, preparing comprehensive and long-term strategies aimed at formalizing jobs and enterprises. The ILO also emphasizes the importance of finding tailored solutions for individual economies through dialogue at the regional and local levels, while considering climate change and digitalization. However, implementing these measures remains a distant goal. Furthermore, trends like digitalization and climate change are likely to bring significant changes to the informal labor market.

The introduction of digital technologies and automation into production processes is expected to lead to job losses in both formal and informal sectors unless timely measures are taken to retrain workers and transform economies. Informal sector workers are especially vulnerable in this context. Nevertheless, digitalization also offers opportunities, particularly for integrating informal employment into the formal sector. For example, introducing new digital skills into public administration could simplify and reduce the cost of formalizing businesses. Given the high participation of small businesses and self-employed individuals in the informal sector across the region, digitalization could provide a partial solution.

Climate change presents both challenges and opportunities for the region. Its impacts often highlight the vulnerability of Latin America's population, particularly in the poorest regions with high levels of informal employment. Climate change pressures governments to address new issues (e.g., threats to farmers' production due to changing climates) and unresolved ones (e.g. harmful labor practices affecting farmers' health). Transitioning to green economies offers an opportunity to formalize informal jobs through the creation of "green jobs." Achieving social, legal, and economic inclusion will be key in this transformation.

In this paper, we identified the most vulnerable groups within the Latin American population employed in the informal sector: women, young workers, older workers nearing retirement age, and low-skilled workers. These groups are the most susceptible to job loss and, even when employed in the informal economy, face poverty as part of the "working poor." The lack or insufficient coverage of social and health protections, low productivity, and high social inequality are recurring challenges associated with the high levels of informality in the region. The level of informality naturally varies across the region. The highest rates are observed in Bolivia, Guatemala, and Peru, while the lowest are found in Uruguay, Chile, and Costa Rica. Generally, countries with higher GDP per capita tend to have lower levels of informality. However, it is concerning that the informal sector is once again expanding even in upper-middle-income countries (such as Argentina, the Dominican Republic, Peru, Ecuador, and Guatemala) and high-income countries like Uruguay.

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# CHINESE INVOLVEMENT IN AFRICA: DISPUTED NEOCOLONIALISM<sup>1</sup>

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**Abstract:** The aim of this paper is to examine whether the People's Republic of China's policy towards Kenya, Zambia, Angola and Africa as whole can be characterized as neo-colonialism. To do so, we must define colonialism and neo-colonialism, consider in detail selected cases of PRC's operations in Africa and through comparative analyze whether the Chinese approach towards these countries in fact constitutes neo-colonialism. For this purpose, it is also important to understand the motivation of Chinese interest in Africa. The methods used in this paper are analysis, historical methodology, deduction, synthesis.

**Key words:** BRI, China, neo-colonialism, colonialism, Africa.

**JEL:** F34, F50, F54, P45

## Introduction

After the notorious case of Hambantota port in Sri Lanka which was financed by the People's Republic of China and later was leased to China for 99 years due to Sri Lankan public debt issues<sup>2</sup>, a huge outbreak of concerns towards PRC occurred, as well as accusations of practicing "debt-trap diplomacy" and neo-colonialism. Today, China engages actively in world politics, financing various international construction projects and signing trade deals with countries of the Global South, that once were victims of colonialism. Given the Chinese policy of "rejuvenation", ambitions to "change the world order"<sup>3</sup> and its general rise to power, some scholars today warn that the Chinese policy towards developing countries is in fact a policy known as neo-colonialism. Generalization and overuse of the term might lead to its misinterpretations. Thus, this paper aims to take a closer look at PRC's activities in Africa, outline neocolonialism and understand if the approach of China towards countries in the region can be in fact categorized as neo-colonialism.

## Literature review

The vast majority of the literature on neo-colonialism and policy of PRC towards Africa focuses on the concrete examples of cooperation among China and countries of Global South (GS) and impacts of participating in international infrastructure building projects of the PRC - the Belt and Road Initiative. There are two points of view on the aforementioned issues among authors: positive and negative or skeptical. The first facet focuses on the positive impact of cooperation between PRC and GS, including Freitas (2023), Deych (2018), Rarieya, C. et al. (2024) and the rhetoric used in the above mentioned literature is rather friendly or less-critical towards China. The other facet, while mentioning the positive consequences of this cooperation, if such are in fact present, still tends to be more critical of China's international policy, pointing out the risks like, for example, Bode (2024), Langan (2018), etc. Although one should look out for authors whose rhetoric is exaggerated or too ideologically biased.

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<sup>1</sup> This paper is part of the project I-24-106-00 *Changes in the positions of global actors in economic relations with Africa*.

<sup>2</sup> KIRAN, S. (2017): China signs 99-year lease on Sri Lanka's Hambantota port, Financial Times.

<sup>3</sup> KHALID, M. (2024): The Changing Global Order and China's Rise, Institute of South Asian Studies.

It should also be mentioned that there are authors who write from totally different perspectives, seeing the ongoing globalization as a form of neocolonialism. For example, Mazrui concludes that globalization “*allows itself to be a handmaiden to ruthless capitalism, increases the danger of warfare by remote control, deepens the divide between the haves and have-nots, and accelerates damage to our environment*” (Mazrui, 2002).<sup>4</sup>

Freitas (2023) in his work states that China’s presence in Africa has been more positive than negative, and its presence has created a positive legacy in terms of infrastructure, which should serve the countries involved and help achieve greater financial results. China has not imposed projects, debt-entrapment, or its ideology on the countries where it has developed projects and joint activities. Also, cooperation with China has helped African countries to distance themselves and become more independent economically and politically from European countries.<sup>5</sup>

Rarieya et al. (2024)<sup>6</sup> presents the view that Kenya’s relationship with China has proven beneficial for the country’s economy and strengthened its power within East Africa. Kenya has benefited from a large amount of infrastructure projects which include: 13 grant projects amounting to around \$102 million, four preferential loan projects of approximately \$292 million, fourteen commercial projects amounting to commercial projects amounting to \$8.545 billion, along with other investment projects approximating \$564 million. China’s investment in Africa through the Belt and Road initiative (“BRI”) has, so far, proven to be a successful project in Kenya. Authors state that BRI is seen as a way to promote economic growth and development, promote regional stability and security. Finally, the BRI is, as stated by authors, is an instrument for promoting China’s vision of a new world order that is more multipolar and less dominated by the United States as well as the West.

Bode (2024) writes that economic motives for China’s development finance in Africa arguably include promoting China’s own economic growth and its “going global” strategy by promoting trade (exports or imports), access to natural resources and foreign direct investment by Chinese firms as well as by investing its vast foreign exchange reserves abroad and stimulating global demand for goods that are domestically in oversupply. He also points out that China charged a higher interest than other bilateral or multilateral lenders, which compensates for higher risk of default, and also frequently demanded collateral in terms of resources or control over infrastructure facilities, which helps satisfy China’s hunger for resources or its geopolitical ambitions, respectively. Access to resources was an economic motive for sovereign lending by both China and the Western countries. The Western countries lent more likely to secure imports from their actual African suppliers while China lent more likely to gain access to additional suppliers. The Western countries additionally lent more likely to less resource-rich African countries, which might reflect the additional motive of providing development assistance.<sup>7</sup>

According to Ferchen (2024) Africa has provided the best fit for and has been the most receptive to China’s development-focused economic diplomacy. China claims a historic solidarity with developing countries in the region, which has bolstered trade, investment, and financial relations. China strengthened trade links to energy- and mineral-rich countries. China has been keen to emphasize that it is a good development partner because it is willing to do business with African partners in a way that other countries are not.<sup>8</sup>

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<sup>4</sup> MAZRUI, A. (2002): Nkrumanizm and the Triple Heritage in the Shadow of Globalisation.

<sup>5</sup> FREITAS, M. (2023): The Impact of Chinese Investments in Africa: Neocolonialism or Cooperation?

<sup>6</sup> RARIERA, C. et al. (2024): China’s Belt and Road Initiative in Africa.

<sup>7</sup> BODE, E. (2024): The Motives for Chinese and Western Countries’ Sovereign Lending to Africa.

<sup>8</sup> FERCHEN, M. (2022): Growing US-China rivalry in Africa, Latin America and Southeast Asia: Implications for the EU.

Langan's work (2018) analyzes how PRC is using different leverages to secure flow of resources from Africa to China and maintaining political influence in African countries. Langan also points out in his work that China promotes de-democratization in countries it cooperates with.

Another noteworthy aspect of highlighting activities of PRC in Africa, is that if taken look on African state organs, government websites or think tanks, they tend to write about the China-Africa relations rather positively (e.g. Africa-China Centre for Policy and Advisory<sup>9</sup>, African Union<sup>10</sup>, Parliament of Zambia<sup>11</sup>), while non-state actors are more critical towards the Chinese policy in Africa (e.g. Miriri, D.<sup>12</sup>, Omondi, D.<sup>13</sup>, Mulaku and Sabala<sup>14</sup>).

One should bear in mind, however, the interest of the parties and their affiliation with certain ideas. For example, Chinese sources are more likely to proclaim the successes and positive qualities of their projects, like Xinhua, China Daily, etc., while Western sources, on the contrary, tend to be more critical and skeptical.

### 1 Colonialism vs Neo-Colonialism

There are different definitions of the term "colonialism". For example, in the International Encyclopedia of Human Geography colonialism is defined as "... combination of territorial, juridical, cultural, linguistic, political, mental/epistemic, and/or economic domination of one group of people or groups of people by another (external) group of people".<sup>15</sup> Richard T. Schaefer gives a more detailed description: "*Colonialism has been the most frequent way for one group of people to dominate another. Colonialism is the maintenance of political, social, economic, and cultural domination over people by a foreign power for an extended period. (...) Colonialism is rule by outsiders but, unlike annexation, does not involve actual incorporation into the dominant people's nation. (...) The natural resources of their [colonized people's] land benefit the members of the ruling class.*"<sup>16</sup>

Hence, we can summarize, that colonialism is in fact domination by outsiders, foreign power, with exercising of force and influence to conquer foreign land and use it, its resources, natural and human, for the benefit of the colonizers, but without direct incorporation of colony in foreign state.

Throughout history many countries have been colonized and exploited by European colonial powers, Kenya being one of such examples. As some scholars of the past have indicated, colonialism in Kenya led to many problems that the country had to face after independence. As an example, previous colonial administration created unnatural artificial borders without taking into account specifics of African ethnic groups, which eventually led to ethnic conflicts. Those conflicts took place because some tribes and groups were divided or separated from each other, while on the contrary some tribes were included in new territory with ethnic groups hostile towards them. The approach of colonial administration also shaped

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<sup>9</sup> MNONGYA, R. (2023): China and Infrastructure Development in East Africa: The Case of Kenya and Uganda [online]. [Cited 1. 6. 2024]. Available online: <https://africachinacentre.org/china-and-infrastructure-development-in-east-africa-the-case-of-kenya-and-uganda/>

<sup>10</sup> LIMU, M. (2024): Fourth African Union and China Dialogue on Human and Peoples' Rights [online]. [Cited 1. 6. 2024] Available online at: <https://www.peaceau.org/en/article/fourth-african-union-and-china-technical-dialogue-on-human-and-peoples-rights>

<sup>11</sup> National assembly of Zambia (5. 10. 2023.) Parliamentary session [online]. [Cited 10. 6. 2024] Available online: <https://www.parliament.gov.zm/node/11571>

<sup>12</sup> MIRIRI, D. – SAVAGE, R. (2024): Post-COVID, China is back in Africa and doubling down on minerals.

<sup>13</sup> OMONDI, D. (2024): Why Chinese expats and China firms' earnings continue to drop.

<sup>14</sup> MULAKU, M. – SABALA, K. (2024): Infrastructural Development and Neo-Colonialism in Africa: The Case of the Standard Gauge Railway in Kenya, Brill.

<sup>15</sup> KOBAYASHI, A. (2020): International Encyclopedia of Human Geography.

<sup>16</sup> SCHAEFER, R. (2015): International Encyclopedia of the Social & Behavioral Science.

the Kenyan industry and production, resulting in concentration of industry and production in 6 major cities, and the country being strongly tied to agricultural production.<sup>17</sup> Of course, as any other colony, Kenya’s natural and human resources were exploited by the British empire as well.

The concept of neo-colonialism has developed from colonialism and can be defined as *a form of new economic control and resource plundering by developed countries rebuilt after the disintegration of the old colonial system in the postwar period as developing countries gained political independence.*<sup>18</sup> Kwame Nkrumah, for example, states that *“The neo-colonialism of today represents imperialism in its final and perhaps its most dangerous stage .... The essence of neo-colonialism is that the State which is subject to it is, in theory, independent and has all the outward trappings of international sovereignty. In reality, its economic system and thus its political policy is directed from outside.”*<sup>19</sup>

Jean-Paul Sartre in *Colonialism and Neocolonialism* (1964) criticized France for its continued influence in the governments and policies of its ex-colonies, particularly Algeria and called for their emancipation from the French interference.<sup>20</sup>

We can conclude that neo-colonialism is a policy of indirect control in which a dominating power uses subtler modes of dominance, which are (but not limited to) financial aid, trade agreements, soft power, political influence, etc., and does not usually involve direct permanent settlement in the dominated territory. To facilitate, we can make a comparison table:

**Table 1: Comparison of the signs of Colonialism and Neo-Colonialism**

	<b>Colonialism</b>	<b>Neo-Colonialism</b>
Use of force (e.g. military)	Direct	Indirect
Occupation/physical presence in target area/country	Yes	No
Exploitation of resources of target area/country	Yes	Yes
Influence on target area/country	Via military force, occupation and terror	Through financial, legal and other forms of leverage

Source: own research

## 2 China in Africa

China and Africa have long history of relations, starting from the times of Ming dynasty, when admiral Zheng He led envoys to East African coasts, establishing and securing relations among China and local countries. In those times it was a demonstration of superiority of the “Celestial Empire”.<sup>21</sup> Today People’s Republic of China is very active in the international arena. We have witnessed the start and implementation of its many ambitious projects and initiatives, such as the BRI. One can argue that such engagement aims to restore the power and influence that the Chinese Empire once had. PRC’s active involvement aims to further interconnect and strengthen economic and trade ties between China and the world. Participating in this initiative sometimes did help countries to improve their infrastructure,<sup>22</sup> but the Belt and Road Initiative have also sparked serious controversies and concerns, such as regarding fairness

<sup>17</sup> NDEGE, P. (2009): Colonialism and its Legacies in Kenya.

<sup>18</sup> KOBAYASHI, A. (2020): International Encyclopedia of Human Geography (Second Edition).

<sup>19</sup> NKUMAH, K. (1965): Neo-Colonialism, the Last Stage of Imperialism.

<sup>20</sup> SARTRE, J.-P. (1964): Colonialism and Neocolonialism.

<sup>21</sup> 天下 or Tianxia in Mandarin.

<sup>22</sup> For example, Nairobi-Thika Highway Project or Algeria East-West Highway.

of loans issued by China, environmental damage caused by construction works, possible risks to national security of the participating countries, etc.

Yet still, this initiative plays a significant role in the modern interconnected globalized world for a number of reasons. Aside from being perceived as a key part of China's foreign policy to expand its global influence it is also being seen as a way to promote economic growth and development in participating countries, of which many are emerging economies. BRI participating countries, including PRC, make up 40% of global GDP and about 63% of the world's population.<sup>23</sup> Finally, BRI is a tool to promote China's vision of a new world order that is more multipolar and less dominated by the United States, and as perceived by certain authors this initiative is an opportunity to foster stability and security in the participating countries.<sup>24</sup>

Today, China became the biggest investor in Africa. The China-Africa economic relationship has developed rapidly over the last two decades. China has increased its investment in Africa: flows surged from \$75 million (2003) to \$5 billion (2021).<sup>25</sup> One can wonder what is the motor of this interest in cooperation and trading with the countries of the Global South and Africa in particular. The following suggestions can be pointed out: firstly, it is done to confront the US and the US-led "world order". China tries to gain more influence and allies among developing countries. Despite the dramatic differences between the domestic and foreign policies of the Mao era and those of today, its leaders stress the continuity in China being a reliable partner that shares common goals and values with countries in these regions. While they no longer emphasize revolutionary solidarity, they point to China's role in supporting their economic development. Since the early 2000s, China has highlighted its economic progress to promote itself as a leader and agent of development on the global stage.<sup>26</sup>

Secondly, China's interest in natural resources is primarily driven by its domestic development needs. The economic rationale behind China's development finance in Africa is rooted in securing its own economic growth and implementing its "going global" strategy by promoting trade, access to natural resources, and foreign direct investment by Chinese firms. Additionally, China invests its vast foreign exchange reserves abroad, and by doing so, it stimulates global demand for goods that are in oversupply domestically.<sup>27</sup>

Thirdly, construction and infrastructure building companies are an important part of the Chinese economy, and the huge demand for upgrading or building infrastructure in African countries, provides the perfect opportunity for China to step in.

Being a part of the BRI, participating countries receive loans from China for construction purposes. One of the negative aspects for countries participating in the BRI is that construction work is done exclusively by Chinese firms. As a result, local companies do not benefit from it. In fact, Chinese companies do not even hire local workers in most cases, thus, those projects do not provide any relief for unemployment situation as well.<sup>28</sup>

When it comes to accusations of debt trapping or "debt trap diplomacy", the most frequent statement can be heard that China is luring countries into unsustainable loans to build unnecessary infrastructure and to expand its strategic and military reach, one of the most known examples being the Sri Lankan port of Hambantota. Because of high levels of indebtedness and financial vulnerability in some countries, debt-trapping in Africa has been an

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<sup>23</sup> RARIERA, C. – DE VICENTE, S. (2024): China's Belt and Road Initiative in Africa.

<sup>24</sup> Ibidem.

<sup>25</sup> Chinese FDI in Africa Data Overview.

<sup>26</sup> FERCHEN, M. (2022): Growing US-China rivalry in Africa, Latin America and Southeast Asia: Implications for the EU, MERICS.

<sup>27</sup> BODE, E. (2024): The Motives for Chinese and Western Countries' Sovereign Lending to Africa.

<sup>28</sup> ACKAH, C. et al. (2024): What role for Chinese FDI in Africa? Kiel Institute for the World Economy.

accusation levelled against Chinese investments. Such loans may become economically unviable, leading to debts countries may be unable to repay. Additionally, Western critics have criticized the lack of transparency of Chinese loans in Africa, with limited accountability and public scrutiny.<sup>29</sup> Still, according to Freitas (2023) on the other hand, those loans provided countries with the possibility to construct needed infrastructure and foster economic growth through trade, filling the gap where Western countries have not been willing to.<sup>30</sup> Chinese loans have been primarily used to develop Africa's poor infrastructure: about 40% has been utilized for power generation and transmission and 30% for upgrading outdated transport facilities.<sup>31</sup> A parallel can be drawn between colonialism and neocolonialism here: before the arrival of China on the African resource market, much of infrastructure development was linked to resource exploitation mainly to the extent that some infrastructure facilities, such as power plants, railways and ports were needed to extract resources and ship them to the West.<sup>32</sup> So now this PRC-built infrastructure, while improving economies of the recipient countries in general, still can be used as instrument for influence and subsequent resource extraction to China.

In the context of accusations related to neo-colonialism, key concerns include the exertion of political influence in African nations, the exploitation of resources, unfair trade practices, and the imposition of control through financial agreements. Explicit examples are the cases when PRC demands to denounce relations with Taiwan and recognize it as part of PRC. Moreover, in 2016 Kenya deported 50 Taiwanese nationals to China, likely, because of the pressure from Beijing in order for the cooperation to continue.<sup>33</sup>

Another concern, the most controversial and complicated one, is related to ideological conflict. As China gives loans and implements infrastructure projects on the continent, so do the U.S. and EU. The main difference is that the U.S. and EU attach conditions related to the country's domestic issues to their loans – such as reforming the political and economic system of the country etc., while China on the contrary cares little about those things, making emphasis more on the requirements of supporting One China policy, supporting China on the international arena, etc. Bode (2024) states that Western countries lend more likely to African countries with better institutions.<sup>34</sup> The West and People's Republic of China pursue different objectives and follow different ideologies, and naturally try to spread them worldwide to secure their position.<sup>35</sup> That's why there are concerns that China might promote authoritarianism, one-party system, etc. among its partners. As Bode (2024) points out, *“A related argument is that China's own institutional and political system is more similar to those of many African countries than the institutional and political systems of Western democratic countries Chinese stakeholders, be it politicians, bureaucrats or managers of state-owned banks, may be more experienced in dealing with autocratic or corrupt governments of borrowing countries.”*<sup>36</sup>

### 3 Case of Angola

Further controversies are related to previous cases in the past decade, to resource mining and political influence of China in Africa, such as the case of Angola. Attempts for improving

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<sup>29</sup> FREITAS, M. (2023): The Impact of Chinese Investments in Africa: Neocolonialism or Cooperation?

<sup>30</sup> Ibidem.

<sup>31</sup> Ibidem, CHEN, X. (2018): Why fears of China's neocolonialism in Africa ring false in the face of numbers that tell a different tale”.

<sup>32</sup> HABIYAREMYE, A. (2013): ‘Angola-mode’ Trade Deals and the Awakening of African Lion Economies.

<sup>33</sup> MANERO, E. (2022): China's Investment in Africa: The New Colonialism? Harvard Political Review.

<sup>34</sup> BODE, E. (2024): The Motives for Chinese and Western Countries' Sovereign Lending to Africa.

<sup>35</sup> NIBLETT, R. (2024): The New Cold War. How the Contest Between US and China Will Shape Our Century.

<sup>36</sup> Ibidem.

economy through trade with China, particularly via the oil-for-infrastructure deals - even named “Angola Mode” - in which African natural resources are exchanged for the financing and construction of infrastructure projects by Chinese companies.<sup>37</sup> The country received a 2 billion dollars loan in 2004 for infrastructure and construction which included the construction of the city of Nova Cidade de Kilamba, in exchange for the nation’s oil. As oil prices dropped, Angola’s oil backed debt increased to \$25 billion, and they have fallen behind on paying back their loan. As the result, China gained significant influence in Angola, because of the fact that 35% of its economy comprises China imports of country’s goods.<sup>38</sup> Angola had a difficult choice, of either giving up control of its mines or abandoning its deals with China altogether. This suggests Angola as a good example of a neo-colony – it is economically dependent on an outside nation.<sup>39</sup>

Another aspect of PRC’s involvement in this country is that Angolan businesses struggle to compete in cheaper markets flooded with imported Chinese goods. China's emphasis on production of clothing and shoes has packed Angolan markets with low-cost goods, forcing local businesses who do not have partnership agreement with Chinese firms out of the market.<sup>40</sup>

The case of Angola signifies threats of PRC’s economic and political influence and intervention in country’s sovereignty and self-governance. As Langan stated, “*Dos Santos presidency has regularly been accused of colluding with Chinese oil and infrastructure firms to secure its own political ascendancy. This has been described as a ‘reverse democratization process’ in which the state itself is being privatized by a corrupted domestic elite in the favor of Chinese foreign investors... This de-democratization has been buttressed by Chinese aid in the form of infrastructural assistance, particularly in the run up to elections, as well as (allegedly) Chinese monies for Dos Santos’ direct electoral campaigning*”.<sup>41</sup>

As for today, Angola still owes Chinese creditors around \$17 billion — nearly 40% of the country's external debt — with S&P Global estimating that around 80% of Angola's debt to China stems from oil-backed loans.<sup>42</sup>

#### 4 Case of Zambia

Zambia is one of the most attractive countries for PRC’s investment inflows - third largest destination for Chinese foreign direct investment (FDI) on the continent.<sup>43</sup> Such interest is to no surprise due to Zambia’s natural resources.

In the year 2011 Michael Sata won the presidential elections. While campaigning he expressed concerns about PRC’s policy towards Africa and Zambia, particularly regarding its interest in the extraction of natural resources, and thus denouncing China's neo-colonialist tendencies, as he called it. He compared it to the period of European colonialism and argued that Europeans at least tried to improve the well-being of the colonies, while the neo-colonialist approach of China was not tempered by any humanitarian aspirations with regards to Africa’s people.<sup>44</sup>

Sata’s rhetoric emerged as a response to substantial Chinese interventions within the mining sector. Investors from the China Nonferrous Mining Co. Group (CNMC) acquired control of the Chambishi Copper Mine in 1998. In 2006, under ownership by PRC, the Chambishi mine produced around 50,000 tons of copper concentrates from 800,000 tons

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<sup>37</sup> HABIYAREMYE, A. (2013): ‘Angola-mode’ Trade Deals and the Awakening of African Lion Economies.

<sup>38</sup> KELLY, R. (2017): How China's Soft Power is Building a Neo-Colonial System in Africa.

<sup>39</sup> Ibidem; SHARMA, N. (2023): China in Africa: Soft Power and the Development of Neocolonial States

<sup>40</sup> ENGLEBERT, L. (2019): Sino-Angolan Cooperation: Mutually Beneficial or Neo-Colonial?

<sup>41</sup> LANGAN, M. (2018): Emerging Powers and Neo-Colonialism in Africa.

<sup>42</sup> RANE, W. (2024): Angola: Government Reaches Deal with China Development Bank on Debt Interest Payments, Stratfor.

<sup>43</sup> Chinese FDI in Africa Data Overview, John Hopkins University.

<sup>44</sup> LANGAN, M. (2018): Emerging Powers and Neo-Colonialism in Africa.

of ore. Meanwhile, CNMC investors began planning to construct an industrial processing zone alongside the mine. This would allegedly ensure that some processing took place in Zambia itself.<sup>45</sup>

Zambian workers were exposed to hazardous working conditions and faced serious violations of work ethic and human rights by Chinese investor.<sup>46</sup> This included the Chambishi operations itself, where workers have died, were injured or gone missing during an explosion at a Beijing Research Institute of Mining and Metallurgy plant surrounding the mining activity. In July 2005, four Zambian workers, while protesting their low wages, were shot by the Chinese manager.<sup>47</sup>

Sata's government tried to implement new tax policy, particularly regarding mining activities, but pressure of Chinese and other foreign investors didn't allow the government to do so. In 2015 Maxwell Mwale, the former minister of mines, was imprisoned due to corruption scandals on transfer of mining concessions to a Chinese enterprise and in 2014 Sata, shortly before his death, completely changed his rhetoric towards China, praising PRC's FDI and saying that Zambia and China are "Siamese twins".<sup>48</sup>

This indicates one of the mentioned signs of neo-colonialism – influence through financial/legal and other forms of leverage, as well as exploitations of natural and human resources.

As for today, according to the China-Africa and Trade Relations Report 2023, China's imports from Africa are dominated by mineral imports, which accounted for 57 percent (\$67.09 billion) of total imports in 2022, with Zambia being the second largest source.<sup>49</sup>

## 5 Case of Kenya

Kenya has become an increasingly crucial part of China's BRI because of its location in the region, available maritime ports and overall economic growth and potential. Kenya joined BRI in 2018 and received loans from China for infrastructure projects. A significant portion of these loans are due to Kenya's two flagship infrastructure projects, the Nairobi-Thika Highway Project and the Mombasa-Nairobi Standard Gauge Railway (SGR). While the first successfully linked much of East Africa to Mombasa, Kenyan port in Indian Sea, later one, SGR has faced some problems and controversies, the project was even labelled as "failed".<sup>50</sup> On the one hand the project has been criticized by Western foreign observers as deepening the country's indebtedness, but from the other perspective, Kenyan authorities and Chinese sources, for example Xinhua, described this project as beneficial, promoting prosperity and stability and fostering cooperation among China and Kenya. As of today, only part of the railway is finished, and further funding is required. Because of the indebtedness of Kenya, rumors appeared that the port of Mombasa might be "seized" by the Chinese or become collateral to finish the building of the railway, which later was debunked as false and misreading of information.<sup>51</sup>

Despite the fact that infrastructure projects are potentially beneficial, China accounted for 73% of Kenya's debt in 2022. Borrowing from China has accumulated with projects such as the railway between Nairobi and the port city of Mombasa that was funded by a multibillion-

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<sup>45</sup> Ibidem.

<sup>46</sup> Human Rights Watch (2011): You'll be fired if you refuse: Labour abuses in Zambia's state-owned copper mines.

<sup>47</sup> SPILSBURY, L. (2012): Can Michael Sata tame the dragon and channel Chinese investment towards development for Zambians?

<sup>48</sup> LANGAN, M. (2018): Emerging Powers and Neo-Colonialism in Africa.

<sup>49</sup> SHEN, Y. et al (2023): China-Africa and Trade Relations Report.

<sup>50</sup> NIBLETT, R. (2024): The New Cold War. How the Contest Between US and China Will Shape Our Century.

<sup>51</sup> BRAUTIGAM, D. et al. (2022): How Africa Borrows from China: And Why Mombasa Port is Not Collateral for Kenya's Standard Gauge Railway



dollar loan. Kenya's total debt nearly doubled from 2018 to around 8 trillion Kenyan shillings (\$50 billion at current rates) in 2022, or roughly 70% of gross domestic product, with infrastructure projects started under the previous administration and COVID-19 stimulus measures putting pressure on public finances.<sup>52</sup>

This leads to a situation when Chinese labor and Chinese financing declines due to pushback by Africans who want to see more Africans hired for job.<sup>53</sup> Almost the same is the situation with import - in the past years, inflow of relatively cheap Chinese goods, like cars and car parts, electronics, communication, food and clothing, has been positive for the population of Kenya, many of which are impoverished, but in the end it leads to a situation when local producers and manufacturers cannot adequately compete.<sup>54</sup> Imports from China are currently on the decline due to diminished demand from local consumers in Kenya, which can be attributed to the high inflation rates that have eroded the purchasing power of the populace.<sup>55</sup> Still, one can argue that this approach indicated metropole-colony trade relation, making Kenya PRC's export market.

**Discussion**

After analyzing the aforementioned cases of People's Republic of China's policy toward the selected African countries, a comparison table can be created, which shows that PRC's approach in fact bears the hallmarks of neo-colonialism, which were outlined in the chapter "Colonialism Vs. Neo-colonialism".

**Table 2: Comparison of the cases of African countries**

	Use of force and power (e.g. military, political)	Occupation/physical presence in target area/country	Exploitation of resources of target area/country	Influence on target area/country through financial, legal and other forms of leverage
Kenya	Indirect	X	X	✓
Zambia	Indirect	X	✓	✓
Angola	Indirect	X	✓	✓

Source: own research

This table represents a limited approach to analyzing certain traits of neocolonialism and is not complete in the sense of an absolute definition of neocolonialism. Therefore, further research is required to thoroughly research and critically assess the presence of complex characteristics of neo-colonialism in the activities of the PRC in selected countries of Africa.

Based on acquired information from cases presented in this paper it can be concluded that People's Republic of China is in fact showing signs of neo-colonialism in its activities in selected African countries. It can be analyzed through its increasing political influence over African countries, which is manifested through their increased indebtedness, relying on trade with China, PRC's exploitation of African natural resources, etc. Those indirect leverages along with China making Africa its export market indicate neo-colonialist tendencies in the policy of People's Republic of China. As for Kenya, the signs of Chinese political and financial influence also can be seen, but further, broader study of the subject is required. All selected countries have proven to experience exerting political and economic power by the PRC towards them. The policy of China towards Zambia and Angola showed attributes of neo-colonialism

<sup>52</sup> WATANABE, K. (2024): As China debt looms, Kenya president seeks more diverse funding, Nikkei Asia.

<sup>53</sup> OMONDI, D. (2024): Why Chinese expats and China firms' earnings continue to drop, Business Daily.

<sup>54</sup> STÅHLKRANTZ, N. (2018): The Tiger in the Cage: Discourse Surrounding China's Engagement in Kenya

<sup>55</sup> AMBANI, B. (2024): Kenya imports from China in rare decline on hard economic times.

defined above, such as resource (natural and human) exploitation and exerting political pressure through various means.

High indebtedness towards China, along with being part of the Belt and Road Initiative, which, as was already pointed out, is in fact a tool for expanding Chinese influence, drives African countries into Chinese zone of interest and into its sphere of influence. Given the fact that China might promote less democratic way of governance (as Bode, 2024, and Langan, 2018, have stated), which was shown on the example of Angola, partner countries should be exceedingly careful while engaging in certain commercial and political relations with Beijing.

Those negative aspects, mentioned above, regarding indebtedness of Kenya, Angola and Zambia, as well as growing PRC's influence over these countries contradict with the conclusions stated in Rarieya et al.'s work, that BRI promotes stability and prosperity. On the other hand, it shows again how China is trying to change the world order and gain more allies, as the authors mentioned. Indeed, generally, the recipient countries benefit from improved infrastructure, as mentioned Freitas, but at the same time debt and corruption seriously affect the functioning of the state, which is crucial for developing countries. African countries perhaps did reduce their dependence of European powers via trade with PRC, but at the same time became more dependent on China, a country with neo-colonialist tendencies.

### Conclusion

The findings suggest that the selected African countries of Angola, Zambia, and Kenya have been, to some extent, impacted by the PRC policy, which can be considered an illustration of neo-colonialism based on this study. These countries have come under the economic and political influence of the People's Republic of China for various reasons. Consequently, their economies and natural resources have been exploited by PRC.

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# THEORIES OF INVESTMENT TREATY DESIGN IN THE LIGHT OF THE RECENT TRENDS

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**Abstract:** This article deals with theories of investment treaty design. The main scholarly works on investment treaty design fall within the rationalist framework. These theories see the variation in investment treaties as stemming from the interaction of interests between the host state seeking foreign investment and capital exporting country seeking to protect its investors abroad. The argument that this article puts forward is that these theories do not fit well with the recent trends in investment treaty making. In the second part of the article, I present examples that demonstrate issues that the rationalist theories face in the present and suggest that the social constructivist concept of epistemic communities should be explored to shift the focus from seeking to explain the variation across the treaties, to try to explain the variation between generations of investment treaties across time.

**Key words:** international investment treaties, investment law, rationalism, social constructivism.

**JEL:** K23, K33

## Introduction

There are several theories that seek to explain investment treaty design. In the light of the development in investment treaty design in the past decade, this article attempts to reexamine these theoretical frameworks and suggest new conceptual approaches to explain the development in the field in recent years. Approximately since 2010, we can observe more focus on investment regimes in scholarly literature, but also on the level of international organizations and nation states. There were two main concerns regarding investment regimes: the design of investment treaties and the practice of investment arbitration. This article is only concerned with the former, although the two concerns are linked through the investor-state dispute settlement provisions of investment treaties that set the framework for the practice of international investment arbitration.

There are two main concepts that come into conflict in investment regimes. First, the concept of investment protection that is rationalized by the necessity to protect foreign investment from arbitrary intervention from the host state in order for the investor to invest in a foreign country. Second, the concept of regulatory autonomy of the host state that can come into opposition with the concept of investment protection in cases, where the host state wants to regulate investment environment in public or private interest in a way that interferes with the operation of investment by foreign investors. An egregious example of this would be a direct expropriation of a foreign investment. A more common example would be an environmental regulation that interferes with the foreign investor's ability to generate profit.

When it comes to investment treaty design, this issue of regulatory autonomy of nation states was the main criticism of the previous generation of investment treaties.<sup>1,2,3</sup> The initial scholarly criticism was later reflected on the institutional level within the framework

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<sup>1</sup> TIENHAARA, K. (2011): Regulatory chill and the threat of arbitration: a view from political science.

<sup>2</sup> BROWN, J. G. (2013): International Investment Agreements: Regulatory Chill in the Face of Litigious Heat?

<sup>3</sup> BAETENS, F. – TIETJE, Ch. (2014): The Impact of Investor-State-Dispute Settlement (ISDS) in the Transatlantic Trade and Investment Partnership.

of UNCTAD, mainly in the yearly World Investment Reports that began to promote the idea of *IIA Reform*.<sup>4,5</sup> In the 2010s, we can see a new generation of investment treaties emerge, and many states adopting new model investment treaties to be used for negotiating new investment treaties. One of the first and most important examples of a treaty with the new generation of investment provisions was the Comprehensive Economic and Trade Agreement (CETA) signed in 2016.

The first part of this paper presents the most common theoretical perspectives for investment treaty that fit within the rationalist framework, and suggest a new way to approach investment treaty design by using the conceptual tools of social constructivism. The second part of the paper deals with some of the new trends in investment treaty design and offers observation on how these trends relate to the theoretical accounts presented previously.

## 1 Theories of Investment Treaty Design

The main theories of investment treaty design come from the rationalist framework. This means that the treaty design reflects a rational calculation of involved actors based on their preferences. Most of these accounts are related to the “credible commitment” argument regarding investment treaties rationalization. This argument interprets investment treaties as vehicles, through which the host country seeks to persuade foreign investors to invest by committing to not changing the rules of the game after the investment is made. In the absence of an effective and enforceable investment treaty, this commitment is not credible, since there is no way to guarantee that for example a new government will regard the commitment of the previous government as relevant.

Out of this line of argument comes the most obvious explanation for treaty design based on negotiation theory. The necessity of credible commitment from the host country puts the bargaining power in the hands of the capital exporting country. The design of an investment treaty will then be a function of the interest of the more powerful actor(s) involved in the interaction. In other words, in a bilateral negotiation, the more powerful state will be able to push through the design that suits their interests the best. This explanation is based on game theory, where the actor that has more options and is able to torpedo the deal in favour of making deal with someone else, is the one who will achieve a better win-set. In investment practice, this generally means that the more powerful the capital exporter is in the interaction, the more the design of the treaty will protect the foreign investors. On the other hand, if the two countries are more equal, the balance between investment protection and regulatory autonomy will be more equal. This theory has been tested on a large sample of investment treaties and it has been found solid in the past.<sup>6</sup>

Similar explanation can be made from the side of the capital importing country, or the country that seeks to attract foreign investment. This is sometimes called a “tying hands” theory of treaty design.<sup>7</sup> The logic of the explanation is based on the desire of the host country to “tie its hands” with regard to regulation of foreign investment in order to attract as much foreign investment as possible. Notice that the logic is quite similar to the bargaining power argument from the previous paragraph. The more attractive the foreign investment opportunity,

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<sup>4</sup> UNCTAD (2017): World Investment Report, 2017.

<sup>5</sup> UNCTAD (2014): Investor-State Dispute Settlement. UNCTAD Series on Issues in International Investment Agreements II.

<sup>6</sup> ALLEE, T. – PEINHARDT, C. (2014): Evaluating three explanations for the design of bilateral investment treaties; HUIKURI, T. (2020): Keep, terminate, or renegotiate? Bargaining power and bilateral investment treaties; JACOBS, M. N. – OSTERGARD, R. N. (2019): An investigation of variation in bilateral investment treaties: exploring every BIT, *Transnational Corporations Review*, 11:1, 24-37.

<sup>7</sup> ALLEE, T. – PEINHARDT, C. (2014): Evaluating three explanations for the design of bilateral investment treaties, p. 59.

the more will the host state be ready to sacrifice of its own regulatory autonomy to attract this investment. Therefore, once again, the more powerful (or rich) the capital exporter is, the stronger the provisions of the investment treaty will be. Or rather, the more “desperate” the capital importer is for foreign investment, the more it will be willing to tie its hands.

Both of these credible commitment explanations amount to the same hypothesis. The more economic power discrepancy there is between the parties negotiating a bilateral investment treaty, the stronger the protection of investment will be. There are also other rationalist explanations of investment treaty design. Among them, the most interesting is the famous rational design, as presented in the 2001 *International Organization* special issue.<sup>8</sup>

The alternative to the rationalist explanations of treaty design is the social constructivist account. Although there are various theoretical concepts that can be used in this context, it seems to me that the most useful one is the concept of epistemic communities. Epistemic community is a “a network of professionals with recognised expertise and competence in a particular domain and an authoritative claim to policy relevant knowledge within that domain or issue-area.”<sup>9</sup> This theoretical framework is not useful for explaining variance in treaty design between individual treaties, rather for explaining variance in treaty design across time. From this perspective, we can view the design of investment treaties as a result of shared intersubjective understanding of which provisions produce the best balance between investment protection and national sovereignty. Epistemic communities can therefore be viewed as a major factor behind some of trends that will be analysed in the next chapter. On the level of discourse, we can observe a change in narrative emphasizing regulatory autonomy in the academia (see introduction). On the institutional level, the major forum through which the epistemic community of legal and policy experts would produce this kind of shift in discourse is UNCTAD (again, see introduction for references). The social constructivist explanations of how the shared understanding of what the “best” treaty is have not yet been sufficiently examined empirically, and I will present an argument that in view of some of the developments in investment treaty-making, this is in fact the most promising theoretical approach.

The issue with the rationalist accounts of treaty design is twofold. First, the operationalization of the key variable, the “strength” of the treaty is problematic, since this is mostly done by coding provisions of investment treaties without having an objective reference point or even scholarly consensus on how strong individual provisions are relative to each other. For example, there is no way to objectively estimate that a fair and equitable treatment provision is a provision which provides the same degree of investment protection, as a provision against expropriation. On one hand, most investment arbitration claims contain an allegation of breach of fair and equitable treatment, which makes it seem that this provision is really crucial. On the other hand, the fact that expropriation (even indirect) has recently not been claimed by investors in many cases does not necessarily mean that the provision and its formulation is less important, since its breach is generally considered a more significant infringement of investor’s rights. Second, even if we concede that the issue mentioned in the previous lines can be overcome by careful coding and large enough sample of treaties, we still face the issue that some of the most recent trends in investment treaty making seem to go against the rationalist hypotheses. These particular cases will be analysed in the next chapter of the article as an argument to focus more seriously on the social constructivist theories.

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<sup>8</sup> KOREMENOS, B. – LIPSON, CH. – SNIDAL, D. (2001): The Rational Design of International Institutions.

<sup>9</sup> HAAS, P. M. (1992): Introduction: epistemic communities and international policy coordination.

## 2 Theories of Investment Treaty Design in the Light of Recent Trends

The argument presented in this article is that the recent trends in investment treaty-making suggest that the social constructivist theories of investment treaty making offer a more promising research program than the traditional rationalist accounts of investment treaty design. First important trend that has been pointed out by Korzun<sup>10</sup> (among others) is the emergence of regulatory carve-outs in the new generation of investment treaties. What clashes with the rationalist logic is that these regulatory carve-outs are also part of the model treaties of the most developed countries in the world, even though these provisions clearly limit the protection of foreign investors in particular areas. In this sense, the influence of epistemic community in academia and within UNCTAD is a better explanation of why these provision find their way into bilateral treaties more and more often, even in cases with a significant difference in bargaining power. In other words, it is hard for the traditional rationalist theories to explain why do the most powerful countries accept limitations on the protection of their investor abroad, while the epistemic community argument fits very well with the picture of countries accepting shared understanding that these provision simply make for a better investment environment in general.

Important examples of these carve-outs include the taxation exception, which usually states that “except as set out in this Article, this Agreement does not apply to a taxation measure,”<sup>11</sup> with a list of cases where taxation measures are covered by the treaty. Other example of a similar character is the “prudential” exception, which usually states that “notwithstanding the other provisions of this Agreement, a Party is not prevented from adopting or maintaining a measure for prudential reasons, including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial institution, or to ensure the integrity and stability of the financial system.”<sup>12</sup> We can also quite often see the general exception, which states that “Subject to the requirement that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail, or a disguised restriction on international trade, nothing in this Chapter shall be construed to prevent a Party from imposing or enforcing measures: (a) necessary to protect public morals, order or safety; (b) necessary to protect human, animal or plant life or health; (c) necessary to protect intellectual property; or (d) relating to goods or services of persons with disabilities, of philanthropic institutions or of prison labour.”<sup>13</sup> There are also exceptions regarding measures relating to security, subsidies, and government procurement that are often exempt from certain provisions.

A particularly interesting example of a carve-out is the trend to exclude certain sectors from the national treatment provisions. These are naturally designed to protect domestic economic actors from foreign competition. What makes these provisions interesting is that they are usually required by the “stronger” party in the negotiations, such as the EU, or the US. While this conforms to the general idea of stronger actor being able to push through provisions that are advantageous for him, it also enables the weaker actors to negotiate similar carve-outs, since there needs to be some reciprocity. From this point of view, it seems more like a shared understanding of states needing to protect strategic industries than an issue of bargaining power. These carve-outs are usually part of an Annex to the agreement, which specifies these sectors

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<sup>10</sup> KORZUN, V. (2017): The right to regulate in investor-state arbitration: Slicing and dicing regulatory carve-outs. *Vand. J. Transnat'l L.*

<sup>11</sup> See for example CANADA (2021): Model Agreement Between Canada and [...] for the Promotion and Protection of Investments. Article 11.

<sup>12</sup> *Ibid.* Article 22.

<sup>13</sup> See for example EUROPEAN COMMISSION (2023): ANNEX to the Proposal for a COUNCIL DECISION on the conclusion, on behalf of the European Union, of the Advanced Framework Agreement between the European Union and its Member States, of the one part, and the Republic of Chile, of the other part. Article 28.3(2).



mentioned in the provisions on National Treatment or Non-conforming measures. The formulation is usually similar to the following: “Articles 17.9 , 17.11 , 17.12 and 17.13 do not apply to measures of a Party with respect to sectors, sub-sectors or activities, as set out in its schedule to Annex 17-B.”<sup>14</sup>

Second important development is related to the design of treaties involving large developing countries, which, despite the fact that they are not among the largest capital exporters, dominate their particular regions and have been signing treaties with smaller countries that include strong protections of regulatory autonomy. The most significant of these cases are Brazil and India. Both these countries do not include the standard “fair and equitable treatment” provision in their new treaties.<sup>15</sup> Brazil even includes an explicit statement that: “for greater certainty, the standards of fair and equitable treatment and full protection and security are not covered by this Agreement and shall not be used as interpretative standards in investment dispute settlement procedures.”<sup>16</sup> It not clear whether this affects the “strength” of the treaty significantly, since the minimum standard of treatment still applies to treatment of foreign investors under these treaties and the protection that this standard provides is often seen as similar to the explicit fair and equitable treatment provision. However, the intention behind the omission is undoubtedly to avoid what these countries view as too broad a definition of fair and equitable treatment that some tribunals have applied in the past. Importantly, Brazil includes this provision whether it negotiates with a capital exporting country, such as the United Arab Emirates, or a country, which is expected to be a target of Brazilian investment, such as Guyana.

Even if we ignore Brazil’s and India’s reluctance to include fair and equitable treatment into their new treaties, other countries have also modified their approach to this provision. More and more treaties include a specification of what kind of action can be considered a breach of fair and equitable treatment rather than relying on the discretion of the tribunal for interpretation of this provision. Once again, these limitations on the interpretation of the fair and equitable standard as the broadest and most often used protection in litigation are part of new treaties even in cases where the rationalist theories would expect strong protection of investors. For example, the new EU treaties include a specification that “A Party breaches the obligation of fair and equitable treatment referred to in paragraph 1 where a measure or series of measures constitutes: (a) a denial of justice in criminal, civil or administrative proceedings; (b) a fundamental breach of due process in judicial and administrative proceedings; (c) manifest arbitrariness; (d) targeted discrimination on manifestly wrongful grounds, such as gender, race or religious belief; (e) abusive treatment such as coercion, abuse of power or similar bad faith conduct; or (f) a breach of any further elements of the fair and equitable treatment obligation adopted by the Parties in accordance with paragraph 3.”<sup>17</sup>

It should be added that some countries are also trying to address the controversial doctrine of “legitimate expectations” in the context of fair and equitable treatment and the minimal standard of treatment. If we go back to the EU, we can see that it includes the following formulation: “When applying the above fair and equitable treatment obligation, a Tribunal may take into account whether a Party made a specific representation to an investor to induce a covered investment, that created a legitimate expectation, and upon which

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<sup>14</sup> Ibid. Article 17.14(2).

<sup>15</sup> See for example INDIA, UAE (2024): Bilateral Investment Treaty Between The Government Of The Republic Of India And The Government Of The United Arab Emirates.

<sup>16</sup> BRAZIL, UAE (2019): Cooperation And Facilitation Investment Agreement Between The Federative Republic Of Brazil And The United Arab Emirates.

<sup>17</sup> EUROPEAN COMMISSION (2019): ANNEX to the Proposal for a Council Decision on the conclusion of the Investment Protection Agreement between the European Union and its Member States, of the one part, and the Socialist Republic of Viet Nam of the other part. Article 2.5(2).

the investor relied in deciding to make or maintain the covered investment, but that the Party subsequently frustrated.” It is unclear how these formulations affect the “strength” of the treaty and are therefore less relevant for my analysis.

Finally, I will mention the provisions on “non-conforming measures”, which are also a type of a regulatory carve-out, but differs in some aspects from the previously mentioned carve-outs. While the “non-conforming” measures have been part of many older investment treaties, the following formulation has become more prominent only recently and offers potentially significant space for regulation on lower than the national level for the host states: “Articles 7.4, Article 7.5, Article 7.8, and Article 7.9 shall not apply to: (a) any existing non-conforming measure that is maintained by a Party at: (i) the central level of government as set out by that Party in its Schedule to Annex I; (ii) a regional level of government as set out by that Party in its Schedule to Annex I; or (iii) a local level of government.”<sup>18</sup> Once again, these provisions are present in treaties, where the rationalist accounts would expect the capital exporter to be able to push through a design that offers less space for the host state to regulate its investment environment, such as the treaty between EU and Chile, or Indonesia and Republic of Korea. In the case of non-conforming measures, the formulation means for example that local governments can reapply measures that ignore the national treatment provision of the investment treaty.

### Conclusion

This article has examined implications of recent trends in investment treaty-making for theories of investment treaty design. By analysing details of a sample of investment provisions, I have come to a conclusion that the traditional rationalist account might struggle to explain at least some of these trends, especially when it comes to incorporating provisions that increase the regulatory autonomy of the host state even by countries that should have the bargaining power and interest in making the treaty as strong as possible with regard to investment protection. Of course, an empirical study is necessary to affirm this conclusion. The evidence presented here is anecdotal and serves as a primer for future research. Second implication of the analysis and the main contribution of the article is that social constructivist concept of epistemic community might be a suitable conceptual framework to approach the change in investment treaty design that has been observed and noted by virtually everyone, but hasn't been given a theoretical attention that it deserves. There are several ways to approach the empirical examination of the epistemic community hypothesis presented here. The first way is to carefully track the emergence of the new concepts presented in this paper (and other new concepts) in the new generation of investment treaties and compare this data with their emergence in scholarly literature and in UNCTAD documents. If we could trace a clear trend of concepts emerging out of the epistemic community of investment law experts and finding their way into the treaties subsequently, this would provide credence to the hypothesis. On the other hand, if the scholarly discussion is an echo of concepts emerging in negotiating practice, we would have to discard the hypothesis. Another methodological approach would be to approach the issue qualitatively, for example by conducting interviews with members of the epistemic community and individuals from negotiating practice and compare their accounts of the issue to arrive at a conclusion.

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# TOURIST CLUSTER AS A TOOL OF MACROECONOMIC REGULATION OF TOURISM BUSINESS IN UKRAINE

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**Abstract:** The article focuses on analyzing the use of state regulation mechanisms in the tourism sector, systematizing current models of state regulation of tourism activities, identifying contemporary trends in the tourism industry, and determining how these trends affect the Odessa region. The authors point out that since Ukraine has decided to create a democratic society in Europe, it can embrace the third model of state involvement in the growth of the tourism sector after taking into account the current models of state regulation of the growth of tourism activities. According to the authors, regional tourist policies and investment policies must be developed in Ukraine, particularly in relation to macroeconomic growth and population improvement. The development of favorable circumstances for investors, the establishment of clear and efficient procedures for supporting investments, and the active participation of private capital in the construction of tourism infrastructure are the primary means of enhancing the region's appeal.

**Keywords:** cluster policy, investment policy, macroeconomic model, tourism infrastructure, state regulation, state policy

**JEL Classification:** H00, E22, M21

## Introduction

One of the most important sectors of the world's economy is tourism. Many countries have identified the tourism sector as one of the priority areas for the development of their economy and culture. This contributes to an increase in GDP, foreign exchange earnings, investments, trade and industry, infrastructure development, the creation of new industries and a contribution to the balance of payments. As for the role of the state in the development of the tourism services market, the role it plays is especially important for the development of the tourism industry in Ukraine. Since the main resources of the country's tourism enterprises are worn out, and outbound tourism is becoming more popular than inbound, which indicates an outflow of funds abroad, and indicates the need to involve the state in the development of the tourism industry using a set of tools that meet world standards.

Research and analysis of international policy are very important for modern Ukrainian tourism, since its socio-economic conditions urgently require the reorganization of state regulatory mechanisms. The experience of many countries shows that the growth of tourism directly depends on how the industry is perceived by the government and how much it receives state support. The potential of tourism in many countries allows to increase the state budget, increase the income of other industries, promote employment and improve the state of tourism infrastructure. In most countries, the multifaceted impact of tourism on the economy is regulated by the central executive body. However, state regulation of tourism varies in each country and depends on economic development.

State regulation of tourism is necessary due to the following factors:

- 1) the complex nature of the industry: it consists on hotels, restaurants, entertainment venues and tourist organizations; in addition, tourism interacts with other sectors of the economy, such as transport, trade and agriculture, which requires external regulation;
- 2) the need to preserve and rationally use resources;

3) the effect of the travel and tourism sector on the nation`s overall economy, which is based on a number of criteria, including the multiplier effect and direct cash revenues from both domestic and foreign travel;

4) the great impact of tourism on the upbringing for patriotism, especially within one`s own country; dissemination of national tourist values, which is one of the ways to promote the state model of the country, including its culture, politics and way of life of the population.<sup>1</sup>

Establishing mutually successful investment cooperation between the state of investment and a foreign investor requires openness and predictability in contacts as well as awareness and satisfaction of the main demands and goals of both sides. For the state, this entails bringing in new tax income, starting new companies and/or importing goods, employing its own people, growing specific areas of the state economy, etc.; for the investor, it entails maximizing return on investment, paying back the investment, and reducing investment risks.<sup>2</sup>

The first stage in accomplishing and guaranteeing this type of mutually beneficial investment collaboration is to establish clear, understandable, unbreakable, and enforceable investment and investment management policies and processes for both investors and government agencies.

Since almost every nation in the world, including the top donor nations, is still dealing with the fallout from the financial crisis, the assistance of the "strong" to the "weak" will only be put into action following a careful analysis of the investment environment that considers all possible risks. At the same time, higher risk means stricter investment standards and more uncertainty in the investment climate.

Consequently, a long-term plan for stabilizing the country`s development must be created and implemented given the current level of development. The major objective of this program is to establish a balanced investment policy that should guarantee the development of an effective system for drawing in international investments to the country while also taking into consideration national interests. Every long-term program should be viewed as having a range of distinct features that could evolve over time. This entails overseeing the procedure for performing economic analyses and rendering managerial decisions when faced with ambiguity.

## **1 Literature review**

Important aspects of studying the experience of using mechanisms of state regulation in the tourism sector of Ukraine are highlighted by many Ukrainian and foreign scholars. The issues of contemporary development and obstacles in state tourism policy are analyzed in the scientific works of several authors: Melnychenko O. (2017), Shvedun V. (2017) Yurkevych O. (2012), and others.

The functional role of public administration, the necessity of creating effective mechanisms of state regulation, and the application of efficient tools and methods for state investment policy in the tourism sector are discussed in the works of Bozhydarnyk T. (2019), Bouton L. (2020), and others.

More specifically, Tkachenko, O. (2018) proposes an assessment of Ukraine`s investment attractiveness through the lens of global rankings and industry structure. Investment management and investment modeling of territorial attractiveness are traced in the works of Fabozzi, F. (2008). The topics of modern portfolio theory and current investment analysis in various fields are researched by such scholars as Elton, E. J. – Gruber, M. J. – Brown, S. J. . – Getzmann, W. N. (2014). The issues of basic alternatives and the paradigm of investment effect

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<sup>1</sup> BOUTON, L. (2020): *Trends in Private Investments in Developing Countries. Statistics for 1970–1998. International Finance Corporation.*

<sup>2</sup> BOZHYDARNYK, T. (2019): *International Tourism: Study Guide.* Kyiv: Center for Educational Literature, 321 p.

development in the context of globalization and European integration changes are addressed by Karpenko L. (2019).

Numerous academics and professionals, both domestic and international, concentrate their studies on issues pertaining to regional investment strategies in the travel and tourist industry. The works of both local and foreign economists and researchers address a wide variety of themes linked to research in the domain of tourism activities and attracting foreign investments to improve the investment climate. As a result, the subject is pertinent and needs ongoing development, as several academic and applied works have highlighted.

## **2 Research goal, methods and research base**

The main purpose of the contribution is to examine tourist clusters as a tools of macroeconomic regulation of tourism business in Ukraine. Examining the state investment policy for the construction of tourism infrastructure in the face of contemporary issues is the primary goal of the contribution, which aims to ensure the state`s economic stability and growth. The primary focus of this study is on the theoretical, methodological, and applied ideas of developing investment strategy tools and planning investments for territorial expansion.

The study`s methodology is founded on the core ideas of public administration theory, the main legal frameworks in Ukraine, and the academic publications of national and international authorities on matters pertaining to the regulation of the investment areas. The State Statistics Service of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, information from the Ministry of Economic Development and Trade of Ukraine, bibliographic sources, and the author`s own calculations were all included in the study`s information base.

## **3 Data and methodology**

Cluster projects can only be implemented if the state's regional policy actively intervenes in the clustering space and a favorable macroeconomic, informational, and legal environment is established. To encourage the growth of clusters in Ukraine, it is essential to establish a trustworthy information platform, carry out a thorough analysis and coordination of cluster policy at every stage of the procedure, and coordinate the efforts of state authorities, the private sector, and the government.

Although a lot of steps must be done to accomplish this, Ukraine offers a great deal of potential for the cluster model to be successfully implemented in the travel and leisure industry. To create innovation clusters, for instance, public-private partnerships must be established; management reforms must be implemented to cut down on bureaucracy; education systems must be developed and personnel must be trained to work in new systems; national strategies and programs must be developed to boost competitiveness based on the creation and growth of clusters; and laws supporting entrepreneurship must be ensured and implemented. additional actions that are required.<sup>3</sup>

The study on the possibility of cluster development in the region`s depressed areas was carried out in the Odesa region at the end of the 1990-s. Clusters in the areas of recreational tourism and agro-industrial complex development were aided by this study. Moldovan and Romanian parties participated in the construction of logistics and tourism-recreational clusters in the Izmail-Reni area with the help of local initiative persons. The establishment of rural green tourism clusters in the Danube region is also well-known. The "Prydanavya"

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<sup>3</sup> CASIDY, R. (2014): Linking Brand Orientation with Service Quality, Satisfaction, and Positive Word-of-Mouth: Evidence from the Higher Education Sector In: *Journal of Nonprofit and Public Sector Marketin*, 26, 2, pp. 142-161.

Association of Farmers cordially invites you to explore the biosphere reserve and other fascinating natural sites in the Izmail district of the Odesa area.<sup>4</sup>

The establishment of a new cluster in the area of organic agriculture will increase export prospects and enable cooperative marketing and the development of a regional market for these goods. Foreign tourists are drawn to the Danube Region because of its resorts and recreational options. The resort and recreation complex will become more appealing as organic agriculture grows, and the region's export prospects will also expand.

The Odesa region is home to the Regional Centre for Economic Clustering, which encourages the development of clusters network production structures. The "Regional Development Agency" subsidiary enterprise is in charge of running this center. The application of smart specialization methodologies in the construction of a regional development strategy is anticipated in the context of updates on the development of regional development strategies and action plans for their execution, as well as monitoring and assessment of results. Concentrating expertise in a small number of important economic sectors is the essence of smart specialization, which aims to make regions more competitive on the global market.<sup>5</sup>

At the regional and provincial levels, the Smart tourist destination model is a novel approach to marketing, management, and development of tourism destinations with the goal of satisfying the demands of contemporary travelers. Along with the "smart" tourist destination model and digital infrastructure, the following initiatives are crucial to the digitization of tourism:

- the development of travel destination websites with information tailored to visitors needs;
- real-time statistical data collecting and analysis through the use of technologies like virtual tours, 3D modelling, big data, and the Internet of Things;
- adoption of electronic tourist cards and loyalty schemes;
- creation of travel-related mobile applications, etc.

The goal of the analysis of the benefits and drawbacks of tourism is to ascertain the industry's competitive position, spot areas for competitiveness growth, and spot potential challenges to the sector's growth. Important phases of strategic planning include taking into account the opportunities and risks associated with external factors, including supply, demand, competition, investment activity, and social and political concerns. This enables you to execute successful development initiatives and make well-informed judgements.<sup>6</sup>

The Odesa region's tourism business has a lot of room to grow, according to an analysis of its development prospects. The area appeals to both domestic and international markets since it provides a range of services and activities tailored to various tourist social groups. On Ukraine's Black Sea coast, a competitive and investment-attractive tourism industry may be developed thanks to the region's high natural potential, advantageous location, and abundance of tourist amenities.<sup>7</sup>

However, attaining this objective calls both large financial outlays as well as a methodical, strategic approach to governmental assistance and management. In order to draw tourists while taking into account the region's features, it is crucial to implement the National Regional Development Strategy, enhance the legal framework pertaining to tourism and recreation, build tourist routes, and establish clusters for tourism and recreation.

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<sup>4</sup> ELTON, E. J. – GRUBER, M. J. – BROWN, S. J. – GOETSMAN, W. N. (2014): *Modern Portfolio Theory and Investment Analysis*. 7-th ed. New York: New York University, 2014, 728 p.

<sup>5</sup> FABOZZI, F. J. (2008): *Investment management*. New Jersey: Prentice Hall, 837 p.

<sup>6</sup> GLOBAL ECONOMY COMPANY (2023): Investment freedom – classification of counties. Business and economic data for 200 countries. [Online.] In: *The Global Economy Company* [Cited 20.11.2024.].

<sup>7</sup> KARPENKO, L. (2019): Innovative Trends in the Process Modelling of International Strategies: Systematic of Fundamental Factor Models. In: *Proceedings of the 6th International Conference on Strategies, Models and Technologies of Economic Systems Management*, V.95, pp. 349-354.

This can boost the growth of other pertinent economic sectors and provide actual revenue for the regional budget.

Strategic regulation concerns the state of the country's tourism potential, the implementation of planned target programs, monitoring the external and internal environment, as well as changes in the country's economic and social policy.

The conditions of socio-economic and political development in different countries explain various approaches to state regulation of tourism. These approaches include political and economic stability, the contribution of tourism to the country's budget and the attractiveness of the country for tourists, including its historical and cultural monuments, unique natural resources. Researchers currently distinguish four models of state regulation of the development of the tourism industry.

In the first model, the principles of market "self-organization" solve all problems, and there is no central institution, such as a central tourism administration. When the tourism industry does not play a significant role in the national economy or when tourism entities are able to solve problems independently, this model is used. The USA is a representative of this model.

In the second model, there is a ministry as a strong and reliable central body that controls all tourism enterprises in the country. Financial investments, advertising and marketing campaigns and attracting investment in the tourism industry are tools of state management, since the number of countries that use this model of tourism management is small. Developing nations and countries with economies in transition, in which tourism is the main source of budget revenue, serve as models of this model. Egypt, Mexico and Turkey have rich historical and natural potential that states should support.

According to the WTO, developed European states, such as France, Spain, Great Britain and Italy, constitute the third model of state regulation of tourism, which is called "European". Some of these countries account for approximately 1/3 of world tourism revenues. The ministry has a sectoral unit responsible for the development of tourism in the country. It works on solving general issues of state regulation, such as developing a regulatory framework, coordinating the activities of regional representative and executive authorities, cooperation with other countries and collecting and processing statistical information coordination of marketing activities, including managing tourist offices of its country abroad, participation in exhibitions and international associations in the tourism industry, etc.

In this model, the central place is the cooperation and interaction of the government and the private sector. This leads to mixed-ownership institutions in the tourism sector, such as public-private partnerships, which are best used in Italy, Finland and the UK.<sup>8</sup>

According to World practice, there is a fourth model of state regulation of the development of tourism activities, which is called mixed. This model involves the creation of a combined ministry that covers tourism activities, as well as other related industries. The main features of the fourth model of state regulation are the determination of the tourism industry as a priority for the country and a clear division of powers between central and regional tourism administrations. As an example of such a model, the organization of tourism events in India and Malaysia can be considered.

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<sup>8</sup> KARPENKO, L. – AKHLAMOV, A. (2024): *Modeling investment determinants of territorial development: imperatives of adaptation in the global market*. Monograph. Odesa: IPSU NU "Odesa Polytechnic", 361 p. ISBN 978-617-692-889-8.



**Table 1: Systematization of existing models of state regulation of tourism activities**

Model	Country of application	Model characteristics
Model 1 (market)	USA	In 1997, the US Travel and Tourism Administration (USTTA), a government agency that controlled the development of the tourism industry in the United States, was abolished, which led to the introduction of this model for tourism industry management. One of the reasons for the organization's liquidation was the reduction of federal budget expenditures, the strong position of the American tourism industry at the international level (tourist attractiveness), and the presence of powerful private enterprises that are able to independently conduct advertising campaigns in the country's tourism market as a whole. Indirect influence tools are the most effective.
Model 2	Egypt	Many African countries prefer Egypt to tourists. The adoption by the state authorities of a law that allowed foreign companies, in particular American and British, to invest in sectors such as industry, energy, tourism, transport and urban management, contributed to the development of the tourism industry. Fifteen years later, this led to significant indicators. The government introduced a tourism policy known as "infits". Direct instruments are most often used.
	Turkey	The tourism industry in Turkey developed in a similar way, where the government established five-year plans and increased budget revenues every year. With the help of foreign investment, mainly German, hotel complexes and transport links were built and reconstructed, paying special attention to the service sector and improving the qualifications of workers. There is a combination of instruments of direct and indirect regulation of tourist activities.
Model 3 (European)	France	The Ministry of Transport and Public Works, as well as the Tourism Council under the ministry, the Tourism Engineering Agency, the National Tourism Supervisory Board, the National Agency for Holiday Travel and the National Committee for Prosperity of France are responsible for state regulation of tourism activities. With more than 200 employees and 31 offices in 26 countries around the world, the French association "Maison de la France" works to promote the domestic tourism product internationally. Direct influence tools are the most effective.
	United Kingdom	The Ministry of Culture, Media and Sport controls tourism activities in the United Kingdom. The VisitBritain authority organizes tourism events, attracts foreign tourists to the country, provides paid consulting services, is engaged in marketing activities to promote tourism products in international markets and uses promotional activities such as videos, video clips and guidebooks. use of indirect means of state regulation.
	Italy	The Law on the Development and Improvement of Tourism in Italy defines the bodies managing the tourism industry, the classification of the hotel industry, the conditions for tour operators and the measures of state support for the industry. In Italy, the state directly influences the tourism industry.
	Spain	In 1960, the tourism sector in Spain developed actively. The Ministry of Economy manages the tourism sector in the country. Its main tasks are licensing and certification of services, developing a strategy for the development of the national tourism product and developing a strategy for the development of the national tourism product. The Ministry also

		manages some subordinate institutions, such as the State Secretariat for Trade, the Central Directorate for Tourism, the hotel chain "Paradores" and the tourism institute "Turespaca", which, according to the main instruments of indirect influence
Model 4 (mixed)	Malaysia	The Tourism Development Committee oversees tourism policy, as tourism is the country's third largest source of income. The government can help develop the country's tourism industry through indirect measures such as simplifying visa procedures, training tourism and related personnel (customs, immigration, security), and tax exemptions for the first five years for new hotel complexes.
Ukraine (refers to the European model)		The Department of Tourism and Resorts of the Ministry of Economic Development and Trade is responsible for the development and implementation of state policy in the field of tourism and resorts. It is also responsible for coordinating interregional cooperation in the field of tourism and resorts, developing and implementing programs for the development of tourism and resorts in Ukraine, promoting domestic and inbound tourism, considering applications for declaring natural areas as resorts, and creating and maintaining

Source: formed by the author on the base of Karpenko, L. – Pashko, P. (2019),<sup>9</sup> Kunychka, M. (2018),<sup>10</sup> Mayorova, T. (2013)<sup>11</sup>

#### 4 Key research findings

The tourist cluster should be considered as a specific economic mechanism for the interaction of enterprises in the material and non-material production, social and tourism sectors, which earn profits from providing tourist services. The production and provision of tourist services is the main function of the tourist cluster. The functional-sectoral structure of the tourism cluster consists of the sum of services provided by numerous enterprises. The main reason for the success of the cluster model in the tourism business is the creation of a critical mass for competitive advantages. Small and medium-sized enterprises, if they work alone, will never achieve the successes and advantages that clusters do.

Tourism clusters are forms of territorial organization that stimulate economic growth not only in the tourism sector but also in the entire region. All the competitive advantages of a tourist cluster yield maximum effect through the minimization of costs compared to individually existing enterprises, which often cannot withstand competition in local and national markets from stronger business units or foreign companies and cease their activities. Membership in a cluster for tourism businesses means broad access to information on various aspects of activities; opportunities to enter national or global markets; attracting investments to improve service quality and strengthen competitive advantages; access to legal and marketing consultations; participation of management personnel from business units (tourism enterprises) in seminars conducted to familiarize them with the specifics of doing business.

<sup>9</sup> KARPENKO, L. – PASHKO, P. (2019): Formation of the system of fair business practice of the company under conditions of corporate responsibility. *Academy of Strategic Management Journal, London*, 2019, V.18 (2), pp. 1-8.

<sup>10</sup> KUNYCHKA, M. (2018): *Hospodárska diplomacia: Efektivita hospodárskej diplomacie Ukrajiny*. Monografia. Odessa: ORIPA NAPA, 168 p.

<sup>11</sup> MAYOROVA, T. (2013): *Investment process and financial and credit importance of its activation in Ukraine*. Monograph. Kyiv: KNEU, 332 p.

All decisions in the EU regarding regional development are made with consideration of the advantages of the cluster approach and pertain to processes of diverse cooperation. The necessity of applying the cluster approach is also recognized in Ukraine. Back in 2011, one of the state's tasks was to initiate pilot projects for the creation of cluster associations with state participation and to establish institutional prerequisites for the development of network interaction among companies.

In practice, the implementation of this task is possible only at the regional or local level, as cluster structures require the geographical proximity of their participants. Therefore, the corresponding actions of the authorities should be carried out precisely at these levels. The question of the degree of state intervention in the clustering process has remained a topic of debate for several decades.

In 1999, the OECD study identified directions for state policy that could be applied at the cluster level to respond to market failures and systemic issues. At that time, three main conclusions were drawn about what state cluster policy should be:

- 1) clusters are not created at the behest of the state, but should be the result of market forces;
- 2) state cluster policy should not be aimed at subsidizing industries or enterprises;
- 3) state cluster policy should avoid direct intervention and operate mainly with indirect tools.

In recent decades, the cluster concept of economic development and enhancing the competitiveness of regions has been increasingly gaining traction. The growth in the quantity and quality of clusters in many countries around the world confirms the viability of this model. The cluster approach offers a number of advantages (institutional, innovative, increased operational efficiency), which can ensure economic growth, attract foreign direct investment, and address employment issues. This is evidenced by the experience of Western European countries, where the role of the state in cluster formation has significantly increased recently.

The directions and forms of state support vary widely. This includes direct financial support for specific projects, tax burden reduction, investments in regional infrastructure, education, training, and marketing, as well as ensuring network interaction with universities, administrations, and firms.

Depending on the role the state plays in the development of clusters, full-cycle support and fragmented support are distinguished. In the first case, it is implied that the state, having a long-term development plan for a territory or industry, creates favorable conditions for companies that act as potential leaders, "locomotives" of cluster development. The second option means supporting an already formed cluster and adjusting its development directions through the application of various economic policy tools.

Cluster policy can be understood as a set of state regulation measures carried out by government bodies with the aim of enhancing the competitiveness of the country's economy by creating conditions for the development of clusters. In Ukraine, the state's cluster policy is still in the formation stage.

In our opinion, the main tasks of the state's cluster policy should be:

- creating favorable conditions for the effective organizational development of clusters, including identifying potential cluster participants, removing certain restrictions, and ensuring an increase in the competitive advantages of cluster participants;
- coordinating the activities of local executive authorities and business associations in the implementation of cluster policy;
- providing effective methodological, informational-consultative, and educational support for the implementation of cluster policy at the regional and sectoral levels;

– ensuring effective support for projects aimed at enhancing the competitiveness of cluster participants, taking into account the priorities of cluster development.

We believe that the most acceptable cluster policy for the tourism business in Ukraine could be a supportive one, oriented towards the development of tourism infrastructure in the country, stimulation of innovations, initiation of educational programs and projects for business entities operating in the tourism sector, and the introduction of certain benefits and preferences to stimulate entrepreneurial activity in specific regions, such as rural areas.

In Ukraine, the process of clustering in the tourism sector began in the early 2000s. Since then, some clusters have already ceased to exist, but new formations are still emerging and being formed. The term "cluster" is actively used in Ukraine by both business entities and government authorities. However, the analysis of Ukrainian legislation does not provide a clear answer regarding the interpretation of the term "cluster." Although the state should be interested in the creation and functioning of tourism clusters, which are tools for enhancing the competitiveness of the economy.

Since the effectiveness of the systemic approach to cluster creation and the identification of prerequisites for their formation in regions depends on the nature of the general systemic patterns applied, it is important to establish principles that connect the systemic parameters of these processes. Accordingly, the set of steps that need to be taken to ensure a systematic approach to cluster creation is understood as a specific process of identifying changes in the environment of recreational and tourism entities, resulting in the emergence of a new, progressive process of transitioning from simple to networked structures, from simple to complex (multiple) interactions. According to global standards, the outlined process should be defined by the algorithms presented in Table 2.

**Table 2: Characteristics of the Algorithm for Creating a Tourism and Recreation Cluster in Ukraine**

Stages of change in the environment of the tourism and recreation cluster	Characteristics of the basic goal of sequential changes	Characteristics of the specifics of creation and identification that establish a connection between the systemic parameters of these processes.
Definition or transformation of the model.	Identification of potential cluster participants involves: identifying leading entities; identifying entities that are part of the same value chain	The process of organizing economic entities in Ukraine is low. To initiate the formation of a cluster, it is necessary to create a citizens' association with the function of a cluster coordination center or a Cluster Council. Parallel application of public-private partnership is possible.
Formation of a cluster network at the horizontal level.	Identification of entities that form the basis for horizontal association (they use similar distribution channels; they produce additional products and services).	To establish horizontal associations, it is necessary to identify the participants in the distribution channel and ensure the identification of mutual benefits. To determine the completeness of the cluster network formation at the horizontal level, technical analysis is used.
Formation of the cluster support network:	Identification of organizations that will support the cluster by providing: specialized knowledge and technologies; information; capital; infrastructure; services	It is necessary to establish a foundation for the implementation of innovations, the influx of investments, and the development of entrepreneurship. Support from government institutions, scientific and educational institutions, etc. is necessary. To determine the completeness of network formation, technical analysis is used.

Formation of the influence organizational structure	Formation of a unified organizational structure	Necessary organizational regulation of their functioning and cluster development.
Formation of strategic cluster management requires the integration of efforts to ensure its resilience and sustainability.	It is necessary to form a regional paradigm for the formation and development of clusters based on an effective disruption protection strategy.	The state of cluster development is determined by statistical analysis.
Formation of the influence organizational structure	Formation of a unified organizational structure	Necessary organizational regulation of their functioning and cluster development.
Formation of strategic cluster management	Requires the integration of efforts to ensure its resilience and sustainability	It is necessary to form a regional paradigm for the formation and development of clusters, based on an effective disruption protection strategy. The state of cluster development is determined by statistical analysis.

Source: formed by the author on the base of Melnychenko, O. A. – Shvedun, V. O. (2017),<sup>12</sup> Shevchenko, L. S. (2013),<sup>13</sup> Pearce, J. A. (2013)<sup>14</sup>

Accordingly, the algorithm for ensuring a systematic approach to cluster creation can be detailed as follows: defining or transforming the model of the tourism and recreation cluster; developing the network of the tourism and recreation cluster at the horizontal level; developing the support network of the tourism and recreation cluster; developing the organizational structure of the management of the tourism and recreation cluster; developing the system of strategic management of the tourism and recreation cluster.

Nowadays, tourism is a complex phenomenon that engages with many other domains. But no socioeconomic organisation can resolve every issue on its own. Additionally, tourism can be viewed as a distinct economic sector, as a market or inter-industry complex where tourist businesses use products and services from several sectors to build a tourism offering. One of the industries with the most stable growth is tourism, which serves as the foundation for both developed and emerging nations. The knowledge that this kind of management is dependent on a number of variables and has a big influence on the growth of the area and society at large must be invoked in order to highlight the significance of competitiveness in the tourism industry. A complicated sector of the economy, tourism is crucial to development and financial stability.

The examination of literary sources reveals that the term "infrastructure" is either used in relation to military or construction-related activity. In both situations, infrastructure is understood to be a network of structures and communications that facilitate the growth and operation of the pertinent systems, meeting demands for energy, transportation, communication, water supply, and defence.

<sup>12</sup> MELNYCHENKO, O. A. – SHVEDUN, V. O. (2017): *Features of the Development of the Tourism Industry in Ukraine*. Monograph. Kharkiv: NUCSU Publishing House, 2017. 153 p.

<sup>13</sup> SHEVCHENKO, L. S. (2009): *Economic Security of the State: Essence and Directions of Formation*: monograph. Kharkiv: Pravo, 2009, 312 p PEARCE, J. A. (2013): *Strategic management: formulation, implementation and control*, 8th ed.

<sup>14</sup> PEARCE, J. A. (2013): *Strategic management: formulation, implementation and control*, 8th ed.

There are many various ways to define tourism infrastructure, and these definitions can be found in the scientific literature. This article will examine a few projects that included the most thorough analysis of the tourism infrastructure and its elements.

An overview of the main elements of the tourism infrastructure is provided below:

- the supply of lodging (hotels, motels, hostels, campsites, and other lodging options that offer suitable surroundings for travelers);
- the supply of food (cafés, restaurants, canteens, bars, and other catering facilities that provide a range of menus for travelers);
- transportation (bus and train stations, airports, ports, as well as public and private transportation services that guarantee tourists' mobility in the area);
- information and communication services (tourist centers, maps, guides, mobile applications, and other tools that help tourists navigate a new place, learn about places of interest, events, and routes);
- entertainment and recreation (parks, museums, theaters, cinemas, sports complexes, beaches, and other facilities that provide entertainment and recreation for tourists);
- medical services (hospitals, clinics, pharmacies, and other medical institutions that guarantee tourists' health and safety while they are in the area);
- security (shelter, as well as police, rescue services, security agencies, and other structures that ensure tourists' safety).<sup>15</sup>

These infrastructural components work together to provide visitors with a comfortable stay and support the growth of the local tourism industry.

Thus, one of the sectors that has perhaps lost the most during the COVID-19 pandemic is tourism. Airport closures, hotel closures, and a decline in demand for travel agency services are all results of quarantine limitations. Additionally, the full-scale Russian invasion of Ukraine severely damaged the tourism business just as it was starting to recover from the coronavirus.

The nation's tourism infrastructure suffered severe losses and complexities as a result of Russia's armed action against Ukraine. There were much fewer accommodations for tourists because of the destruction or damage done to numerous hotels, hostels, residences, and recreation centres during the conflict.

Due to conflicts and security concerns, airports and rail stations have been shut down or are only partially operational, and the damage or destruction of roadways and bridges is making it risky and challenging for tourists to travel throughout the nation. The majority of tourists choose not to visit Ukraine because of the ongoing shelling and the fear of terrorist attacks, which causes the number of visitors to drop precipitously. There were fewer employees available to service tourists as a result of the forced relocation of many locals in tourist regions. Property damage and a lack of consumers cause large financial losses for tourism-related enterprises. It is challenging to rebuild and expand the tourism infrastructure since investors are put off by the precarious security environment.<sup>16</sup> Due to company closures and a general drop in tourism, many individuals in the industry have lost their jobs, and local communities whose economies rely largely on tourism are seeing a sharp loss in revenue, which has an impact on their level of living and general well-being. Overall, the tourism infrastructure has been severely damaged by Russia's armed action against Ukraine, leading to a number of issues that will take a lot of time and money to fix.

It's vital to consider the future even though international visitors are unlikely to wish to travel to a war-torn nation. The foundation for a swift recovery of tourism following the conclusion of the conflict will be laid by luring investment into the construction and repair

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<sup>15</sup> TKACHENKO, O. O (2018): The potential for the development of spatial integration of business in the regions of Ukraine: analysis and assessment. *Regional Economy*. 2018, No. 1(87), pp. 48-56.

<sup>16</sup> TURNBULL, S. M. (2018): Capital Allocation in Decentralized Businesses. In: *Journal of Risk and Financial Management*, 2018, 11, 82

of tourism infrastructure now. This would ensure long-term economic progress and prosperity by enabling the nation as a whole, and the Odesa region in particular, to once again attract international tourists once the situation stabilises.<sup>17</sup>

The article's practical section entails examining several issues with the Odesa regions tourism infrastructure and determining prospects for the industry's growth in light of contemporary issues.

One of the most promising tourist and recreational destinations in Ukraine is the Odesa region. The Odesa region serves as an illustration for examining the distinctive demand structure in the tourist industry, namely the condition of inbound or international travel. Since foreign visitors spend the money they have saved up in their home countries while on holiday in Ukraine, foreign tourism is the most advantageous economic activity for the area and the nation overall. Foreign tourism is a source of foreign exchange revenue and a service export for the host nation.

The Odesa Region's ecological issues, which have an impact on population health and are connected to the region's 2023 socioeconomic and cultural development plan, have recently been thoroughly examined by the Department of Ecology and Natural Resources of the Odesa Regional State Administration. Emissions from stationary sources of pollution have been observed to have increased recently. Businesses that produce electricity, gas, steam and air conditioning account for around three-quarters of total pollution emissions in the Odesa region (70.4%), while businesses in the processing sector account for 15.9%.

The Nizhny Dniester National Natural Park, the National Natural Park "Tuzlovsky Lymani," the Regional Landscape Park "Tyligulskyi," and twenty parks-monuments of horticultural art are among the twenty-three territories and objects of the nature reserve fund that, as of the beginning of 2023, do not have projects for the organisation and development of the territory approved in the required manner. As a result, they are used inappropriately and violate environmental laws.<sup>18</sup>

The following factors are causing the tourism industry's growth to slow down:

- 1) the legislative and regulatory framework pertaining to tourism is inadequate;
- 2) the infrastructure for tourism is not well developed;
- 3) a small group of three to five-star hotels that satisfy global accreditation and criteria;
- 4) the state of historical and cultural landmarks, museums, and tourism sites does not match the standards, which restricts the expansion of the tourist flow and the creation of new routes;
- 5) a shortage of skilled workers, particularly in rural regions;
- 6) inadequate public awareness and education regarding the environment;
- 7) insufficient urban planning documents containing real source data, which restricts settlement growth;
- 8) deterioration of technical equipment and networks, especially sewage and water delivery systems;
- 9) the quantity and state of treatment facilities are inadequate;
- 10) the south of the region needs more water purification because of the pollution of water basins and the absence of water supply sources.

91% of the electricity in the Odesa region is imported, primarily from the Dniester Hydroelectric Plant, resulting in an energy imbalance. Thermal and solar power plants in the area provide the remaining energy. Odesa is the city that uses the most electricity, and Odesa district is the district that uses the most electricity. Furthermore, the southern Odesa

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<sup>17</sup> YURKEYVYCH, O. M. (2012): Assessment of the level of investment security in Ukraine. In: *International Economic Policy*, Vol. 2., pp. 402-407.

<sup>18</sup> UKRSTAT (2021): *Statistics* [online]. [Cited 21. 11. 2024.].

region -specifically, the "Artsiz" support substation - is linked to the Moldovan State Regulating Power Station and is independent of Ukraine`s main power systems.

Let`s look at the problem of creating investment policy`s strategic aims and objectives. Real and financial investments are the two primary categories of investments that are crucial to economic growth. The goal of real investments is to build or develop production facilities that increase physical capital. Building new facilities or updating old ones, as well as hiring employees, may fall under this category.

On the other side, financial investment uses financial instruments like stocks, bonds, and funds rather than physically creating new assets.<sup>19</sup> In this situation, investors typically rely on qualified managers rather than taking part in the management of actual assets.

Additionally, the term "consumer investment" describes the expenditure of consumers on long-term real estate and goods. Since these costs are investments rather than sources of income or capital gains, they might be viewed as a type of savings.

The foundation of investment activity is ongoing change, which may be conditionally broken down into multiple phases: capital accumulation, expenditure, financial resource accumulation, profit-making, and cycle repetition.

It`s critical to evaluate the potential of tourism and its execution in light of the potential for the region to develop a tourist cluster. Natural resources, geographic location, the availability of skilled labor, the degree of innovation, customer demand, market competitiveness, investment level, and government assistance are all relevant considerations when examining the formation of clusters in any industry.

Using a variety of techniques to examine how tourist and recreational clusters operate aids in the development, profitability, and beneficial effects on the area of management decisions. Although statistical data on cluster functioning results allow us to practically agree that there are some obstacles in Ukraine, all the necessary conditions for the implementation of the cluster model of economic development are present, as the cluster as a business organization form is not yet widely accepted in Ukraine.

## **Conclusions**

The following are general theoretical and applied conclusions pertaining to scientific and practical results. Numerous projects and investment plans are in place in the Odesa region with the goal of boosting the travel and tourism sector. These initiatives address infrastructure enhancement, the development of new tourism attractions, and the refurbishment of already-existing facilities. An essential element that helps to boost the region's competitiveness is luring in both foreign and domestic investors. Transportation networks, hotel complexes, dining establishments, cultural and entertainment venues, and information centers are the main elements of the tourist infrastructure. Their growth and involvement are essential to guaranteeing visitors a pleasant stay and drawing them to the area. The examination of current facilities revealed that the Odesa region, in particular, has a great deal of potential for tourism because of its natural resources, historical and cultural legacy, and contemporary tourist amenities. To satisfy the increasing needs of visitors, it is necessary to remodel and update a number of facilities and increase the scope of services offered.

The development of tourism infrastructure is greatly impacted by contemporary trends, such as the rise of ecotourism, the use of digital technology, and the customization of travel services. To be competitive and tourist-friendly, the Odesa region needs to adjust to these changes. The primary issues are inadequate financing, a dearth of skilled workers and contemporary infrastructure, and a lack of collaboration between the public and commercial

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<sup>19</sup> WORLD ECONOMIC FORUM. (n. a.): *The Global Competitiveness Report*. [Online.] In: *World Economic Forum*, (n. a.) [Cited 10.11.2024.]



sectors. The tourism industry's sustainable growth depends on finding solutions to these issues. Enhancing infrastructure, raising service standards, increasing the variety of tourism offerings, and actively utilizing digital technology for marketing and managing visitor flows are all examples of areas that present development opportunities. Enhancing infrastructure, developing new tourism goods, drawing in investment, and raising the caliber of tourism services are all examples of strategic objectives. A well-defined plan that involves the cooperation of government agencies, corporations, and the community is necessary to achieve these objectives.

The establishment of favorable circumstances for investors, the provision of clear and efficient channels for investment assistance, and the active participation of private capital in the construction of tourism infrastructure are the primary areas of stimulation. Increased tourist traffic, higher tourism-related revenue, the development of new jobs, and an improvement in the standard of living for the local populace are all anticipated outcomes of the proposed investment programs execution.

Given the present economic imbalances and protracted crisis situation in Ukraine, it is crucial to pursue an active public investment policy. A number of actions are necessary to attract investment, such as maintaining the stability of the legislative and political processes, combating corruption with the greatest rigor and resolve, and informing the public about the results of the struggle to inspire potential investors. This line of research suggests that building investment projects that attract new investors is more desirable than building in typical investor nations. This will push the investment industry to new heights and contribute to the socioeconomic and technological advancement of our country. In addition to improving the investment climate at the state and municipal levels, policies that encourage high investment activity must be backed by research, integrated with other aspects of the state's economic strategy, and focused on the principles of sustainable development.

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# THE RIGHT TO A FAIR TRIAL IN THE CONTEXT OF ARTICLE 36(1) OF THE VIENNA CONVENTION ON CONSULAR RELATIONS: ANALYSIS OF THE 'AUGUSTINO AND ABDULKARIM V TANZANIA' JUDGMENT BY THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS<sup>1</sup>

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**Abstract:** This paper analyzes the African Court on Human and Peoples' Rights' judgment in *Augustino and Abdulkarim v. Tanzania*, focusing on the interpretation of Article 36(1)(b) of the Vienna Convention on Consular Relations (VCCR) and its integration into the African Charter on Human and Peoples' Rights. The goal is to examine the Court's reasoning, assess its alignment with international jurisprudence from the ICJ and IACHR, and highlight its contribution to fair trial guarantees for detained foreign nationals. The study employs a doctrinal analysis of the judgment and comparative review of relevant international case law. It concludes that the AfCHPR's findings reinforce the global understanding of consular notification as a procedural safeguard, emphasizing its significance in protecting vulnerable individuals and ensuring state accountability under international law.

**Keywords:** African Court of Human and Peoples' Rights, Vienna Convention on Consular Relations, human rights, right to fair trial, Tanzania

**JEL:** K33, K38, H77

## Introduction

In its recent judgment in the case of *Augustino and Abdulkarim v. Tanzania*,<sup>2</sup> the African Court of Human and Peoples' Rights (AfCHPR) made a significant contribution to the development of its jurisprudence within the African regional human rights framework. Building on the foundations laid in *Armand Guehi v. Tanzania* and *Niyonzima Augustine v. Tanzania*, the Court aligned itself with the jurisprudence of the International Court of Justice (ICJ) and the Inter-American Court of Human Rights (IACHR). In these earlier cases, the AfCHPR unequivocally recognized that the failure to notify detained foreign nationals of their right to consular assistance, as required by Article 36(1)(b) of the 1963 Vienna Convention on Consular Relations<sup>3</sup> (VCCR), constitutes a violation of the right to a fair trial and, by extension, the broader principles of due process, thereby breaching the African Charter on Human and Peoples' Rights<sup>4</sup> (African Charter) as well. In its ruling in *Augustino and Abdulkarim*, the AfCHPR not only reaffirmed this position but also further entrenched its role as a key actor in the global dialogue on the intersection of consular rights and fair trial guarantees under international law.

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<sup>1</sup> The text was prepared as a part of the University College Prague research project „Czechoslovak and Czech Foreign Policy and Diplomacy and Their Contexts“. Authors used ChatGPT to improve their English formulations as non-native speakers of the language.

<sup>2</sup> African Court of Human and Peoples' Rights. (2024): Application 015/2016 Habiyalimana Augustino and Miburo Abdulkarim v. United Republic of Tanzania. Article 5.

<sup>3</sup> (1963): Vienna Convention on Consular Relations.

<sup>4</sup> [Organization of African Unity] (1981): African Charter on Human and Peoples' Rights.

The purpose of this study is to provide a comprehensive analysis of the judgment, delving into its reasoning, implications, and significance in advancing the interpretation of human rights under international law. Additionally, the study aims to contextualize the decision within the broader framework of jurisprudence established by the ICJ and the IACHR. By doing so, it seeks to underscore the role of AfCHPR in shaping the evolving understanding of the intersection between consular rights and fair trial guarantees, thus contributing to the development of international human rights law.

To achieve these objectives, research employs a focused methodological approach. It analyzes primary legal texts, including the VCCR and relevant provisions of the African Charter, to frame the legal basis of the case. The study conducts a targeted review of the AfCHPR's judgment, emphasizing its key arguments and conclusions. Additionally, it briefly compares the AfCHPR's reasoning with landmark decisions from the ICJ and the IACHR, highlighting parallels and divergences. This streamlined methodology ensures a concise yet thorough examination of the case within the broader context of international human rights law.

## **1 Vienna Convention on Consular Relations (1963), Consular Functions and Consular Protection**

The 1963 VCCR represents a reaffirmation of the principle of state sovereignty, understood as the independence of a state's authority from any external power, whether in the realm of international or domestic affairs. This sovereignty extends to all individuals within the state's territory, including foreign nationals residing there. However, a state's freedom to act is not absolute; it is constrained and regulated by the rules of customary and treaty-based international law.

International law imposes obligations on states to act in certain positive ways. These obligations give rise to a range of duties for states and other subjects of international law, addressing both the treatment of all individuals within their territory (e.g., in the realm of human rights) and specific categories of persons (e.g., foreigners, stateless persons, asylum seekers, refugees, among others). The population of a state can generally be divided into two primary groups: nationals and non-nationals. It is important to note, in this context, that the sovereignty of a state extends even to its nationals who reside outside its territory. Such individuals, with certain exceptions (such as the privileges and immunities afforded to diplomats or consular officials), remain subject to the state's jurisdiction, known as personal jurisdiction.

### **1.1 Vienna Convention on Consular Relations**

The VCCR is a classic codification treaty that establishes the fundamental legal framework governing bilateral consular relations between states. Codification, in this context, refers to the precise formulation and systematic organization of international law in areas where there is already extensive state practice, established precedents, and recognized doctrinal opinions, as outlined in Article 15 of the Statute of the International Law Commission (ILC). It is also important to recall that the rules of customary international law remain applicable in matters not expressly addressed by the VCCR.<sup>5</sup>

The VCCR, in its Preamble, references the goals and principles of the Charter of the United Nations, emphasizing the sovereign equality of states, the maintenance of international peace and security, and the promotion of friendly relations among nations. The Preamble also highlights that the VCCR serves as a continuation and refinement of the international legal framework governing relations between states, as established

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<sup>5</sup> LEE, L. T. – QUIGLEY, J. B. (2008): Consular law and practice. QUIGLEY, J. B. (2013): Vienna Convention On Consular Relations: In Retrospect And Into The Future.

by the Vienna Convention on Diplomatic Relations, adopted at the United Nations Conference in Vienna in 1961.

Article 72(2)(b) of the VCCR, which addresses the relationship between the VCCR and other international treaties, clarifies that the term "*discrimination*" does not apply in cases where, by custom or agreement, states „*extend to each other more favourable treatment than is required by the provisions of the present Convention.*“ An important continuation of this legal framework is the authorization provided in Article 73(2) of the Vienna Convention on Consular Relations (VCCR), which states: "*Nothing in the present Convention shall preclude States from concluding international agreements confirming, supplementing, extending, or amplifying the provisions thereof.*" As a result, the detailed rules governing bilateral consular relations are typically established in consular agreements and treaties on legal assistance negotiated between the states concerned.

As of November 2024, the VCCR has been ratified by 182 states.

## **1.2 Consular Functions, Consular Protection and Subsequent Obligations of State Parties**

In general, consular offices exercise public authority (primarily administrative functions) on behalf of the sending state within the territory of the receiving (host) state, but only to the extent permitted by the receiving state. This means that, despite operating abroad within the receiving state, a consular office performs certain administrative functions akin to those of domestic authorities of the sending state, as allowed under international law.

Undoubtedly, the primary function of consular offices is to protect the interests of the sending state and its nationals (both natural and legal persons) within the receiving (host) state, in accordance with the limits imposed by international law and with due respect for the legal practices and procedures of the host state. This function is broadly articulated in Article 5(a) of the VCCR as "*protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law.*"<sup>6</sup> From this, it follows that consular officers have a duty to assist in protecting their nationals in cases of difficulty, especially when their rights—such as human rights or the right to a fair trial—are violated by the host state. Other provisions of the VCCR further elaborate on this function of consular missions and consular officers.<sup>7</sup>

Consular protection itself encompasses assistance to a state's nationals (and, in the case of EU member states, also to so-called unrepresented citizens from other EU states in third countries) in situations involving deprivation of personal liberty, (being) victims of crime, in emergencies, in death-related matters, to unaccompanied minors abroad, and in various extraordinary events. These extraordinary situations may include harm caused by human activities, natural disasters, or accidents that threaten life, health, property, or the environment, particularly when a large number of individuals are affected.

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<sup>6</sup> On consular functions see LEE, L. T. – QUIGLEY, J. B. (2008): *Consular law and practice*, pp. 107-340. QUIGLEY, J. B. et al. (2010): *The law of consular access : a documentary guide*. HAYNAL, G. et al. (2013): *The Consular Function in the 21st Century*. BUYS, C. G. et al. (2011): *Do unto Others: The Importance of Better Compliance with Consular Notification Rights*. OKANO-HEIJMANS, M. (2011): *Changes in Consular Assistance and the Emergence of Consular Diplomacy*. MELISSEN, J. (2020): *Consular diplomacy's first challenge: Communicating assistance to nationals abroad*. See also VCCR, Article 5.

<sup>7</sup> For example, under Czech law (§ 16 and subsequent provisions of Act No. 150/2017 Coll., on the Foreign Service), these activities include consular protection, verification tasks, notarial functions, civil registry matters, nationality-related issues, travel document issuance, acting as an electoral authority, matters concerning firearms and ammunition, international legal cooperation between the authorities of the two states involved, taking evidence in accordance with the national laws of both states, inheritance matters, and activities related to issuing visas to foreigners and granting residence permits to foreigners within the consular officer's home state.

A particularly significant aspect of performing consular functions is the regulation of communication between the consular office and the authorities of the host state, as well as with the authorities of the sending state and its nationals.

For these purposes, consular officers are generally granted freedom of movement and communication, as stipulated in Articles 34 and 35 of the VCCR. Additionally, consular officers have the right to directly communicate with both local and central authorities of the receiving state within their consular district in the performance of their duties, as outlined in Article 38. This represents a fundamental distinction from diplomatic missions, which, under Article 3(c) of the Vienna Convention on Diplomatic Relations (VCDR), may negotiate with the government of the receiving state.

Article 28 of the VCCR obliges the receiving state to facilitate<sup>8</sup> the performance of consular functions concerning the nationals of the sending state.

With regard to communication and contact between the consular office and the nationals of its own state, this function is considered so essential that it is specifically addressed in Article 36 of the VCCR, titled "*Communication and Contact with Nationals of the Sending State.*"

Article 36 of the VCCR explicitly establishes that consular officers of the sending state have the right to communicate with their nationals. The authorities of the receiving state are obligated to promptly notify the consular office of the sending state in the event of the arrest, detention, or imprisonment of its nationals. Additionally, the individual concerned must be promptly informed by the receiving state's authorities of their right to contact the consular office of their own country.

On this basis, consular officers have the right to visit nationals of the sending state who are in prison, custody, or detention, to speak with them, correspond with them, and arrange for their legal representation. However, a consular officer must refrain from acting on behalf of a national who is in prison, custody, or detention if the national explicitly objects to such action. The activities of a consular officer, however, must be carried out in accordance with the laws and regulations of the receiving state, provided that such laws and regulations enable the full realization of the purposes for which the rights under this article have been granted.

To this end, as mentioned earlier, states conclude specific bilateral agreements—such as consular agreements, treaties on legal assistance, or cooperation agreements—that clarify and specify the terms of consular cooperation.<sup>9</sup> For instance, the Czech Republic has concluded over 40 such specialized agreements.

An example of the clarification of consular functions can be found in the Consular Convention between the Czechoslovak Socialist Republic and the Socialist Federal Republic of Yugoslavia of 1982 (published by Decree of the Minister of Foreign Affairs No. 42/1982 Coll., of October 14, 1982). Under this agreement, the contracting parties established detailed rules, including the following provisions:

"Article 48

1. *The competent authorities of the receiving state must promptly, and no later than five days, inform the consular office of the sending state of cases where a national of the sending state is detained or otherwise deprived of personal liberty within the consular district. Any communication addressed to the consular office by a detained or otherwise restricted national must also be delivered by these authorities no later than ten days. These authorities are further required to inform the affected individual without delay of their rights under this paragraph.*

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<sup>8</sup> On consular privileges and immunities in general, see LEE, L. T. – QUIGLEY, J. B. (2008): Consular law and practice, pp. 341-514. On facilitation of consular functions, see especially pp. 343-352.

<sup>9</sup> List of selected consular treaties has been compiled in chronological order in LEE, L. T. – QUIGLEY, J. B. (2008): Consular law and practice, pp. 590-601.

2. *Consular officers have the right to visit, speak with, correspond with, and arrange legal representation for such nationals. The exercise of these rights may not be delayed for more than fifteen days from the date of detention or deprivation of liberty. However, if the consular officer requests to visit the individual after ten days from the start of the detention or restriction of liberty, the visit must be allowed within five days of the request.*
3. *Consular officers have the right to repeatedly visit the national of the sending state during their detention or imprisonment.*
4. *The rights provided in this article shall be exercised in accordance with the laws and regulations of the receiving state, provided that such laws and regulations do not nullify these rights.*<sup>10</sup>

This convention exemplifies how bilateral agreements can expand and specify the general provisions of the VCCR, ensuring clearer guidance for the operation of consular functions in practice.

## **2 African Charter on Human and Peoples' Rights and the African Regional Human Rights System<sup>11</sup>**

### **2.1 African Human Rights System**

The foundation of the African human rights framework can be traced back to the early 1960s. At the inaugural Congress of African Jurists in Lagos, Nigeria, in 1961, participants adopted the "Law of Lagos," a declaration advocating for the establishment of an African treaty on human rights that would incorporate both a court and a commission. However, this proposal initially received limited support from African governments. When the Organisation of African Unity (OAU) was founded in 1963, its charter did not impose explicit obligations on member states to protect human rights. Instead, it merely encouraged states to consider the principles of the Universal Declaration of Human Rights in their international relations. Although the OAU lacked a direct human rights mandate, it addressed several pressing issues, such as decolonization, racial discrimination, environmental protection, and refugee crises. However, it conspicuously failed to confront the widespread human rights violations committed by some of its authoritarian member states. This inaction stemmed from the OAU's prioritization of socio-economic development, territorial integrity, and state sovereignty, as well as its strict adherence to the principle of non-interference in domestic affairs. Renewed momentum for a regional human rights mechanism surfaced in 1967 during the first Conference of Francophone African Jurists in Dakar, Senegal. The resulting Dakar Declaration urged the International Commission of Jurists, in collaboration with other African organizations, to explore the feasibility of such a mechanism. Around the same time, the United Nations supported these efforts by organizing seminars and conferences and establishing an ad hoc working group through its Human Rights Commission. Despite these initiatives, African states remained reluctant to agree on a regional human rights convention. It was not until 1981 that the African Charter on Human and Peoples' Rights was adopted, coming into effect in 1986. This milestone marked the formal establishment of the African human rights system as it exists today.<sup>12</sup>

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<sup>10</sup> Translated from Czech language by authors, as the Consular Convention does not have an authentic English version.

<sup>11</sup> This section of the paper is adapted from J. Kohoutek's earlier work: KOHOUTEK, J. (2024): The African Court of Human and Peoples' Rights and the Right to Life and to Dignity.

<sup>12</sup> VILJOEN, F. (2012): International human rights law in Africa. NMEHIELLE, V. O. O. (2001): The African human rights system : its laws, practice, and institutions. HEYNS, C. (2004): The African Regional Human Rights System: The African Charter.

The African Charter on Human and Peoples' Rights, adopted by the Organisation of African Unity (now the African Union) in 1981 and effective from 1986, serves as a cornerstone of the regional human rights framework in Africa. The Charter distinguishes itself from other regional systems in several key ways. First, it uniquely recognizes both individual rights and collective, or "peoples'," rights. These include rights to self-determination, the autonomous control of wealth and natural resources, and the right to development. This emphasis on collective rights reflects an African perspective on human rights, which views the individual as intrinsically connected to a broader community. Second, the Charter goes beyond the articulation of rights to impose responsibilities on both individuals and the state. These duties encompass preserving the family unit, contributing to national development, and upholding positive African cultural values. This dual focus on rights and duties aligns with African philosophical traditions that emphasize their interdependence, presenting a holistic vision of societal well-being. Third, the Charter established the African Commission on Human and Peoples' Rights as its primary body for oversight and interpretation. The Commission is tasked with promoting and protecting the rights enshrined in the Charter and interpreting its provisions. It also accepts submissions from states, individuals, and NGOs regarding alleged violations. However, despite these innovations, the Charter and the Commission have faced significant challenges, including questions about the Commission's independence and effectiveness, as well as the absence of a binding enforcement mechanism in its early years. The subsequent creation of the AfCHPR sought to address some of these limitations. The African, or Banjul, Charter represents a landmark effort to promote and protect human rights in Africa, shaped by the continent's unique historical, cultural, and political contexts. Its groundbreaking inclusion of collective rights and individual duties has left a lasting impact on regional human rights discourse, continuing to influence the evolution of the African human rights system.<sup>13</sup>

## **2.2 African Court of Human and Peoples' Rights**

Since the adoption of the African Charter on Human and Peoples' Rights in 1981, the African human rights system has undergone substantial development. One of its most significant milestones was the establishment of the AfCHPR, inaugurated following the entry into force of its Protocol<sup>14</sup> on January 25, 2004. The creation of the AfCHPR responded to the need for a regional judicial body capable of interpreting and enforcing the provisions of the Charter. Prior to the AfCHPR's establishment, the African Commission on Human and Peoples' Rights, constituted under Article 45 of the Charter, was the principal supervisory and interpretative body. However, the Commission's lack of a binding judicial framework significantly limited its capacity to enforce human rights standards effectively. The establishment of the AfCHPR marked a pivotal advancement, providing individuals and groups with a legal forum for redress in cases of human rights violations.

The AfCHPR is composed of judges elected by the African Union Assembly, who are recognized for their moral integrity, impartiality, and expertise in human and peoples' rights. This diverse and competent bench ensures the AfCHPR's ability to interpret and enforce the African Charter and its Protocol effectively. Judges serve six-year terms, with the possibility of re-election for one additional term. This structure underscores the AfCHPR's commitment to maintaining independence and professionalism in its operations.

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<sup>13</sup> EVANS, M. D. – MURRAY, R. (2008): *The African Charter on Human and Peoples' Rights : the system in practice, 1986-2000*. SSENYONJO, M. (2012): *The African regional human rights system : 30 years after the African Charter on Human and Peoples' Rights*. UMOZURIKE, U. O. (2007): *The African Charter on Human and Peoples' Rights: Suggestions for More Effectiveness*.

<sup>14</sup> [Organization of African Unity] (1998): *Protocol to the African Charter on Human And Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights*.



The creation of the AfCHPR has significantly strengthened the protection and promotion of human rights in Africa. By offering a judicial avenue for redress, the AfCHPR has contributed to the development of a robust regional human rights jurisprudence. Its decisions have addressed critical issues such as the right to a fair trial, freedom of expression, and indigenous peoples' rights, setting key precedents and fostering greater harmonization of human rights standards across the continent.

Despite its achievements, the AfCHPR faces notable challenges. A major limitation is the relatively low number of member states that have ratified the Protocol and accepted the AfCHPR's jurisdiction—only 32 out of 55 African Union members as of 2023. This limited ratification restricts the AfCHPR's reach and diminishes its capacity to ensure universal human rights standards. Additionally, the enforcement of the AfCHPR's rulings depends on the cooperation of states, as there is no binding enforcement mechanism, representing a significant obstacle to the AfCHPR's effectiveness. These challenges highlight the ongoing need to bolster the AfCHPR's mandate and foster greater state engagement to fully realize its potential in advancing human rights in Africa.<sup>15</sup>

The AfCHPR is currently grappling with a profound crisis as several African states openly challenge its authority and jurisdiction. This resistance forms part of a broader global trend in which regional and subregional courts face increasing pushback, particularly when they assert principles of human rights, democracy, and the rule of law. A striking manifestation of this challenge is the withdrawal by multiple states of their declarations under Article 34(6) of the AfCHPR's Protocol. This provision had allowed individuals and NGOs to bring cases directly against states. Prominent examples include Rwanda, Tanzania, Benin, and Côte d'Ivoire, all of which have rescinded their Article 34(6) declarations, often in response to AfCHPR decisions that scrutinized their adherence to human rights and democratic standards. These withdrawals are widely regarded as calculated efforts by states to sidestep accountability and shield themselves from legal scrutiny over alleged human rights violations. This retreat has significantly impaired the AfCHPR's capacity to fulfill its role as a pan-African forum for human rights adjudication, leaving only six states that still recognize direct individual and NGO access under Article 34(6). This erosion of access underscores a troubling trend: the use of political leverage by states to undermine the independence of the AfCHPR and restrict its jurisdiction. This phenomenon parallels a broader global backlash against international judicial institutions, fueled by states' reluctance to submit to external accountability, systemic challenges within these mechanisms, and growing criticism of the perceived overreach of international courts. The AfCHPR's predicament exemplifies the enduring tension between the principles of national sovereignty and the international imperative to uphold human rights and democratic governance. As states retreat from their commitments to international oversight, the efficacy of regional courts like the AfCHPR in promoting accountability and safeguarding human rights faces significant uncertainty.<sup>16</sup>

### **3 The Case of Augustion and Abdulkarim v. Tanzania**

#### **3.1 Facts of the Case**

This case involves Habyalimana Augustino and Muburu Abdulkarim, both Burundian nationals and refugees residing in Tanzania. The applicants were accused of killing Ms. Adela

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<sup>15</sup> UMOZURIKE, U. O. (2007): *The African Charter on Human and Peoples' Rights: Suggestions for More Effectiveness*. EVANS, M. D. – MURRAY, R. (2008): *The African Charter on Human and Peoples' Rights : the system in practice, 1986-2000*.

<sup>16</sup> FAIX, M. – JAMALI, A. (2022): *Is the African Court on Human and Peoples' Rights in an Existential Crisis?* JAMALI, A. – FAIX, M. (2023): *Human Rights Litigation in Africa Under Attack: Analysis of Backlash against Regional and Sub-Regional Courts*. ADJOLHOUN, S. H. (2020): *A crisis of design and judicial practice? Curbing state disengagement from the African Court on Human and Peoples' Rights*.

Shirima, the wife of a senior Tanzanian military officer, on the night of May 8, 1999. Allegedly, they acted at the behest of a Tanzanian woman, Mama Mboya, who suspected Shirima of having an affair with her husband. The applicants were convicted of murder by the High Court of Tanzania on May 31, 2007, and sentenced to death by hanging. The Court of Appeal of Tanzania upheld their convictions on March 2, 2012.<sup>17</sup>

In their application to the AfCHPR, the applicants raised serious allegations of human rights violations during their trial and subsequent detention.

These included:

- The right not to be discriminated against on the basis of national origin and immigration status, protected under Article 2 of the African Charter;
- The right to equal protection of the law protected under Article 3 of the African Charter, as read together with Article 14(3)(d) of the International Covenant on Civil and Political Rights (ICCPR);<sup>18</sup>
- The right to life, protected under Article 4 of the African Charter;
- The right to freedom from torture, cruel and degrading treatment, protected under Article 5 of the African Charter;
- The right to a fair trial, protected under Article 7(1)(c) of the African Charter as read together with Article 14(3)(d) of the ICCPR;
- The right to be tried within a reasonable time, protected by Article 7 of the Charter;
- The right to consular services, protected by Article 7(1)(c) of the African Charter as read together with Article 36(1) of the VCCR.<sup>19</sup>

The applicants sought reparations and a declaration that their death sentences, imposed under such circumstances, were unlawful and should be vacated.<sup>20</sup>

### 3.2 Key Findings and Legal Reasoning

The African Court of Human and Peoples' Rights structured its judgment into five main areas, addressing the applicants' claims comprehensively:

#### *A. Right to a Fair Trial*

The African Court of Human and Peoples' Rights examined the applicants' claim that their right to a fair trial under Article 7 of the African Charter was violated. This right includes several procedural guarantees such as the right to defense, adequate legal representation, and protection against arbitrary judicial practices. The applicants contended that the Tanzanian authorities failed to meet these obligations in multiple ways.

First, the Court addressed the failure to inform the applicants of their right to consular assistance as guaranteed by Article 36(1)(b) of the VCCR.<sup>21</sup> The applicants, as Burundian nationals, were not notified of their right to seek assistance from their consulate. The Court emphasized that consular assistance is a critical procedural safeguard, especially for foreign nationals unfamiliar with the host country's legal system. The absence of this safeguard undermined their ability to adequately prepare for their defense, amounting to a violation of their right to a fair trial. Details will be provided in the subsequent section of our study.

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<sup>17</sup> African Court of Human and Peoples' Rights. (2024): Application 015/2016 Habiyalimana Augustino and Miburo Abdulkarim v. United Republic of Tanzania, §§ 1-4.

<sup>18</sup> (1966): International Covenant on Civil and Political Rights.

<sup>19</sup> African Court of Human and Peoples' Rights. (2024): Application 015/2016 Habiyalimana Augustino and Miburo Abdulkarim v. United Republic of Tanzania, §§ 5-6.

<sup>20</sup> *Ibid.*, §§ 19-20.

<sup>21</sup> The United Republic of Tanzania acceded to the VCCR on April 18, 1977. The Republic of Burundi, however, has not yet done so. Both states have ratified the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights. It remains unknown to the authors whether Burundi and Tanzania have concluded an agreement on consular cooperation.

Second, the Court considered the lack of interpretation services, which deprived the applicants of the ability to understand the charges and evidence against them. The proceedings were conducted in a language they did not understand, significantly impairing their participation and ability to mount an effective defense. The Court found that this failure violated the principles of transparency and accessibility inherent in a fair trial.

Third, the Court examined the claim of ineffective legal representation. The applicants were not provided with competent legal counsel during the trial or appeals process. Furthermore, they endured seven years of pre-trial detention, during which no meaningful steps were taken to expedite their case or ensure adequate preparation for their defense. The Court concluded that this prolonged detention, combined with inadequate representation, constituted a severe breach of their fair trial rights.

Finally, the Court addressed the applicants' allegations regarding the use of a coerced confession. It was established that the confession, which formed the basis of their conviction, had been obtained under duress. The Tanzanian authorities failed to investigate these claims, violating the applicants' rights and rendering the confession inadmissible. These cumulative failures, the Court determined, collectively deprived the applicants of their right to a fair and impartial trial.<sup>22</sup>

### *B. Freedom from Torture and Inhumane Treatment*

The Court also assessed the applicants' allegations of torture and inhumane treatment under Article 5 of the African Charter, which prohibits torture, cruel, inhuman, and degrading treatment. The applicants alleged that they were subjected to physical abuse during their arrest and interrogation, as well as deplorable conditions during their incarceration.

The Court found that the applicants had been subjected to police brutality, including physical coercion during interrogation, which was intended to extract confessions. This treatment violated international norms prohibiting the use of torture to obtain evidence. The Court further condemned the authorities' failure to investigate these allegations, reinforcing the conclusion that the applicants were denied protection from inhumane treatment.<sup>23</sup>

The applicants' time on death row—spanning nearly two decades—was a central focus of this analysis. The Court observed that prolonged exposure to the "death row phenomenon," characterized by extreme psychological distress and uncertainty, amounted to cruel and inhuman treatment. Additionally, the Court criticized the method of execution—hanging—as inherently degrading, further infringing on the applicants' dignity.

The prison conditions were also examined in detail. The applicants were held in overcrowded cells with inadequate sanitation, nutrition, and access to medical care. These substandard conditions compounded their suffering and violated their right to be treated with humanity and respect while in detention. The Court concluded that Tanzania failed to meet its obligations under regional and international human rights standards.

### *C. Right Not to Be Discriminated Against*

The applicants argued that they faced discrimination on the basis of their nationality and status as refugees. They alleged that Tanzanian authorities failed to afford them the same legal protections as they would to Tanzanian nationals, particularly regarding access to consular assistance and interpretation services.

While the Court recognized that foreign nationals are often at a disadvantage in legal proceedings, it found insufficient evidence to conclude that the applicants were specifically targeted for discrimination based on their nationality or refugee status.

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<sup>22</sup> African Court of Human and Peoples' Rights. (2024): Application 015/2016 Habiyalimana Augustino and Miburo Abdulkarim v. United Republic of Tanzania, §§ 68-142.

<sup>23</sup> *Ibid.*, §§ 143-177.

However, the Court noted that systemic issues in Tanzania's justice system disproportionately affected foreign nationals, highlighting the need for procedural safeguards to ensure equal treatment under the law.<sup>24</sup>

#### *D. Right to Equal Protection of the Law*

Under Article 3 of the African Charter, the applicants claimed that they were denied equal protection of the law. The Court examined whether the Tanzanian authorities had provided the applicants with the same legal guarantees as other individuals accused of similar crimes.

The Court found that the applicants' lack of access to interpretation services and consular notification, combined with ineffective legal representation, resulted in significant procedural disadvantages. These shortcomings, the Court determined, constituted a violation of their right to equal protection under the law. However, as the Court recognized the claims of the applicants within the framework of the right to a fair trial, it did not examine their claims further.<sup>25</sup>

#### *E. Right to Life*

The applicants challenged the mandatory imposition of the death penalty, arguing that it violated their right to life under Article 4 of the African Charter. The Court agreed, stating that the lack of judicial discretion in sentencing rendered the death penalty arbitrary and incompatible with international human rights standards. The judgment also emphasized the global trend toward the abolition of capital punishment, noting that states retaining the death penalty must adhere to strict procedural and substantive safeguards.

The Court further held that execution by hanging, as prescribed under Tanzanian law, constituted cruel, inhuman, and degrading punishment. Combined with the psychological toll of prolonged death row detention, this amounted to a violation of the applicants' right to life and dignity.<sup>26</sup>

### **3.3 The Right to Fair Trial in the Context of Article 36(1)(b) of the VCCR**

AfCHPR in its analysis of the applicants' claim concerning the breach of Article 36(1)(b) of the VCCR delved into the critical role of consular assistance as a safeguard for the rights of detained foreign nationals. The applicants argued that Tanzania violated this obligation by failing to inform them of their right to seek assistance from the Burundian consulate upon their arrest. This, they contended, prejudiced their ability to comprehend the judicial process and to prepare a meaningful defense during their trial and appeal, inclusive of potential defense witnesses. They were also unable to communicate with their family members while being Burundian refugees in Tanzania.<sup>27</sup>

The Court began by affirming the dual purpose of Article 36(1)(b) of the VCCR, which is to facilitate communication between detained foreign nationals and their consulates and to enable consular authorities to assist their citizens effectively. It emphasized that the duty to notify is not discretionary but constitutes a binding international obligation, integral to the fair trial rights of detained foreign nationals. In this case, it was uncontested that the applicants, as Burundian nationals and refugees, were not informed of their consular rights at any stage of the proceedings. Furthermore, the Burundian Embassy only learned of the case years later, long after the conclusion of the criminal trial. The Court highlighted the practical importance of consular assistance in ensuring procedural fairness. Consular authorities can play

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<sup>24</sup> *Ibid.*, §§ 178-191.

<sup>25</sup> *Ibid.*, §§ 192-194.

<sup>26</sup> *Ibid.*, §§ 195-215.

<sup>27</sup> *Ibid.*, §§ 69-72.

a pivotal role in arranging legal representation, securing interpretation services, and facilitating communication with family members or witnesses. In this context, the applicants' inability to access consular support was deemed to have deprived them of these critical advantages, leaving them at a distinct disadvantage in navigating the Tanzanian legal system.<sup>28</sup>

The Court specifically noted that “under Article 36(1) of the VCCR, consular assistance is facilitated in two ways. First, the host State must inform the Applicant of this right and second, the Applicant should be able to request for consular assistance at the time of arrest... On the first aspect, as to whether the Respondent State informed the Applicants of their right to consular assistance, the Court notes from the record of the proceedings, that both Applicants were not notified of their right to consular assistance, although the Respondent State was aware of their foreign status... On the second aspect, the Court notes that the records on file do not reveal that the Applicants made any request for consular assistance that was considered or denied by the Respondent State.”<sup>29</sup>

Notably, the Court identified the failure to notify the Burundian consulate as a violation not only of Article 36(1)(b) of the VCCR but also of Article 7(1)(c) of the African Charter, which guarantees the right to defense. This breach, the Court held, had direct and substantive implications for the fairness of the trial. It underscored that the applicants, as foreign nationals and refugees, were particularly vulnerable and therefore required additional safeguards to ensure parity of arms in legal proceedings. By neglecting its duty to notify, Tanzania had effectively denied the applicants the benefit of a key procedural right designed to protect such individuals.<sup>30</sup>

In reaching this conclusion, the Court drew on its prior jurisprudence, particularly its findings in *Niyonzima Augustine v. Tanzania*,<sup>31</sup> where it had articulated the critical relationship between consular notification and the broader right to a fair trial. This precedent reinforced the principle that consular assistance is not a mere formality but a substantive right that directly impacts the justice process for foreign detainees.

The judgment also emphasized the State's proactive obligation to ensure that detained foreign nationals are informed of their consular rights. The applicants' failure to request consular assistance was not sufficient to absolve Tanzania of this duty. The Court reasoned that the burden lies squarely on the detaining authority to provide timely notification, ensuring that detained persons are aware of their rights and can exercise them effectively.

#### **4 Interjudicial Dialogue and the Right to Fair Trial under VCCR Article 36(1)(b)**

The interpretation of Article 36(1)(b) of the VCCR and its connection to the right to a fair trial has evolved significantly within international law, primarily through the jurisprudence of the ICJ and the IACHR.

The ICJ laid the groundwork for this development in its 2001 judgment in *LaGrand (Germany v. United States)*.<sup>32</sup> The Court held that Article 36(1)(b) creates individual rights,

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<sup>28</sup> *Ibid.*, §§ 74-78.

<sup>29</sup> *Ibid.*, §§ 75-77.

<sup>30</sup> *Ibid.*, § 78.

<sup>31</sup> African Court of Human and Peoples' Rights. (2023): Application 058/2016 *Niyonzima Augustine vs United Republic of Tanzania*.

<sup>32</sup> International Court of Justice (2001): General List No. 104/2001 *LaGrand (Germany v. United States of America)*. QUIGLEY, J. B., et al. (2010): *The law of consular access : a documentary guide*, pp. 225-232. BISHOP, A. N.: *The Unenforceable Rights To Consular Notification And Access In The United States: What's Changed Since The Lagrand Case?* LEHMAN, D. J. (2002): *The Federal Republic of Germany v. the United States of America: The Individual Right to Consular Access*.

which, by their very nature, are intended to be invoked in criminal proceedings.<sup>33</sup> This decision firmly established that consular notification is not merely a matter of inter-state obligations but also a procedural safeguard vital to ensuring due process for foreign nationals. In *LaGrand*, the Court emphasized that the failure to notify detained individuals of their right to consular assistance could materially affect the fairness of their trial.<sup>34</sup>

The ICJ reinforced this position in its 2004 decision in *Avena and Other Mexican Nationals (Mexico v. United States)*,<sup>35</sup> involving the cases of 54 Mexican nationals sentenced to death in the United States. The Court found that the lack of consular notification prejudiced the defense of these individuals, contravening their right to a fair trial. In a significant ruling, the ICJ mandated that the United States provide review and reconsideration of the convictions and sentences to rectify the violations of Article 36(1)(b).

In 2019, the ICJ extended its jurisprudence in the *Jadhav case (India v. Pakistan)*,<sup>36</sup> which addressed the detention and sentencing of an Indian national in Pakistan on charges of espionage. The Court concluded that Pakistan violated Article 36(1)(b) by failing to inform Mr. Jadhav of his right to consular access and by denying India the opportunity to assist him. The ICJ found these breaches to be procedural violations that undermined the principles of due process and fair trial, ordering effective review and reconsideration of Mr. Jadhav's case as a remedy.

IACHR has similarly contributed to the recognition of consular notification as a procedural right intertwined with fair trial guarantees. In its 1999 *Advisory Opinion OC-16/99*,<sup>37</sup> IACHR underscored the essential role of consular assistance in protecting the procedural rights of foreign nationals, particularly those facing criminal charges. The Court highlighted that the absence of consular notification disproportionately affects vulnerable individuals and increases the likelihood of miscarriages of justice.

Together, these judgments illustrate a coherent international approach that views consular notification as an essential safeguard for ensuring fair trial rights under international law. The evolving jurisprudence of the ICJ and IAC has shaped a robust framework, situating Article 36(1)(b) as a critical element in protecting due process and fostering the broader goals of international human rights law.

AfCHPR findings on the breach of Article 36(1)(b) of the VCCR align closely with the interpretations of ICJ and IACHR, reflecting a cohesive international understanding of the critical role consular assistance plays in ensuring fair trial rights. AfCHPR, consistent with the ICJ's landmark rulings in *LaGrand* and *Avena*, affirmed that Article 36(1)(b) creates

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<sup>33</sup> International Court of Justice (2001): General List No. 104/2001 *LaGrand (Germany v. United States of America)*, § 77. On individual rights in consular law see PETERS, A. – HUSTON, J.: *Beyond human rights : the legal status of the international law*, pp. 348-387.

<sup>34</sup> International Court of Justice (2001): General List No. 104/2001 *LaGrand (Germany v. United States of America)*, § 91.

<sup>35</sup> International Court of Justice (2004): General List No. 128/2004 - *Avena and Other Mexican Nationals (Mexico v. United States)*. QUIGLEY, J. B. et al. (2010): *The law of consular access : a documentary guide*, pp. 232-241. REDMOND, T. (2004): *Recent Developments regarding the Right to Consular Protection Avena and Other Mexican Nationals*. SHELTON, D. L. (2004): *ICJ Jurisdiction - Vienna Convention on Consular Relations - Diplomatic Protection - Reparations International Decision*.

<sup>36</sup> International Court of Justice (2019): General List No. 168/2019 *Jadhav case (India v. Pakistan)*. POLAK, M. J. (2017): *The Jadhav case and the right to consular assistance: 'confessions', spies, and remedies in international law*. KATTAN, V. (2020): *Jadhav Case (India v. Pakistan)*.

<sup>37</sup> Inter-American Court of Human Rights (1999): OC-16/99 - *Advisory Opinion of October 1, 1999 Requested by the United Mexican States*. QUIGLEY, J. B. et al. (2010): *The law of consular access : a documentary guide*, p. 248-253. ACEVES, W. J. (2000): *The Right of Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law*. *Advisory Opinion OC-16-99*. TRINDADE, A. A. C. (2007): *The Humanization of Consular Law: The Impact of Advisory Opinion No. 16 (1999) of the Inter-American Court of Human Rights on International Case-law and Practice*.

individual rights. These rights include the notification of detainees about their ability to seek consular assistance and the subsequent facilitation of such assistance by the state. The ICJ's recognition of these rights as indispensable procedural guarantees is mirrored in the AfCHPR's view that consular assistance is integral to the right to defense under Article 7(1)(c) of the African Charter.

Both courts emphasize the dual purpose of Article 36(1)(b): to enable effective communication between consular officials and detainees, and to ensure that consulates can provide practical support, including legal representation and interpretation services. AfCHPR's judgment extends this reasoning by underscoring the compounded vulnerability of refugees like the applicants in *Augustino and Abdulkarim v. Tanzania*, highlighting the importance of these procedural guarantees for marginalized populations.

ICJ, particularly in *Avena* and *Jadhav*, underscored that the obligation to notify consular officials is proactive and non-discretionary. The state bears the burden of informing foreign nationals of their consular rights, regardless of whether the detainee requests assistance. The AfCHPR echoed this principle, explicitly rejecting Tanzania's argument that the applicants' failure to request consular assistance absolved it of its duty. By affirming the state's obligation to notify, AfCHPR aligns with the ICJ's reasoning that procedural safeguards must be initiated by the detaining authority to ensure their efficacy.

ICJ has consistently linked violations of Article 36(1)(b) with breaches of the broader right to a fair trial. In *Avena*, ICJ found that the failure to notify foreign nationals of their consular rights prejudiced their defense and compromised the integrity of the criminal proceedings. Similarly, AfCHPR ruled that Tanzania's failure to notify the applicants of their consular rights deprived them of essential safeguards, leaving them at a disadvantage in navigating the Tanzanian legal system. Both courts emphasize that the denial of consular assistance has direct and substantive implications for the fairness of a trial. AfCHPR extends this analysis by situating the violation within the framework of the African Charter. By linking the breach of Article 36(1)(b) with Article 7(1)(c) of the African Charter, AfCHPR reinforces the interplay between international and regional human rights instruments, emphasizing the indivisibility of procedural guarantees and substantive rights.

Both the ICJ and AfCHPR stress the practical importance of consular assistance. The ICJ in *Avena* highlighted how consular access facilitates legal representation and understanding of the judicial process, while AfCHPR similarly noted that the applicants in *Augustino and Abdulkarim* were unable to prepare an adequate defense or contact family members to secure potential witnesses. AfCHPR's emphasis on the applicants' status as refugees adds a layer of contextual vulnerability, illustrating the compounded disadvantages faced by foreign nationals in such circumstances.

AfCHPR's findings in *Augustino and Abdulkarim v. Tanzania* are firmly rooted in established international jurisprudence. By drawing on precedents from the ICJ, the AfCHPR underscores the universal importance of consular assistance as a procedural safeguard under Article 36(1)(b) of the VCCR. Its integration of these principles into the African Charter framework contributes to the global understanding of fair trial rights while addressing the unique vulnerabilities of foreign nationals and refugees in Africa. This interjudicial dialogue not only reinforces the normative framework but also demonstrates the adaptability of international human rights principles across diverse legal and cultural contexts.

### **Conclusion**

The judgment in *Augustino and Abdulkarim v. Tanzania* represents a pivotal development in the intersection of consular rights and fair trial guarantees under international and regional human rights law. By unequivocally ruling that Tanzania's failure to inform the applicants of their right to consular assistance constituted a violation of the VCCR

and the African Charter, the Court reinforced the principle that procedural safeguards are indispensable to ensuring justice for detained foreign nationals.

This ruling not only aligns with the jurisprudence of the ICJ and the IACHR but also extends these principles by addressing the compounded vulnerabilities of refugees within the African context. The Court's emphasis on the proactive obligation of states to notify detained individuals of their consular rights underscores the broader responsibility of states to uphold international norms, particularly when dealing with marginalized groups.

The findings of this research contribute to the existing literature by contextualizing the AfCHPR's role within the global dialogue on consular rights and fair trial guarantees. However, the study also acknowledges limitations, particularly the need for further examination of how these principles are implemented in domestic legal systems across Africa. Future research could explore the enforcement mechanisms required to ensure compliance with such international obligations.

This judgment serves as a critical reminder to states of their responsibility to adhere to international law, reinforcing the importance of consular notification in upholding the principles of justice, fairness, and human dignity.

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# THE ROLE OF SMEs IN REGIONAL ECONOMIC DEVELOPMENT IN SLOVAKIA FOR YEARS FROM 2018-2023

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**Abstract:** Small and medium-sized enterprises (SMEs) make an effective contribution in the subregional economic development and are sources of job creation as well as economic innovation and diversification. In Slovakia, SMEs account for 99.9% of total business and are able to employ almost 2/3 of the total workforce. The objective of this paper is to analyze the contribution targeted SMEs have made to sub regional economic development in Slovakia in the past decade (2013-2023) focusing on how those targeted SMEs help in enhancing the stark geographical imbalances that exist across the country and boosting economic recovery. The study investigates the implications of targeted government policies, as well as EU- direct initiatives, including the Regional investment Aid scheme and Horizon 2020 on the promotion of SMEs growth and on the reduction of regional imbalance in the country. The findings show considerable regional variations in the density of SMEs support, quantity, and quality of financing, creativity, development and innovations, with western regions especially Bratislava being advanced than the central and eastern regions. These disparities are explained by the level of development of infrastructure, availability of skilled labor as well as the level of digital continuity. Slovak SMEs have shown successful efforts in diverse industries such as IT and renewably sources of energy despite the challenges of regulatory constraints, limited funding opportunities, and the Covid 19 pandemic. Finally, the paper stresses the need for specific policies targeted at promoting effective competitiveness of SMEs

**Keywords:** regional economic development, public financing SME, government innovation

**JEL:** R58, R11, O18

## Introduction

Small and medium-sized enterprises (SMEs) are widely recognized as key drivers of economic growth and regional development, playing a pivotal role in job creation, innovation, and poverty alleviation.<sup>1</sup> Globally, SMEs contribute significantly to gross domestic product (GDP) and employment, and their importance is no less pronounced in Slovakia, where they account for 99.9% of all business entities and employ nearly two-thirds of the workforce.<sup>2</sup> Over the past decade, the SME sector has experienced significant transformations, shaped by globalization, digitalization, and challenges such as the COVID-19 pandemic, making their role in regional economic development an essential area of study.<sup>3</sup>

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<sup>1</sup> LAZÍKOVÁ, J. et al. (2018): Regional disparities of small and medium enterprises in Slovakia; AUDRETSCH, D. B. – PEŇA-LEGAZKUE, I. (2012): Entrepreneurial activity and regional competitiveness: An introduction to the special issue.

<sup>2</sup> Slovak Business Agency, 2020.

<sup>3</sup> MARTINS, A. et al. (2023): Sustainability in small and medium-sized enterprises: A systematic literature review and future research agenda.

## 1 The Role of SMEs in Regional Development

Tendentially SMEs are favorable for the growth of the regional economy, as they promote local innovation and creation of new supply, especially in less developed regions with weaker industrial base.<sup>4</sup> In Slovakia as well, they act as a strong survival factor for the economy, primarily in the places where larger multinational firms do not exist.<sup>5</sup> The particularities of the activity of small business also express the growth of employment and GDP of the regions as well as integration of societal relationships and decrease of inter-regional conflict issues.<sup>6</sup>

But regional inequalities remain. Such western regions like Bratislava have a constantly greater number of SMEs, innovative activities and professionals than regions situated more to the centre and the east.<sup>7</sup> Such differences are affirmed by such structural factors as capital and educational and infrastructure facilities. These gaps have to be closed if balanced regional development is to be achieved as has been pointed out in studies dealing the impact of regional economic integration.<sup>8</sup>

### 1.2 Government Policies and Support Mechanisms

During the period 2018 – 2023 the region inequality has been the target of several initiatives funded by the governments and EU working in favor of the SMEs. The Regional Investment Aid scheme undertaken by Slovakia's government along with the EU's Horizon 2020 initiative has been strictly geared towards the promotion of the development of SMEs through financial and innovative means.<sup>9</sup> These policies, however, have succeeded in strengthening competitiveness and the pace of digitalization, but the results are uneven across various regions, as higher effects are received in developed regions.<sup>10</sup>

From evaluation on the strategies that have been developed and the progress made agencies like the OECD have confirmed that these program performance is restrained by administrative barriers and CSA which are the weak link in the less developed regions.<sup>11</sup> Further more it has become increasingly important to note the impact that the developing partnerships have on the SME growth in the attempt to boost region competitiveness.<sup>12</sup>

### 1.3 Challenges and Resilience

However, SMEs in Slovakia encounter various barriers, including a shortage of funding, excessive regulations, and hurdles in the implementation of innovations.<sup>13</sup> The challenges mentioned above were made worse by the COVID-19 pandemic, which resulted in temporary reductions in employment and income generation of SMEs in the economy.<sup>14</sup> Still, the

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<sup>4</sup> CARPINETTI, R. C. L et al. (2007): Continuous innovation and performance management of SME clusters; BECK, T. et al. (2005): SMEs, growth, and poverty: Cross-country evidence.

<sup>5</sup> VLACSEKOVÁ, D. – MURA, L. (2017): Effect of motivational tools on employee satisfaction in small and medium enterprises.

<sup>6</sup> MAROŠ, M. J. et al. (2020): Analysis of regional disparities in the Slovak Republic by examining selected indicators.

<sup>7</sup> LAZÍKOVÁ, J. et al. (2018): Regional disparities of small and medium enterprises in Slovakia

<sup>8</sup> KEDZIOR, D. – KEDZIOR, M. (2023): Determinants of SME profitability in the service sector: An empirical investigation from Poland.

<sup>9</sup> Slovak Business Agency, 2020.

<sup>10</sup> HUDÁKOVÁ, M. – MASÁR, M. (2018): The assessment of key business risks for SMEs in Slovakia and their comparison with other EU countries.

<sup>11</sup> Slovak Business Agency, 2020.

<sup>12</sup> VLACSEKOVÁ, D. – MURA, L. (2017): Effect of motivational tools on employee satisfaction in small and medium enterprises.

<sup>13</sup> BECK, T. et al. (2005): SMEs, growth, and poverty: Cross-country evidence.

<sup>14</sup> Slovak Business Agency, 2023.

expenditures of the authorities for wage support and loan security were crucial in reducing the economic consequences of the pandemic.<sup>15</sup>

Evidence shows that one of the factors that foster survival of SMEs in times of crisis is their tendency to innovate and seek new niches in the market.<sup>16</sup> In the case of Slovakia, this type of adaptiveness has been observed with regard to IT and renewable energy sectors that have experienced high SME activity and innovations.<sup>17</sup>

#### **1.4 Innovation and Digital Transformation**

Innovation and digital transformation are increasingly viewed as critical enablers of SME competitiveness and regional economic development.<sup>18</sup> The European Innovation Scoreboard (2022) ranks Slovakia among the moderate innovators, with significant regional disparities in digital adoption and innovation capacity. Studies emphasize the need for targeted policies to enhance digital infrastructure and provide SMEs with the tools to embrace Industry 4.0 technologies.<sup>19</sup>

### **2 Research design**

The main objective of the paper is to identify and analyse the benefits of small and medium size enterprises for the regional economic development of Slovakia in the time period-2018-2023 and examine the key factors for the support or hinder their growth and development in individual regions. Fulfilling the main objective was carried out through a literature search of currently available literature research and studies carried out for the period from 2005 to 2023. Secondary data were processed through available sources based on empirical research and scientific databases such as (Scopus, Google Scholar, Web of Sciences) and other sources from major authors and institutions (SBA, Report - Monitoring MSP 2023) dealing with this area of research were also used. The search was carried out by defining keywords (innovation financing, regional development, SMEs growing).

In this paper, the main focus is on finding answers to the research questions:

1. "How effective are existing support programmes and policies for SMEs in terms of promoting their growth and regional development?"
2. What extent do public-private partnerships (PPPs) improve the business environment in developed and less developed regions?

### **3 Results**

Based on the available sources, we present in Figure 1 we present the aggregate regional share of government subsidies in support of entrepreneurship and the regional share of government subsidies in support of small and medium-sized enterprises for surveyed years 2018 to 2023.

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<sup>15</sup> Slovak Business Agency, 2023.

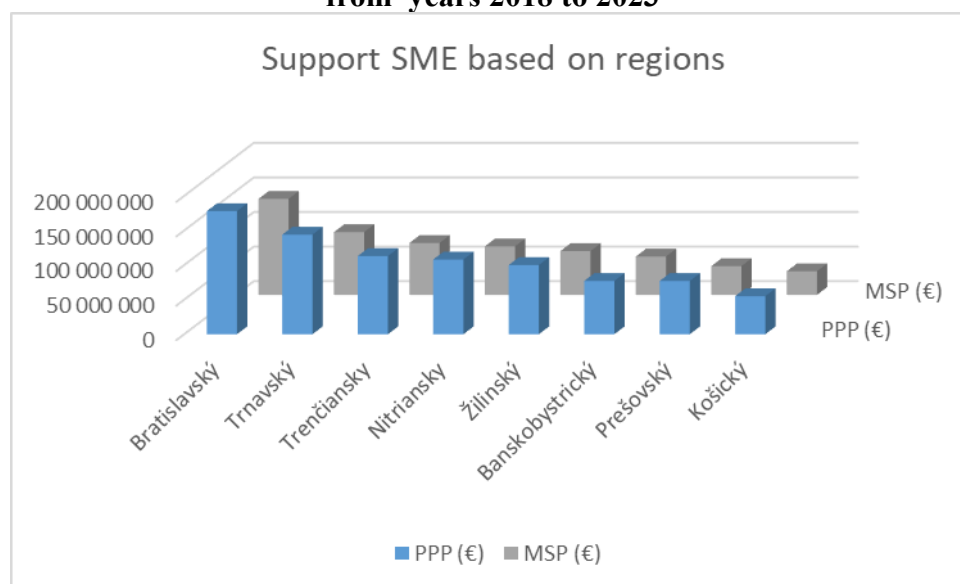
<sup>16</sup> AUDRETSCH, D. B. – PEÑA-LEGAZKUE, I. (2012): Entrepreneurial activity and regional competitiveness: An introduction to the special issue.

<sup>17</sup> European Innovation Scoreboard, 2022.

<sup>18</sup> Slovak Business Agency, 2020.

<sup>19</sup> Slovak Business Agency, 2023.

**Figure 1 highlights the total state subsidies and region subsidies for SME in Slovakia from years 2018 to 2023**



Source: own processing based on [https://monitoringmsp.sk/wp-content/uploads/2023/08/Analyza\\_podnik\\_prostredia\\_2023.pdf](https://monitoringmsp.sk/wp-content/uploads/2023/08/Analyza_podnik_prostredia_2023.pdf)

Figure 1 shows that the Bratislava region has the highest number of business entities, State aid concentrated in this region over the last 5 years amounted to more than EUR 188 million, which represented the highest volume of all regions of the Slovak Republic. Of this amount, more than 78 % was allocated in the SME segment. The highest share was granted in the form of regional investment aid, amounting to more than EUR 42 million. The second most supported area was the development of sports and recreational infrastructure, for which more than EUR 38 million was granted in the SME segment. This was followed by support for science and innovation amounting to almost EUR 26 million. State aid drawn in the TT region amounted to more than EUR 113 million, which represented the third highest volume of all regions of the Slovak Republic after the BA and PO region. Only 56% of the funds drawn down were allocated in the SME segment, the second lowest share after the NR region. The highest share was granted in the form of regional investment aid, at the level of almost EUR 29 million. The second most supported area was research and innovation, for which around EUR 9 million was granted in the SME segment. State support in TN amounted to more than EUR 55 million, which was the third lowest amount of all regions. Roughly 62 % of the drawn funds were allocated in the SME segment. The highest share was granted in the form of regional investment aid, at the level of almost EUR 18 million. The second most supported area was investment aid for local infrastructure, which received around EUR 13 million in the SME segment, mainly for the development of enterprises operating in the waste management sector. The amount of state aid drawn in the NR region was more than EUR 77 million. Only 54% of the drawn funds were allocated in the SME segment, the lowest share in the whole Slovak Republic. The highest share was granted in the form of regional investment aid, at the level of almost EUR 20 million to the agricultural sector and various segments of industrial production. The second area with relatively high support was various energy areas, with less than EUR 6 million in support. State aid concentrated in this region over the last 5 years amounted to just under €77 million. Of this amount, more than 72 % was allocated to the SME segment. The highest share was granted in the form of regional investment aid, amounting to almost EUR 27 million. The second highest amount of support (more than EUR 10 million) was in the area of science and education. State aid concentrated in this region over the last 5 years amounted to just under €100 million. Of this amount, more

than 75 % was allocated to the SME segment, which represents the second highest relative support to SMEs after the BA region. The highest share of aid thus granted was directed to regional investment aid, at more than EUR 51 million. This form of aid was mainly directed to the food, beverage and agricultural sectors. Significant state aid amounting to more than EUR 8 million in the BB Region was also directed to the development of centralised heat production. State subsidies drawn in the PO region amounted to more than EUR 144 million, which represented the second highest volume among all regions of the Slovak Republic after the BA region. However, only 63% of the drawn funds were allocated in the SME segment. The highest share of more than EUR 59 million of the aid thus granted was directed to regional investment aid. This State aid was mainly directed to the food, beverage and agricultural sectors. The development of centralised heat production received around EUR 17 million in the period under review. Over the last 5 years, State support concentrated in this region amounted to more than €108 million. Of this amount, more than 65 % was allocated to the SME segment. The highest share of aid thus granted was directed to regional investment aid, amounting to more than EUR 47 million in various sectors of industrial production. Relatively high support was given to start-ups in the region under review in the form of quasi-equity capital amounting to less than EUR 8 million, with a concentration in the IT and computer programming sectors.

## 4 Discussion

### Discussion on the chart Support for SMEs by regions of Slovakia

The chart shows the regional differences in support for small and medium-sized enterprises (SMEs) in Slovakia, divided into two main categories of funding - through public-private partnerships (PPPs) and direct support to SMEs. The discussion focuses on the identification of the main factors leading to the uneven distribution of support and analyses the implications for Slovakia's regional development and competitiveness:

#### 4.1 Imbalances in regional support for SMEs

The graph shows a significant dominance of the Bratislava region, which receives the highest level of support in both categories. This predominance is due to the economic maturity of the region, concentration of business entities, availability of capital and developed infrastructure. In addition, the Bratislava region is attractive to foreign investors and has the highest level of involvement in PPP projects, reflecting its status as an economic centre of Slovakia.

At the other end of the spectrum are the Prešov and Košice regions, which show the lowest level of support. These regions, despite their size and potential, suffer from a lack of infrastructure, weak links between the education system and the labour market and low levels of entrepreneurial activity. For this reason, they cannot make effective use of the available funding mechanisms, which hampers their economic development.

#### 4.2 Factors influencing SME support

- *Availability of capital and infrastructure:* the Bratislava and Trnava regions benefit from proximity to major transport hubs, universities and innovation centres. Conversely, less developed regions such as the Prešov and Košice regions suffer from poor infrastructure, which discourages investors.
- *Concentration of business operators:* Higher support in western regions is linked to a higher density of SMEs, which means more operators able to absorb financing. The Prešov and Košice regions have lower entrepreneurial activity, which limits the uptake of available funds.
- *Efficiency of public-private partnerships:* PPP projects tend to be concentrated in developed regions with better administrative capacity and higher potential for return



on investment. Less developed regions often lack the technical capacity to prepare and implement these projects.

#### **4.3 Impacts on regional development**

- *Deepening of regional disparities:* The graph illustrates that the current model for the distribution of support to SMEs deepens the already existing disparities between the Western and Eastern regions. The Bratislava and Trnava regions are gaining more resources, strengthening their leading position, while Eastern Slovakia is stagnating.
- *Socio-economic implications:* Weaker support for SMEs in the eastern regions leads to lower employment, weaker economic growth and higher rates of population migration. This puts pressure on public finances and increases the dependence of these regions on state subsidies

#### **Conclusion**

Based on the results from the research part, we conclude the answers to the research questions as follows:

*RQ1 - How effective are existing support programmes and policies for SMEs in terms of promoting their growth and regional development?*

Strength developed regions:

The graph shows that funding for SMEs is substantially higher in places like Bratislava and Trnava, both through PPP systems and direct support (MSP). Because these areas have more established infrastructure, access to trained labor, and a high company density, they efficiently use the resources at their disposal, all of which support the expansion of SMEs and regional development.

According to the document's conclusions, Bratislava alone contributes more than 25% of Slovakia's gross added value (GVA) and receives two-thirds of all FDI inflows. This demonstrates how SME rules are in line with areas that currently have significant economic potential.

Less developed regions:

The areas with the least amount of support, Prešov and Košice, exhibit a glaring imbalance in the distribution of resources. According to the report, these areas have structural issues such low business density, excessive unemployment, and inadequate infrastructure. This reduces the ability of current assistance initiatives to rectify regional disparities and promote significant development.

Notwithstanding their limited effectiveness, these initiatives continue to widen the gap between western and eastern Slovakia by failing to adequately address the underlying causes of economic underperformance in less developed regions.

*RQ2 - What extent do public-private partnerships (PPPs) improve the business environment in developed and less developed regions?*

Enhanced Business Environment in Developed Regions:

PPPs are more successful in economically mature regions, as indicated by higher financing levels in Bratislava, Trnava, and Trenčín. The presence of robust institutional frameworks and an active private sector helps the implementation of PPP projects, which help to expand infrastructure and increase corporate competitiveness. The statement emphasizes the strategic use of public-private partnerships in high-growth regions, such as improving transportation infrastructure and supporting high-value service industries.

### Limited Effectiveness in Less Developed Regions:

In less developed regions, PPPs struggle due to weak institutional frameworks, limited private sector engagement, and lower potential for financial returns. As seen in the chart, Prešov and Košice receive minimal PPP funding, reflecting their limited capacity to attract investment and execute successful partnerships. The document further supports this observation, emphasizing the need for targeted measures to enhance institutional capacity and private sector involvement in these regions.

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# THE ROLE OF ISLAM IN CENTRAL ASIA'S FUTURE (CASE STUDY OF UZBEKISTAN)

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**Abstract:** This article presents an overview on the topic of Islam in Central Asia and examines its growth potential using Uzbekistan, the most populous Muslim country in the region, as a case study. The potential is examined in the article on three levels – political, economic and socio-cultural. Politically, the article explores how Islam shapes governance of the secular state and highlights how Islam is used in the rhetoric of the highest political representative. From an economic perspective, it examines the interplay of Islamic principles and the potential for introducing Islamic finance in Uzbekistan's evolving market. Socio-culturally, the article highlights the demographic attributes of the Central Asian republic in the context of Islam as a determinant of the protection of national identity, local traditions and core values in Uzbekistan. The article argues that Islam is not only a relic of the past but also a prospective dynamic force, however, the lack of political will in particularly limits its growth potential.

**Keywords:** Islam, Uzbekistan, politics, economy, religion, secularism

**JEL:** F50, Z12, F65

## Introduction

Uzbekistan has remained a republic with strong Central Asian-style authoritarian features. The repressive policies against Islam of the first President Islam Karimov have not been removed as expected by the international community but replaced by new measures on the rights to freedom and religion. The expectations (international and domestic public) are not reflected in what the government is capable and prepared of and prepared to do in terms of religious freedom. Religion is still seen more from the point of view of security rather than freedom.<sup>1</sup> The concern for an officially secular state is the scenario that an excessive relaxation of religious freedom measures would lead to a shift from a secular orientation in favour of Islam-based institutions and policies. These historical concerns regarding Islam are not entirely unjustified mainly due to the ideological threat posed by the Islamic Movement of Uzbekistan (IMU), which is still officially committed to toppling the ruling secular regime in the country. The presence of the IMU, albeit in a minor form, as well as the potential rise of extremism, remains used by the government to justify the authoritarian nature of its control and the fight against external influences. Uzbekistan, as the most populous country in Central Asia with more than 37 million people, has the largest and steadily growing Muslim population (more than 90 %). Despite Uzbek long-standing secular policies, suppression of religious expression and promotion of moderate Islam, the number of Muslims committed to a more conservative interpretation of Islam is growing. This article analyzes recent developments in religious freedom in Uzbekistan, the growth potential of Islam in the country, as well as the extent to which the policies of President Mirziyoyev's government are contributing to the promotion or moderation of the religious practice of Islam in the country.

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<sup>1</sup> UMARAKHUNOV, I. (2023): Uzbekistan Turning Down The Volume On Islam.

## 1 Literature Review

The literature is predominantly consensual about the importance of Islam in shaping Uzbekistan's identity and the foundations of its spiritual and social life. McGlinchey's investigation of the relationship between Uzbek spiritual leaders and the state confirms that the heightened vigilance against religious extremism poses an unusual challenge for the study of the effects of Islam in Uzbekistan. No relevant public opinion polls are conducted on the topic of perceptions of Islam, as it is, in McGlinchey's view, too risky with unpredictable outcomes – for the Uzbek government, Islamic elites, and Uzbeks themselves.<sup>2</sup> Existing literature emphasises that the early period of Uzbek statehood is linked to a forced and reserved atmosphere towards Islam. A wide range of scholars have addressed the reasons why Islam in Central Asia, and especially in Uzbekistan, has become a haven for extremism (Tashkent 1999, 2004; Khanabad/Andijan, 2009). Kodigova-Huynh states that it is a multidimensional concept involving the acute socio-economic problems of the new state and immense *ideological vacuum* brought about by the post-Soviet wave of modernization.<sup>3</sup>

Pottenger argues that from the earliest days of Uzbek independence, President Karimov's obsession with threats to Uzbekistan's national security from Islamic militants shattered the foundations of civil society and religious freedom in a way that the militants were unable to achieve on their own.<sup>4</sup> Open Society Institute researchers point to a trend of exaggerating the influence of Islamic radicals, arguing that their influence has declined as people in the regions have tended to gravitate towards moderate economic organisations.<sup>5</sup> Louw points to the inadequacy of the *Muslim paranoia*.<sup>6</sup> She also notes that a unique expression of religious spirituality – secular religiosity – has developed in post-Soviet Uzbekistan.<sup>7</sup> Hanks argues that although Muslims in Uzbekistan have returned to their religious heritage after independence, the number of Muslim believers regularly following key rituals is lower than in most of the Islamic countries across the world.<sup>8</sup>

According to Malashenko, the relationship between the government and Islam is ambivalent. The Islam is considered either as a historical heritage and moral compass or as a possible political tool.<sup>9</sup> Khalid argues that Soviet power was never so complete that it could replace all local communities with purely Soviet ones. According to Khalid, the lowest level of state and party organizations often coincided with the traditional nodes of local communities, which became the center of social interaction.<sup>10</sup> Research by Schmitz, which focuses on the relationship of confessional politics in relation to state ideology and Islamization, finds that Uzbek religious politics is paradigmatic of efforts to use religion as a source of state power, with the government's approach ultimately strengthening rather than loosening authoritarian rule.<sup>11</sup>

## 2 Current State

During the 2022-2023 period, the Uzbek government continued to restrict religious freedom. Despite claims to eliminate former restrictions it still considered legitimate expression of religious sentiment or belief "*extremism*." Authorities sought to limit some elements

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<sup>2</sup> McGLINCHEY, E. M. (2006): *Islamic Leaders in Uzbekistan*, p. 127.

<sup>3</sup> KODIROVA-HUYNH, A. (2023): *The Revival of Islam in Uzbekistan after independence*, pp. 33-34.

<sup>4</sup> POTTENGER, J. R. (2004): *Civil society, religious freedom, and Islam Karimov: Uzbekistan's struggle for a decent society*, p. 72.

<sup>5</sup> HOFFMAN, H. (2006): *Islam in the Ferghana Valley*.

<sup>6</sup> LOUW, M. E. (2007): *Everyday Islam in Post-Soviet Central Asia*, p. 38.

<sup>7</sup> LOUW, M. E. (2007): *Everyday Islam in Post-Soviet Central Asia*, p. 157.

<sup>8</sup> HANKS, R. R. (2024): *Historical dictionary of Uzbekistan*, p. 6.

<sup>9</sup> MALASHENKO, A. V. (2012): *Central Asia: What is Russia counting on?*

<sup>10</sup> KHALID, A. (2003): *A Secular Islam: Nation, State, and Religion in Uzbekistan*, p. 578.

<sup>11</sup> SCHMITZ, A. (2023): *Religious Policy in Uzbekistan*, p. 5.

of Islamic practice. The outcome of a meeting between the government and the representatives of public organizations on *"the issue of religious radicalization in the country"* in September 2023 was a choice *"between their religion or their state service"* for the public officials. The government led by the Prime Minister Aripov was reacting to the growing trend of prayer in the workplace and polygamy based on Sharia law.<sup>12</sup> At the same time, Uzbekistan's top religious authority, Mufti Sheikh Nuriddin Choliknazarov, called on practicing Muslims to exercise moderation regarding Islamic dress and beards, stating that *"Islam does not require women to cover their faces and wear black clothes,"* while criticizing the religion's *"excesses"* on the issues of hajj and umrah.<sup>13</sup> Choliknazarov used the words of Prophet Muhammad *"Allah does not look at your appearance or wealth."*<sup>14</sup> At the same time, several Uzbek cities have begun to turn down the volume of the call to prayer (*adhān*) in loudspeakers in mosques.

Such actions did not correspond with the new president's stated policy (at the beginning of his term) to support the return of *azon* within the *"New Uzbekistan"* initiative, which led to Uzbekistan being delisted from the U.S. list of countries of *"special concern"* in 2018,<sup>15</sup> but today, along with other elements of the Islamic faith, posing a threat to the ruling establishment. Recent developments confirm that the current government still exerts a very high level of control over the country, and little has changed since Karimov's regime, during which extensive state control stifled the religion and thousands of believers were jailed.

## 2.1 Political developments on religion in 2023

In August 2023, *Azon.uz*, a popular religion-oriented Uzbek online media platform, stopped broadcasting its online television (Azon TV) and radio channel (Azon FM). A mass media website founded by Mubashshir Ahmad also deleted all social-media content without providing further explanation.<sup>16</sup> *Azon.uz*, with average half a million visitors per month, specialising in the topic of Islam, religious, spiritual and educational topics had been operating since August 2017 following the leadership change in Uzbekistan and rise of media activities. However, this period of relative freedom was soon restricted as new government gradually began to exert more control over spiritual life. Beginning in 2019, Uzbekistan has experienced a decline in international rankings related to rights and freedoms.<sup>17</sup> Despite government's official rejection, sudden Azon shutdown was seen as a result of the authoritarian's efforts to restrict free speech during the period of several ongoing trials of Uzbek bloggers and journalists. Uzbekistan slips in Freedom of the Press Index. In 2023 Uzbekistan ranked 137/180 countries, in 2022, the republic occupied the 133<sup>rd</sup> place. The authorities largely control the media – surveillance and censorship prevail, private television network is missing, state-owned radio transmits official propaganda, private radios fear to be shut down and press serves primarily state interests, therefore criticism of those in power remains complicated or even impossible.<sup>18</sup>

At the end of 2023, despite protracted and controversial debate, the Uzbek parliament passed a law strengthening the legal basis of Uzbekistan as a secular state, which is firmly established in the Uzbek constitution. The law is intended to promote inter-ethnic harmony, religious tolerance and thus make maintaining public order more efficient. Uzbek lawmakers have reacted to *"the growing number of marriages performed according to religious traditions not respecting the existing legislation, resulting in an increasing number of polygamy cases and out-of-wedlock births in the country."* Uzbekistan has experiencing significant increase

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<sup>12</sup> RICKLETON, CH. (2023): Uzbekistan Turning Down The Volume On Islam.

<sup>13</sup> GAZETA.UZ (2023): Mufti of Uzbekistan calls for moderation, including in wearing religious clothing.

<sup>14</sup> SUNNAH (2024): Sahih Muslim 2564c (Book 45, Hadith 42).

<sup>15</sup> US EMBASSY (2018): Country Reports on Terrorism 2018: Uzbekistan.

<sup>16</sup> MUBASHSIR, A. (2023): Azon.uz barcha loyalarini tuhuttadi.

<sup>17</sup> KURBONMURATOV, A. – OLIMOVA, L. (2023): Blogger is a dangerous profession in Uzbekistan.

<sup>18</sup> REPORTERS WITHOUT BORDERS (2024): Uzbekistan.

in the proportion of births that occur outside of marriage (in 2022, the authorities registered 18,955 out-of-wedlock births, but 16 564 in 2020). The performance of a religious ceremony to conclude a marriage that is not registered according to the state law, shall entail the imposition of 4.9 up to 9.9 UZS million (from 382 USD to 772 USD). Propaganda of cohabitation with two or more wives shall entail the administrative arrest for up to 15 days.<sup>19</sup> According to the Article 184/4, being in public places with a covered face in a manner that does not allow identification of identity shall entail the imposition of 4.9 UZS million (382 USD).<sup>20</sup> However, in 2021 the ban on wearing the hijab (or prayer clothes) in public was lifted following an amendment to the law from 1998 "*On Freedom of Conscience and Religious Organisations*" due to the lack of a clear definition of such attire. The law from 2021 aimed to "*ensure the right of everyone to freedom of conscience and religion, equality of citizens regardless of their attitude to religion, as well as to regulate relations related to the activities of religious organisations*"<sup>21</sup> and has brought Uzbekistan closer to international standards, while also simplifying the registration of religious organisations and reducing the foundation fees by 80 % (from 18,4 to 3.6 UZS million).

Furthermore, under the new law, also propaganda of discrimination on the national, racial, ethnic or religious grounds, including public denial of equal rights of women and men, shall be punishable by a fine up to up to 6.6 UZS million (515 USD).<sup>22</sup> The current measure is also intended to "*ensure the functioning of the information programmes implemented within the framework of the Safe City concept,*" the ICT project of gradual measures to create a unified hardware and software complex across Uzbekistan, which was one of President Mirziyoyev's first initiatives approved in 2017.<sup>23</sup>

## 2.2 Political developments on religion in 2024

In May 2024, the Muslim Board of Uzbekistan restricted the speeches of imams on social media platforms and engaging with any content, because of "*several cases of imams' controversial statements that met with public discontent.*" Although many prominent imams and other religious bloggers occupy a relatively large space on the Internet with millions of followers, they are often unable to effectively address religious topics to a secular public. Previously, a number of influential imams have been dismissed for "*overstepping their position*". Former Uzbek Minister of Justice Ruslanbek Davletov already in 2022 warned religious leaders causing divisions in society, stressing that "*imams are not allowed to set standards in society.*"<sup>24</sup> However, imams remain a significant component in maintaining public order and supporting government stability in Uzbekistan, as evidenced by their calls on people to stay home and speak against unrest during the 2022 Karakalpakstan protests, noting that "*peace is the greatest blessing,*"<sup>25</sup> or very rarely speaking about politics, as well as their minimal challenging the leadership. They constantly call on people to love the country and to respect the ruling government. Given the increasingly prominent role of Islam in Uzbekistan's society, encouraging the imams' presence on social media to comment on socio-economic issues instead

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<sup>19</sup> LEX.UZ (2023): Law of the Republic of Uzbekistan: On Amendments and Additions to the Criminal Code and the Code of the Republic of Uzbekistan on Administrative Responsibility, article 47 (3).

<sup>20</sup> LEX.UZ (2023): Law of the Republic of Uzbekistan: On Amendments and Additions to the Criminal Code and the Code of the Republic of Uzbekistan on Administrative Responsibility, article 184 (4).

<sup>21</sup> LEX.UZ (2021): "*On Freedom of Conscience and Religious Organizations*", article 1.

<sup>22</sup> LEX.UZ (2023): Law of the Republic of Uzbekistan: On Amendments and Additions to the Criminal Code and the Code of the Republic of Uzbekistan on Administrative Responsibility, article 189 (2).

<sup>23</sup> PRESIDENT.UZ (2017): On measures to further improve the project management system in the field of information and communication technologies.

<sup>24</sup> DAVLETOV, R. (2022): Networks and religious politics. Minister of Justice warned of "divisions in society".

<sup>25</sup> KHOLIKNAZAROV, N. (2021): Mufti prays for peace for the people of Karakalpakstan in front of the Kaaba.

of limiting it, could enhance their positive impact on the government's policies while minimising unrest in the country.<sup>26</sup>

As Islamic practices grow in Uzbekistan, the government is formally trying to maintain a secular public life aligned with international legal standards, but in practise it enforces strict controls over the practice of religion. In less than half a year, nearly 800 people have been charged under Article 184.4 of the Administrative Code. More than 50 % of the reported offenses occurred in Andijan region with the majority of the charged being women.<sup>27</sup> Despite the deep influence of Islam on the locals in Uzbekistan, freedom of conscience and religion has been misunderstood by the state authorities determined to maintain a secular interpretation of Islam in public life,<sup>28</sup> thus signalling to the public that practicing one's religion is best kept private.

### **3 An Analysis of the Growth Potential of Islam in Uzbekistan**

In independent Uzbekistan, Islam, has taken on an altogether new role in the nation-building process, embraced as both national heritage and moral framework. While Islamic activity has increased, the government has tightened control over religion following the turbulence of the early 1990s and emergence of radical groups in Islam. A specific system of balancing between individual religious expression and secular governance has developed. Despite government restrictions and control, Islam, the religion of 95% of the population, has a naturally privileged position and high growth potential in Uzbekistan. Within Central Asia, Uzbekistan is a country where Muslim population will increase the most by 2030.

#### **3.1 Analyzing Political Potential (Selected Aspects)**

Uzbekistan is officially secular ex-Soviet republic of 36.5 million people. The constitution promotes state neutrality in religious matters, but the legal framework includes also other tools dealing with religious extremism. Islam-related motives are primarily mentioned in Uzbekistan's penal code and its several amendments. Despite the reforms undertaken, the structure of policy measures in relation to religion activities is strongly based on pre-existing components from Soviet era.

##### *Role of President and changes in political attitudes towards Islam*

Since the president is the main policymaker in Uzbekistan and holds most or all political power, a reflection on his political activity provides a conclusive understanding of the political developments.

In terms of attitudes towards Islam, the key period for Uzbekistan has been the political leadership change, when following the death of the first president Karimov, known for his negative and repressive approach towards the Islamic faith, the moderate, loyal and rather bland former prime minister Shavkat Mirziyoyev came to power. There were not high expectations of a major change of political course from the incoming president at the end of 2016, yet his political tenure has been rather stable, the country under his leadership is undergoing successful reforms, including the area of religious freedoms, and, to some extent, the democratic expectations of the international community have been reflected, but there are still nuances in Uzbek politics from the Karimov era that the ruling establishment is unwilling, and perhaps unable, to remove.

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<sup>26</sup> NIGINAGHON, S. (2024): Imams in Uzbekistan Asked to Stay off Social Media.

<sup>27</sup> PUBLIC.SUD (2024): Court decisions on administrative offenses published on the Internet by criminal courts.

<sup>28</sup> RABBIBOV, K. (2023): Many people asked my reaction to the closure of Azon.uz.



### *The significance of Islam in the politics of Shavkat Mirziyoyev*

One of Shavkat Mirziyoyev's first public appearances illustrates the beginning of a narrative change on Islamic values. During the 43<sup>rd</sup> Session of the Organisation of Islamic Cooperation (OIC) in October 2016, the newly appointed President of Uzbekistan highlighted Uzbekistan's efforts to restore the role of Islam ("*sacred religion*") in society after overcoming "*militant atheism*." Mirziyoyev also underscored the OIC's role in uniting member states for peace and security in the Muslim world and combating wars, terrorism, and extremism.<sup>29</sup>

The Action Strategy for the Republic of Uzbekistan for 2017-2021, presented by President Mirziyoyev on the 26<sup>th</sup> anniversary of Uzbekistan's independence, accentuated 5 pivotal domains of national development: the improvement of the state and public governance, the reinforcement of the rule of law, the advancement of socio-economic spheres, the assurance of security and interethnic and interreligious harmony, and the pursuit of a discerning foreign policy based on constructive dialogue and cooperation.<sup>30</sup> When celebrating national holidays, the President repeatedly states that "*peace and tranquillity, interethnic friendship and interreligious harmony are growing stronger in Uzbek society*," as a direct consequence of all the reforms undertaken by the presidential administration.<sup>31</sup> Mirziyoyev also often uses the Islamic narratives when speaking to Uzbek public. The head of the country emphasizes the critical need to preserve the true essence and principles of the sacred Islamic religion within all aspects of society.<sup>32</sup> While on the topic of religious extremism, however, he stresses that "*Islam is a religion of goodness, nobility, generosity, and humanism*," and Uzbekistan's goal is to "*enlighten the world with true enlightenment against ignorance*."<sup>33</sup>

In his address to the UN General Assembly in September 2023, he stated that "*Islam is a religion of peace, knowledge, and enlightenment*," and "*cases of religious intolerance and Islamophobia recently observed in some countries should not be tolerated*." To promote the ideas of interreligious tolerance and harmony worldwide, he proposed the establishment of an International Center for Interreligious Dialogue and Tolerance in Uzbekistan under the auspices of UNESCO.<sup>34</sup> In response to the increasing "*manifestations of Islamophobia observed worldwide*," the OIC should take practical steps. Simultaneously, the effectiveness of OIC's activities needs to be reassessed, as "*the current era demands the strengthening of cooperation in the fight against terrorism, extremism, radicalism, and drug trafficking, as well as in protecting the youth from the online dissemination of such threats*."<sup>35</sup>

Mirziyoyev expresses repeatedly Uzbekistan's concerns about regional security, the fight against terrorism and extremism, and the need for international cooperation to address these issues, especially in the context of the country's strategic position. He emphasizes that "*international counterterrorism efforts often address the consequences rather than the root*

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<sup>29</sup> MIRZIYOYEV, S. M. (2016): Address by the incumbent President of the Republic of Uzbekistan at the opening ceremony of the 43rd Session of the Council of Foreign Ministers of the OIC.

<sup>30</sup> MIRZIYOYEV, S. M. (2017): Vystuplenie Prezidenta Uzbekistana na toržestvah, posvjasennyh prazdnovaniju 26-letija nezavisimosti Respubliki Uzbekistan.

<sup>31</sup> MIRZIYOYEV, S. M. (2019): Vystuplenie Prezidenta na toržestvennom sobranii, posvjasennom 28-j godovsine gosudarstvennoj nezavisimosti Respubliki Uzbekistan.

<sup>32</sup> MIRZIYOYEV, S. M. (2017): President made a speech at a conference dedicated to issues of ensuring social stability, preserving true essence and content of Islamic religion.

<sup>33</sup> MIRZIYOYEV, S. M. (2017): Vystuplenie Prezidenta Respubliki Uzbekistan Šavkata Mirzičeva na pervom sammite Organizacii islamskogo sotrudničestva po nauke i tehnologijam.

<sup>34</sup> MIRZIYOYEV, S. M. (2023): Vystuplenie Prezidenta Respubliki Uzbekistan na 78-j sessii GA OON.

<sup>35</sup> MIRZIYOYEV, S. M. (2023): Vystuplenie Prezidenta na pervom sammite glav gosudarstv Centralnoj Azii i Soveta sotrudničestva arabskih gosudarstv Zaliva.

*causes of challenges.*" He asserts that *"the foundation of international terrorism and extremism, along with other factors, lies in ignorance and intolerance."*<sup>36</sup>

President identifies radicalism, extremism, and terrorism as threats to the Uzbek people. He emphasizes the need to consolidate all efforts and capabilities at both the national and regional levels to address these issues. During the summit of the Turkic Council, Mirziyoyev underscored the necessity for member states *"to collectively prevent a humanitarian crisis in Afghanistan, its international isolation, and its transformation into a terrorist haven."*<sup>37</sup> In the speeches, he is also critical that, against the backdrop of other pressing international problems, the Afghan issue is receding into the background.

### **3.2 Analyzing Economic Potential (Selected Aspects)**

In the recent period, Uzbekistan has been trying to open to Islamic financing and to build its Islamic economy. In 2018, the government presented a plan to introduce Islamic finance regulations to expand its banking sector and tap foreign markets. In April 2022, the President Mirziyoyev signed the Law *"On non-bank credit organizations and microfinance activities"* enabling the Islamic finance services to be provided in Uzbekistan.<sup>38</sup> The law defines Islamic financing services as instruments developed in the manner of the Central Bank of Uzbekistan in accordance with the rules of international organizations establishing standards for the implementation of Islamic financing.

Although there has been much discussion about creating an Islamic banking system in Uzbekistan for many years, not much has yet been realised in practice. In the past period, the only concrete step towards Islamic finance can be considered the opening of the "Islamic windows." Halyk Bank, Turonbank, Trustbank, Orient Finance Bank and Microcreditbank have opened Islamic windows providing services based on Islamic finance. Nevertheless, the services of the Islamic windows in Uzbekistan are limited by the maximum amount of loans obtained from abroad of approximately USD 5 million and the complicated terms of Shariah-based loans.<sup>39</sup>

The government's attention has been focused on the Islamic finance inflows rather than changing the banking system at the cost of state sovereignty. Nevertheless, Uzbekistan is still trying to attract Islamic finance. In April 2024, the government has once again put forward conditions for the development of Islamic finance in the country. A memorandum of understanding with the Islamic Corporation for the development of the Private Sector (ICD) was signed. The ANORBANK, Uzbek commercial bank, agreed to cooperate with the ICD to develop a project to establish the first Islamic bank in Uzbekistan.<sup>40</sup>

However, despite the pro-reform efforts of the current President, Uzbek legislation still lacks regulation of banks and other types of financial institutions operating under Sharia law, and thus there is currently no legal space in Uzbekistan to open an 'Islamic bank'. Most experts therefore doubt that an Islamic bank will ever appear in Uzbekistan, the country lacking a free banking system and suffering from high inflation.

#### *Related Literature (Islamic Finance in Uzbekistan)*

In terms of the existing literature on the issue of Islamic financing in Uzbekistan, findings of a few key works can be highlighted. Abrorov and Imamnazarov affirmed the urgent need to introduce Islamic finance in Uzbekistan as a relevant source of financing and impetus for economic development. Their research, focusing on dualistic countries that have introduced

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<sup>36</sup> MIRZIYOYEV, S. M. (2017): Prezident Uzbekistana Šavkat Mirzičev vystupil na 72-j sessii GA OON.

<sup>37</sup> MIRZIYOYEV, S. M. (2021): Vystuplenie na sammite Soveta sotrudničestva tjurkojazyčnyh gosudarstv.

<sup>38</sup> USMANOVA, S. (2022): Islamic Finance Services to be provides in Uzbekistan.

<sup>39</sup> RADIO OZODLIK (2024): Uzbekistan Wants to Attract Islamic Finance, But Experts Doubt Its Effectiveness.

<sup>40</sup> GAZETA.UZ (2024): ANORBANK and IKRChS agreed to establish an Islamic bank in Uzbekistan.

Islamic financial instruments and products, shows that Islamic finance brings economic growth and efficiency gains to society and is a competitor, not a complement, to the traditional financial system.<sup>41</sup> The analysis conducted by Toymuxamedov, Norov, and Ibodullayeva et al. identified the most prominent strength of Islamic commercial banking services in Uzbekistan as the attraction of additional financial resources from the Islamic Development Bank (IsDB) to finance the national economy. Their analysis suggests that Islamic principles would contribute to higher loan efficiency, sustainable development, the prevention of financial crises, and increased competitiveness of banks in the country. Conversely, the most significant weaknesses identified include the absence of a robust legal framework, insufficient knowledge, and the populace's uncertainty towards new services, as well as the reluctance of Islamic banks to allocate substantial loans.<sup>42</sup> According to Sotiboldievich, the Islamic financial services sector will be an important factor and the foundation of Uzbekistan's bright future increasing foreign investors' interest in the country, reflecting the deep roots of Islam in the national culture and the government's willingness to take full advantage of this opportunity.<sup>43</sup>

### *Islamic Finance in Uzbekistan*

The Islamic finance sector is one of the fastest growing in the world with total assets amount to more than \$2.5 trillion. Uzbekistan, with the largest population in Central Asia (37 million) and biggest Muslim population (93 %), has been slower to develop Islamic finance than its neighbours. The Islamic finance in Central Asia in 2024 was only \$500 million.

One of the main promises of the opening of the Uzbek economy since 2017 was to increase the FDI inflows into the country, which the new president has largely achieved. In 2018, the investment inflow grew four-fold. In comparison with \$98 million in 2017, it reached \$412 million.

Foreign investment during the era of Islam Karimov flowed primarily from Russian multinational corporations and was mostly directed to the oil and gas sector. The new government led by Mirziyoyev has expanded the portfolio of countries to include China, India, South Korea and Turkey. At present, the government is increasingly turning to countries where financial, trade or investment relations are conducted based on Sharia. Within the sectors of the Islamic economy, Uzbekistan is focusing on 3 key areas:

➤ *building an Islamic finance ecosystem;*

Uzbekistan can become an attractive investment platform for Islamic financial institutions and investors especially from the Persian Gulf and Southeast Asian states – countries that have an extensive experience in the field of Islamic finance and significant investment resources.<sup>44</sup> In July 2024, the Central Bank of Uzbekistan approved a regulation enabling microfinance institutions to offer Islamic finance services. Shariah-compliant products may include Mudarabah, Murabaha, Islamic Leasing, or Musharakah.<sup>45</sup> Islamic microfinance organizations can ensure access to financial services for low-income populations by offering microloans based on the principles of Islamic finance, which will enable people to start their own businesses and improve their living conditions. At the same time, the Uzbek government has consistently expressed concern about the formation of "*Islamic ecosystems*" that would challenge the stability of the state. Therefore, the implementation of Islamic financial facilities for Uzbek society has been slow and full of government regulations. However, the government

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<sup>41</sup> ABROVOV, S. – IMAMNAZAROV, J. (2021): Islamic fintech instruments: new opportunities for digital economy of Uzbekistan, pp. 665-666.

<sup>42</sup> TOYMUXAMEDOV, I. R. – NOROV, A. R. – IBODULLAYEVA, M. T. – BEKMUDOROVA, G. – FARMANOVA, U. A. (2023): Prospects of Implementing Islamic Financial Mechanisms, pp. 37-38.

<sup>43</sup> SOTIBOLDIEVICH, R. T. (2022): The role of Islamic Finance in Banking Operations, p. 56.

<sup>44</sup> ABSAMATOV, A. E. (2024): Implementing Islamic Banking Services in Uzbekistan, p. 4888.

<sup>45</sup> MANSOOR, Z. (2024): Uzbekistan permits microfinance institutions to offer Islamic Finance Services.

must consider the needs of its growing Muslim population. Islamic financial instruments have the potential to attract new customers to the financial sector of Uzbekistan, especially those who, for religious reasons, avoid traditional banking services.<sup>46</sup> Islamic finance is based on ethical principles that prohibit usury and speculation, making it an attractive option for people seeking to comply with Islamic religious norms and values in their financial affairs.

➤ *making the Islamic financial sector accessible to the Muslim public and foreign visitors*

As the Uzbekistan experiences positive tourism growth, with 4.238 million international arrivals by 2028, the government is actively trying to make the Uzbekistan accessible for the Muslim visitors. This effort includes special visitor portals, establishing direct air flights, or visa-free facilities for the citizens of Azerbaijan, Malaysia, Indonesia or Turkey. According to UNESCO, Uzbekistan boasts over 7 000 tangible cultural monuments, many of which showcase the country's rich Islamic heritage dating back to the 8<sup>th</sup> century.

➤ *establishing trade links with (key) Islamic economies*

The Uzbek government is building an open and transparent economic policy aimed at promoting entrepreneurship, SMEs and removing trade barriers. The UAE is one of the leading countries expanding investment and partnership opportunities in Uzbekistan. The Uzbek-UAE trade relations are being actively enhanced by the initiatives of both governments. The countries develop trade connections in tourism, fintech, renewable energy, agriculture or infrastructure.<sup>47</sup> Trade exchange volume between the countries is also increasing in the halal sector, following Uzbekistan's ambition to promote tourism by attracting Muslim tourists. Uzbekistan is strengthening strategic partnerships especially with OIC member states – countries connected by historical ties, common religion and similar spiritual values.<sup>48</sup> Uzbekistan is actively engaged in exchange best practices in tourism with Malaysia, a country having consistently been ranked as the "*Top Muslim-Friendly Destination of the Year*".<sup>49</sup> In May 2024, the countries' political leaders agreed on the need to introduce tourism standards compatible with Islamic values.<sup>50</sup> In September 2024, Uzbekistan and Pakistan set \$1 billion trade target, reflecting a proactive Uzbek approach to enhance cooperation with Muslim nations.<sup>51</sup> Increasing cooperation with Muslim economies also reflects concerns about rising religious intolerance, thus promoting interreligious harmony and tolerance on a global scale has been mentioned as a key element of Uzbek agreements with other Muslim nations.

### **3.3 Analyzing Socio-cultural potential**

In Uzbekistan, there is no in-depth sociological research to determine the level of religiosity in the country. However, under the leadership of President Mirziyoyev, new mosques are being built in the country, and a religious revival is noticeable, particularly in Tashkent. Unlike the era of Islam Karimov, Uzbekistan today seems to be rapidly opening and allowing unofficial forms of Islam. Nevertheless, this revival of Islam is not entirely spontaneous and is associated with several constraints.

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<sup>46</sup> ABSAMATOV, A. E. (2024): Implementing Islamic Banking Services in Uzbekistan, p. 4888.

<sup>47</sup> AS.TF (2024): UAE trade delegation explores investment and partnership opportunities in Uzbekistan.

<sup>48</sup> BERNAMA (2024): Malaysia, Uzbekistan To Exchange Best Practises in Tourism.

<sup>49</sup> RAMLI, A. – ARIPIN, N. – IZZATI, A. – IMAN, K. (2024): Malaysia Calls for More Tourism Exchange and Global Collaborations to Strengthen Muslim-Friendly Tourism and Hospitality (Mfth).

<sup>50</sup> MANSOOR, Z. (2024): Uzbekistan permits microfinance institutions to offer Islamic Finance Services.

<sup>51</sup> SALAAM GATEWAY (2024): OIC roundup: Uzbekistan, Pakistan set \$1bn trade target.

### *Islam as a cultural and historical heritage*

Uzbekistan has a unique and diverse religious landscape, with Islam deeply woven into the cultural structure of the country. The history of Islam in Uzbekistan began in the 8<sup>th</sup> century with the Arab invasion. Uzbekistan is seen as a cultural and religious center in Central Asia known for its Islamic architecture, literature, and art, showing its strong ties to Islam. Uzbekistan's Islamic architectural legacy reflects the diverse cultural influences that have shaped the region over centuries (Islamic Golden Age, from the 8<sup>th</sup> to the 13<sup>th</sup> century). Uzbekistan is home to a vast array of Islamic architectural monuments. The Silk Road trade routes played a pivotal role in shaping Uzbekistan's Islamic art and architecture. The city of Samarkand can be considered the cornerstone of Central Asian Islamic architecture, with iconic buildings such as the Bibi-Khanym Mosque and the Registan Square Madrasah.

### *Islam as the predominant religion in Uzbekistan*

The nation is 94% Muslim, most Muslims follow the Hanafi school of Sunni Islam (3 % Eastern Orthodox, 3% other faiths). About 50 % of the population consider religion as "very important".<sup>52</sup> There are 2 286 registered religious organizations from 16 confessions, almost 2 100 mosques and Islamic organizations, and approximately 160 churches in Uzbekistan. There are currently 2323 registered religious groups in the country, of which 2132 are Islamic. However, the government maintains a strict regulation policy towards all organizations despite being officially registered.<sup>53</sup> Despite relaxing some laws since 2016, Uzbekistan ranked 83<sup>rd</sup> out of 87 countries in religion freedom with a score 0/4 in 2023.<sup>54</sup> In the World Watch List 2024, revealing the 50 most dangerous countries to be a Christian, Uzbekistan ranked 25th. According to the analysts, the churches are often raided, and attendees may be arrested or fined.<sup>55</sup>

### *Islam and demographics of Uzbekistan*

Since gaining independence, Uzbekistan has experienced positive population growth, in 2023, the population grew at 2.14%. Despite socio-economic difficulties, improving the nation's gene pool has become a priority task since for the new state. Uzbek society is very young, 30.1% of its people are younger than 14 and the median age is 27.0 years (2024).<sup>56</sup> Population growth is largely followed by the Muslim population growth in the country. The following tables show the trends and predictions for Muslim population growth in Uzbekistan (Table 1)<sup>57</sup> and in Central Asian countries (Table 2).

**Table 1: Religious adherents in Uzbekistan between 1970-2050**

	<b>1950</b>	<b>1970</b>	<b>2000</b>	<b>2020</b>	<b>2050</b>
<b>Muslims</b>	51.8 %	50.3 %	91.4 %	94.8 %	97.4 %
<b>Nonreligious</b>	39.9 %	41.6 %	1.4 %	3.9 %	1.4 %
<b>Christians</b>	6.5 %	7.2 %	6.8 %	1 %	0.9 %

Note: Own elaboration.

Source: Uzbekistan: Major World Religions (1900 - 2050) (World Religion Database, 2020).

<sup>52</sup> BUREAU OF SOUTH AND CENTRAL ASIAN AFFAIRS (2016): U.S. Relations with Uzbekistan.

<sup>53</sup> ISRS (2021): The Ministry of Justice announced the number of religious organizations registered in Uzbekistan.

<sup>54</sup> U.S. NEWS BEST COUNTRIES RANKINGS (2024): These Countries Are Known for Religious Freedom.

<sup>55</sup> OPENDOORS (2024): The World Watch List 2024.

<sup>56</sup> WORLDOMETER (2024): Population of Uzbekistan (2024).

<sup>57</sup> ARDA (2024): Religious Adherents (World Religion Database 2020).

**Table 2: Muslim population growth in Central Asian countries**

	2010		2030	
	<i>% of population that is Muslim</i>	<i>Muslim population (est.)</i>	<i>% of population that is Muslim</i>	<i>Muslim population (proj.)</i>
<b>Kazakhstan</b>	56.4	8,887,000	56.4	9,728,000
<b>Kyrgyzstan</b>	88.8	4,927,000	93.8	6,140,000
<b>Tajikistan</b>	99.0	7,006,000	99.0	9,525,000
<b>Turkmenistan</b>	93.3	4,830,000	93.3	5,855,000
<b>Uzbekistan</b>	96.5	26,833,000	96.5	32,760,000

Note: Own elaboration.

Source: LUGO, L. – COOPERMAN, A. – O'CONNELL, E. – STENCEL, S. (2011): *The Future of the Global Muslim Population Projections for 2010-2030*, pp. 156-157.

### *Easing restrictions on religious expression in practice*

In the first year of the new President Mirziyoyev's rule, the first-ever national al-Quran reciters competition was organized in Uzbekistan, symbolically demonstrating the government's efforts to break away from the repressive policies of the past with special meaning for most of its Muslim citizens.<sup>58</sup> Mirziyoyev initiated procedures to pardon thousands of Muslim inmates imprisoned for "religious extremism". Nevertheless, various doubts have been raised about the sincerity of the government's reform efforts. Primarily due to persistent reports of torture of Muslim individuals suspected of extremism, Uzbekistan's low ranking in global religious freedom rankings, or overregulation of religious institutions. Uzbek officials are therefore focused on preventing the spread of radical Islamist ideologies, while at the same time promoting traditional Uzbek values. The state still controls "radical" activities and Mirziyoyev's government continues to face the challenge to find a balance between openness and control of religious expression.

### **Conclusion**

Uzbekistan has a high potential for the growth of the Islamic faith, which we have analyzed in this article on three levels. The political sphere presents the most barriers and constraints, as the government's interest is to maintain a secular state. The government adheres to the view that freedom of interpretation is often the fuel of political Islam. The belief by a certain Muslim population that there is no alternative to Islam indicates to the government that the only alternative to 'political' Islam is secularism.

Higher potential can be seen in the economic sphere, which on the one hand shows an interest in introducing Islamic finance given the dominant Muslim population, but at the same time a government interest in not undermining the government's monopoly in the banking and financial system. Uzbekistan with its growing economy can become an attractive investment platform for Islamic financial institutions and investors from the Persian Gulf and Southeast Asian countries. Islamic finance provides alternative investment opportunities, but also contributes to the socio-economic development of the country. Uzbekistan's involvement in the global Islamic finance community would open up new horizons for co-operation and investment, enhance capital inflows and promote further economic growth.

The socio-cultural sphere, the positive demographics of the country, the projected growth of predominantly Muslim population, the rich history of Islam in Uzbekistan, and the revival of religious practice in an independent country can be considered the greatest strengths. Despite the various reforms and liberalizations that are taking place in all spheres

<sup>58</sup> MASHRAB, F. (2018): *Uzbek Government Eases Restrictions on Muslims*.

of life in Uzbekistan under the new administration, it remains questionable whether these changes are sincere and whether they will continue in the near future. The recurring inconsistencies between President Mirziyoyev's promises and repressive measures confirm the caution regarding the future of Uzbekistan's reform process. Although Uzbekistan is the most prospective Central Asian state in terms of the growth of Islamic values and their preservation in society, the country's government faces an extremely difficult task in the coming years – to balance religious freedom and security, while unable to ignore the growing movement of believers spreading interpretations of Islam beyond their sphere of control.

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# THE 2024 FRENCH LEGISLATIVE ELECTIONS<sup>1</sup>

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**Abstract:** The stability of the French Fifth Republic was guaranteed for decades by the existence of two decisive political blocs. On the one side, there were the republican right-wing political parties, and on the other side, the united left movement. Both blocs were competitive. However, they shared common democratic values and principles of French republicanism. The situation changed in 2017 after Emmanuel Macron came to power. The centrists became the main political bloc. In addition, the far right grew in power as it gradually became attractive to voters who were in the past part of the Gaullist camp. The current French political scene is divided between three blocs. However, none of them is able to win a parliamentary majority. These are the united left, the presidential centrist camp and the far right. Their distinct ideological basis does not allow the formation of a stable governmental coalition and France is dependent on minority governments. They have to seek ad hoc support in the parliament.

**JEL:** F50, N40, O38

## Introduction

Members of French National Assembly are usually elected for five years terms in two round system. They are elected in single member constituencies by majority vote. To be elected in the first round it is necessary to fulfill some conditions. Firstly, to be elected in the first round, candidate must gain majority of votes. The second condition is the turnout at least 25% in his/her constituency. If those conditions are not fulfilled, the second round is held. The second round in France is slightly different to others countries that use majority vote. The runoff is held between all the candidates with more than 12.5% of the votes after the first round – not only between two most successful.

As mentioned before, members of French National Assembly are elected usually for five years term. However, snap elections are also possible. This was also the situation in 2024. President Emmanuel Macron decided to dissolve the National Assembly (June 9<sup>th</sup>, 2024) as the reaction on the results to the European parliament elections in June 2024 (he announced the dissolution of the National Assembly only one hour after the results of the European Parliament elections were published). His political bloc lost elections to the European Parliament. Consequently, three main competing political blocs started electoral campaign: Far right National Rally led by Jordan Bardella (Marine Le Pen is the European Parliament deputy so she could not candidate), leftist New Popular Front led by Jean-Luc Mélançon and bloc Ensemble formed by supporters of president Emmanuel Macron.

The key topics of the campaign were connected with economic situation and immigration. The possible victory of National Rally was also the issue.<sup>2</sup> To sum it up “the

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<sup>1</sup> The paper is part of projects: KEGA 008UMB-4/2023 *The position of the European Union in the area of the world economy - the current state and future perspectives. Compendium of study materials for university study programs* (Pozícia Európskej únie v priestore svetového hospodárstva - súčasný stav a budúce perspektívy. Kompendium študijných materiálov pre univerzitné študijné programy). VEGA1/0115/23 *Applications of cooperative game theory models in economics and international relations* (Aplikácie kooperatívnych modelov teórie hier v ekonómii a v medzinárodných vzťahoch).

<sup>2</sup> European Sources Online. (2024).

major issues in the French 2024 legislative elections included inflation, pension reforms, the minimum wage, energy prices, immigration, and the war in Ukraine”.<sup>3</sup> The first round of the elections was held on June 30<sup>th</sup>, the second round one week later on July 7<sup>th</sup>.<sup>4</sup> Politicians have only three weeks for political campaign – but according the French constitution was so short period possible and constitutional as the minimum time for the campaign is 20 days.

### **1 Formal Conditions of Legislative Elections in France in 2024**

French legislative elections are held to elect the members of the lower house of French Parliament – National Assembly. There are 577 members of National Assembly. They are elected for five years – but French president can call snap elections. This was also the situation in 2024. It was not the first time when the French president called early elections in France during the fifth republic. Charles de Gaulle dissolved National Assembly in 1962 and 1968, François Mitterrand in 1981 and 1988 and Jacques Chirac in 1997. The logic of that step is clear – to strengthen the position of president although it does not work always. The consequence of the decision of Jacques Chirac in 1997 was cohabitation with the socialist government led by Lionel Jospin and the consequence of the decision of Emmanuel Macron was hung parliament divided into three ideologically different blocks as it will be explained later.

To be a National Assembly deputy candidate must have French citizenship and he/she must be at least 23 years old. “The conditions that make a person illegible to stand for election or to be elected are related to the person (if they are placed under a guardianship, deprived of civic rights, or have declared personal bankruptcy) or the office (Ombudsman, prefects, magistrates, officers and directors who exercise their management and supervision duties in external, regional and Departmental services).”<sup>5</sup> The members of National Assembly cannot serve as members of government, members of Senate and deputies of European Parliament. The main role of the deputies of French National Assembly is comparable with the main role of deputies in parliaments in democracies – initiate bills or vote for the new bills and to control the actions of the French government.

The French parliament is bicameral. It consists of upper house – Senate and lower house - National Assembly. The role of National Assembly is slightly more important – “in the event of a disagreement between the two chambers of Parliament on legislative texts, a joint committee may be convened, but if a dispute persists, the National Assembly may have the final say.”<sup>6</sup>

The aim of major political blocs in France is to gain presidential majority in French National Assembly (at least 289 seats in French National Assembly) during legislative elections (occasionally is government in opposition with president and this government is supported by parliament majority – this is so called cohabitation and its consequence is weaker position of the president in French political system). It secures the president and his government possibility to lead the country without major difficulties connected with divided political groups in legislative branch.

After legislative elections in 2022 Emmanuel Macron lost that majority and he, prime ministers and the government had to find ad hoc coalitions in parliament for different bills permanently.

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<sup>3</sup> France. National Assembly. (2024): In: Global data on national parliaments.

<sup>4</sup> French legislative elections in 2024 were the 17th legislative elections in the history of the fifth republic.

<sup>5</sup> La France à la loupe. (2024)

<sup>6</sup> DARBOIS, L. T. (2022): An Institut Montaigne Explainer: Understanding Legislative Elections in France.

When French president has majority in National Assembly – it usually does not consist of one party – but bloc of parties able to share basic values and political outlines. This is another political characteristics of the French Fifth republic.<sup>7</sup>

## 2 Legislative Elections in 2024

As it was written before – the snap elections were announced after the results of the European Parliament elections were published. The far right achieved the best result in its history in France – 31.4% of votes. In 2014 it was 24.9% and in 2019 23.3%.<sup>8</sup>

However, the results of presidential supporters (14, 6% for the Coalition Besoin d'Europe)<sup>9</sup> in European Parliament elections were not the only reason for snap elections. “While the electoral triumph of Emmanuel Macron’s movement in 2017 was a by-product of the broader institutional logic of “honeymoon” presidential races, the 2022 legislative elections confirmed this logic to a limited extent since voters gave the presidential coalition Ensemble only a relative majority of seats in the National Assembly.”<sup>10</sup> Emmanuel Macron’s Ensemble movement lost the majority in 2022 elections as it was mentioned earlier. President and his governments (the governments were from pro presidential camp as no other political bloc was able to find majority in National Assembly) had to deal with leftists and rightists political parties in parliament from 2022 and had to fry to find ad hoc coalitions. The internal French policy was during that complicated period affected by the discussions about the reform of pension system or how to deal with immigration. The French foreign policy was logically influenced by EU affairs and Russian aggression in Ukraine (choice of the right and effective means for a given conflict, or for a given state/states affected by a conflict, according the reason and form of the conflict and adequate timing, was a key problem<sup>11</sup>). France also had to face the protests in New Caledonia. Many of those topics divided majority of deputies in the National Assembly. And as pointed out Florent Gougou “the lack of any culture of compromise among political elites fueled a sense of political impotence that weakened the president within his own camp, so that Macron used the dissolution to try to discipline his party and dictate his timing.”<sup>12</sup>

The main competitors of the 2024 legislative elections in France were three above mentioned political blocks and parties: National Rally, New Popular Front and pro presidential movement Ensemble.

National Rally led by Marine le Pen protégé Jordal Bardella opposed Macron’s immigration policy and was strongly against Ukraine’s membership in the EU and NATO. However, it is necessary to add that from 2022 National Rally left the idea of the leaving the EU. New Popular Front was the bloc of different leftists political parties – Socialist party (not able to regain its position on the political map of France from 2017), Green party, Communist party and Unsubmissive France of Jean-Luc Mélançon who became main leftist political figure in current France. Its priorities included rejection of pension reform of president

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<sup>7</sup> The political power in the fifth republic was usually divided between two blocs – left wing socialists represented for example by François Mitterand, Lionel Jospin or François Hollande and right wing gaullist movement represented by Charles de Gaulle, Georges Pompidou, Jacques Chirac or Nicolas Sarkozy. Part of the right wing camp were also non-gaullist political liberal and pro European political parties. One of the most prominent leaders of this camp was Valéry Giscard d'Estaing. Although these two blocs were competitors, they shared common basic republican and democratic values. The situation changed after the legislative elections in 2017. Emmanuel Macron and his centrist movement En Marche won them and socialists became marginal after those elections. In addition, the position of far right (National Front/National Rally) is becoming stronger from 2017.

<sup>8</sup> GOUGOU, F. (2024): The 2024 French legislative elections: maintaining elections, political crisis. t

<sup>9</sup> European Elections 2024. France. [Cited 6. 11. 2024.]

<sup>10</sup> AUGUSTÍN, M. (2023): Failing to Change the Political Landscape: La République en Marche in the Process of Its Institutional Rooting, p. 15.

<sup>11</sup> PYTELOVÁ, K. (2014): Negatívne dôsledky ozbrojených konfliktov z pohľadu medzinárodného trestného súdництва.

<sup>12</sup> GOUGOU, F. (2024): The 2024 French legislative elections: maintaining elections, political crisis.

Emmanuel Macron and support for heavy taxes on corporations. Leftist bloc was divided in the question of Ukraine. Socialist Party<sup>13</sup> and Green Party very clearly supported Ukraine. They did not refuse sending weapons to Ukraine and they endorsed enlargement process. The position of Jean-Luc Mélançon's Unsubmissive France and Communist Party was slightly different. These two political parties called for "diplomatic solution" of the conflict. What about Macron's bloc Ensemble it supported Macron's economic and social reforms and his firm pro Ukrainian attitude after the Russian aggression.<sup>14</sup>

The winner of the first round of the elections was far right National Rally with 37 seats.<sup>15</sup> This results proved the rise of the popularity of this far right political party. Leftists National Popular Front (electoral movement of different leftists' political parties and movements) won 32 seats. The first round was disastrous for Emmanuel Macron and his movement Ensemble.<sup>16</sup> They were successful only in two constituencies.

The gains of National Rally were after the first round of the legislative elections in France historical. Overall it gained about one third of votes comparing to 13% in 2017 and 18% in 2022).<sup>17</sup> According to Tara Varma, a visiting fellow at the Brookings Institution in Washington DC "what we see is that people are no longer ashamed to vote for the National Rally"<sup>18</sup> and she added "not only are they no longer ashamed to do so, but they are no longer ashamed to say so,"<sup>19</sup> she said. It is evident that National Rally is becoming step by step mainstream political party. It is not the party of workers and rural areas anymore. People from the cities and white-collars are ready to support it en masse.

After the results of the first round left wing National Popular Front and pro-Macron Ensemble movement made a deal to stand down in constituencies where third candidates had enough votes to be part of the second round of the elections. The aim was clear – to defeat far right National Rally. And it partially worked as National Rally was with 125 seats only the third after the second round of the legislative elections. It turned out that the majority of French perceive the National Rally as a dangerous element of the French political scene and were willing to support a democratic candidate from a different political camp in the second round than in the first round. The goal was to prevent the National Rally from winning.

On the other hand France was in political gridlock after 2024 parliamentary elections in France. Historian Frederik Dhondt explain that situation: "We've already seen this phenomenon at work several times in France. In the first round, we vote for those we want to see in power. In the second round, people especially point to those they don't want to see in power. It's clear that the majority of French people don't want an RN government."<sup>20</sup>

What about the absolute results after the second round - the winner was National Popular Front with 178 seats. It was the first time from 2012 when leftists were able to win elections in France – although their result is far from majority in National Assembly. On the other hand, it has to be pointed out that that victory was decided mainly by the performance of Jean-Luc Mélançon and his candidates. The victory of the left was not made by moderate Socialists

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<sup>13</sup> Socialist Party is also clearly pro NATO oriented.

<sup>14</sup> Who will control the National Assembly? (2024). <https://www.economist.com/interactive/france-elections-2024-polls-macron-le-pen>

LEVEQUE, J. (2024): French Parliamentary Elections: What is Next for the Country and What It Means on the International Stage.

<sup>15</sup> The results of legislative elections in 2024 are in Figures 1, 2, 3. The results of legislative elections in 2022 are in Figures 4, 5, 6.

<sup>16</sup> The movement Ensemble consists of different political parties and movements –Renaissance (presidential party), Democratic Movement, Horizons, Union of Democrats, Independents.

<sup>17</sup> TIDEY, A. – CHADWICK, L. (2024): Four takeaways from French legislative elections.

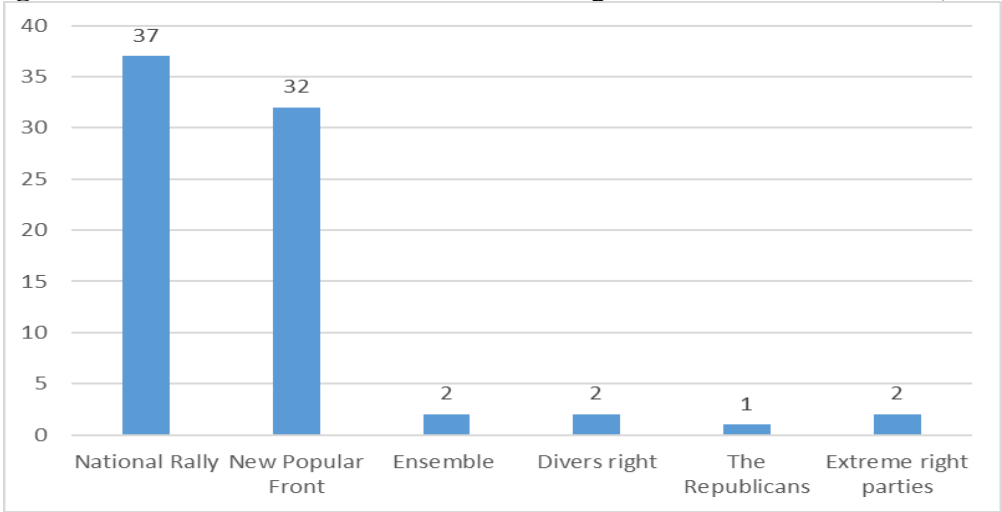
<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> DELOY, C. (2024): The left-wing forces come out ahead in the French legislative elections but there is no absolute majority.

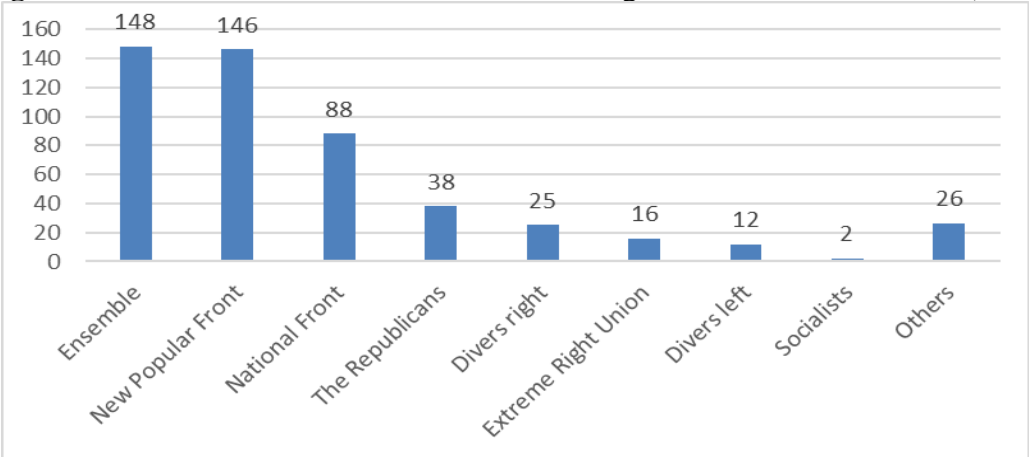
as it was in 2012. Emmanuel Macron’s supporters were able to gain second position with 150 seats and the winner of the first round New Rally finished finally on the third position with 125 seats as it was already mentioned.

**Figure 1** Results of the first round of French legislative elections in 2024 (seats)



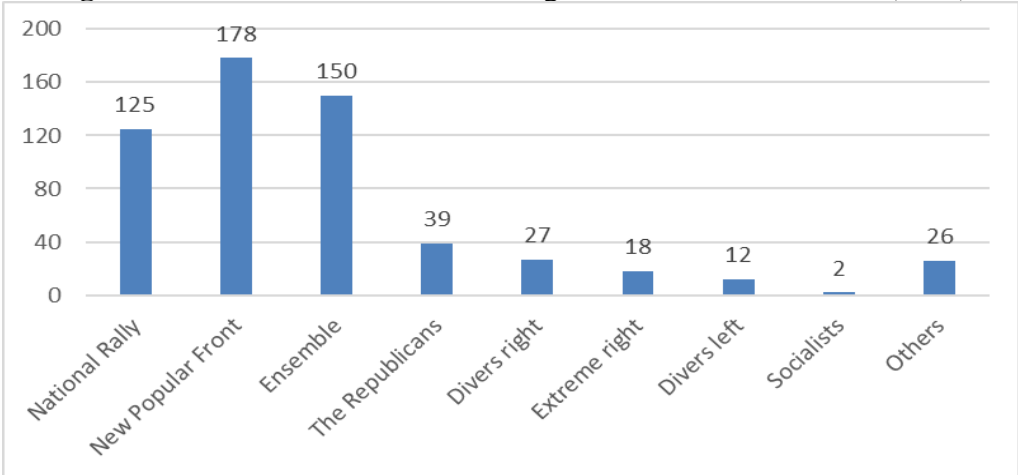
Source: ElectionGuide

**Figure 2** Results of the second round of French legislative elections in 2024 (seats)



Source: ElectionGuide

**Figure 3** Absolute results of French legislative elections in 2024 (seats)



Source: ElectionGuide

### 3 Consequences of the French Legislative Elections

What about the distribution of the seats in the legislative elections in 2024 “the 2024 elections confirmed the tripolarisation regarding access to power.”<sup>21</sup> The main consequence of 2024 legislative elections was hung parliament. As Florent Gougou wrote “regarding government formation, the 2024 legislative elections confirmed a major consequence of the 2022 elections: minority governments seem to have become the rule in the new electoral order. This is a critical shift for the institutions of the Fifth Republic.”<sup>22</sup> According to Allan Malheiro and Paul Brachet “this is an unprecedented situation for a country whose institutions were created to avoid this type of situation. To avoid instability. In fact, the legislative elections failed to produce a majority, and no majority seems to be emerging, despite the fact that everyone is determined to implement their respective programs.”<sup>23</sup>

Comparing the results of 2022 and 2024 elections – here are some remarks:

In 2022 only 5 candidates (Figure 1, 4) were able to win in the first round of the elections. No of this candidate was from National Rally. The situation was much different in 2024. The first round confirmed the victory for 76 candidates. Most of them were either from National Rally (37) or National Popular Front (32). Pro presidential movement Ensemble was successful only in the two constituencies after the first round of the elections.

Leftist political bloc was able to strengthen its position between 2022-2024. Different leftist political parties gained 192 seats in National Assembly in 2024. In 2022 leftist candidates (mainly from New Ecological and Social People's Union - NUPES<sup>24</sup>) obtained about 140 seats. For the first time from 2012 leftist parties or left wing bloc won legislative elections in France. But we can not forget that this left wing bloc is diverse – it contains moderate social democrats from Socialist party<sup>25</sup> and also radical communists and supporters of main figure of this bloc Jean-Luc Mélançon.

Emmanuel Macron's Ensemble with 150 seats became the second most influential political bloc in French politics. The result is minority government for the second consecutive time as Emmanuel Macron was not able to secure parliamentary majority. Although the National Rally did not win the elections, Emmanuel Macron had to admit that he lost the elections. He was not able to persuade the majority of French that his political course is the right one. After the second round it was clear that he controlled slightly more than one fifth of the National Assembly. He was also forced to name the new government with Michel Barnier as the prime minister (Emmanuel Macron rejected the idea to name Jean-Luc Mélançon, the leader of leftist bloc and also Jean-Luc Mélançon rejected the idea to be Macron's prime minister). One more thing has to be added regarding Emmanuel Macron. He became political star in 2014. One of his goals was to kick off far right political parties from French politics. Ten years later are these political parties stronger than ever before. His aim was also to improve “the figures of employment and competitiveness. According to him, the 2 reasons for the vote for the far-right.”<sup>26</sup> It is really questionable if French appreciated his effort in these areas.

Although National Rally was not able to win the legislative elections, it confirmed that it is day by day accepted by bigger and bigger part of the French society. It also became

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<sup>21</sup> GOUGOU, F. (2024): The 2024 French legislative elections: maintaining elections, political crisis. t

<sup>22</sup> Ibid.

<sup>23</sup> MALHEIRO, A. – BRACHET, P. (2024): French Legislative Elections: A Surprise Named New Popular Front!

<sup>24</sup> New Ecological and Social People's Union was created before the legislative elections in 2022 by different French left-wing parties including Unsubmissive France, Socialist Party and Communist Party. The Socialist Party left the bloc in 2023 when Jean-Luc Mélançon rejected to refused to designate the Hamas movement as a terrorist movement after the events of October 2023 in Israel.

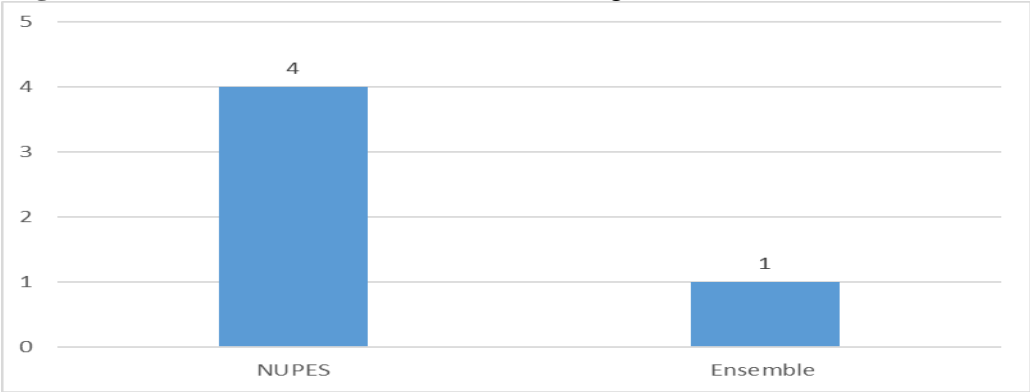
<sup>25</sup> Former French president Francois Hollande was able to return to high politics and was among the candidates who secured the seat in the National Assembly.

<sup>26</sup> MALHEIRO, A. – BRACHET, P. (2024). French Legislative Elections: A Surprise Named New Popular Front!



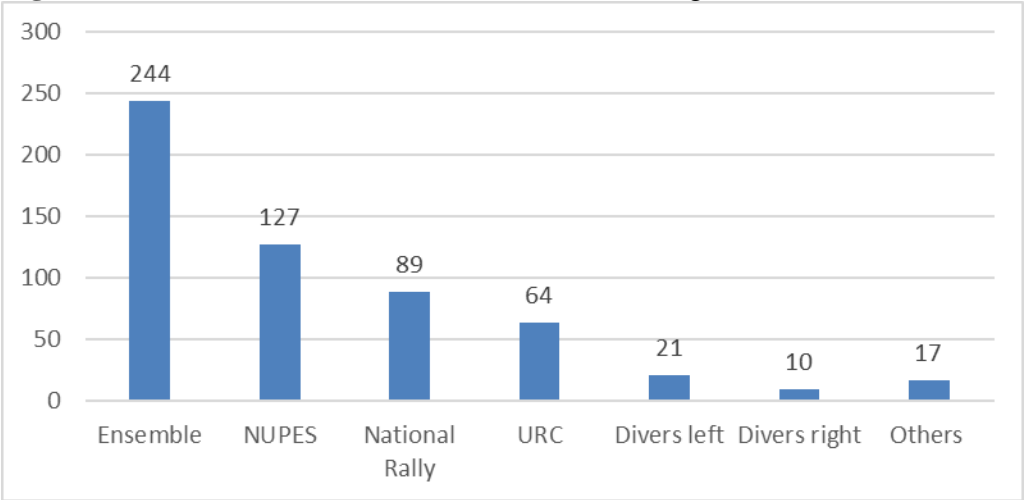
the most influential right-wing political party in France.<sup>27</sup> On the other hand, it has to be reminded that one of the main obstacles for the success of far right parties in France is electoral system. The two round majority system was a barrier for French far right parties for decades as after the first round MPs from different “standard” parties made a coalitions with the aim to defeat National Rally (or National Front in the past). As it was mentioned above, it was also the situation in 2024. “The second round reaffirmed the radical right was still rejected by the majority of French people, finishing third in terms of seats, behind both the left-wing coalition and the presidential coalition.”<sup>28</sup>

**Figure 4** Results of the first round of French legislative elections in 2022 (seats)



Source: ElectionGuide

**Figure 5** Results of the second round of the French legislative elections in 2022 (seats)

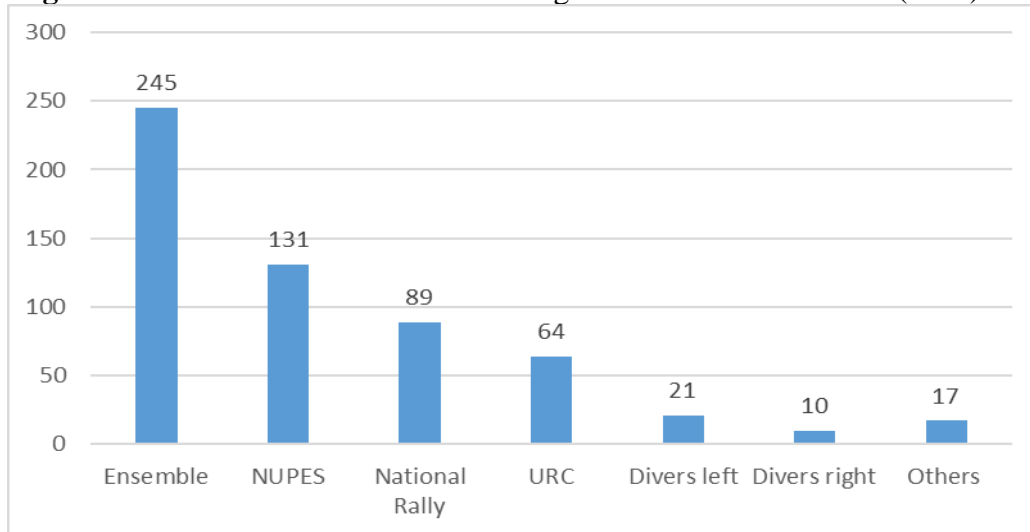


Source: ElectionGuide

<sup>27</sup> The guallist Republicans gained only 39 seats – the worst result in history. In addition, the party was divided shortly before legislative election in 2024 when its leader Éric Ciotti declared that Republicans would unite with National Rally for the snap elections. Many party members opposed it and refused the Ciotti’s idea.

<sup>28</sup> GOUGOU, F. (2024): The 2024 French legislative elections: maintaining elections, political crisis.

**Figure 6** Absolute results of the French legislative elections in 2022 (seats)



Source: ElectionGuide

### Conclusion

France had long tradition of parliament majority as the result of the elections till 2022. All the legislative elections from 1962 (except for the elections in 1988) finished with parliamentary majority (although the result of elections in 1986, 1993 and 1997 was so called cohabitation). The legislative elections in 2024 were second in row without that majority.<sup>29</sup>

In addition, Emmanuel Macron was defeated twice during one month in France in 2024. The first time it was on June 9<sup>th</sup>, 2024. He lost elections to the European Parliament clearly. The candidates of his bloc were not able to sell their European visions. The second time it was during legislative elections. Comparing with 2022 legislative elections he lost about 100 seats in National Assembly (Figure 3, 6). And more, after the legislative elections in 2024 is the country more divided than ever before.

Emmanuel Macron will have to show all his political ability during next few years. It is evident that parliamentary majority will not be probably possible by the end of his term in 2027. He will be responsible for preparing the candidate that will replace him. This candidate will face the strong challengers from the both sides – extreme right and radical left. According to Benjamin Laker “Macron’s ability to navigate the political waters over the next few years will be a case study in leadership during times of division. The need for coalition-building and compromise will be paramount, and the strategies he employs could provide a blueprint for other leaders facing similar challenges.”<sup>30</sup>

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# ACADEMIC MIGRATION AND ITS CURRENT PULL AND PUSH FACTORS (CASE STUDY OF THE UNIVERSITY OF ECONOMICS IN BRATISLAVA)

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**Abstract:** Academic migration is a significant phenomenon in the global education system that affects individuals, universities, and society. The main objective of the article is a comprehensive analysis of the current factors of pull and pressure of academic migration, which would be useful in assessing the current state of academic migration. Pull and push factors represent attractive aspects of destinations in their home country or abroad, and both types of factors can be both specific and individualistic on the one hand, and very intertwined on the other. To achieve the set goals, we use standard methods such as description, data collection, comparative analysis and synthesis.

**Keywords:** academic migration, pull factors, push factors, current situation

**JEL:** F22; J6

## Introduction

Academic migration within a country is a complex process that is examined and described in terms of individual pull and push factors. The relationships between internal pull and push factors can be quite complex and, of course, interconnected. As a result, research should take into account individual motivations for academic mobility (both inbound and outbound), take into account pull and push factors, place particular emphasis on the behaviour and attitudes of academic migrants, and identify both unconscious and unconscious reasons for academic migration, highlighting the link between individual ambitions and global trends.

Despite the growing interest in the development of higher education on a regional and local scale, the issue of migration of academic workforce within the country, colleges/universities as facilitators of academic migration, and the individual reasons why workers in the country agree to relocate remains almost unexplored. Indeed, rapidly evolving international trends, such as the societal shift of the academic profession from publicly funded to privatized markets, and the emphasis on globalization in the context of global society approaches, the higher education market, transnational networks, the high-profile mobility of some elite intellectuals, and the attraction of imported knowledge workers, are evident in most such research contexts.

However, a significant transfer of academic knowledge, expertise, staff and educational resources takes place primarily within the country, not across borders. This shift is not happening in the ideal world of academic research, but on the thousands of university and college campuses that are the foundation of national development and the international dissemination of knowledge about higher education.

## 1 Theoretical framework and the definition of academic migration

The phenomenon of academic migration itself is based on the constant motivation of people to travel or move temporarily or permanently in search of opportunities for education, cultural knowledge and the need for people to change their living conditions, increase their

future prospects and improve their professional level. Academic migration is a unique form of internal and international migration that involves the movement of academics, researchers across the country, bachelor's and master's students, and doctoral students. It takes place mainly between academic institutions and universities, research institutes, centres, colleges and tertiary education institutions in the country and beyond, as well as the centres of the national scientific think-tank. The duration of academic migration can vary, from short-term exchanges to long-term or permanent transfers.

The main purposes of academic migration include educational objectives and educational migration, where students move for higher education or specialised training, professional development, where academics seek to improve their career prospects, expand research networks or gain access to better resources, knowledge exchange that contributes to cross-border knowledge exchange, innovation and global cooperation. In addition, academic migrants may face various challenges, such as language barriers, pervasive restrictions or cultural differences. Migration as a word itself means to change or move, as well as to leave one place and go to another. International migration is the movement of people from one country to another, in many cases for the purpose of employment and permanent or long-term settlement. Brain waste is a state of over-qualification and/or illegible work, which means having skills, training or education beyond the basic or minimum requirements for the job.<sup>1</sup>

The need for a clear definition of academic migration as one of the most important parts of any complex and multidisciplinary research. In addition, the reasons for the uniformity of the definition lie in the differences in risks, costs and income between students who choose to work in other countries after graduation and students who graduate at the beginning of the semester. It is also often emphasized that such studies are particularly stimulating for applicants with a bilateral background. For students, researchers and scientists from economically underdeveloped countries, education in developed countries also represents an alternative chance on the international labor market. Measurements of the movement of academic migration to and from a country are therefore significant but difficult to create. Educational standards, social areas, opinions and opportunities also influence the results. For example, less fixation of academic stays at higher levels of master's and postdoctoral qualifications is considered different in the assessment of student interest.<sup>2</sup>

## **2 The concept of pull and push factors**

One of the main interests of academic research on migration is to take a closer look at the factors that lead a person to migrate through academia. There is also support for the claim of the existence of such factors. A proper distinction must be made between pull factors, which represent the forces that attract individuals to certain opportunities in another place, rather than pushing them to leave their current position or place, and push factors, which simply represent the reasons for leaving (whether voluntary or forced) to a new place, and there are many pull and push factors to which we can attribute influencing people's decisions about academic migration.<sup>3</sup>

### **2.1 Inner Pull Factors**

#### *2.1.1 Quality of Education*

There are various attributes of the learning environment that members of the academic community find attractive. One of the most important such factors is the quality of education.

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<sup>1</sup> YOUNG, J. (2024): Brain Drain: Definition, Causes, Effects, and Examples.

<sup>2</sup> MORLEY, L. et al. (2018): Internationalisation and migrant academics: The hidden narratives of mobility.

<sup>3</sup> URBÁNSKI, M. (2022): Comparing Push and Pull Factors Affecting Migration.

Several elements are incorporated into the quality of education. From the perspective of students, the quality of education includes personal, academic, and spiritual elements, but for academics, the quality of education is evident in the curriculum and pedagogy of instruction. Professionals in these two fields must transfer their knowledge of student adaptation readiness strategies as they relate to cultural shift, social relationships, and academic processes. The other side of the coin is that universities as organizations express the quality of their employees in terms of academic competence.<sup>4</sup>

It is also related to the ranking and reputation of universities. Institutions with top-notch departments or universities attract academics. Collaborative research opportunities are also a factor that attracts academic migrants. Members of the academic community of their universities who feel out of place in institutions that do not collaborate on research or do not seek a rich academic environment tend to migrate. Such members use cooperation as an opportunity for personal care and professional growth. Current research and research on potential internal factors is supported by quantitative surveys, while there are positive indicators of the quality of education and partnership. By examining the details of what facilitates and where universities supposedly have a comparative advantage, it is possible to proactively position universities to exploit mismatch and decide the direction and extent of talent flow.<sup>5</sup>

### *2.1.2 Research and professional opportunities*

Access to state-of-the-art facilities, ongoing research and creative projects is becoming an important aspect influencing academics' choice of host institution. It is not so much a brain drain, working conditions, salaries, the lure of contracts with prestigious institutions, it does not even have to be academic support, more often it is a simple matter of providing access to resources for publishing quality works and conceptually developing originality of the kind that will not provide you with permanent employment. Basically, these are organizations and people who will support the most modern research and creation and support that allows many good and interesting collaborations.<sup>6</sup>

Scientists usually migrate because they are looking for greater opportunities, and it was the scientists themselves who initiated the active support of research facilities. Academics who are looking for or already have a chance to develop professionally in their field move in order to take advantage of the professional opportunities of the place. These opportunities can come in the form of jobs, better salaries, grants, or research scholarships. Available jobs at the host institution can also be an attraction when they are more specialized and the offer is not readily available. Similarly, cleaning and working conditions found that undergraduates in law, economics, business, and medicine. In another type of professional opportunity, academics are attracted to moving when there is a promise of better resource allocation. Researchers often work in areas where grant money and access to facilities are needed, and move to funds where domestic opportunities are scarce. As is well known, grants are very important to cover sometimes extremely high research costs, which can increase the prestige of a given academic migration when coverage is carried out.<sup>7</sup>

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<sup>4</sup> BROWNE, E. (2017): Evidence on education as a driver for migration.

<sup>5</sup> DUSTMANN, CH. – GLITZ, A. (2011): Handbook of the Economics of Education: Chapter 4 - Migration and Education.

<sup>6</sup> PÎRCIOG, S.: Employment opportunities as a driving force for internal and external migration.

<sup>7</sup> KINCHIN, I. et al. (2018): Migrant Academics and Professional Learning Gains: Perspectives of the Native Academic.

### 2.1.3 *Quality of Life*

While economic conditions are related to job availability and labour market conditions, quality of life focuses on better living conditions in destination countries. It is made up of various factors such as the level of safety and security, the existence of good healthcare and social services, access to education, the possibility to travel abroad, and the rights to practice religion and expression, among others, which help in personal and professional life. These factors are considered important for assessing welfare and can be considered for migration. Thanks to internationalization, countries are working hard to attract academics who can strengthen their systems.

Factors such as quality of life, which are inherently positive and increase desirability, include factors that may or may not influence an individual's initial decision to migrate, work, or live in a particular context. Aspects of migration, such as work-life balance and economic security, often mediate links between quality of life factors and work or migration decisions. Cultural, recreational, and linguistic opportunities, as well as aesthetic and adventurous topics, also shape the motivation of international academic migrants, which are common in explaining why individuals choose to migrate abroad. When experienced professionals can improve multiple spheres of life, they are likely to report greater job satisfaction. In addition, some characteristics of academic life may become more pronounced due to the increased quality of life.<sup>8</sup>

Quality of life needs to be assessed in a broader context. Individual motivations are complex and multifaceted. Enticing factors such as quality of life include a desire to access excellent research facilities, including libraries and collections. Individuals in case studies seek to migrate to countries where they can achieve professional success. Language, lifestyle, climate, research culture, and cultural and recreational opportunities are other variables that increase the attractiveness of migration, with factors such as promotion, remuneration, and local funding opportunities being key determinants of academic higher education communities around the world.<sup>9</sup>

## 2.2 **Inner Push Factors**

### 2.2.1 *Lack of Funding*

Some scientists have to face insufficient financial resources during their studies or professional careers. These difficulties are often referred to as a lack of dedicated funds or funds for graduate positions, business trips, workshops or similar items. Dedicated funding is described as essential for the research opportunities provided, the professional development of the researcher, as well as the feasibility of a potential institutional event. Some researchers try to find a way to alleviate these financial pressures by being employed in institutions or other non-academic jobs outside of their research. However, the lack of institutional financial support limits the possibilities for the university and its members to limit their participation in and/or the organisation of their own events, thus hindering the promotion of links between scientists in this field.

Relocating or migrating is one of the ways that some academics manage this factor when choosing to move internationally, when preferring another job in their home country, or in the case of foreign graduates, when or if they perceive pressure on any of the other countries they can choose from. However, budget cuts and salary cuts tend to multiply this lack of financial resources within several digitized responses. The competitiveness of research

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<sup>8</sup> STEPHEN, V. A. (2024): Key Factors Influencing Job Satisfaction among Academic Staff in the University.

<sup>9</sup> ZSEGEDI, K. et al. (2024): Factors affecting quality of life and learning-life balance of university students in business higher education.

funding mechanisms in target countries and institutions is a motivating factor for attracting international academics.<sup>10</sup>

Finding good funding opportunities is considered one of the motivating factors and a significant attraction for considering international work. The amount of money and the nature of the research available vary widely from country to country and institution to institution. The availability of this funding affects the opportunities and feasibility of excellent research, career development of academics, their links to collaboration, and can be seen as an investment in the development of the academic workforce. The academic prestige of destinations is also perceived as a subtheme of push and pull factors or can signal a high-quality research environment overall. Increased access to pursuing academic prestige depends on the discipline and location, given the academic's professional and personal history.<sup>11</sup>

### *2.2.2 Limited Career Development*

Limited career development is a key factor, as academics may not perceive the possibilities of a successful career due to structural or cultural constraints within their institution. In a supportive academic environment, a scholar should be able to progress steadily in their careers and reach their full potential with the right support and resources. Not being able to move up to the next level in your academic career is exacerbated by not being in the right crowd. Thus, when academics stagnate, they may choose to go elsewhere, look for alternative opportunities, or at least boost their personal motivation to stay if seeking academic opportunities abroad is logistically unmanageable.

After all, due to the global nature of the academic field, a person's career prospects can benefit from doing some of their academic work abroad, whether through recruitment networks or improving their personal and professional trajectory and results. Therefore, limited access to mentoring from the upper classes, whether at the department or university level, can hinder career growth. If formal mentoring structures do not exist, then the very possibility of developing an academic career in general or receiving advice on specific academic decisions is also excluded.<sup>12</sup>

Additionally, if academics simply don't have enough opportunities to develop their academic skills in their current positions, it can be frustrating and can also contribute to their overall lack of progress. The other side of the coin takes into account those academics who have these basic opportunities to expand, but not in the amount they perceive they need to develop their careers to the fullest, leading to similar frustration. Push factors are very individual, so these aspects affect some people more than others. Nevertheless, the lack of career development opportunities, whether due to mentoring or a lack of resources to be able to do what is necessary to fulfil career ambitions, is considered a significant factor for academics.<sup>13</sup>

### *2.2.3 Inadequate Research Facilities*

In the context of academic migration, insufficient research facilities are considered to be a major factor and indicator of a poor research environment. Inadequate research facilities limit individuals' research productivity and limit the potential impact and impact of their research. Academics seek to migrate to institutions with a vision, where they have access to cutting-edge technologies and facilities that help them do their jobs, enhance their

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<sup>10</sup> OLIVEIRA, T. et al. (2023): Academic Migration and Epistemological Value: Exploring the Experience of Migrant Academics in Portugal.

<sup>11</sup> NIKOU, S. – LUUKKONEN, M. (2023): The push-pull factor model and its implications for the retention of international students in the host country.

<sup>12</sup> KALLIO, T. et al. (2024): Push and pull factors affecting in leaving academia.

<sup>13</sup> BOJICA, A. M. et al. (2022): A cross-country configurational approach to international academic mobility: Exploring mobility effects on academics' career progression in EU countries.



reputations, provide a basis for attracting additional funding, and strengthen the international reputation of the institution in which they reside. If their current institutions lack facilities and equipment, it limits them in what they can accomplish and makes them less attractive compared to individuals with similar academic experience in institutions and ambitions that can support their research with cutting-edge technologies and laboratories. This pressure is potentially more significant by existing push factors.<sup>14</sup>

For example, in the context of cross-border academic migration, if an academic in a low-income country also faces a lack of research facilities, this exacerbates the so-called need to move elsewhere and makes him more vulnerable to factors such as lack of finances, job opportunities or lack of academic freedom. Access to a world-class research infrastructure is therefore seen as a means of individual success and a key determinant of universities' ability to recruit and retain a high-performing and internationally recognised research workforce. Inadequate research facilities are seen as a strong signal of a research environment that is not nutritious for education and research.<sup>15</sup>

### 3 The current pull and push factors of academic migration of students of the University of economics in Bratislava

The current state of academic migration depends on a number of factors that act as a pull and push in a given environment, country or institution. The diversity, universality as well as the individuality of these factors can be described and analysed by researching and seeking answers from the respondents, which were 86 students of the University of Economics in Bratislava, and here we have also shown the importance of the influence of factors on academic mobility internally, across borders as well as the consequent impact of these factors on the decision-making process when choosing a future job and active participation in the labour market.

**Table 1 Key factors to study at the University of Economics in Bratislava in the composition of academic migration**

More job opportunities in Bratislava and its surroundings	58%
Better employment after graduation	57%
Few career opportunities in my home region	30%
Better living conditions in Bratislava	30%
Opportunity to travel from Bratislava to nearby foreign countries	29%
My home region is less developed compared to other regions of Slovakia	17%
Other reasons	10%

Source: Author's own elaboration based on his academic research

In Table 1 we can see the percentage influence of the factors on the respondents' decision-making when dealing with their education or academic migration within their home country. These specific pull factors clearly include more job opportunities in and around the locality, higher employability after graduation, as well as better living conditions or availability of migration abroad. In addition, the table also lists the push factors that de facto force individuals to migrate academically. These factors are mainly the lack of job opportunities and the very low development of the region from which the respondents come.

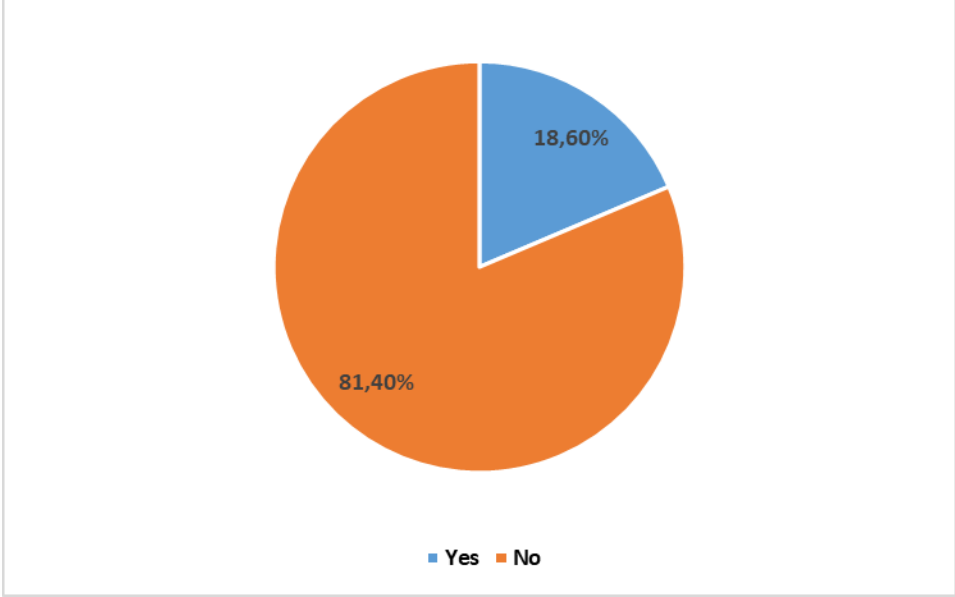
A person may gradually become an academic migrant depending on his/her age, economic situation and economic activity. In addition to within-country academic migration,

<sup>14</sup> NIKOU S. – LUUKONNEN M. (2023): The push-pull factor model and its implications for the retention of international students in the host country.

<sup>15</sup> WEBER, T. – VAN MOL, CH. (2023): The student migration transition: An empirical investigation into the nexus between development and international student migration.

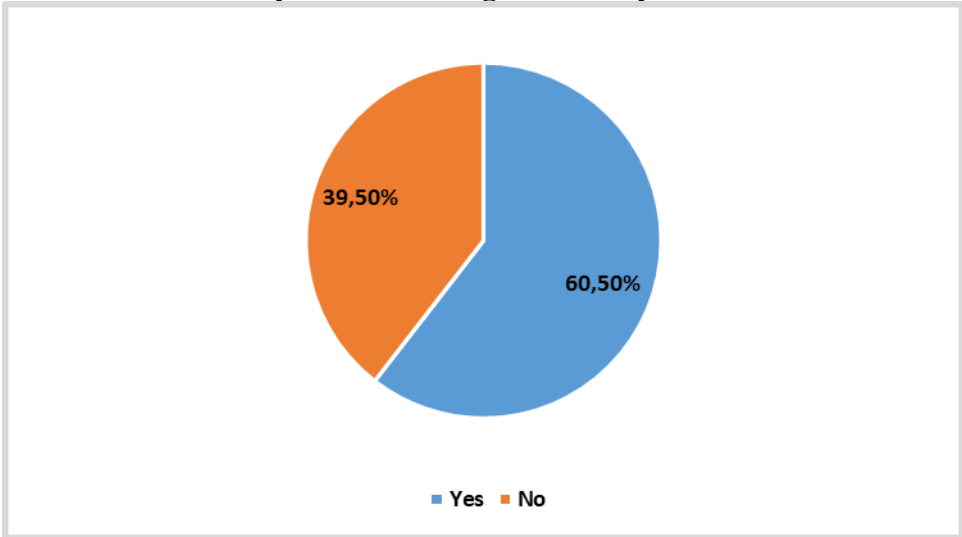
there is also cross-border or what can be called international academic migration. An illustrative example can be seen in the comparison of Graph 1 and Graph 2, in which the change in attitude and subsequent implementation of academic migration can be seen, where most of the respondents practicing academic migration due to pull and push and factors within the home country started adapting to international migration after joining the university. There is a noticeable difference of interest where between the period of transition from high school to university, the interest to academically migrate abroad increased by rounded 40%.

**Graph 1 Percentage of students who have studied abroad during their high school**



Source: Author's own elaboration based on his academic research

**Graph 2 Percentage of students who have studied, are studying or are planning to study abroad during their study at EUBA**



Source: Author's own elaboration based on his academic research

**Table 2 Key factors to study abroad during the study at EUBA  
in the composition of academic migration**

Acquiring new knowledge in your academic field	71%
Improvement and all-round self-development	57%
Dissatisfaction with the level of education in Slovakia	24%
Opportunity to receive a financial grant while studying abroad	22%
Better conditions for studying abroad	19%

Source: Author's own elaboration based on his academic research

As with internal migration, pull and push factors play a key role in cross-border migration. As we can see in Table 2, the most important pull factors were gaining new knowledge in academics, self-development and overall development, the possibility of obtaining a financial scholarship or better conditions to study abroad. On the other hand, the most significant push factor for the respondents was dissatisfaction with the level of education and schooling in their home country.

The reality of the direct (and indirect) influence of pull and push factors not only on academic migration but also on related migration, such as labour migration or economic activity itself, can be observed in Table 3, in which respondents answered a supplementary question in the context of verifying the diversity of perceptions and influence of pull and push factors on future employment decision-making issues. Some individual variation in personal pull and push factors on individuals can be observed, for example, in the almost complete uniformity in relation to salary, which is usually perceived as a pull factor. If we look, for example, at the migration and data we have studied in Table 3, it can be argued that the answers, which were salary and career growth and employment, are the answers expected given the study, place of study, current labour market situation as well as the age of the respondents (taking into account that as age progresses, migration activity generally decreases, unless this would be an exceptional situation). As a corroborating figure in this particular case, location and distance is an option that ranks only fourth among the given factors in Table 3. This only confirms the current situation of the influence of the given pull and push factors on students' decision making both in general and individual scale, where the majority of students prefer salary and career growth as the most important factors for their academic migration without looking at the distance or location of their study or work placement.

**Table 3 The most important factors in respondents' future employment decisions**

Salary	94%
Career development and employment	63%
Work-life balance	37%
Location and distance	23%
Job benefits	11%
Other reasons	9%

Source: Author's own elaboration based on his academic research

### Conclusion

Academic migrants migrate from one city to another to obtain quality educational and research opportunities, such as accessing academic resources, working with more qualified

people in their field, and collecting data aimed at publishing their work. In addition, academic migration is increasingly intertwined with subsequent labor migration. Internal pull and push factors play a crucial role in the decision-making of academic migrants in their academic mobility, whether it is internal or cross-border academic migration.

Currently, academic mobility is shaped by the sum of these internal pull and push factors, which can be divided into two levels. At the first level, these factors are as generally given variables (factors) such as a greater chance of employment after graduation, as well as more job opportunities or better living conditions, few job opportunities in the home region or country than a poorly developed home region compared to other regions in comparative criteria. The second level is the individualistic level, in which each individual, or in this case the academic migrant, has a certain hierarchy of influence of universal pull and push factors that influence his decision-making in matters of academic migration within the home country as well as migration between countries. The actual categorization and individuality of the individual pull and push factors can also be seen in the attached tables and charts derived from research from the University of Economics in Bratislava

In conclusion, research on academic migration is essential in today's globalized world. It explains the complex ways in which information is shared, exchanged and developed. There are many internal, external, direct or indirect factors at work in the sphere of academic migration, and it is an area that is constantly evolving and constantly changing in today's world. With a broader understanding of internal and international academic migration and its pull and push factors, we can improve international cooperation, cultural understanding, as well as higher education.

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# INTEGRATION OF UKRAINIAN REFUGEES IN VISEGRAD COUNTRIES: RECENT LITERATURE REVIEW<sup>1</sup>

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**Abstract:** Following the start of Russia's full-scale invasion of Ukraine in 2022, millions of Ukrainians fled their homeland. The Visegrad group, which is close by, has become one of the most attractive destinations for Ukrainian refugees. For both host communities and newcomers, the abrupt relocation of masses of refugees has increased preexisting difficulties and generated new ones. This study provides a summary of current research on the integration issues facing Ukrainian refugees in the Visegrad Group nations, specifically Hungary and the Czech Republic. We employ a theoretical integration paradigm that emphasizes structural integration and covers topics such as local labor market accessibility, healthcare, education, and housing.

**Keywords:** structural integration, social integration, Ukrainian refugees, literature review, Visegrad group

**JEL:** F20, F22

## Introduction

Millions of Ukrainians left their home country after the beginning of a full-scale Russia's invasion of Ukraine in 2022. Some of them moved within the country, some went abroad for a certain time and have already returned to their places of permanent residence, and some remained abroad. As of October, 2024 about 6,8 million Ukrainian refugees are recorded globally with dominant majority located in Europe. In the conditions of a protracted war, the number of Ukrainian refugees in Europe amount to 6.2 million people, including about 2 million in the EU countries of Refugees Response Plan, 1.3 million in Russia and Belarus, and about 2.9 million in the rest of EU.<sup>2</sup> About half of the refugees arrived in host countries during the first half of 2022, and further migration gradually slowed down. Nowadays, the flow of new refugees is insignificant, but the length of stay of those who left Ukraine at the beginning of war is increasing.

The geographically close Visegrad group have become some of the most popular receiving states for Ukrainian refugees. In the migration studies this central european countries have even been recently named as *new immigration destinations*.<sup>3</sup> Poland, for example, with around 1.8 million applications for asylum or temporary protection, has become a leader in accepting refugees from its eastern neighbor. Czech Republic received more than 615 thousand similar applications, while Slovakia and Hungary received around 156 and 46 thousand applications, respectively.

The sudden displacement of large populations as a result of war have created a new challenges and increases existing ones, both for host communities and newcomers. Despite the advantages of temporary protection, which, in particular, provides assistance and quick access to the labor market, Ukrainian refugees had to overcome numerous obstacles

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<sup>2</sup> UNHCR (2024): Operational data portal: Ukraine refugee situation. [Online.] In: *UNHCR*, 2024. [Cited 3.11.2024.]

<sup>3</sup> MACAREAVEY, R. – ARGENT, N. (2018): New Immigration Destinations (NID) unravelling the challenges and opportunities for migrants and for host communities. In: *Journal of Rural Studies*, 2018, No. 64, pp. 148-152.

including language barriers, cultural differences, housing and job issues, access to health care and education, etc.

The aim of this contribution is to create an overview of recent literature that deals with the problems of integration of Ukrainian refugees in selected countries of the Visegrad Group. We emphasize the literature devoted to the integration of immigrants in Hungary and the Czech Republic, since, according to current studies, these countries are pioneers in the transit and placement of forcibly displaced persons among the countries of the targeted region. To fulfill the goal, we use a theoretical integration framework focused on structural integration, which includes aspects such as access to education, healthcare, accommodation, and local labor market. We focus exclusively on works published in the last three years that studied various aspects of the structural integration of Ukrainian refugees in Visegrad countries.

### **1 Visegrad countries' migration profile**

After the fall of the Soviet Union and the termination of the Warsaw Pact, the problem of immigration in the countries of the Visegrad Group was to a certain extent ignored, at least at the level of political debate. International migration gained popularity in Central European countries mainly after the refugee crisis in 2015 and the beginning of the rise of right-wing views in politics. It is interesting that, together with highlighting the security aspects of migration and the politization of the risks arising from immigration, the countries of the Visegrad Group opened up more to labor migration, which became one of the factors of their economic growth.<sup>4</sup> As a distinguishing feature of these countries, we can mention the fact that the Czech Republic and Hungary became an immigration destination or transit hub much earlier than Slovakia or Poland.<sup>5</sup>

For Ukrainians escaping the war, Visegrad countries became crucial destinations. In October 2024, Poland had the second-largest Ukrainian refugee population in the EU after Germany, while the Czech Republic had the third-largest. In the ranking of countries with the highest Ukrainian refugee population, Slovakia became number eight and Hungary number twenty. Nearly one in four of the migrants who fled Ukraine after February 2022 were individuals who sought safety in the neighboring Visegrad nations.<sup>6</sup> However, the absolute number of Ukrainian refugees in October 2024 in these countries does not fully explain the pattern of migration flows. Hungary, Poland, and Slovakia are neighboring countries, which highlights their role as transit hubs for many refugees to the western part of Europe or other destinations. The factor of return migration, which affects the fluctuation of the number of refugees, plays a significant role here. This phenomenon can be explained by the volume of border crossings to and from these countries between February 2022 and October 2024.

Recent UNCHR data shows individual border crossings between Ukraine and neighboring countries of the Visegrad group, based on which we can conclude that a large number of people left Ukraine at the beginning of the invasion but then returned back (Table 1). Refugees who decided to stay permanently or temporarily on the territory of the Visegrad countries had to be allocated in individual regions of the host countries. Decisive factors for refugees were mainly social networks, as the V4 region has a substantial Ukrainian minority, accommodation policy, access to the labor market, and social infrastructure.

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<sup>4</sup> BILAN, Y. – STRIELKOWSKI, W. (2016): Migration in post-transition economies: immigration surplus in Visegrad group countries. In: *International Journal of Trade and Global Markets*, 2016, Vol. 9, No. 2, pp. 182-196.

<sup>5</sup> DRBOHLAV, D. (2012): Patterns of immigration in the Czech Republic, Hungary and Poland. A comparative perspective. In: OKÓLSKI, M. (ed.). *European Immigrations. Trends, Structures and Policy Implications*, pp. 179-210.

<sup>6</sup> MADEJ, M. (2025): Refugees from Ukraine in the countries of the Visegrad Group. In: MORÓN, D. – MADEJ, M. – CSOBA, J. (Eds.). *Humanitarian Aid and Empowerment of Ukrainian Refugees*, p. 33.

**Table 1: Data on Ukrainian refugees in V4 countries since 24 February, 2022.**

<i>Country</i>	<i>Date</i>	<i>Ukrainian refugees recorded</i>	<i>Ukrainian refugees applied for asylum/temporary protection</i>	<i>Border crossing from Ukraine since 24.02.2022</i>	<i>Border crossing from Ukraine since 24.02.2022</i>
Poland	10.10.2024	981 335	1 866 605	25 172 870	23 203 715
Czechia	6.10.2024	380 375	615 235	NA	NA
Slovakia	27.10.2024	127 015	156 040	2 750 460	2 672 895
Hungary	27.10.2024	61 245	46 795	5 807 950	5 324 805
Total V4		1 549 970	2 684 675	-	-
Total Europe without Russia and Belarus		4 918 250	6 107 225		

Source: UNHCR, 2024.

When it came to housing in the host countries migrants gravitated toward the most populated and developed areas. The capital city of Prague was the most often chosen location for refugee settlement in Czech Republic. According to data from the Czech Ministry of Interior for April 2024, more than quarter (26%) of Ukrainian refugees remained there. Another 14% remained in the neighboring Central Bohemian Region. A sizable portion of the refugees also remained in the South Moravian Region (10%), Plzeň Region (8%) or Moravian-Silesian Region (6%).<sup>7</sup> Less refugees populated regions were the eastern parts of the country closer to Polish border. In the case of Hungary, estimates about the allocation of refugees are limited, also due to the high mobility of Ukrainian newcomers who perceived this country more as a transit point. Approximate estimates of the geographic distribution of refugees can be derived from the concentration of support activities of international organizations such as UNHCR, IOM, or NGOs, which point to the concentration of Ukrainian refugees in larger agglomerations such as Budapest or Debrecen.

## 2 Definition of concepts

*Integration* is a fairly widely applicable concept that is used in various disciplines and fields of study, such as sociology, political science, or economics. The complexity of this concept and its dimensions only increase the difficulty of the integration process. At the same time, it can have different aspects. We distinguish between economic, cultural and social integration.<sup>8</sup> When applied to the analysis of migration issues, integration takes on different meanings. Migration, as a long-standing phenomenon, influences and changes the demographic structure of sending country as well as destination country, which faces the process of mutual “*adjustment*” of autochthonous society and immigrants. In connection with this issue, several terms appear in the literature that describe the problem of adapting one group of society to the non-native one, including *adaptation*, *assimilation*, *acculturation*, *inclusion*, *integration*, etc.

As the original equivalent of integration, the term *assimilation* appears in the traditional literature on migration, which explains the process of positive interaction between the home

<sup>7</sup> MINISTRY OF THE INTERIOR OF THE CZECH REPUBLIC (2024): Economically self-sufficient Ukrainian refugees will have the opportunity to settle in the Czech Republic in the long term. [Online.] In: *MICR*, 2024. [Cited 4.11.2024.]

<sup>8</sup> BOSSWICK, W. – HECKMANN, F. (2007): Integration of migrants: Contribution of local and regional authorities. [Online.] In: *EFILWC*, 2024. [Cited 14.11.2024.]



population and immigrants.<sup>9</sup> This term tended more towards a one-way process in which immigrants should adapt to the cultural norms of the host society. The result of assimilation should be complete and absolute equalization of immigrants with natives. However, this approach ignored the complex and difficult process of adaptation that was expected exclusively from newcomers. In the later perception of this process, there was a shift from a one-sided concept – assimilation – to a modern and more complex process, which we refer to as integration.<sup>10</sup>

Heckmann, for example, understands “*integration*” as the adjustment of immigrants into the basic institutions of the receiving society and highlights several of its dimensions. Firstly, he mentions structural integration, which includes aspects such as access to health care, housing, education or entry to the local labor market. Secondly, he highlights cultural integration, i.e. the process of changing attitudes. Thirdly, he mentions social integration, which rests in the nature of relations between immigrants and the native society. The last dimension is the identificational integration, which represents the perception of immigrants about themselves as part of the destination country majority.<sup>11</sup> Esser, on the other hand, offers a slightly different set of dimensions of migrant integration. He points out to the cultural (language, traditions, religion), structural (access to the labor market), social (networks) and emotional dimensions of immigrant integration.<sup>12</sup>

This contribution applies Heckmann's integration framework to examine the adjustment of Ukrainian refugees into the host countries of the Visegrad Group. Through the dimension of structural integration, we analyse literature on selected aspects including healthcare, housing, education and employment.

### 3 Recent literature review

The process of integration of refugees is complex and multidimensional and affects both the refugees themselves and the host societies. Due to the specific gender and age structure of Ukrainian refugees characterized by a high share of women and children, host nations spend more on services like healthcare or education.<sup>13</sup> It implies that as long as the conflict persists, supporting the significant refugee influx will be difficult. Literature that deals with the problems of adapting refugees to new local conditions, highlights some critical aspects of integration, which include overcoming language barriers, applying to the local labor market, cultural differences and social inclusion, access to various types of services such as education, healthcare or accommodation.<sup>14</sup> The individual aspects are complementary and create an overall picture of the degree of integration. In this part of the article, we will focus on individual problems associated with the integration of Ukrainian refugees in selected Visegrad Group countries. We will focus on a pair of countries, the Czech Republic and Hungary, which, according to the literature in the field, are pioneers among the countries of the group in terms of the transit and hosting refugees.

Refugees often arrive in countries where they do not speak the local language fluently, and this is especially relevant for Hungary as a destination country, making it difficult

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<sup>9</sup> SPENCER, S. (2022): The contested concept of ‘integration’. In: SCHOLTEN, P. (ed.). *Introduction to migration studies*, 219-231.

<sup>10</sup> HECKMANN, F. (2006): Integration and integration policies: IMISCOE network feasibility study. [Online.] In: *SSOAR*, 2022. [Cited 14.11.2024.]

<sup>11</sup> *Ibid.*

<sup>12</sup> ESSER, H. (1980): *Aspekte der Wanderungssoziologie: Assimilation und Integration von Wanderern, ethnischen Gruppen und Minderheiten.*

<sup>13</sup> IMF (2022): Europe Could Do Even More to Support Ukrainian Refugees. [Online.] In: *IMF*, 2022. [Cited 13.11.2024.]

<sup>14</sup> LUKASIEWICZ, K. (2017): Exile to poverty: Policies and poverty among refugees in Poland. In: *International Migration*, 2017, Vol. 55, No. 6, pp. 56-72.

to communicate and access services. Language barriers hinder social interactions, educational progress and job opportunities, which gradually leads to the isolation of immigrants. The language barrier is closely related to job search, insufficient recognition of qualification or work experience, and discrimination on the labor market.<sup>15</sup> According to a UNHCR survey, about one-fifth of the Ukrainian refugees residing in countries neighboring their homeland, including the countries of the Visegrad Group, are unemployed. A share of 37% of respondents believe that language barrier is the main reason for the lack of work.<sup>16</sup> Without access to stable employment, refugees may face poverty, lack of independence and dependence on social security systems, which can cause long-term economic hardship and, as a result, make it difficult to integrate into their native society.

Some refugee groups face disruptions in education due to displacement, while others may need access to education or training to improve their skills. In the case of ukrainian newcomers about 40-50% of refugee children do not attend lessons abroad as their parents prefers distant education in domestic ukrainian schools.<sup>17</sup> Lack of access to quality education limits long-term opportunities for refugees, especially in terms of economic and social integration. Hlado et al. investigated the social adaptation of Ukrainian students in Czech schools from a multidimensional perspective, where they included the opinions of several groups, including the refugee students themselves, but also their parents, class directors, and teachers. On the basis of 58 interviews, they came to the conclusion that the adaptation process of refugees students was shaped by the perception of the importance of ethnicity, methods of acquiring a foreign language and approaches to interaction with Czech classmates. As a result, three types of social adaptation were created: openness to friendship, utilitarian friendship and isolation. At the same time, the majority of refugees showed characteristics of openness towards friendship adaptation type. However, a significant number of interviewed students also showed characteristics of self-isolation.<sup>18</sup>

Refugees come from different cultural backgrounds and adapting to a new cultural environment can be challenging. Additionally, host societies frequently have prejudices or misconceptions about newcomers that further experience social exclusion, discrimination and even racism, making it difficult to form meaningful relationships and integrate into society. Although there are also examples in the literature where refugee groups, due to their large concentration, show low efforts towards social integration. Lintner et al., for example, examine the integration of Ukrainian refugees in secondary schools in the Czech Republic. Their results indicate that social networks among students are formed according to ethnicity and with strong ethnic homophily in friendly relationships, with Ukrainian student having a lower tendency to accept friendly ties than their Czech classmates. This points to the problematic nature of the social integration of Ukrainian refugees in Czech schools. Authors also found that a higher proportion of Ukrainian students in the class is related to their stronger homophilic behavior and lower tendency to establish friendships. According to Lintner et al. a larger share of refugees in the classroom can negatively affect their integration into existing social networks.

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<sup>15</sup> MACHERNAK, N. (2025): Teaching local languages to foreigners. In: MORÓN, D. – MADEJ, M. – CSOBA, J. (eds.). *Humanitarian Aid and Empowerment of Ukrainian Refugees*, p. 111.

<sup>16</sup> UNHCR (2023): Displacement Patterns, Protection Risks and Needs of Refugees from Ukraine - Regional Protection Analysis # 3. [Online.] In: *UNHCR*, 2023. [Cited 12.11.2024.]

<sup>17</sup> UNHCR (2023): Education on hold: Education Policy Brief (September 2023). [Online.] In: *UNHCR*, 2023. [Cited 11.11.2024.]

<sup>18</sup> HLADO, P. et al. (2024): “The schools try, but...”: A holistic perspective on the social adaptation of Ukrainian refugee students in Czech schools. In: *Learning, Culture and Social Interaction*, No. 48.

They explain this result by the increased opportunity for refugees to form ties with other refugee student. This is naturally supported by linguistic identity as well.<sup>19</sup>

Unlike other immigrants, many refugees experience traumatic events such as war, violence, or persecution, which can lead to mental health problems such as PTSD, depression, or anxiety.<sup>20</sup> Mental health problems can make it difficult for refugees to adapt to their new environment, access services, and engage with local communities. One of the first studies that focused on the mental health of Ukrainian refugees in the countries of the Visegrad Group was carried out by Kovacs et al.<sup>21</sup> Its aim was to compare the integration and acculturation attitudes between war refugees from Ukraine who live in Poland and Hungary. The comparison took into account both the suffering of post-traumatic stress symptoms and social support. Based on a survey, the authors applied linear regression and analysed the data of 728 adult Ukrainian refugees in the countries under study and came to the conclusion that refugees in Poland receive significantly more social support and show stronger integration attitudes than refugees in Hungary. According to the results of the survey, the integration attitudes of newcomers are not related to gender or age. However, the critical factor in integration was the host country. In addition to factors such as social support and the host country, post-traumatic stress was also a significant predictor of successful integration.

Refugees often struggle to find affordable and adequate housing upon arrival, particularly in countries with limited resources or high housing demand. Poor housing conditions or temporary shelter can exacerbate other problems such as health problems, family stress and social exclusion. According to recent studies, the main problem for Ukrainian refugees abroad is the housing issue,<sup>22</sup> primarily because the programs for providing free housing were of a temporary nature and have ended in a number of countries. Refugees' access to the housing market is complicated not only by financial problems, but also by the fact that many landlords are interested in renting for longer periods and deny persons with temporary protection. Mobility and the lack of a permanent home also exacerbates other integration aspects such as school attendance by younger refugees. In the Czech Republic, for example, the government introduced a financial reward for providing free housing to a foreigner with temporary protection.<sup>23</sup> At the same time, Hungary did not provide reimbursement of expenses to the persons who accommodate the new arrivals, and did not provide specific housing subsidies to the resettled people. And this was at the very beginning of the Russian invasion of Ukraine, when the most intensive influx of refugees to the countries of Central Europe took place.

### Conclusion

The presented contribution deal with the problems of integration of Ukrainian refugees in selected countries of the Visegrad Group. We chose the Czech Republic and Hungary as our target countries, which are considered to be experienced refugee destinations or transit countries from the refugee crisis in 2015-2016. We focused on literature that directly deals with aspects of the integration of Ukrainian refugees in the selected countries. We used a theoretical

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<sup>19</sup> LINTNER, T. et al. (2023): Ukrainian refugees struggling to integrate into Czech school social networks. In: *Humanities and Social Sciences Communications*, Vol. 10, no. 1, pp. 1-11. <https://doi.org/10.1057/s41599-023-01880-y>

<sup>20</sup> KÉRI, S. (2015): Suffering has no race or nation: the psychological impact of the refugee crisis in Hungary and the occurrence of posttraumatic stress disorder. In: *Social Sciences*, 2015, Vol. 4, No. 4, pp. 1079-1086.

<sup>21</sup> KOVÁCS, J. et al. (2023): Integrative attitudes of Ukrainian war refugees in two neighboring European countries (Poland and Hungary) in connection with posttraumatic stress symptoms and social support. In: *Frontiers in Public Health*, 2024.

<sup>22</sup> HAASE, A. et al. (2023): Housing refugees from Ukraine: preliminary insights and learnings from the local response in five European cities. In: *Urban Research & Practice*, 2023, Vol. 17, No. 1, pp. 139-145.

<sup>23</sup> OECD (2022): Rights and Support for Ukrainian Refugees in Receiving Countries. [Online.] In: *OECD*, 2022. [Cited 11.11.2024.]

integration framework with an emphasis on structural integration, which includes problems of education, healthcare, accommodation and access to the local labor market. Our review included current literature devoted exclusively to the integration of Ukrainian refugees in the countries of the Visegrad Group.

According to the existing literature, the integration of Ukrainian refugees into host societies in Visegrad countries is complex and multidimensional. It affects both the refugees themselves and the host societies. The gender and age structure of Ukrainian refugees makes it difficult for host countries to support a significant influx of refugees. Critical aspects of the integration include overcoming language barriers, applying to the local labor market, cultural differences, social inclusion and access to education, health care and housing.

In the Visegrad countries, such as the Czech Republic and Hungary, language barriers hinder social interactions, progress in education and employment, leading to the isolation of the studied group of refugees. Lack of access to quality education limits long-term opportunities for refugees, especially in terms of economic and social integration. Existing literature shows that the adaptation process of Ukrainian students in Czech schools was shaped by their perception of ethnicity, methods of language acquisition and interactions with classmates. Ukrainian students have a lower tendency to accept friendly ties than their Czech classmates. A larger share of refugees in the classroom can negatively affect their integration into existing social networks. The literature reviewed found that refugees in Poland receive more social support and show stronger integration attitudes than refugees in Hungary.

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# THE IMPACT OF FOREIGN DIRECT INVESTMENT ON SOUTH AFRICAN ECONOMIC GROWTH AND INCOME INEQUALITY<sup>1</sup>

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**Abstract:** This paper investigates the effects of foreign direct investment (FDI) on economic growth and income inequality in South Africa, using theoretical frameworks and empirical evidence. We analyze both the positive contributions of FDI inflows and their potential drawbacks. To achieve our goals, we use standard research methods, such as induction, deduction and synthesis. Our analysis shows that while FDI generally promotes economic growth, its effectiveness depends on local supplier quality, workforce skills, and overall economic stability. Evidence suggests that FDI can reduce income inequality by improving education and job access, but advanced technologies may also displace workers, increasing inequality. Ultimately, more research is needed to understand these complex dynamics in South Africa, particularly regarding political instability and inadequate infrastructure.

**Keywords:** South Africa, foreign direct investment, economic growth, income inequality

**JEL:** F21, P33

## Introduction

Foreign direct investment is defined as the investment of a subject of one economy in a company of another economy. The objective of these investments, from the investor's point of view, is to acquire a permanent stake of at least 10% of the voting rights, which will allow them to exert influence over the company. Foreign direct investment includes reinvestment of companies, technology and knowledge transfers, mergers and acquisitions, and the construction of new facilities.<sup>2</sup>

In economic terms, income inequality refers to significant differences in income levels between individuals, groups, communities, social classes or nations. Because income plays a key role in determining quality of life, it has a direct impact on the health and well-being of individuals and families.<sup>3</sup> Income inequality refers to the uneven distribution of income across a population which is typically measured by the Gini coefficient, which compares cumulative percentages of the population to the cumulative income they receive. The Gini coefficient ranges from 0, representing perfect equality to 1, representing absolute inequality.<sup>4</sup>

Economic growth refers to the rise in the amount of goods and services produced by an economy over a specific period, compared to a previous period. This growth can be measured in current prices (nominal) or adjusted for inflation (real terms). The most common ways to measure economic growth are through indicators like gross domestic product (GDP) or gross national product (GNP), though other metrics can also be used.<sup>5</sup>

Our main objective is to investigate the impact of foreign direct investment on economic growth and income inequality in South Africa, considering selected theoretical frameworks and empirical studies. In addition to our work, we assess not only the benefits of foreign direct

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<sup>1</sup> This paper is part of the project I-24-106-00 *Changes in the positions of global actors in economic relations with Africa*.

<sup>2</sup> MALINDINI, K.: Income Inequality and FDI nexus in South Africa: A time Series analysis.

<sup>3</sup> HOWARD, M. – CARTER, V. (2023): Income inequality.

<sup>4</sup> OECD (2021): Income Inequality.

<sup>5</sup> INVESTOPEDIA (2024): What is Economic Growth and How is it measured?

investment inflows into economies but also the disadvantages. Given South Africa's status as one of the largest and most economically developed nations on the African continent, this study examines its economic growth and income inequality within the framework of foreign direct investment. To fulfil the objectives of this paper, we have chosen research methods, including induction, deduction, and synthesis.

To understand the implications, we rely on various economic theories. In examining the relationship between foreign direct investment and income inequality, we are dealing with Dunning's eclectic theory and the theory of comparative advantage. We have chosen these theories because they provide a framework for analysing the motivations of multinational companies to invest abroad. We link the results of the survey to our sub-objective of assessing advantages and disadvantages, from which we also assess the impact on the host countries.

## **1 General information**

According to a 2023 report by the United Nations Conference on Trade and Development (UNCTAD) on global investment, stocks of foreign direct investment in Africa fell to \$9 billion in 2022, from an unusually high \$40.9 billion in 2021, due to a major transformation of businesses. South Africa's global innovation, economic freedom and corruption perception indices show the country's average status, as evidenced by the fact that South Africa ranks 59th out of 132 economies according to the Global Innovation Index 2023. The country received a similar rating in the Economic Freedom Index, which was assessed in 2023. South Africa ranked 111th out of a total of 184 countries evaluated. In the Corruption Perceptions Index, it is above average, where it ranks 72-nd out of a total of 180 countries. Traditionally, European countries such as the UK, the Netherlands, Belgium, Germany and Luxembourg have been involved as investors in South Africa. In addition, the United States, Japan, China, and Australia are also investing. Despite South Africa's attractive features such as dynamic demographics, diverse, productive, and advanced economy, abundant natural resources, transparent legal system, and political stability, the country faces challenges such as corruption, bureaucratic inefficiency, labor unrest, skills shortages in certain sectors, and ongoing power outages. Countries that have decided to invest their funds in South Africa mainly focus their investments on the financial, mining, manufacturing, retail, and transportation sectors.<sup>6</sup>

## **2 Advantages and disadvantages of foreign direct investment**

When allocating their investments in South Africa, investors evaluate factors in terms of strengths and weaknesses. We present some proven benefits of foreign direct investment allocation abroad. We also outline the benefits of allocating foreign direct investment to South Africa.

Countries try to attract investors to their home countries, mainly because their arrival often comes with many benefits. These benefits include the acquisition of new skills and experience, which leads to an improvement and increase in the level of education. The training of employees by foreign companies also has a positive impact on various sectors of society. With the arrival of foreign investors, technological progress is increasing, as foreign investors can bring new technological processes and technologies, and these new technological processes can of course help increase efficiency and increase exports. All of this, in our opinion, will have a positive impact on the host country. There are foreign organizations in the domestic market that create a competitive environment, eliminate domestic monopolies and support

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<sup>6</sup> LLOYDS BANK (2024): Foreign direct investment FDI in South Africa.

innovation. Consumers have access to a wider range of products at competitive prices. Countries meet foreign exchange inflows, which help maintain exchange rate stability.

The positive aspects include a great market potential, an active stock exchange and a stable legal environment with a well-developed infrastructure. Its strategic geographic location makes it an important centrum for access to sub-Saharan markets. The market potential lies not only in the location, but also in the mining sector. South Africa has several firsts in this sector. This country is the world's largest exporter of chromium, manganese, vanadium, vermiculite and platinum. In addition to being a major exporter of iron ore and diamonds, it is also the second-largest exporter of palladium, zirconium, and rutile.

## **2.1 Advantages of foreign direct investment and economic growth**

In our paper we investigate the relationship between foreign direct investment inflows in South Africa and economic growth. The benefit of foreign direct investment, which has not yet been mentioned, is job creation, as foreign direct investment promotes the development of production and services. This leads to a decrease in unemployment, but at the same time, higher employment brings higher incomes for the population, which increases their purchasing power and promotes overall economic growth.<sup>7</sup> Economic growth is often assessed based on an increase in the total market value of other goods produced and services provided. It is also often measured by indicators such as GDP. Changes in the factors mentioned, including technology, workforce, and human capital, can contribute to economic growth.<sup>8</sup>

Governments develop targeted strategies to enhance growth, recognizing that strong economic performance contributes to better living standards. Various factors drive growth, including technology, physical and human capital, and notably, foreign capital investment.<sup>9</sup> Foreign investment influences economic growth both directly and indirectly. Directly, it boosts GDP by raising production levels, employment, value-added activities, and exports. For example, job creation increases household income, which contributes directly to GDP, while added value in production and higher export levels expand economic output.

Indirectly, foreign investment fosters growth by transferring technology, expertise, and skills to the host country through methods like licensing, training, and imitation. This transfer enhances local productivity, builds human capital, and accelerates technological advancement. Additionally, these "spillover effects" improve efficiency and productivity in the broader economy, resulting in sustained growth as local industries absorb new skills and innovations.

Tafirenyika Sunde's article explores the impact of foreign direct investment and exports on South Africa's economic growth. Sunde's analysis reveals that both FDI and exports contribute positively to economic growth, which contrasts with some studies suggesting that FDI does not necessarily drive growth. Using Granger causality testing within a Vector Error Correction Model framework, the study finds a one-way causal relationship from FDI to economic growth, indicating that FDI directly boosts growth. Additionally, there is one-way causality from FDI to exports, meaning FDI enhances export activities. The analysis also uncovers a two-way causality between economic growth and exports, suggesting a mutually reinforcing relationship between these two variables.<sup>10</sup>

FDI significantly contributes to the host country's economy by infusing essential capital, which is particularly beneficial for nations with limited financing options. This inflow of foreign capital serves as a key resource for economic growth, as it funds infrastructure

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<sup>7</sup> CALIMANU, S. (2021): 16 Advantages and Disadvantages of Foreign Direct Investment.

<sup>8</sup> INVESTOPEDIA (2024): What is Economic Growth and How is it measured?

<sup>9</sup> BEHNAME, M. (2012): Foreign Direct Investment and Economic Growth: Evidence from Southern Asia.

<sup>10</sup> SUNDE, T. (2017): Foreign direct investment, exports and economic growth: ADRL and causality analysis for South Africa.



projects, industrial expansions, and other developmental ventures that might be unattainable with domestic funding alone. For instance, large-scale FDI can support the construction of transportation networks, energy facilities, and manufacturing plants, laying a foundation for sustained economic activity and growth.<sup>11</sup>

## **2.2 Disadvantages of foreign direct investment and economic growth**

For example, the disadvantages of foreign direct investment include uncertainty and risks arising from political changes, as business opportunities can be affected by political instability. Investors are particularly affected by this instability because it can also affect a country's ability to service its debts. In our opinion, this risk is more associated with developing countries and applies to the African continent and South Africa. Since South Africa's reintegration into the global economy in 1994, it has been considered an attractive investment destination.<sup>12</sup> This statement is underscored by the Kearney Foreign Direct Investment Confidence Index (FDICI), which ranks 21 of the 25 largest cities in developed markets, which only confirms our statement.

This highlights the challenge South Africa and other emerging economies face as they try to attract investors as they compete for capital and investment. We have chosen to work with the results of several authors who have assessed the relationship between economic growth and foreign direct investment in South Africa, precisely because this country differs from other African countries, but also from developed countries, precisely because of its infrastructure, more skilled workforce and relatively stable institutions.<sup>13</sup>

Other risks include higher costs when setting up a business and allocating investments to host countries. For the host country itself, investments represent a risk from the point of view of domestic entrepreneurs, who can no longer be competitive with foreign investors.<sup>14</sup>

Among the shortcomings and problems that tend to deter foreign investors is, for example, the fact that the economy dependent on the mining sector depends on market prices. There is a problem with an insufficient highly skilled workforce, a rigid labour market and high unemployment rates. South Africa's credit rating is also highly threatened by the increased strikes that have taken place in the country in recent years, which could downgrade its credit rating even further. High income inequality and lack of access to electricity further exacerbate the overall problem. However, the South African government is actively taking measures to encourage foreign investment, such as tax incentives and support programs, and is trying to improve the regulatory environment.<sup>15</sup>

## **3 Foreign direct investment and income inequality**

Investment has the effect of increasing income inequality, but its impact varies depending on local conditions. When controlling for human capital, the level of technology, and the quality of institutions, research has found that foreign direct investment can reduce income inequality. The increase in human capital, especially through tertiary education, leads to a reduction in income inequality.

This phenomenon is caused by improving access to better jobs and incomes, and thus reducing inequality. In addition, it was found that higher levels of technology and innovation are likely to increase income inequality, as advanced technologies can replace labor

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<sup>11</sup> PETTINGER, T. (2021): Foreign Direct Investment.

<sup>12</sup> MEYER, D. – HABANABAKIZE, T. (2018): An analysis of the relationship between foreign direct investment (FDI), political risk and economic growth in South Africa.

<sup>13</sup> PARKER, D. (2023): South Africa remains an attractive investment destination – Kearney.

<sup>14</sup> CALIMANU, S. (2021): 16 Advantages and Disadvantages of Foreign Direct Investment, 2021.

<sup>15</sup> LLOYDS BANK (2024): Foreign direct investment FDI in South Africa.

and reduce employment. Some research suggests that foreign direct investment can reduce income inequality through knowledge transfer by improving local technology.

These findings support the assumption that improving local technologies can facilitate the uptake of foreign technology and promote economic diversification, ultimately reducing income inequality. No less important is the position of institutions, as institutions can protect investors and workers and create a more favorable business environment, thereby reducing inequality. From this, we conclude how important it is to take into account local and institutional conditions when analysing the impact of foreign direct investment on income inequality in host countries.<sup>16</sup>

However, despite being one of the largest recipients of foreign direct investment in Africa, South Africa had one of the highest income inequality rates in 2023, with a Gini score of 63.<sup>17</sup>

South Africa has a liberal policy towards the entry of foreign companies, which means that most foreign companies can operate in the country without government approval, except in the banking sector. This commercial openness applies to almost all sectors of the economy. Nevertheless, the effects of trade openness on income inequality in developing countries are being discussed. While the Heckscher-Ohlin theory argues that corporate openness reduces income inequality, other authors such as Robbins (1996), Wood (1997), and Robertson (2000) have found the opposite. Anderson found, for example, that foreign direct investment has little impact on overall income inequality.

South African laws and regulations apply to both domestic and foreign companies, which can sometimes give foreign investors an advantage over domestic ones. For example, in a regulated mining sector, all companies must obtain a license, but foreign companies can buy shares from existing companies, which exempts them from some regulations.

### **3.1 Theories of foreign direct investment and income inequality**

We were interested in the question of why foreign investors often choose to produce and relocate their companies abroad instead of just exporting their goods. We would like to mention Dunning's eclectic theory, which tries to answer this question. According to this theory, three factors – ownership, location, and benefits of internationalization – determine the international activities of multinational companies. The four main motives for multinational companies to invest abroad are identified: procurement, market search, efficiency, and strategic search.

Approaching Dunning's theory helps us understand investors' decisions. In our opinion, companies invest abroad for various reasons, not just because of cheap labor. Investors invest because they bring strategic advantages, such as access to new markets or the acquisition of local resources. We believe they do this because it allows them to be more competitive and efficient. Ultimately, such investments can lead to positive development in host countries, as they can increase employment, introduce new technologies and improve local know-how.

On the other hand, the theory of comparative advantage suggests that foreign direct investment targets sectors with a high proportion of unskilled workers in developing countries. This can increase the demand for these workers and reduce unemployment. However, increased corporate openness and foreign direct investment can exacerbate income inequality, especially when the benefits of investment are unevenly distributed among different population groups.

Comparative advantage theory assumes that trade is the result of structural economic differences between countries. He suggests that developing countries tend to use labour-intensive production techniques, while developed countries use capital-intensive production

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<sup>16</sup> KAUR, R. – WALL, R. – FRANSEN, J. (2018): The impact of FDI on Income Inequality in Africa.

<sup>17</sup> STATISTA (2024): 20 Countries with the biggest inequality in income distribution worldwide in 2023, based on the Gini index.

techniques. This model predicts that foreign direct investment will flow into sectors with a high proportion of unskilled workers in developing countries, increasing the demand for unskilled labour. However, studies by Robbins (1996), Wood (1997), and Robertson (2000) found that openness to trade can exacerbate income inequality. Anderson (2005) found that greater openness has minimal effects on overall income inequality.

We have tried to mention the different views of the authors and thus show that there is no definitive theoretical consensus on whether foreign direct investment increases or decreases income inequality. Empirical evidence is essential to elucidate these effects.<sup>18</sup>

#### **4 Economic growth and foreign direct investment in South Africa**

To understand the relationship between foreign direct investment and economic growth in South Africa, it is important to consider the various studies that deal with this topic and provide comprehensive knowledge. For this reason, in this part of our work, we reflect on the results of authors who have already dealt with this topic.

First, we would like to present an image where we can see the percentage growth of GDP, which is an important indicator of the economic performance of a country in South Africa. The figure gives us an insight into the changes in GDP growth between 1961 and 2022.

One of these authors is Olawumi D. Awolusi and Olufemi P. Adeyeye, whose study analyzes the impact of foreign direct investment on economic growth in some African countries, including South Africa, between 1980 and 2013. Their results show that the evidence for these effects is mixed overall, with South Africa reporting a greater impact of foreign direct investment on its economic growth compared to other countries.<sup>19</sup>

Other authors who have dealt with this topic include Weliswa Matekenya and Clement Moyo. In their empirical analysis, two equation specifications were used: the first, where GDP growth depended on the volume of foreign direct investment and the control variables. For the second equation, poverty depended on a volume corresponding to foreign direct investment and a list of control variables. In both specifications of the equations, the negative effects of the change in the volume of foreign direct investment predominated, suggesting that the effect of the foreign direct investment change is greater than the effect of an increase in foreign direct investment.<sup>20</sup>

The study by Makhoba and Zungui examined the relationship between foreign direct investment and economic growth in South Africa. These authors were able to confirm the positive impact of foreign direct investment on GDP growth. According to their findings, policymakers should focus their efforts on attracting foreign direct investment, as this would promote economic growth and thus increase job creation.<sup>21</sup>

In addition to the relationships between foreign direct investment and economic growth, the study by Thobekile Qabhobho, Edmund Vincent Nyarko Amoah and Isaac Doku examined the openness of trade in South Africa and whether there is a correlation with the choice of exchange rate. It was found that there is a long-term correlation between GDP, foreign direct investment, trade openness and the exchange rate. According to their findings, the choice of the exchange rate affects the relationships between these variables mentioned above. The authors recommend minimizing economic constraints to attract foreign investors and strengthen the education and skills of the local workforce, which would boost economic

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<sup>18</sup> MALINDINI, K.: Income Inequality and FDI nexus in South Africa: A time Series analysis.

<sup>19</sup> AWOLUSI, O. – ADEYEYE, O. (2022): Impact of foreign direct investment on economic growth in Africa.

<sup>20</sup> MATEKENYA, W. – MOYO, C. (2023): Foreign divestment, economic growth and development in South Africa: an empirical analysis.

<sup>21</sup> MAKHOBA, B. – ZUNGU, L. (2021): Foreign Direct Investment and Economic Growth in South Africa: Is there a Mutually Beneficial Relationship?

growth and reduce unemployment.<sup>22</sup> Although the authors' findings do not fully agree with the research of the above-mentioned authors, the prevailing belief is that foreign direct investment has the potential to positively influence economic growth.

### Conclusion

Our main objective of the thesis was to investigate the impact of foreign direct investment on economic growth and income inequality in South Africa. To complement our work, we have focused not only on the benefits arising from the flow of foreign direct investment into economies, but also on the disadvantages. We would like to divide the results of our work into several parts.

We started by examining the relationship between foreign direct investment and income inequality in South Africa. The study of the impact of foreign direct investment on income inequality in South Africa has shown that foreign direct investment can have different effects depending on local conditions. At the same time, South Africa, as one of the largest recipients of foreign direct investment in Africa, has a high level of income inequality, which indicates the complexity of the problem. Some studies suggest that foreign direct investment reduces income inequality by increasing human capital, leading to better access to jobs and higher incomes. On the other hand, advanced technologies and innovations can increase income inequality by replacing workers and reducing employment. Based on this knowledge, we conclude that there is no clear theoretical consensus on the impact of foreign direct investment on income inequality. Therefore, further empirical studies are needed.

When assessing foreign direct investment and economic growth, we find that while foreign direct investment usually contributes to economic growth, its ultimate impact can be influenced by the quantity and quality of local suppliers, human capital, funds, available industries and the ability to work internationally with local actors.<sup>23</sup> We find that most experts generally agree that there is a positive correlation between foreign direct investment and economic growth. However, we believe that the success of their implementation depends on the current economic conditions of a particular country. A number of factors must also be taken into account.

To connect these conclusions to the pros and cons we examined, an unstable political situation or uncertainty can deter investors and hurt economic growth. South Africa also has abundant natural resources, but also challenges such as infrastructure deficiencies that can affect the effectiveness of foreign direct investment and its contribution to economic growth.

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# GEOPOLITICAL IMPORTANCE OF GUYANA

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**Abstract:** Territorial disputes in Latin America, with all their geopolitical consequences, are still relevant today and burden both bilateral and international relations. One example is the dispute over the territory of Guyana Essequiba, the outcome of which is disputed by Venezuela and is asking Guyana to withdraw this disputed territory. However, for Guyana, this territory is of absolutely fundamental importance in terms of area and, above all, raw material resources, when in 2015 extensive deposits of oil and natural gas were discovered here. The aim of the article is to outline the key milestones related to the Guyanese-Venezuelan border dispute and to further reflect on the economic, domestic and foreign political aspects of this rivalry. It will also be embedded in wider international political contexts. The method used will be the description and especially the analysis of the available sources

**Keywords:** Guyana, Venezuela, Great Britain, border, oil, economic growth

**JEL:** O13, N46, N96

## Introduction

Historically, Guyana has not played as significant a role in the development of Latin America as other parts of the South American continent. Nevertheless, or precisely because it was of no interest to the Spanish and Portuguese, it became an area of interest to other European colonial powers, who sought to build on its coastline a base for their further advance in South America. Over the centuries, following the discovery of the Americas, Guyana's territory passed alternately into the possession of the Dutch, the French and the British, finally remaining part of the British colonial empire in the first half of the 19th century until the year of independence in 1966. Although it was not a large territory, considering the size of South America, it has been the subject of several diplomatic negotiations between the great powers in recent centuries. The roots go back to the first half of the 19th century, when Latin America was decolonised, which in many cases was not carried out consistently in terms of defining the borders of the new states, and this 'historical legacy' had repercussions on developments in the following centuries. One of these still unresolved cases is that of Guyana and its territorial dispute with neighbouring Venezuela. Moreover, this dispute is not only burdened by the geographical and national interests of the states involved, but also by fundamental economic interests - historically gold mining and currently a dispute over oil and gas deposits. Venezuela, for various reasons, has challenged and rejected the results of past negotiations and has used its preponderance to use coercive diplomacy in relation to contemporary Guyana. Given the geopolitical realities of this part of South America, a potential conflict between Guyana and Venezuela risks destabilising the entire region.

The aim of this article is to outline the key milestones involved in the Guyana-Venezuela border dispute and to reflect on the economic, domestic and foreign policy aspects of this rivalry. This will include placing it in the broader international political context.

The method used will be description and, in particular, analysis of available, mainly English, Spanish and Czech written internet sources, as this is the current and up-to-date state of the issue under study. In addition to the analytical method, the article uses the comparative

method, where basic indicators are compared and evaluated, in-depth research, quantitative data study and subsequent systematic and comparative analysis are carried out. For a broader historical reflection, J. Opatrný's scholarly publication 'America through the Centuries' and J. Livingstone's 'America's Backyard' will be used. From the economic point of view, the thesis is created using the work of E. Petroleum and the Causes of International Conflict" and on the basis of economic data from the World Bank Group database.

## 1 History of Guyana

Guyana was an object of interest to European colonial powers from the early days of colonisation. In 1499, the Ojeda expedition charted the coast. For Spain, however, the land was of no economic or strategic importance, as their activities were focused on more substantial and rewarding areas inhabited by pre-Columbian civilizations. Nor was this heavily forested and impenetrable part of the northeastern tip of South America attractive to the Portuguese. For these reasons, and given the dominance of Spanish and Portuguese dominance in Latin America, this area became of interest to other European powers. The Dutch were the first to enter the area in the late 16th century, and later the English and the French appeared in the surrounding areas. In the following centuries, all three powers had small colonies in these parts. The first major geopolitical change took place in the context of the Second Anglo-Dutch War of 1664-1667, when the Treaty of Breda led to an exchange of territories, with England gaining New Amsterdam and the Netherlands gaining Suriname in South America.<sup>1</sup>

From Guyana's perspective, the crucial situation arose in the context of the second half of the 18th century, during which the territory passed alternately between the Dutch, the British and the French. "In 1814, the Netherlands ceded to Britain the settlements of Demerara, Essequibo and Berbice, amalgamated by a Crown decision of 1831 into British Guiana."<sup>2</sup> The first quarter of the 19th century saw the full swing of the national liberation struggle in Latin America, which was prefigured by the American and then the French Revolution with the ideals of the Enlightenment. Great Britain played an absolutely crucial and irreplaceable role in this struggle, for it was during the second phase of the national liberation struggle in Latin America that it became a direct supporter of independence and the creation of modern states. British assistance was not limited to diplomatic support, but also financial and, in particular, military support, for example by allowing the recruitment of British soldiers from the Napoleonic Wars into the national liberation armies of the Latin American states. Although Britain pursued this policy against the interests of its former anti-Napoleonic ally, Spain, it did not allow similar activities on its territories. In the case of Guyana, however, it is true that there was not a developed creole society that pursued political interests in addition to economic interests. Indeed, Guyana was not a major economic enclave in economic terms. British domination of the area did bring about a plantation system (cotton, sugar cane, tobacco, coffee trees), where slaves were first imported from Africa and, after the abolition of slavery in the 1830s, a new wave of migration came in the form of workers from India. This simultaneously foreshadowed the ethnic and then political character of the country. Guyana, for the time being, was not subject to any border disputes. However, this was soon to change. The state that initiated the geopolitical changes was the home state of the hero of the national liberation struggle of the peoples of Latin America, Simon Bolívar - Venezuela. Until the death of Simon Bolívar, Venezuela was part of the state of Great Colombia, but it broke up and from the early 1930s Venezuela acted as a sovereign country. The dispute erupted in 1841 when Venezuela accused Great Britain of occupying part of its territory. The roots of this dispute go back to the Spanish colonial administration, when the disputed territory of Essequibo was part of the Captaincy

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<sup>1</sup> VESELÝ, Z. (2020): *Mezinárodní vztahy v zrcadle dějin*, p. 141.

<sup>2</sup> OPATRŇÝ, J. (1998): *Amerika v proměnách staletí*, p. 188.



General of Venezuela. When Venezuelan independence was first declared in 1811, Essequibo was also included in the intended republic;<sup>3</sup> the Spanish suppression of the 1813 rebellion thwarted this idea.

In 1835, Great Britain unilaterally asked the Prussian botanist Robert Schomburgk to draw the boundary between Venezuela and British Guiana. Schomburgk annexed 4929km<sup>2</sup> of Venezuelan territory in this first delineation of the border.<sup>4</sup> In 1840, he made another adjustment to the border - annexing a new 141930km<sup>2</sup> of Venezuelan territory. In the following years, the importance of the annexed territories increased considerably, as gold was found in the Yurúa River basin. This discovery complicated the resolution of the border. In 1887, Great Britain made a further annexation, annexing over 167,830km<sup>2</sup> of Venezuelan territory.<sup>5</sup> (Ibid.) The ensuing dispute then extended into 1899. In 1892, Guyana was granted "a constitution guaranteeing limited self-government within the jurisdiction of the British Crown."<sup>6</sup>

However, tensions between Venezuela and the UK were growing. Venezuela asked the US to mediate the dispute, as British-Venezuelan diplomatic relations had been severed in the interim. The UK responded to the two US mediation attempts with refusals. US Secretary of State Richard Olney responded to the British refusals with a note of ultimatum, where he warned "...that the United States might consider British pressure on Venezuela over border disputes a violation of the Monroe Doctrine, which he described as part of public law."<sup>7</sup> The only solution, according to the US side, seemed to be international arbitration. The American actions in the UK provoked a decisive rejection, both in terms of the wording of the note and the proposed arbitration. Tensions grew and threatened to erupt into armed conflict between the UK and the US. However, this was not Britain's only problem on the international stage during this period, as it was simultaneously dealing with a crisis in South Africa, where the Boer population was supported by Imperial Germany and British-German relations were also deteriorating rapidly. For this reason, Britain de-escalated tensions with the US and agreed to international arbitration to resolve the British-Venezuelan dispute.

The Arbitration Commission had five members and met in Paris. The interests of Great Britain were represented by Sir Richard Collins and Lord Russell. The interests of Venezuela were represented by American lawyers Melville Fuller and David Brewer. The Commission was headed by the Russian judge Frederik de Martens. Former US President Benjamin Harrison and the lawyer Mallet-Prevost were still on the Venezuelan side.<sup>8</sup> Although the court had 90 days to deliver its verdict, the unanimous decision was approved in six days, in early October 1899. It came as a shock to Venezuela and caused widespread unrest in the country. The court awarded Great Britain 90% of the disputed territory, leaving Venezuela with the remainder, which included the strategically important Orinoco Estuary.<sup>9</sup>

However, Venezuela's subsequent internal political developments became the cause of another international crisis and overshadowed the issue of Guyana's territory. Between 1898 and 1900, Venezuela experienced a civil war that caused considerable damage to the property of both foreign companies and citizens. In December 1902, the governments of Great Britain

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<sup>3</sup> REDACCIÓN (2023): 3 claves para entender la escalada de tensión entre Venezuela y Guyana por el disputado territorio del Esequibo (y cuál es la respuesta internacional) [online]. In: *BBC*, 8. 12. 2023

<sup>4</sup> NIKOLIĆ, A. (2018): The Guayana Esequiba conflict: Key historical frameworks and legal issues. [online]. In: *The Review of International Affairs*, 2018, Vol. LXIX, No. 1169, pp. 70-82, p. 73.

<sup>5</sup> Ibid.

<sup>6</sup> OPATRNÝ, J. (1998): *Amerika v proměnách staletí*, p. 188.

<sup>7</sup> The Olney Doctrine. OPATRNÝ, J. (1998): *Amerika v proměnách staletí*, p. 137.

<sup>8</sup> NIKOLIĆ, A. (2018): The Guayana Esequiba conflict...; BERMÚDEZ, Á. (b) (2023): "La única forma que tiene Venezuela para ejercer la soberanía sobre el Esequibo sería una acción militar y no está en capacidad de hacerla." In: *BBC*, 8. 12. 2023

<sup>9</sup> BERMÚDEZ, Á. (a) (2023): El laudo de París: el polémico fallo de 1899 que dejó al Esequibo en territorio de Guyana (y por qué hoy Venezuela lo considera "nulo e írrito"). In: *BBC*, 9. 12. 2023.

and Germany sent a note asking Venezuela to compensate them for the damage caused to their citizens and companies during the civil war. Subsequently, diplomatic relations were severed and warships were sent to Venezuela's shores. The demands of the United Kingdom and Germany were eventually joined by Italy. The shelling of the Venezuelan coastline, the coercive diplomacy, as well as the presence of the wartime navies of the European powers off the American coast, provoked harsh criticism not only from Latin American governments, but especially from Washington. The arbitration was taken up by the US and the first negotiations took place in Washington. Eventually, the conflict was settled at the International Court of Justice in The Hague, whose decision was in favour of the powers.<sup>10</sup> As a result of this crisis, two doctrines were formulated - the Drago<sup>11</sup> and the Roosevelt.<sup>12</sup>

The above developments were a reassurance to Guyana and created room for political and economic development, especially in the inter-war period. After the Second World War, Guyana also began to be affected by the process of decolonisation. A key figure was Cheddi Berret Jagan, who formed the left-wing People's Progressive Party (PPP) in 1950. The core of the programme was the demand for independence and a new constitution. In 1953, Guyana gained autonomy and the People's Progressive Party won the parliamentary elections with 70% of the vote.<sup>13</sup> The PPP's leftist politics and demands for radical social reforms in the Cold War and bipolar world led the British government to send in troops to oust the Prime Minister.<sup>14</sup> Jagan, however, retained his position and again won the 1961 general election. This allowed the program "...which allocated to the landless the uncultivated land belonging to the state and improved the health and education systems, to be reinstated."<sup>15</sup> In response to the country's leftist orientation, the US cut off economic and financial cooperation that had led to rapprochement and cooperation with Cuba and the USSR in 1963.<sup>16</sup> Fear of a repetition of the Cuban revolution on the American continent provoked a sharp US response in which "the CIA launched a destabilization campaign and, in conjunction with the American Federation of Labor (AFL), instigated strikes, damaged the economy, and inflamed racial tensions."<sup>17</sup> Racial tensions towards Guyana had deeper roots and were due to the rivalry between the African American and Indian populations. This intolerance also caused a split in the PPP in 1955 when African Americans broke away to form the People's National Congress (PNC) headed by Linden Forbes S. Burnham. This politician also succeeded Jagan as Prime Minister in 1964 and headed Guyana until 1986. During his tenure, Great Britain granted Guyana independence on May 26, 1966. This changed Guyana's international political status and reopened the issue of disputed territory with Venezuela. In February 1966, in Geneva, the two countries signed a treaty setting out the procedures for a peaceful solution.<sup>18</sup>

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<sup>10</sup> OPATRNÝ, J. (1998): *Amerika v proměnách staletí*, p. 297.

<sup>11</sup> The Drago Doctrine - "A political principle rejecting the use or threatened use of force against debtor states in the international arena. It was formulated with reference to human rights by the Argentine Minister of Foreign Affairs, Luis María Drago, in a note sent to the American Secretary of State, John Hay, on 29 December 1902." (Opatrný, 1998, p. 135).

<sup>12</sup> The Roosevelt Doctrine - "A New Interpretation of the Monroe Doctrine. Its author was President Theodore Roosevelt at the time of the Venezuelan crisis. He presented it in his State of the Union message on December 6, 1904, in response to Venezuela's protracted dispute with the European powers...the policy of the United States cannot guarantee to any of the hemispheric states protection from just punishment unless it would bring lasting gain to a non-American power." (Opatrný, 1998, p. 139).

<sup>13</sup> OPATRNÝ, J. (1998): *Amerika v proměnách staletí*, p. 189.

<sup>14</sup> LIVINGSTONE, G. (2011): *Zadní dvorek Ameriky*, p. 68.

<sup>15</sup> OPATRNÝ, J. (1998): *Amerika v proměnách staletí*, p. 189.

<sup>16</sup> BAĐURA, B. a kol. (1967): *abc světových dějin*. Praha: Orbis, 1967, p. 1008.

<sup>17</sup> LIVINGSTONE, G. (2011): *Zadní dvorek Ameriky*, p. 68.

<sup>18</sup> NIKOLIĆ, A. (2018): The Guayana Esequiba conflict: Key historical frameworks and legal issues. [online]. In: *The Review of International Affairs*, 2018, Vol. LXIX, No. 1169, pp. 70-82.

In the following periods, Guyana dealt with internal political tensions and sought to lift the country economically, with sugarcane, rice and especially bauxite exports being the main export commodities. Gold has been mined in Guyana since 1876, in what was formerly Venezuelan territory but which Guyana annexed. Between 1993 and 2005, production was 3.7 million ounces of gold.<sup>19</sup>

In 1970, the name of the state was changed to the Cooperative Republic of Guyana, which was also intended to signal a new dimension of socio-economic organization - in the manner of a cooperative. However, all attempts and political and economic reforms by the ruling PNC were not very successful and a change in the political landscape came in 1992 following the PPP's victory in the general elections and the return of Jagan, who was elected President in the same year.

Relations with Venezuela became more complicated in 1982 when Venezuela did not ratify the Port of Spain Protocol and proposed to activate bilateral negotiations based on the Geneva Treaty. Guyana disagreed with the proposal and pushed for a solution at the international level - at the UN or the International Court of Justice.<sup>20</sup> However, this solution was not in the interest of Venezuela, which reverted to the principle of "good offices" given its complicated internal political development.<sup>21</sup>

## **2 Economic development of Guyana**

The independence of Guyana as an independent republic dates back to 1966. Economic development in the early years corresponded to the process of decolonisation and many political changes. After 1985, the influence of liberal trends was evident and the subsequent discovery of oil deposits significantly influenced Guyana's economic direction.

Guyana has experienced steady economic growth in the 21st century, largely due to the development of the mining sector, particularly gold and bauxite mining. In 2015, significant oil deposits were discovered, leading to further potential growth.

### **2.1 Economic development until 2015**

The Co-operative Republic of Guyana is a small, sparsely populated South American country with abundant natural resources. Although geographically situated in South America, the country is culturally and historically connected to the Caribbean and is a founding member of the Caribbean Community (CARICOM). The country is endowed with fertile agricultural lands, valuable mineral resources - including bauxite and gold - extensive tropical forests that cover 80 percent of the country, and recently discovered large offshore oil and gas (O&G) reserves.<sup>22</sup>

Guyana's estimated resources stand at over 11.2 billion oil-equivalent barrels, including an estimated 17 trillion cubic feet of associated natural gas reserves. This is equivalent to 18% of discovered resources (oil and natural gas) and 32% of discovered oil worldwide since 2015.

Given Guyana's development, the primary sector in the early days of the Republic was agricultural, mainly sugar and rice production. At the same time, the mining industry was also developing, particularly the extraction of bauxite, which was an important export commodity. Guyana also had reserves of gold and other minerals, but these were not yet known at this time. Political turbulence, including ethnic tensions and disputes between the main political parties, has had a negative impact on economic development. In response to social problems

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<sup>19</sup> PAREDES, N. (2023): Qué riquezas hay en el Esequibo, el territorio que se disputan Guyana y Venezuela desde hace casi dos siglos. [online]. In: *BBC*, 4. 12. 2023.

<sup>20</sup> NIKOLIĆ, A. (2018): The Guayana Esequiba conflict...

<sup>21</sup> Ibid.

<sup>22</sup> WORLD BANK (2024): *Guyana At A Glance*.

and the need for development, the government has sought to implement various programmes to improve living conditions and education.

Guyana experienced significant economic, political and social changes in the 1970s and 1980s. Guyana was oriented towards socialist reforms led by the government under Prime Minister Cheddi Jagan. Nationalisation and agricultural reform were implemented. The government nationalised key industries such as sugar and bauxite mining, which led to increased state control over the economy. At the same time, there has been a decline in production and a lack of investment. This has led to food shortages and rising foreign debt. Economic problems continued, including high inflation, declining foreign reserves and deteriorating living standards. The government was criticised for its lack of efficiency. In the late 1980s, measures were initiated to restructure the economy, which included the privatisation of some state-owned enterprises and efforts to liberalise the market.

Guyana received support from international institutions such as the World Bank and the International Monetary Fund, which provided loans and technical assistance in exchange for the implementation of economic reforms. In 1985, there was a shift to a policy of more open elections and greater pluralism, which led to a gradual improvement in the political situation. The first half of the 1990s saw political changes that led to the first free elections in a long time. In 1992, the People's National Congress (PNC) won the elections, leading to the ascension of President Janet Jagan. Guyana continued to privatise state-owned enterprises and liberalise the economy. This led to a gradual improvement in the business environment and an influx of foreign investment. The economy began to show signs of recovery, with an emphasis on agriculture and mining. Growth was supported by high commodity prices, especially bauxite and rice. Although the economy grew, social problems such as poverty and ethnic tensions persisted. Conflicts between ethnic groups, particularly between Afro-Guyanese and Indo-Guyanese, continued to affect the political scene.

The political and economic developments in Guyana are obviously very diverse and complicated. The relatively complex situation would certainly have led to a crisis without the discovery of oil. It is possible that the discovery of oil may have prevented some critical moments. However, others have certainly brought. Ivelaw L. Griffith points out that the state and functioning of democracy and human rights in different parts of the world are influenced by the nature and functioning of the political regime that governs a given society. In Guyana, without the discovery of oil deposits, there would certainly have been a fairly clear conflict between regime politics and the politics that conditioned the environment for the promotion of democracy. Economic and social rights are closely linked to the economic health of a society.<sup>23</sup>

As late as 2015, Guyana was still at such a backward level that Tarron Khemraj felt that it was very much a matter of what mode of agricultural production was chosen. The author points to the importance of Guyana's coastal plains for economic development and also the cost of converting this area into functional agricultural land. He also points to the problem of immigration which has increased the elasticity of labour supply and facilitated conflicts of one ethnic group against another. Tarron Khemraj, however, follows the theory of geography as the primary constraint. It interacts with another exogenous variable - global price competition - to create a vicious cycle of low growth, income stagnation, limited structural change and ethnic polarization.<sup>24</sup> Here, the usual problem of the vicious cycle of poverty theory, which can be broken by additional capital, is almost intractable from a theoretical and temporal perspective.

Gunnar Myrdal described the vicious cycle of poverty as a dynamic process in which poverty creates conditions that perpetuate and deepen it. According to him, poor people

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<sup>23</sup> GRIFFITH, I. L. (1997): Political Change, Democracy, and Human Rights in Guyana. *Third World Quarterly*. Vol. 18, No. 2, pp. 267-285.

<sup>24</sup> KHEMRAJ, T. (2015): The Colonial Origins of Guyana's Underdevelopment. *Social and Economic Studies*. Vol. 64, No. 3/4, pp. 151-185.

are often limited in their access to education, health care and job opportunities, which hinders their efforts to improve their socio-economic situation. This situation is similarly described for the economy of the state. Myrdal emphasized that poverty not only affects the individual but also the whole society. For example, low incomes lead to less investment in education and infrastructure, which in turn perpetuates high levels of poverty in a given area. This cycle is difficult to break because various factors such as economic, social and cultural aspects interact and reinforce each other.<sup>25</sup>

Viewed in the light of today's knowledge of Guyana's mineral wealth, the vicious circle of poverty theory is relatively easy to resolve. Myrdal's approach emphasized the complexity of the problem and the need for systemic solutions to help overcome this negative spiral. Such complexity of solutions is still a relatively difficult task for Guyana's future.

Lall Ramrattan and Michael Szenberg make a similar point about the need to intervene in Guyana's economic structures to address underdevelopment. They trace Guyana's economic development after 1966 through the three dominant regimes (beginning with independence from Great Britain in 1966). The country moved from a colonial strategy of development to a modified socialist system and returned to a capitalist approach from the 1970s. Using information theory, game theory, and cross-border convergence analysis, the authors trace economic development through classical and neoclassical equilibrium models. At the same time, they highlight the different patterns of behaviour of Guyana's industries and its external trading partners for different regimes.<sup>26</sup> Once again, it is shown how crucial and unpredictable the new mineral wealth is in terms of future economic development.

## 2.2 Economic development since 2015

Since 2015, when key oil discoveries were made, Guyana has become attractive to foreign investors. Oil is expected to bring in significant revenues and transform the economy.

Venezuelan President Maduro declared a referendum in December 2023, which confirmed Venezuela's claims to the Essequibo region of Guyana by a clear majority vote. This territory became Venezuelan territory by government proposal, and at the same time Maduro "asked the oil company PDVSA to start licensing production in the Essequibo area."<sup>27</sup>

It is a fact that the ExxonMobil survey - estimated oil reserves at 11 billion barrels = 0.6% of world reserves. But most of the deposits are in territorial waters, which Venezuela disputes. By 2027, Guyana is set to enjoy 1.2 million barrels a day. Venezuela is only producing 750,000 barrels. This would make it the largest oil producer in LA after Brazil and Mexico. Natural gas reserves are estimated at 17 trillion cubic meters. From Venezuela's point of view, this is a very lucrative business that also has enormous geopolitical and national dimensions. However, in Guyana, for obvious reasons, this policy is provoking resistance and leading to a search for security guarantees, especially in relation to the US, as reflected in the response of Guyana's President Irfaan Ali who stated "... that the defence forces are on full alert and communicating with the United States Southern Command."<sup>28</sup>

The political situation is permanently tense. There was a constitutional crisis in 2018, leading to early elections in 2020. These elections were marred by allegations of fraud and political polarisation. The growth of the economy has also brought challenges such as social inequalities and environmental issues, particularly related to oil and natural resource extraction.

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<sup>25</sup> MYRDAL, G. (1974): What Is Development? In: *Journal of Economic Issues*. Vol. 8, No. 4, pp. 729-736.

<sup>26</sup> RAMRATTAN, L. – SZENBERG, M. (2010): Colonial Dependency, Coreperiphery, And Capitalism: A Case Study Of The Guyana Economy. *The Journal of Developing Areas*. Vol. 44, No. 1, pp. 51-70.

<sup>27</sup> PAREDES, N. – PRAZERES, L. – PÉREZ VALERY, J. L. (2023): Cómo se ve en Guyana el conflicto por el Esequibo (y qué piensan los venezolanos que viven en el pequeño país sudamericano). [online]. In: *BBC*, 15. 12. 2023.

<sup>28</sup> BERMÚDEZ, Á. (b) (2023): "La única forma que tiene Venezuela para ejercer la soberanía sobre el Esequibo sería una acción militar y no está en capacidad de hacerla." [online]. In: *BBC*, 8. 12. 2023.

Guyana's GDP per capita is rapidly increasing due to oil production, which began in 2019 and reached 278,000 barrels per day (bpd) in 2022. The most important data on economic developments are presented in the following table, where data on the dollar value of GDP, GDP growth, unemployment, and inflation are presented, and then, with respect to post-2015 developments, data on foreign direct investment, fuel exports as a percentage of merchandise exports, and, conversely, changes in the share of agricultural production (and forestry and fishing) in total GDP are added.

**Table 1: Economic indicators for Guyana 1990 - 2023**

<i>Indicator</i>	1990	2000	2015	2017	2019	2020	2021	2022	2023
GDP (millions, current US\$)	397	713	4 280	4 750	5 170	5 470	8 040	14 700	16 800
GDP growth (annual %)	-3,07	-1,36	0,69	3,73	5,35	43,48	20,01	63,44	33,02
Unemployment (% of tot. lab. or f.)	-	11,9	13,3	13,8	13,5	15,7	14,9	12,4	12,4
Inflation, consumer prices (annual %)	-	6,15	-1,00	1,90	2,09	0,99	5,03	6,12	2,82
FDI, net inflows (% of GDP)	2,0	9,4	3,2	6,9	32,8	23,7	27,8	3,0	42,9
Fuel exports (% of merchandise exp.)	-	0,0	0,0	0,0	0,0	41,5	68,9	87,8	86,1
Agriculture, value added (% of GDP)	38,1	30,0	25,4	22,8	17,6	16,9	13,5	10,1	-

Source: Data from database: World Bank Group. World Development Indicators.

<https://databank.worldbank.org/reports.aspx?source=2&series=NY.GDP.MKTP.CD&country=GUY>

General economic development is growing exponentially, with the value of GDP in 2021 doubling in two years, which corresponds to the percentage growth of GDP, which is double-digit from 2020, reaching values above 20% of GDP. Such a GDP development is quite unusual and may bring with it many destabilising effects in addition to positive ones. The country is expected to remain one of the fastest growing economies with double-digit growth rates in 2023 and 2024 as additional oil fields start operation.

Other basic parameters such as inflation and unemployment are relatively stable, although double-digit unemployment is of course politically, economically and socially unstable. Real GDP is estimated to have increased by 63.4 percent in 2022, primarily driven by the expansion of oil production but also strong growth in the non-oil economy. The development of the O&G sector has allowed a notable scale-up of investment in infrastructure to support growth in other industries.<sup>29</sup>

In terms of the structure of the economy, there is a clear increase in the share of fuel exports as a percentage of merchandise exports, up to almost 90% of merchandise exports. Conversely, the original baseline value added in the form of agriculture is reduced from 38% of GDP in 1990 to 10% of GDP in 2022. It should be noted that Guyana is one of the few countries not affected by the crisis caused by the Covid-19 pandemic; on the contrary, post-2020 economic parameters are stable and growing. Economic diversification beyond natural resources and agriculture remains a challenge, particularly in the growing O&G sector. Oil exports alone accounted for about 88 percent of total exports in 2022. Excluding oil, sugar, gold, bauxite, shrimp, timber, and rice represent nearly 90 percent of the country's non-oil exports. To reduce reliance on the oil sector and, therefore, vulnerability to price shocks,

<sup>29</sup> WORLD BANK GROUP (2024): *World Development Indicators*.

structural reforms are critical to diversify the domestic economy and ensure sustainable and broad-based growth.<sup>30</sup>

Also interesting is the trend in FDI, which since the discovery of the oil field is at around 30% of GDP, and even 43% of GDP for 2023. Such high values are of course unsustainable and represent a temporary disruption, but it is still a very promising start to future solid economic growth for Guyana's economy.

### **2.3 Economic challenges**

The current time is not only crucial for Guyana's economy given the discovery of significant offshore oil and gas reserves, the commencement of oil production in 2019 and the subsequent economic boom the country is experiencing. Oil was discovered in Guyana in 2015, with US company ExxonMobil being a key player. The Stabroek Block oil discovery is considered one of the most significant in recent years, not only for Guyana but also for the global oil market.

The discovery of oil in Guyana and its rapid economic rise have several similarities with other countries that have experienced similar "oil booms" in the recent past. Guyana's situation has the most similarities with Angola, Nigeria and Ecuador, each of which have experienced significant oil discoveries in recent decades that have had a major impact on their economies. Angola faces challenges with sustainable development and balancing the oil boom with long-term investment in infrastructure and economic diversification. Nigeria faces the problem of oil dependence and the need to invest in other sectors of the economy to avoid the resource curse. Ecuador has long been a smaller producer but, like Guyana, sees oil production as a major potential for economic growth. Oil in Ecuador has remained a key source of revenue for the state, with economic challenges related to natural resources and environmental protection similar to those faced by Guyana. Norway provides a positive example for harnessing the benefits of newly discovered oil resources, which provides a sure example for Guyana.

In Guyana, the government plays a key role in oil exploration and production, both at the level of regulation and in the management of the revenue that production generates. Although the actual extraction is carried out by foreign oil companies, the government has a strong influence on the process through legal, economic and regulatory frameworks. This approach includes conditions for obtaining concessions, determining profit shares and ensuring equitable distribution of oil revenues. The Ministry of Natural Resources should develop, implement and oversee policies for the responsible exploration, development and utilization of natural resources whilst ensuring the protection and conservation of the environment and advancement of the green economy.

Guyana faces the risk of the 'natural resource curse', a phenomenon whereby rapid oil revenues can lead to economic destabilisation, high inflation and negative social consequences. The term "resource curse" or "paradox of plenty" was described in the literature by Richard Auty in his 1993 book.<sup>31</sup> Auty used the concept to describe the paradoxical phenomenon whereby countries rich in natural resources (particularly minerals and oil) often experience poor economic growth, political instability, poverty and corruption, even though their natural wealth should theoretically ensure prosperity and development.

To avoid this, the Government of Guyana has developed a strategy to invest oil revenues in a long-term fund. This model is inspired by Norway's "Oil Fund" which invests oil revenues in various assets, ensuring that these revenues are not depleted and serve the long-term development of the country. In 2019, the Natural Resource Fund of Guyana was created as a vehicle for managing oil revenues. This fund is to be used to invest in infrastructure,

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<sup>30</sup> WORLD BANK (2024): *Guyana At A Glance*.

<sup>31</sup> AUTY, R. (1993): *Sustaining Development in Mineral Economies: The Resource Curse Thesis*.

education, healthcare and the development of other sectors to ensure the diversification of the economy and reduce dependence on oil.

Countries that have been affected by the "natural resource curse" include Venezuela, Nigeria and Angola. In Venezuela, high oil revenues have led to political instability, hyperinflation and economic collapse due to mismanagement and dependence on oil production. Moreover, the situation is precarious in relation to the disputed Essequibo territory. Nigeria is a country with huge oil reserves that faces long-term problems with corruption, environmental damage and political conflict. Angola experienced an oil boom and now faces similar problems to Nigeria, namely high unemployment, corruption and strong political control, with oil revenues not reflected in the development of society.

Guyana receives support in this specific period from, among others, the World Bank under the Country Partnership Framework - CPF, which sets the strategic direction for the Bank's support program for the period 2023-2026. The framework is also closely aligned with the Government's development strategies, including the recently revised Country Development Plan and the priorities for resilient recovery from the impacts of the COVID-19 pandemic. The program aims to support Guyana by contributing to improved human capital, more and better jobs, and increased climate and environmental resilience. The Cooperation Framework proposes a broad programme of technical and financial support focused on six objectives, namely improving the quality of education, increasing access to quality secondary education, strengthening public health preparedness, strengthening capacity to manage natural resource revenues, increasing the competitiveness of Guyana's non-oil economy, and strengthening resilience to floods and adaptation to climate change.

In addition to the structured economic boom, the uncertainty surrounding the Essequibo region, which is Guyana's largest region and is rich in natural resources, including minerals and water, remains a threat. The problem with the Essequibo region is linked to the historical territorial dispute between Guyana and Venezuela. This dispute may lead to uncertainties about the use of newly acquired resources. Given the extraordinary military and economic importance of oil, it is generally assumed that states will do whatever it takes to obtain it. However, this is easily disputed; countries do not provoke major conflicts to obtain oil resources. Emily Meierding argues that the costs associated with foreign invasion, occupation of territory, international retaliation, and damaged relations with oil companies discourage even the most powerful countries from starting "conventional oil wars."<sup>32</sup> The author demonstrates that countries have historically, at most, engaged in mild skirmishes to advance their oil ambitions. The author elaborates on these findings by reassessing the presumed oil motives of many of the most significant international conflicts of the twentieth century.

## Conclusion

The unresolved territorial disputes in the Latin American space, with all their geopolitical consequences, are an unfortunate historical legacy of this part of the world, dating back to independence and the emergence of nation states in the first half of the 19th century. Although most of these conflicts have already been resolved, some are still ongoing and weigh on both bilateral and international relations. One example of an unresolved current conflict is the dispute over Guyana's Essequibo territory, the outcome of which is disputed by Venezuela, which is demanding Guyana's cession of the disputed territory. However, this territory is of paramount importance to Guyana as the Essequibo region of Guyana represents two-thirds of Guyana's land area and is home to almost one-third of its population. In addition, the gold, copper, diamond, iron, bauxite and aluminium deposits that are also found in this area are key to Guyana. Large deposits of oil and gas were discovered in 2015. That this is indeed

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<sup>32</sup> MEIERDING, E. (2020): *The Oil Wars Myth: Petroleum and the Causes of International Conflict*.



a key asset to Guyana's economy is evidenced by the GDP growth figures in recent years. GDP growth in 2022 was 63%, with a 33% increase for 2023.<sup>33</sup>

The substantial increase in Guyana's budgetary capacity has other socio-economic implications. The 'One Guyana' policy, which is the political objective of President Irfaan Mohamed Ali and is essentially about bringing together the Indian and African-American populations in the country, will be much better realised. Ethnic tensions between these dominant groups of the Guyanese population have been going on for several decades and have had a negative impact not only on the political life of the country. Another undeniable benefit will be the possibility of reducing the country's foreign debt more quickly. At the same time, the new source of oil is a promising beginning for the systematic work of the Ministry of Petroleum and Mining, which is working with the World Bank in this regard, and with the support of Norway in the form of the Norwegian Oil Bank of Guyana, among others.

For Venezuela, the acquisition of the disputed territory of Guyana Essequibo would represent a redress of historical wrongs that would also provide a major boost to the declining support for Maduro's authoritarian regime. Lastly, all the activities associated with the Venezuelan regime's pressure diplomacy and actions (the plebiscite on annexation, the creation of authorities for the new territory, the authorisation of a Venezuelan oil company to extract oil, etc.) are intended, among other things, to distract the Venezuelan population from the disastrous state of the Venezuelan economy, corruption, the reduction in living standards and unemployment. The case of a failing regime trying to distract attention from the country's current internal political problems through aggression is not the first example in Latin America. If the Maduro regime were to succeed in gaining the claimed territory, not only would the regime's popularity increase, but it would have a significant impact on the state of the Venezuelan (and, by extension, Guyanese) economy.

In the geopolitical reality of Latin America, this would further strengthen Venezuela's position in the region and give it additional space for stronger opposition to the US. The role of the US in this dispute is crucial and for Guyana the US represents the only real security guarantee against a possible military attack by Venezuela.<sup>34</sup> The scale of the newly discovered oil and gas deposits could have a major impact on the energy and geopolitical situation of the entire region if events unfold according to the Venezuelan scenario. The cooperation and ideological proximity between Venezuela, Cuba and Nicaragua, as well as its interdependence with Russia and, in the economic sphere in particular, with China, would create an entirely new and much more complicated environment for the application of liberal democratic principles in this part of the world.

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4. BERMÚDEZ, Á. (b) (2023): "La única forma que tiene Venezuela para ejercer la soberanía sobre el Esequibo sería una acción militar y no está en capacidad de hacerla."

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<sup>33</sup> WORLD BANK GROUP (2024): *World Development Indicators*; BERMÚDEZ, Á. (b) (2023): "La única forma que tiene Venezuela para ejercer la soberanía sobre el Esequibo sería una acción militar y no está en capacidad de hacerla." [online]. In: *BBC*, 8. 12. 2023.

<sup>34</sup> This relationship is evidenced by the cooperation with the US Department of Defense, the many training programs and joint exercises (Prazeres, Pérez Valery, 2023).

- [online]. In: *BBC*, 8. 12. 2023. [Cited 15. 11. 2024.] Available online: <https://www.bbc.com/mundo/articles/cyx2egd5jyo>
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# SCIENCE DIPLOMACY AND EXAMPLES OF ITS APPLICATION IN SLOVAKIA AND THE CZECH REPUBLIC

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**Abstract:** The paper explores the concept of science diplomacy, providing both a theoretical foundation and a comparative analysis of its application in Slovakia and the Czech Republic. The study aims to fill a gap in Slovak academic discourse by defining science diplomacy and examining its institutional frameworks and practices in the two countries. Using qualitative research methods, including content analysis, synthesis, and key informant interviews, the paper highlights Slovakia's lack of institutionalization compared to Czechia's well-structured approach. The analysis reveals how small states can leverage science diplomacy to address national and global challenges, with lessons drawn from international best practices. The findings emphasize the need for stronger institutional support and dialogue between policymakers and the scientific community in Slovakia.

**Key words:** Science Diplomacy, Slovakia, Czech Republic, Institutionalization

**JEL:** F50, O38, O57

## Introduction

Diplomacy as a scientific discipline and its sectoral subsets seem to be sufficiently covered in Slovak academic discourse. Besides, numerous scientific works engaged with individual dimensions of diplomacy have been published in Slovak as well as international context. Cultural diplomacy has been debated by Kurucz,<sup>1</sup> Pajtinka,<sup>2</sup> Janubová,<sup>3</sup> and also by the authors of this paper;<sup>4,5</sup> economic diplomacy appears in the works by Pajtinka,<sup>6</sup> Csabay,<sup>7</sup> Ružeková – Zábajník – Hrink<sup>8</sup> Slovak scholars have even published on the topic of environmental diplomacy.<sup>9</sup> In connection to the COVID-19 pandemic outbreak, several papers on health diplomacy have emerged.<sup>10</sup> In our opinion, however, Slovak scientific community has so far dedicated only limited attention to science diplomacy - the topic of the present paper. Hence, the authors' intention is to contribute to the debate and to bring the issue closer to Slovak

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<sup>1</sup> KURUCZ, M. (2007): Kultúrna dimenzia diplomacie.

<sup>2</sup> PAJTINKA, E. (2015): Kultúrna diplomacia a jej organizačno-inštitucionálne modely v praxi vybraných štátov.

<sup>3</sup> JANUBOVÁ, B. (2019): Kultúrna diplomacia Brazílie v kontexte presadzovania záujmov na medzinárodnej scéne.

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<sup>8</sup> RUŽEKOVÁ, V. – ZÁBOJNÍK, S. – HRINKO, J. (2021): Ekonomická diplomacia a teritoriálne analýzy.

<sup>9</sup> e.g. ČIEFOVÁ, M. (2019): Slovakia's Participation in Environmental Diplomacy; JANUBOVÁ, B. (2021): Ochrana vlka dravého ako súčasť environmentálnej diplomacie – prípad Slovenskej republiky.

<sup>10</sup> e.g. ČIEFOVÁ, M. – SZABÓ, J. – JANUBOVÁ, B. (2021): Zdravotná diplomacia a boj proti COVID-19: Skúsenosť Slovenska a Brazílie.

academics as well as practitioners, while highlighting the Slovak dimension and expanding its reach to an international audience, thus filling the existing research gap.

The objective of the present paper is twofold. Firstly, we attempt to provide an overview of the definitions and basic functions of science diplomacy. Secondly, we analyze the current state and practice of science diplomacy in the Slovak Republic, comparing it with the Czech Republic. Selecting Czechia as the second side of the comparison is only logical, considering the common history of the two countries. After forming a mutual, sovereign state in 1918, it was crucial to establish diplomatic networks with foreign countries. In Poland, for instance, the first consulates emerged already in 1919. They were tasked not only with caring for Czechoslovak citizens and promoting the rights of the newly formed state; they were also responsible for cooperation in science- or culture-related activities.<sup>11</sup> Even though the countries separated in 1993, they are now both members of the European Union, the Visegrad Four and other international organizations or fora. What is more, they are comparable in terms of size, both being small countries. Hence, taking a detailed look at how they pursue science-related objectives on the international scene can be of interest to both scholars and policy-makers.

The research methods have been selected in accordance with the stated objectives. These are predominantly of a qualitative nature. We utilize description, content analysis, synthesis, comparative analysis, induction, and deduction. The research is supported by available domestic as well as foreign sources, i.e. qualitative desk research is another method critical for successful fulfillment of the research goals. Besides, the key informant interview method has been of particular importance in relation to our second objective - the current state and challenges of Slovakia's and Czechia's science diplomacy. The interviews were conducted online in October 2022.

## 1 Literature Review

Despite science and diplomacy having a long mutual history, the concept of science diplomacy is relatively new. Precisely, it appears first in works from the 21<sup>st</sup> century. Since then, several definitions and typologies of the notion have been proposed.<sup>12</sup>

In scholarly literature, the concept of science diplomacy is explored from diverse aspects. In several works, science diplomacy is investigated in the European Union context or a similar regional cluster; other works attempt to conceptualize it. Some authors focus on the science diplomacy of a single country in particular. Moreover, many scientific publications have emerged as a consequence of the COVID-19 pandemic outbreak. In the next text, we point out a few, primarily foreign sources relevant to our research.

Royal Society and the American Association for the Advancement of Science (AAAS) jointly categorize science diplomacy into the following main objectives: (1) Science in diplomacy (defining foreign policy goals based on research – "evidence-based policy"); (2) Science for diplomacy (using science as a tool to improve international relations, enhance influence, and build the country's branding) and (3) Diplomacy for science (supporting international scientific and technological cooperation).<sup>13</sup>

In addition, we find it essential to properly define the concept of science diplomacy. We align with Ruffini's<sup>14</sup> definition, explaining science diplomacy as a set of practices, by which international relations and foreign policy overlap with science and technologies. Equally relevant and at the same time complex is the definition describing science diplomacy

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<sup>11</sup> EMBASSY OF THE CZECH REPUBLIC IN WARSAW (2024): History of the Czech diplomatic and consular representation.

<sup>12</sup> TUREKIAN, V. (2018): The Evolution of Science Diplomacy, p. 5.

<sup>13</sup> THE ROYAL SOCIETY (2010): New frontiers in science diplomacy.

<sup>14</sup> RUFFINI, P.-B. (2020): Conceptualizing science diplomacy in the practitioner-driven literature: a critical review, p. 2.

as a discipline at the intersection of science policy and international relations.<sup>15</sup> Su and Mayer<sup>16</sup> characterize science diplomacy „as a set of practices that open up sustained channels of communication and cooperation for the main purpose of producing objective knowledge”. Furthermore, the authors perceive its significance in relation to trust building in international relations.<sup>17</sup>

Science diplomacy involves various activities, for instance, soft power policies aimed at attracting foreign scientists, or exchange programmes.<sup>18</sup> Activities and tasks of science diplomacy can focus on national interests, cross-border interests, or global challenges. As for national interests, these can include for example economic interests or support of innovations. Global issues cover e.g. biodiversity, climate change, or pollution of seas and oceans.<sup>19</sup> Ruffini's<sup>20</sup> standpoint is similar, as he mentions environmental threats or other problems on a global scale that can disrupt the international order. Furthermore, knowledge diplomacy may for example help tackle anti-scientific attitudes, hence protecting scientists, scientific methods and values, as well as science at large.<sup>21</sup>

A survey conducted among the Central European Initiative (CEI) countries illuminated countries' motivation to invest in science diplomacy activities. The authors of the study classified the goals as follows:

- to influence decision-makers, political and economic leaders, as well as public opinion of other countries;
- to access research findings, facilities and researchers, capital, and natural resources abroad, to strengthen national competitiveness and innovation capacity;
- to promote the country's achievements in the field of R&D within its global marketing strategy.<sup>22</sup>

In the majority of the countries included in the survey, training of both diplomats and scientists is of paramount importance, and the same applies to networking between the diplomatic and scientific communities.<sup>23</sup>

As a European Union Member State, the Slovak Republic is involved in the community's research structures. Science diplomacy in the European Union is analyzed by Moedas,<sup>24</sup> who highlights the fact that science diplomacy is no new arena for the EU. The author continues by saying that the European Commission pays considerable attention to strategic partnerships. The reason is that the problems faced by the EU are not rarely issues of the international community. Examples are climate change or migration. Apart from that, organizations such as CERN or European Space Agency (ESA) have been established. They contribute to excellent science and strengthen international relations. The author states concrete examples of recent initiatives of EU science diplomacy, such as climate change and infectious diseases (mainly the ebola epidemic), that underline the need for international cooperation in

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<sup>15</sup> ARNALDI, S. – LOMBARDO, A. – TESSAROLO, A. (2021): A preliminary study of science diplomacy networks in Central, Eastern and South-Eastern Europe, p. 1.

<sup>16</sup> SU, P. - MAYER, M. (2018): Science Diplomacy and Trust Building: “Science China” in the Arctic, p. 23.

<sup>17</sup> Ibidem.

<sup>18</sup> NÁRODNÁ KANCELÁRIA HORIZONTU (NKH) (2021): Vedecká diplomacia musí byť obnovená, aby uspokojila súčasné európske potreby.

<sup>19</sup> GLUCKMAN, P. D. – TUREKIAN, V. C. – GRIMES, R. W. – KISHI, T. (2017): Science Diplomacy: A Pragmatic Perspective from the Inside, p. 9.

<sup>20</sup> RUFFINI, P.-B. (2020): Conceptualizing science diplomacy in the practitioner-driven literature: a critical review, p. 3.

<sup>21</sup> NÁRODNÁ KANCELÁRIA HORIZONTU (NKH) (2021): Vedecká diplomacia musí byť obnovená, aby uspokojila súčasné európske potreby.

<sup>22</sup> ARNALDI, S. – TESSAROLO, A. (2019): Science Diplomacy in CEI Member States, pp. 17-18.

<sup>23</sup> Ibidem, p. 22.

<sup>24</sup> MOEDAS, C. (2016): Science Diplomacy in the European Union, p. 2.

the area of public health. At this point, we need to add that the COVID-19 pandemic outbreak has just highlighted the necessity of international cooperation in the sphere of pandemic management and vaccine development. Exactly the COVID-19 pandemic outbreak seems like a significant milestone regarding the role of science, health or so-called facemask diplomacy. According to some authors, the pandemic has pointed out the mutual dependence of countries, while the number of scientific collaborations was continuously increasing.<sup>25</sup> Health diplomacy, which has come to the forefront as a result of the pandemic, is closely intertwined with science diplomacy.<sup>26</sup>

The regional aspect can be observed also in the research of other authors. Arnaldi, Lombardo a Tassarolo<sup>27</sup> analyzed science diplomacy in the region of central, eastern, and southeastern Europe. They conclude, scientific collaboration of the respective countries is conducted predominantly at the level of two clusters. The first cluster includes southern and southeastern Europe; the second cluster central and eastern Europe. Based on their analysis, both Slovakia and Czechia belong to the second group (along with Belarus, Bulgaria, Hungary, Moldova and Poland).

Science diplomacy actors are called science diplomats. According to Ruffini<sup>28</sup>, this notion can be used when referring to anyone operating at the intersection of science and diplomacy, regardless of whether they have an official diplomatic function. His research implies that science diplomacy is rather a matter of the scientific community than diplomats. Moomaw<sup>29</sup> asserts that science alone does not need to considerably influence policy making, however, diplomacy should not ignore the results of scientific research. Similarly, participants in diplomatic negotiations should possess knowledge of the given scientific issue. Turekian<sup>30</sup> highlights the connection of science diplomacy to institutions, such as universities, governments, or the private sector.

Based on the above stated it can be presumed that an unofficial science diplomat can be any individual or a group representing their homeland at meetings, events, or foreign trips aimed at science support, studies, or innovations support. Naturally, in contrast to that, tasks and competencies of an officially sent diplomat should be clearly defined.

## **2 Science Diplomacy and Its Application in Slovakia**

The first step in our inspection into the practice of science diplomacy in Slovakia was content analysis of websites of the Ministry of Foreign and European Affairs of the Slovak Republic, and the Ministry of Education, Research, Development and Youth of the Slovak Republic. As of now, there is no particular department or section within the organizational structure of the Ministry of Foreign and European Affairs that would be directly responsible for the country's international scientific and research cooperation. Neither the Ministry's website contains a specific section dedicated to science diplomacy.<sup>31</sup> In contrast to that, certain information related to mainly international collaboration concerning scholarships can be excerpted from the webpage of the Ministry of Education, Research, Development and Youth of the Slovak Republic.<sup>32</sup>

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<sup>25</sup> PISUPATI, B. (2020): Science Diplomacy: COVID-19 and Beyond, p. 10.

<sup>26</sup> ČIEFOVÁ, M. (2021): The Role of Diplomacy in the Times of the Coronavirus Crisis, p. 192.

<sup>27</sup> ARNALDI, S. – LOMBARDO, A. – TESSAROLO, A. (2021): A preliminary study of science diplomacy networks in Central, Eastern and South-Eastern Europe.

<sup>28</sup> RUFFINI, P.-B. (2020): Conceptualizing science diplomacy in the practitioner-driven literature: a critical review.

<sup>29</sup> MOOMAW, W. R. (2018): Scientist Diplomats or Diplomat Scientists: Who Makes Science Diplomacy Effective?

<sup>30</sup> TUREKIAN, V. (2018): The Evolution of Science Diplomacy, p. 5.

<sup>31</sup> MZVaEZ SR (2024): Organizačná štruktúra.

<sup>32</sup> MŠVVaM SR (2024): Medzinárodná spolupráca.

To validate the information available on the ministries' webpages, we directly contacted the Slovak Ministry of Foreign and European Affairs, using the general information email address. The reply received was written by the ambassador responsible for science and innovations, with whom the communication further continued. Their agenda includes cooperation with Slovak companies and research institutes and support of their activities in relation to foreign partners. However, there are no science diplomats at Slovak embassies abroad, and neither there is a department at the Ministry covering the agenda of science diplomacy. In spite of that, there are overlaps with several other departments.

Although there is still a lack of institutionalization of science diplomacy in Slovakia, the concept and its significance have been a topic of discussion for some time now. An example is the debate of students of the University of Economics in Bratislava with the Filipino ambassador, that took place in 2019.<sup>33</sup>

At the time of writing this paper, Slovakia has become the 22<sup>nd</sup> associated member of the European Space Agency (ESA). As highlighted on the official Facebook page of the Ministry of Foreign and European Affairs of the Slovak Republic, this is a crucial milestone for Slovakia in terms of science and research, but also the economy.<sup>34</sup> This achievement was also emphasized by the respondent from the Ministry of Foreign and European Affairs. In the context of our research, Slovakia's participation in the ESA may be understood as the country's becoming a part of an internationally recognized science diplomacy actor, while simultaneously being one itself.

Lastly, Slovak science diplomacy manifests itself in connection to an internationally recognized award - the ESET Science Award, of which the Ministry is one of the partners, as accentuated by the respondent.

### **3 Science Diplomacy and Its Application in the Czech Republic**

Compared to the Slovak Republic, the Ministry of Foreign Affairs of the Czech Republic clearly defines the roles, fundamental pillars of scientific diplomacy, and the responsibilities of science diplomats. According to the Ministry,<sup>35</sup> the importance of scientific diplomacy is growing today. The international community faces significant and increasingly complex challenges that cannot be addressed without collective action based on knowledge and new discoveries (technologies). In recent decades, the importance of quality education, advanced research, and technologies has grown in the economic, political, and social life of nations. Global phenomena and threats, such as climate change, energy and food security, and biodiversity, are also the subject of investigation, and their research is essential for formulating responses. The Czech Ministry of Foreign Affairs acknowledges that scientific diplomacy is not only the domain of scientific and technological powers pursuing global goals. Countries with at least minimal ambitions and internationally applicable capacities in education, research, whether basic or applied and in the development and innovation of products and services also have legitimate interests.

The fundamental pillars of scientific diplomacy in the activities of the Czech foreign service and its coordination are realized at several levels. The first is a coordination mechanism across the entire national system for research, development, and innovation, which is managed by an inter-ministerial steering group established under the Council for Research, Development, and Innovation, where the competencies of individual actors and their activities are determined by applicable legislation. The second level consists of a coordination structure within the Ministry of Foreign Affairs of the Czech Republic, which is ensured by a Special Envoy for Science and Technology within the Department of Economic-Scientific Diplomacy. The third

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<sup>33</sup> EUBA (2019): Filipínska veľvyslankyňa aj o význame vedeckej diplomacie.

<sup>34</sup> MZVaEZ SR - Facebook (2022): Slovensko sa stalo 22. pridruženým členom Európskej vesmírnej agentúry.

<sup>35</sup> MZV ČR (2024): Vědecká diplomacie. In: *Ministerstvo zahraničních věcí České republiky*, 2024.



level is represented by a network of embassies managed by the Ministry's headquarters. This network includes four specialized science diplomats with titles such as science attachés or science counselors in priority countries (based in Tel Aviv, Washington, Taipei, and Brussels).<sup>36</sup> In addition, several other diplomats in countries with advanced potential in the areas of science, research, and innovation have scientific diplomacy in their portfolios. The fulfillment of tasks in this area is always under the leadership of the head of the relevant mission.<sup>37</sup>

The Czech Ministry of Foreign Affairs - defines the roles of science diplomats from various perspectives. According to the statement of the Special Envoy for Science and Technology,<sup>38</sup> the importance of individual topics and tasks in scientific diplomacy changes depending on set priorities, new opportunities, and similar factors. Therefore, the Ministry provides a non-hierarchical overview that includes initiating and assisting in negotiations on intergovernmental agreements, treaties, and memorandums, which provide the framework for bilateral and multilateral cooperation. It also involves assistance in negotiations between agencies supporting science, research, and innovation, as well as in the formulation of multilateral programs focusing on science, research, and innovation, such as CERN and ESA. An important task is facilitating educational and research mobility, as well as targeted presentation and promotion. Significant activities of science diplomats also include creating networks at the level of research and innovation teams, exploring new opportunities for cooperation in research, development, and innovation, and sharing best practices. Multilateral cooperation is also essential, especially within the framework of the UN Agenda 2030 and UNESCO, among others, in addressing global challenges such as climate change, food crises, biodiversity degradation, and sustainable energy. Equally important is adapting to the impacts of "disruptive" technologies and supporting the involvement of Czech research and development in European programs such as Horizon 2020 and initiatives in artificial intelligence.

The position of Special Envoy for Science and Technology at the Ministry of Foreign Affairs of the Czech Republic established two decades ago based on models from Europe, America, and Asia, plays a crucial advisory role in advancing science diplomacy.<sup>39</sup> Over time, this role has evolved through various departments and now resides within the Department of Economic and Scientific Diplomacy under the Section of Economic and Development Cooperation, established in 2023. The envoy supports international cooperation in science and research while coordinating the science diplomacy agenda across the ministry. The position blends expertise, advisory services, and coordination with strong backing from the ministry's leadership.<sup>40</sup>

Strategic partners include key universities, which play a crucial role in applied research. Public universities such as the Czech Technical University in Prague (ČVUT) and the Prague University of Economics and Business (VŠE) are instrumental in areas like artificial intelligence, as well as medical faculties and regional universities. In addition to specialized diplomats for science and research, diplomats with combined agendas, such as economic diplomacy, are also engaged. There are 35 such positions across all priority countries. Before deployment, diplomats receive comprehensive training, both general and region-specific, ensuring they are well-equipped with relevant contacts.<sup>41</sup>

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<sup>36</sup> ČESKÝ ROZHLAS (2023): Na ministerstvu zahraničí vzniklo oddělení vědecké diplomacie.

<sup>37</sup> MZV ČR (2024): Vědecká diplomacie. In: *Ministerstvo zahraničních věcí České republiky*, 2024.

<sup>38</sup> Special Envoy for Science and Technology of the Ministry of Foreign Affairs of the Czech Republic; interview conducted online on 27 October 2022.

<sup>39</sup> Ibidem.

<sup>40</sup> MZV ČR (2024): Rok od vzniku oddělení vědecké diplomacie na MZV ČR.

<sup>41</sup> Special Envoy for Science and Technology of the Ministry of Foreign Affairs of the Czech Republic; interview conducted online on 27 October 2022.

## Conclusion

Although domestic scholarly literature offers numerous works on diplomacy and its branches, science diplomacy has not been sufficiently covered, yet. The objective of the current paper was, therefore, to provide the reader with, on the one hand, a theoretical background concerning the concept of science diplomacy and; on the other hand, to present and compare its functioning in Slovakia and the Czech Republic.

Having analyzed a number of definitions and approaches to science diplomacy, we can conclude that science diplomacy covers actions in the international arena in which science and research play the most significant role. Moreover, the motivation of states applying science diplomacy may vary.

The comparative analysis of Slovakia's and Czechia's engagement with science diplomacy has illuminated an interesting fact. Despite the countries' shared historical experience and even foreign policy, their current state of science diplomacy points out a remarkable discrepancy. This also concerns the way how science diplomacy has been institutionalized. While no specialized science diplomacy department has been established within the Ministry of Foreign and European Affairs of the Slovak Republic, the opposite is true for the Czech Republic.

Experience from the Czech Republic has also shown that the introduction of financial restrictions impacts the field of science diplomacy, demonstrating the vulnerability of this segment, which is particularly sensitive to funding constraints.

The Czech Republic is only one of the examples of small states actively engaged in science diplomacy activities. Switzerland, for instance, has established a network of science and innovation centers (SIC) abroad called swissnex. By doing so, the country became one of the pioneers in this arena.<sup>42</sup> Other authors<sup>43</sup> highlight the success stories of New Zealand, Israel, Singapore, and Nordic countries. The authors assert that the smaller size of these countries makes it possible to directly engage with stakeholders, for example, the public. However, as they may lack capital markers, it is critical for them to early internationalize their science, and thus, through both the private as well as public sectors. Similarly to the Czech Republic, also New Zealand has created new roles and bodies, such as Chief Science Advisor to the Prime Minister, or the International Science and Innovation Coordination Committee.<sup>44</sup> Additionally, the tradition of science diplomacy is relatively long in Norway, with the Arctic region being one of its priorities.<sup>45</sup> Having highlighted the most critical issues Slovak science diplomacy is facing, we believe the country can benefit substantially from the best practices of the above-mentioned states.

In conclusion, we agree with Pisupati,<sup>46</sup> who asserts ministries of foreign affairs do need scientific advisors. Taking future developments into account, an intensive dialogue between policymakers and the scientific community appears to be of crucial importance.<sup>47</sup>

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<sup>42</sup> EPPING, E. (2020): Lifting the smokescreen of science diplomacy: comparing the political instrumentation of science and innovation centres, p. 4.

<sup>43</sup> e.g. GLUCKMAN, P. D. – GOLDSON, S. L. – BEEDLE, A. S. (2012): How a Small Country Can Use Science Diplomacy: A View from New Zealand, p. 1.

<sup>44</sup> GLUCKMAN, P. D. – GOLDSON, S. L. – BEEDLE, A. S. (2012): How a Small Country Can Use Science Diplomacy: A View from New Zealand, p. 3.

<sup>45</sup> SABZALIEVA, E. – SÁ, C. M. – MARTINEZ, M. – KACHYNSKA, N. (2021): Science Diplomacy Policy Processes in Comparative Perspective: The Use of Scientific Cooperation Agreements in Canada, India, Norway, and the UK.

<sup>46</sup> PISUPATI, B. (2020): Science Diplomacy: COVID-19 and Beyond, p. 14.

<sup>47</sup> ČIEFOVÁ, M. (2021): The Role of Diplomacy in the Times of the Coronavirus Crisis, p. 197.

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# MARKET REACTIONS THEN AND NOW: ANALYZING ASSET CLASS PERFORMANCE ACROSS U.S. PRESIDENTIAL ELECTIONS WITH A FOCUS ON 2024<sup>1</sup>

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**Abstract:** The paper examines the influence of U.S. presidential elections on global financial markets by analyzing five key asset classes - S&P 500, Gold, USD/EUR exchange rate, 10-year U.S. Treasury Bonds, and Bitcoin - across four election cycles: 2012, 2016, 2020, and 2024. Employing Python-based data analysis, the study uses visual tools and event-study methodologies to compare asset behavior and assess intra-day volatility. The findings reveal that Republican victories tend to boost equities and the dollar, while Democratic wins correlate with increased demand for safe-haven assets. Notably, Bitcoin consistently shows strong post-election gains, reflecting its evolving significance as an alternative investment option against political and economic uncertainty. These findings can provide additional insights for investors and policymakers in navigating politically influenced market dynamics.

**Keywords:** assets, elections, finance, financial markets

**JEL:** G10, G14

## Introduction

The connection between politics, economics, and international markets is more important than ever in the connected world of today. The U.S. presidential election is a major event that significantly affects the world economy. These elections not only impact U.S. policy but also global financial markets, influencing laws, investor confidence, and trade policies, all of which can have a significant impact on global economic trends.

Research has shown that financial markets often react sharply to the uncertainty surrounding presidential elections. For example, some studies demonstrate how stock market returns have historically varied based on which political party is expected to take office.<sup>2</sup> Similarly, other studies highlight the impact of policy uncertainty on asset prices, suggesting that markets tend to price in the anticipated policies of presidential candidates well before the election outcome is finalized.<sup>3</sup> Furthermore, research by Boutchkova et al. (2012) emphasizes the influence of political uncertainty on international markets, suggesting that global investors are increasingly sensitive to changes in U.S. political leadership.

This study examines the responses of several financial asset classes, such as equities, commodities, currencies and Bitcoin to previous U.S. presidential elections and contrasts them with the current trends surrounding the 2024 election. We want to provide a better understanding of how market behaviors are changing in the context of political change by examining market trends before and after significant election dates. Bitcoin, as an emerging digital asset class, is included to reflect the evolving dynamics of alternative investments.

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<sup>2</sup> SANTA-CLARA, P. – VALKANOV, R. (2003): The presidential puzzle: Political cycles and the stock market, pp. 1841-1872.

<sup>3</sup> PÁSTOR, L. – VERONESI, P. (2013): Political uncertainty and risk premia, p. 520-545.

Because the U.S. economy has a significant impact on international markets and because events there might have immediate repercussions, this research is important. For investors, economists, and policymakers who must make wise choices in these uncertain times, understanding how elections affect markets is essential. The 2024 election, in particular, brings with it unique economic challenges, like ongoing inflation concerns, shifting monetary policies, and international tensions, making it a key case study for understanding these effects.<sup>4</sup>

Using data analysis this paper breaks down how asset classes have responded to different political scenarios over the years. We'll identify key patterns, compare past and present market movements, and consider what all this means for the future. This analysis aims to add to the broader discussion on the impact of political events on the global economy, which is a central theme of this conference on economic trends and challenges in 2024.

## 1 Literature Review

The relationship between U.S. presidential elections and financial market reactions has been a subject of extensive study, reflecting the critical role political events play in shaping economic outcomes. Existing literature highlights various patterns in market behavior, particularly around the uncertainty and policy shifts associated with elections.

Research by Santa-Clara and Valkanov is among the foundational studies that examine the impact of political cycles on stock market returns. Their findings on higher returns under Democratic administrations guided our focus on equity market behavior, particularly the S&P 500, around election outcomes. Similarly, other research provides evidence of significant stock market volatility in the lead-up to elections, as investors attempt to adjust their portfolios based on anticipated policy changes.<sup>5</sup>

Adding to this discussion, Bialkowski, Gottschalk, and Wisniewski investigate the effects of election uncertainty on market volatility.<sup>6</sup> They conclude that financial markets often experience increased volatility in the weeks preceding an election, driven by investor uncertainty about future economic policies. This volatility tends to stabilize once the election results are confirmed and markets adjust to the new political landscape.

The role of policy uncertainty in influencing market behavior has also been well-documented. Researchers argue that political uncertainty, especially during election years, significantly impacts risk premia and asset prices. However, limited research has compared the evolving impact of alternative assets like Bitcoin across multiple election cycles, which this study aims to address. Their research suggests that markets price in the risk of new policies that could affect corporate profits, taxes, or regulation. Moreover, Kelly, Pastor, and Veronesi highlight how uncertainty related to economic policies has a direct effect on asset returns, with equity markets being particularly sensitive.<sup>7</sup> Given the United States' significant role in the global economy, the effects of U.S. elections often extend beyond domestic markets. Boutchkova et al. explore how international markets react to U.S. political events, emphasizing that global investors closely monitor and respond to shifts in U.S. leadership. Their findings show that political uncertainty can lead to increased return volatility in foreign markets, especially for economies that have strong economic ties with the United States.

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<sup>4</sup> BOUTCHKOVA, M. – DOSHI, H. – DURNEV, A. – MOLCHANOV, A. (2012): Precarious politics and return volatility, pp. 1111-1154.

<sup>5</sup> HERRON, M. C. – LAVIN, J. – CRAM, D. – SILVER, J. (1999): Measurement of Political Effects in the Stock Market, pp. 1130-1155.

<sup>6</sup> BIALKOWSKI, J. –, GOTTSCHALK, K. – WISNIEWSKI, T. P. (2008): Stock Market Volatility around National Elections, pp. 1941-1953.

<sup>7</sup> KELLY, B. – PASTOR, L. – VERONESI, P. (2016): The Price of Political Uncertainty: Theory and Evidence from the Option Market, pp. 2417-2480.

Comparative studies of different election years have highlighted evolving patterns in market reactions. Studies have examined market behavior across several recent elections and found that the degree of market response often depends on the perceived impact of the candidates' policies on key economic issues.<sup>8</sup> This research also points out that as the financial markets have become more globally interconnected, their sensitivity to U.S. political events has increased over time. In summary, the existing body of research establishes a clear link between U.S. presidential elections and market behavior, with factors like policy uncertainty, political party expectations, and global economic ties playing significant roles. This paper builds on these findings by analyzing asset class performance across several past elections and comparing them to the unique context of the 2024 election.<sup>9</sup> The goal is to better understand how current economic conditions, such as inflation and international tensions, influence market reactions in a rapidly changing global economy.

## 2 Methodology

This study analyzes the behavior of five key asset classes - S&P 500, Gold, USD/EUR exchange rate, 10-year U.S. Treasury Bonds, and Bitcoin - in response to U.S. presidential elections over four election cycles: 2012, 2016, 2020, and 2024. Data for all assets, except Bitcoin, were sourced from Yahoo Finance, while Bitcoin data was obtained from CryptoCompare. All calculations and visualizations were conducted in Python, leveraging libraries such as Pandas for data manipulation, Matplotlib and Seaborn for plotting, and SciPy for statistical calculations.

To identify patterns in asset class reactions to election outcomes, we first employed line charts to visualize the price trends of each asset around each election period. This allowed us to observe general patterns in price movements and to compare how each asset class responded to different political outcomes over time.

Following this, we conducted an event-study analysis focusing specifically on the sensitivity of the stock market (represented by the S&P 500) to the election event. We analyzed intra-day volatility and trading volumes for the S&P 500 on key dates around the election. By comparing these metrics in election years against non-election years, we aimed to isolate the effect of presidential elections on capital market volatility and trading activity. To capture the distribution of these variables around election periods, we utilized box plots as a key visualization tool. Box plots visually represent the median, interquartile range (IQR), and potential outliers in a dataset. In each box plot, the central line indicates the median value, the edges of the box represent the first (25th percentile) and third quartiles (75th percentile), and the "whiskers" extend to show the range of data within 1.5 times the IQR. Any points outside this range are displayed as individual dots, representing potential outliers, which could indicate particularly high or low volatility or volume spikes relative to typical market behavior.

For the event-study, we calculated intra-day volatility and trading volumes for four specific days around each election: the day before the election, election day, the day after the election, and two days after the election. To create a meaningful baseline, we applied the same calculation to non-election years using the first Monday and Tuesday of November as proxies for "day before election" and "election day" followed by another two days – Wednesday and Thursday as proxies for two days after the election. These dates were selected to ensure consistency, as U.S. presidential elections traditionally occur on the first Tuesday of November, thus minimizing seasonal effects. This approach ensures consistency, allowing us to attribute any observable differences more confidently to election-related effects, since no seasonal effect applies.

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<sup>8</sup> PHAM, H. N. A. – RAMIAH, V. – MOOSA, N. – HUYNH, T. – PHAM, N. (2018): The financial effects of Trumpism, pp. 264-274.

<sup>9</sup> CHAN, K. F. – MARSH, T. (2021): Asset prices, midterm elections, and political uncertainty, pp. 276-296.



Finally, we calculated the two-week percentage price movements of each asset class for the periods immediately before and after each election. This approach provided a clearer view of how various asset classes respond in anticipation of, and in reaction to, election outcomes. The results of these calculations were summarized in a table, offering a concise comparison of asset class behavior in response to each election cycle and allowing for insights into the relative impact of Democratic versus Republican victories on each asset type.

### **3 Results of the Analysis**

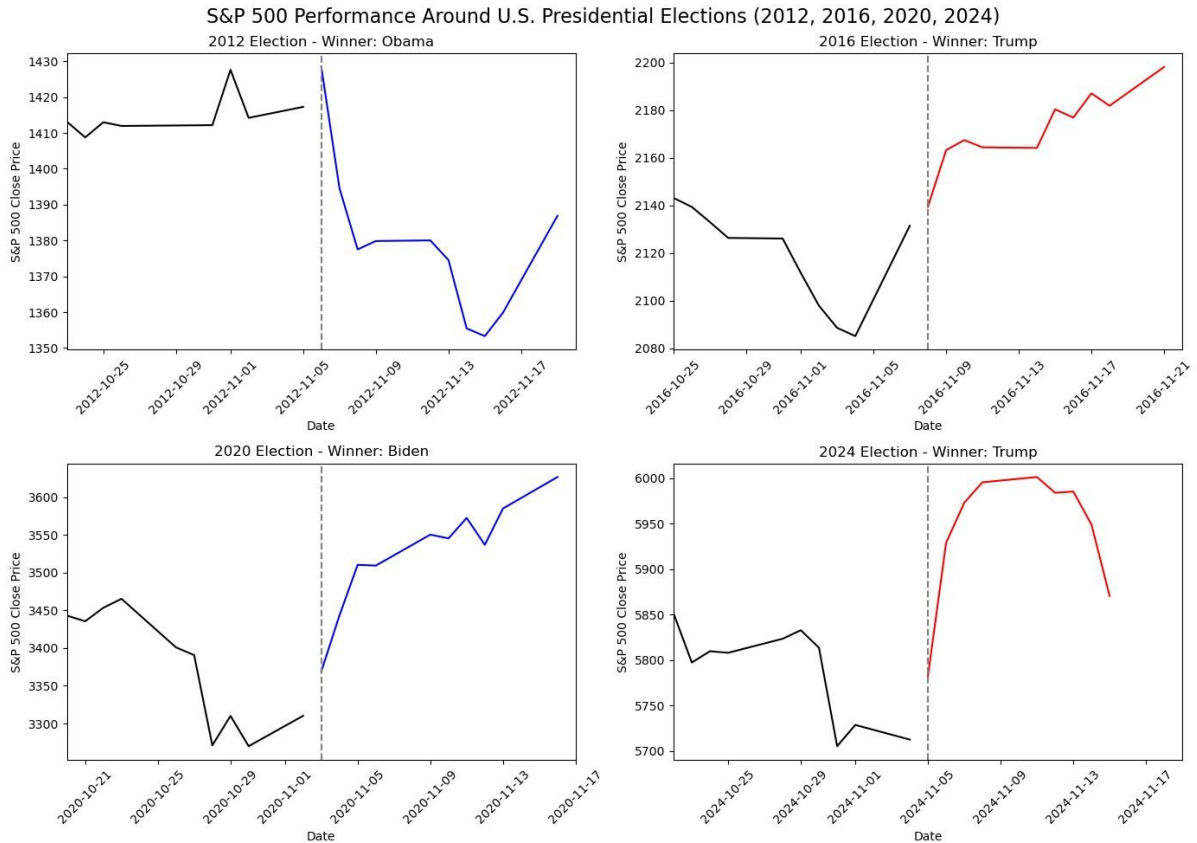
In this analysis, we examined the behavior of five major asset classes – Gold, 10-Year U.S. Treasury Bonds, Bitcoin, S&P 500, and USD/EUR exchange rate (representing the strength of the U.S. dollar) – around four recent U.S. presidential elections. These elections represent a balanced split between wins by the Democratic and Republican parties, with Democrats (Obama and Biden) taking office in two cycles and Republicans (Trump) in two cycles.

The analysis is not conducted under all other factors remaining constant, meaning that various economic, geopolitical, and social factors unique to each election cycle likely influenced asset behavior. For instance, Obama took office amid the aftermath of the 2008 financial crisis, while Trump’s presidency was marked by significant deregulation and tax cuts. Biden, on the other hand, entered office during the COVID-19 pandemic recovery phase, with a considerable fiscal stimulus already in place. Such varied backgrounds introduce factors like monetary policy stances, inflationary pressures, trade tensions, and global market volatility, each affecting investor sentiment and market dynamics in ways that are distinct from the election outcome alone.

Nevertheless, observing the behavior of these assets around each election allows us to draw some interesting inferences. Traditionally, Republicans are perceived as favoring policies that drive economic growth and create value, while Democrats are often viewed as prioritizing stability and value preservation through more regulated, protective economic policies. This ideological contrast may influence investor expectations and, subsequently, market behavior surrounding elections. For instance, investors might anticipate more pro-business, tax-friendly policies under a Republican administration, potentially resulting in immediate market rallies, whereas a Democrat win may be associated with regulatory oversight, leading to a steadier, more stable asset response.

The charts presented here illustrate asset performance over a four-week period, specifically focusing on two weeks before and two weeks after each election day. This timeframe is designed to capture potential trends as the market absorbs both pre-election speculation and post-election results, revealing both, quick and lasting movements triggered by the transition of power. In these charts, years where Democrats won are represented with blue lines, while Republican wins are shown in red, allowing for an immediate visual comparison across election outcomes.

**Figure 1: S&P 500 Performance Around the U.S. Presidential Election**

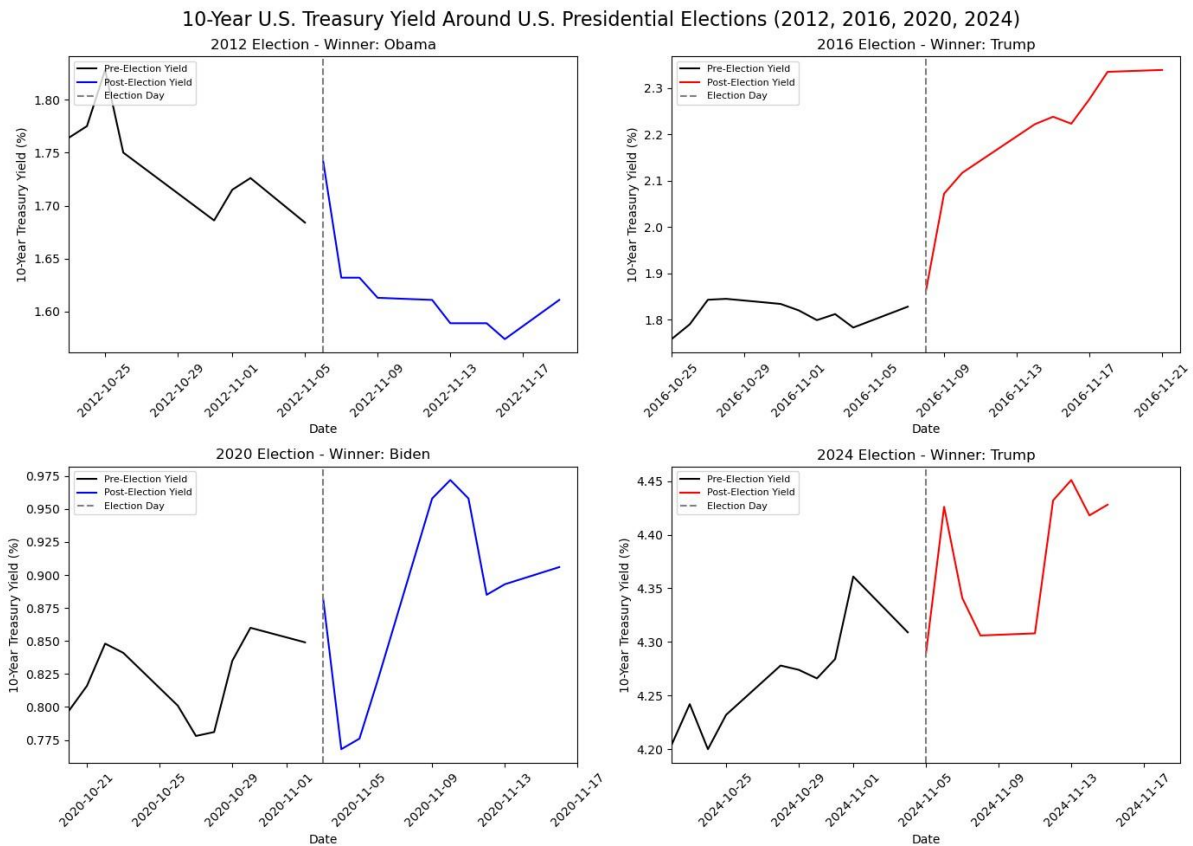


Source: Own computations (Finance Yahoo)

Figure 1 illustrates the performance of the S&P 500 index two weeks before and two weeks after each U.S. presidential election from 2012 to 2024. The results reveal distinct trends in market reactions based on the winning party, with Democratic wins (Obama in 2012 and Biden in 2020) shown in blue and Republican wins (Trump in 2016 and 2024) in red. In the first Democratic win shown (Obama in 2012), the stock market actually dropped, while in the second win for the Democrats (Biden 2020) the S&P 500 rallied. Interestingly, in both Republican victories, we observe more immediate positive market responses, with notable upward movement in 2016 and a similar post-election spike in 2024, albeit with some subsequent volatility in the form of a slight decline.<sup>10</sup>

<sup>10</sup> HASHIM, N. – EL MOSALLAMY, D. (2020): Presidential elections and stock market: a comparative study, pp. 116-126.

**Figure 2: Bond Yields Performance Around the U.S. Presidential Election**



Source: Own computations (Finance Yahoo)

Figure 2 shows the performance of the 10-year U.S. Treasury yield around the U.S. presidential elections of 2012, 2016, 2020, and 2024. It's important to note that a decrease in the yield represents an increase in the bond price, as yields and prices move inversely. If demand for bonds increases, investors are willing to pay a higher price for those fixed payments, effectively driving the price of the bond above its face value. Since the bond's fixed payments remain the same, a higher price results in a lower effective yield (the return the buyer receives on the bond, relative to the price paid).

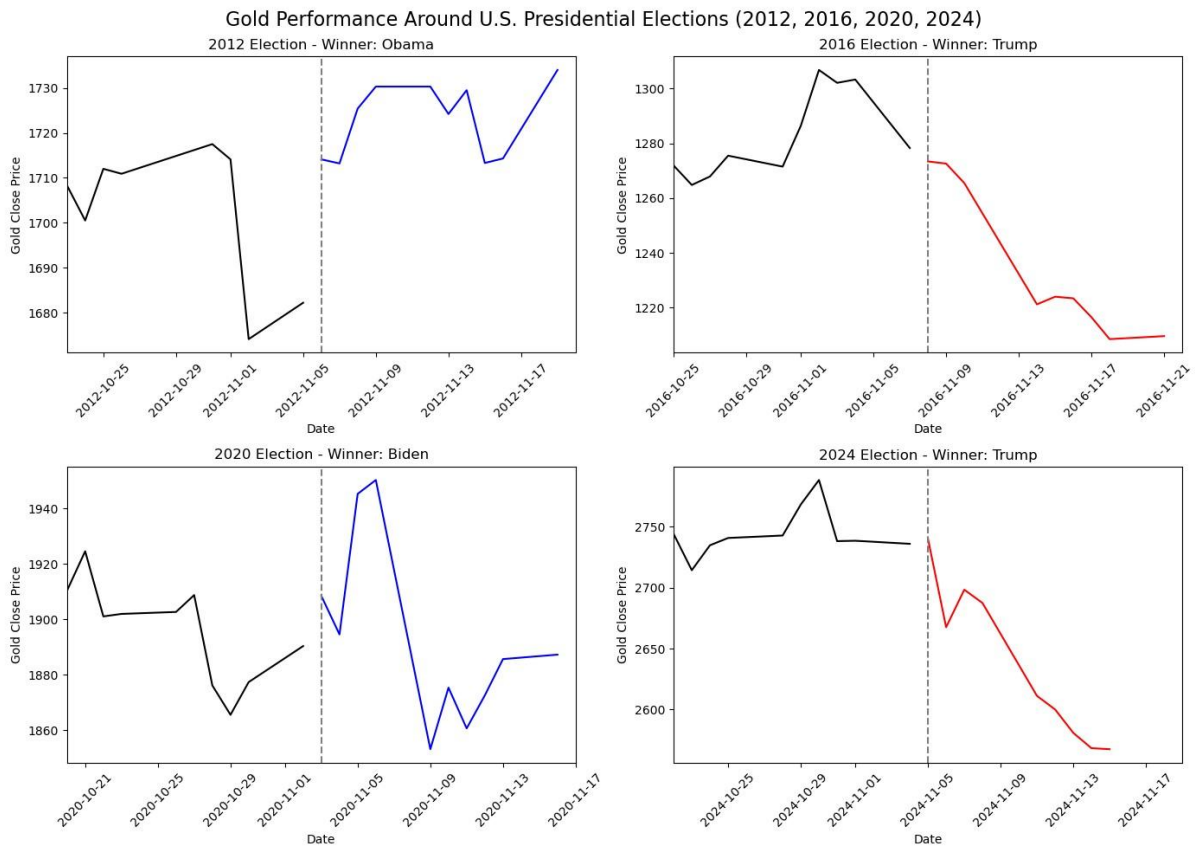
In 2012 (Obama's re-election) and 2020 (Biden's election), the yield drops noticeably right after the election, indicating a shift towards safer assets and increased demand for Treasury bonds, potentially reflecting investor expectations of a more cautious, stability-focused economic policy under a Democratic administration. During the Biden win, however, the yield recovered briefly after.

In contrast, Republican wins in 2016 and 2024 (both won by Trump) show a different pattern, with yields rising sharply post-election, particularly in 2016. This increase in yields suggests lower demand for bonds, possibly driven by expectations of pro-growth policies, such as tax cuts and deregulation, that may lead to increased government borrowing or inflation expectations.

This trend highlights how bond markets react differently based on the perceived economic agendas of each party, with Democrats associated with stability and flight to safety (yield decrease, bond price increase) and Republicans associated with growth and risk-taking (yield increase, bond price decrease).<sup>11</sup>

<sup>11</sup> EICHLER, S. – PLAGA, T. (2020): The economic record of the government and sovereign bond and stock returns around national elections.

**Figure 3: Gold Performance Around the U.S. Presidential Election**



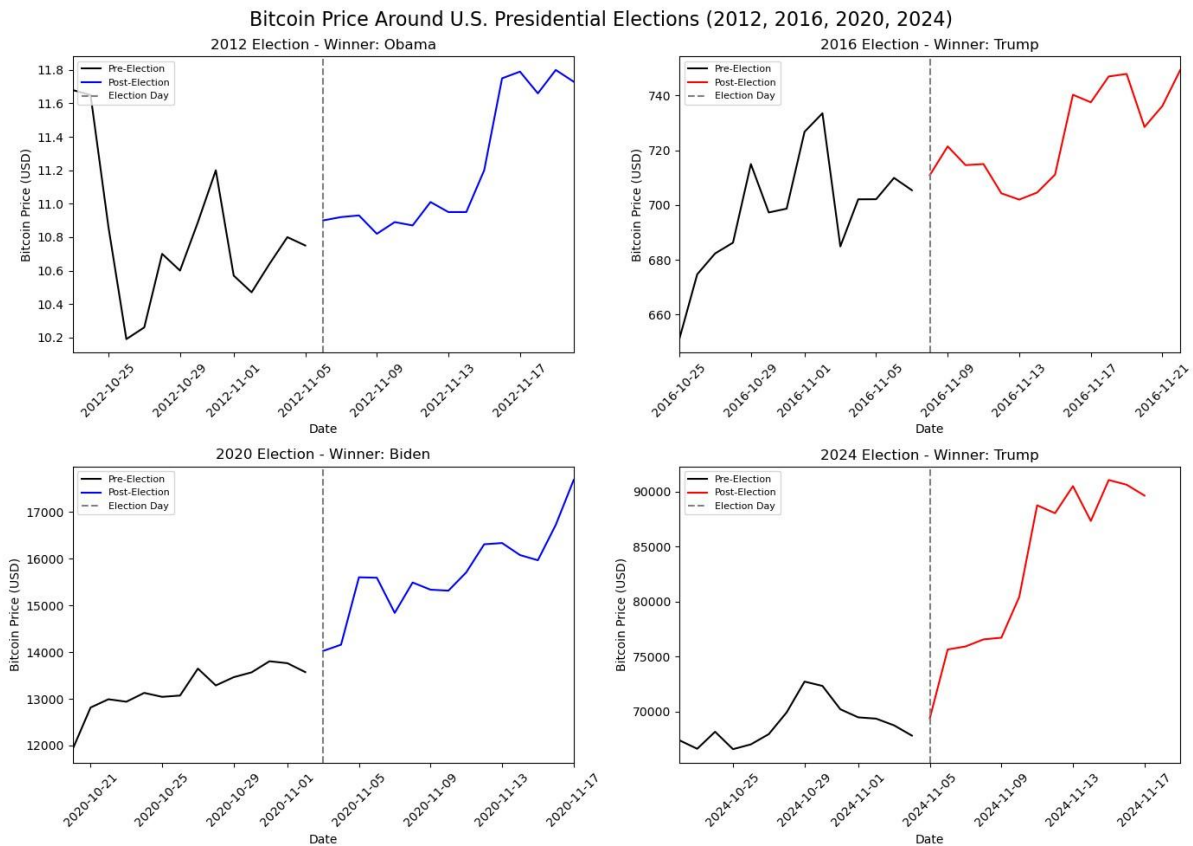
Source: Own computations (Finance Yahoo)

Figure 3 illustrates gold price movements around the U.S. presidential elections in 2012, 2016, 2020, and 2024. In Democratic wins (2012, 2020), gold prices demonstrate relative stability or slight increases post-election, reflecting its role as a safe-haven asset amid perceptions of stability-focused policies. For instance, following Biden’s 2020-win, gold initially spiked, possibly due to pandemic-related uncertainty, before settling at a lower level as confidence in recovery plans grew.

During Republican wins (2016, 2024), Gold shows a different trend. Prices rise before the election, but drop sharply afterward as pro-growth, pro-business policies are anticipated under Trump’s administration. This post-election decline suggests a shift from gold to riskier assets, with investors expecting economic expansion and reduced demand for safe-haven assets.<sup>12</sup> Overall, the data reveals how gold prices react differently based on each party’s perceived economic approach, highlighting its role as a hedge against uncertainty.

<sup>12</sup> BAUR, D. G. – SMALES, L. A. (2018): Gold and geopolitical risk.

**Figure 4: Bitcoin Performance Around the U.S. Presidential Election**



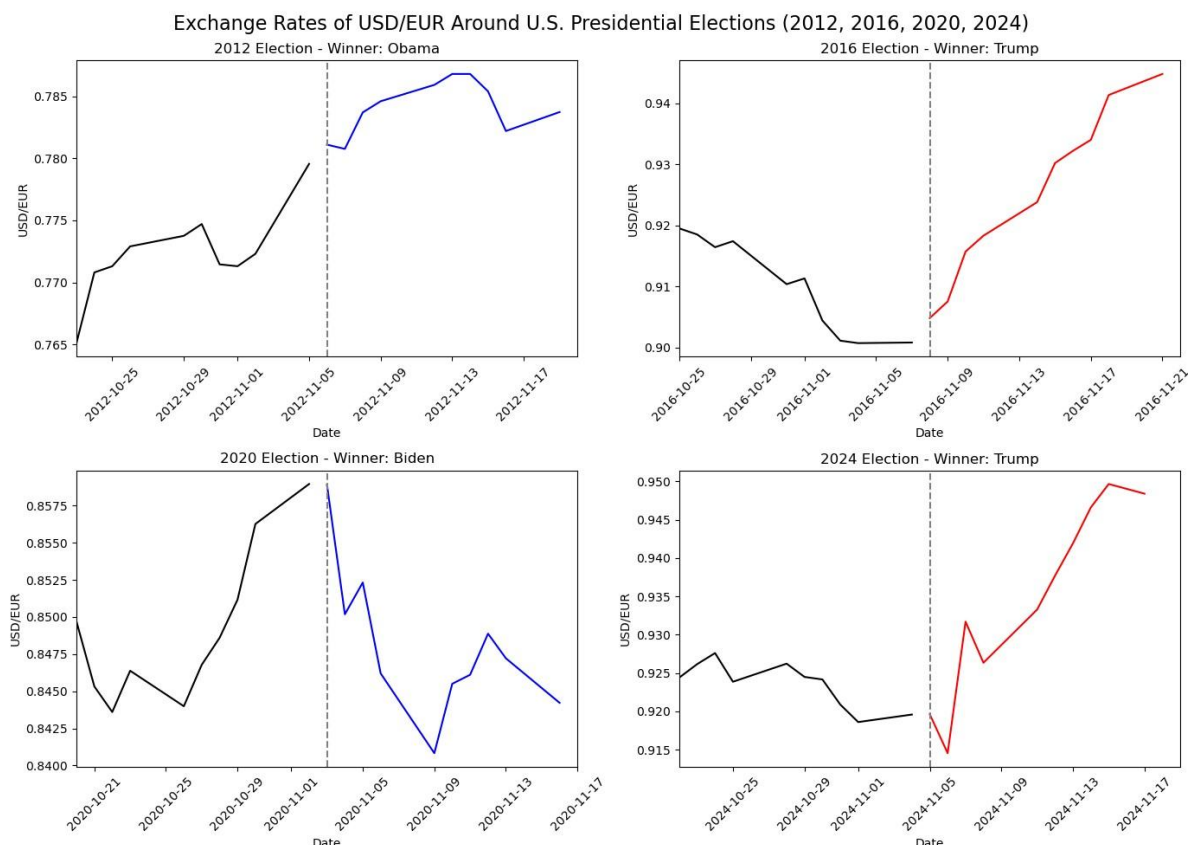
Source: Own computations (Crypto Compare)

Figure 4 shows Bitcoin’s price behavior around U.S. presidential elections from 2012 to 2024. In the early years, Bitcoin was a relatively immature asset, trading at around \$11 in 2012 and approximately \$700 in 2016, far from being a mainstream investment. During these cycles, Bitcoin’s price showed some volatility but lacked the significant institutional interest that would come later.

By the 2020 and 2024 elections, Bitcoin had become more established, with prices around \$17,000 in 2020 and \$90,000 in 2024. Regardless of which candidate won, Bitcoin has rallied post-election quite significantly during the last 4 election cycles, which does not fully support the hypothesis that only a Democratic win would fuel this asset’s growth post election. In 2020, prices rose steadily post-election, reflecting growing acceptance of Bitcoin as a hedge against economic uncertainty (especially in the context of Covid-19 pandemic).<sup>13</sup> In 2024, following Trump’s re-election, Bitcoin saw a sharp increase. This rally may have been influenced by Trump’s pro-crypto rhetoric and his public endorsements of cryptocurrency-related initiatives, which potentially bolstered investor confidence.

<sup>13</sup> AJMI, H. – ARFAOUI, N. (2021): Effects of the political risk on Bitcoin return and volatility: evidence from the 2016 US presidential election, pp. 94-115.

**Figure 5: Development of Exchange Rates Around the U.S. Presidential Election**



Source: Own computations (Finance Yahoo)

Figure 5 presents the USD/EUR exchange rate around U.S. presidential elections from 2012 to 2024, shifting our analysis from traditional investment asset classes to exchange rates to explore the impact of election outcomes on the global economy. The exchange rate shown here (e.g., USD/EUR = 0.95) indicates that 1 USD is equal to 0.95 EUR, meaning that an upward trend in the graph reflects a strengthening (appreciation) of the USD, while a downward trend indicates a weakening (depreciation).

In 2012 (Obama's re-election), the USD appreciates modestly following the election, suggesting stable investor confidence in continued Democratic policies. Conversely, in 2020 (Biden's win), the USD weakens sharply post-election, possibly reflecting concerns over the economic impact of pandemic-related stimulus measures. In both 2016 and 2024 (Trump's victories), we observe a significant post-election appreciation of the USD, indicating optimism in markets potentially linked to Trump's pro-business stance, tax cuts, and deregulation policies.

However, Trump's strong positions on customs duties and tariffs, if implemented broadly, could impact the USD against other major currencies by reducing trade volumes or triggering retaliatory measures. Additionally, Trump's ambition for an increase in deportations poses potential economic risks. Large-scale deportations could strain GDP by removing workers from the labor market and creating fiscal burdens due to enforcement and logistical costs, potentially weakening the USD if markets react to these concerns over economic stability. This highlights the interconnected nature of domestic policies and global currency markets.<sup>14</sup>

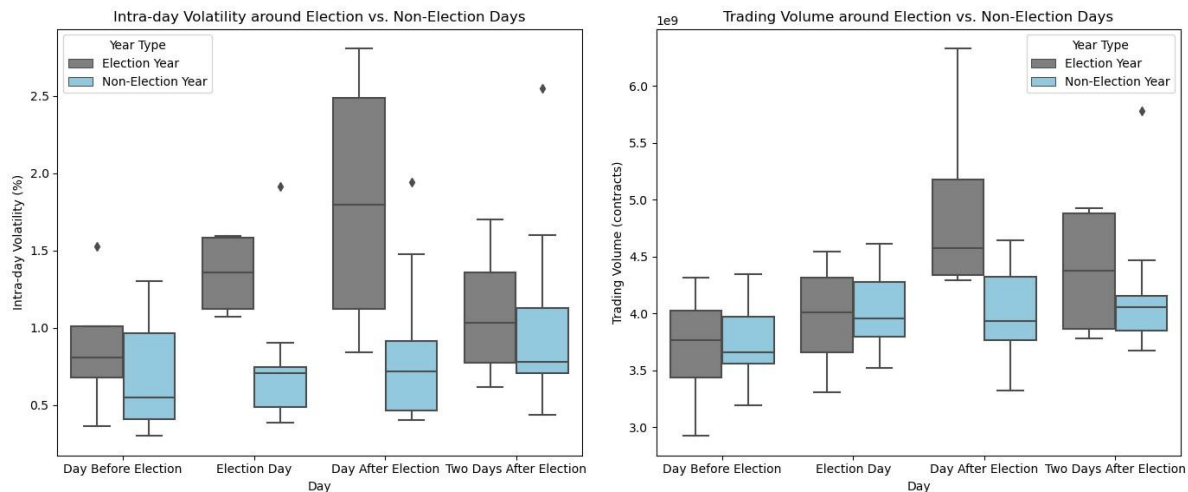
In conclusion, the appreciation or depreciation of the USD has significant implications for investments and asset classes. A stronger USD makes imports cheaper and reduces costs

<sup>14</sup> BONOMO, M. – TERRA, C. (2005): Elections and exchange rate policy cycles, pp. 151-176.



for U.S.-based investors purchasing foreign assets. However, it can also hurt U.S. exports by making them more expensive abroad, which can reduce sales and lower profits for U.S. companies, especially multinationals that rely heavily on foreign markets. Conversely, a weaker USD makes U.S. exports more competitive, often boosting sectors like manufacturing and benefiting commodity prices, as these are typically priced in dollars. Thus, shifts in the USD/EUR exchange rate around elections not only reflect global sentiment toward U.S. policies but also influence the performance of various asset classes, from stocks to commodities and international investments.

**Figure 6: Average Intra-Day Volatility and Traded Volumes on a Trading Day at the Beginning of November on Election and Non-Election Years**



Source: Own computations (Finance Yahoo)

The figure above shows intra-day volatility and trading volume on stock markets for the day before, election day, the day after, and two days after U.S. presidential elections, comparing the last four election years (in grey) with non-election years (in blue). To maintain a consistent basis for comparison, values for non-election years between 2013 and 2023 were calculated using the first Monday of November as a proxy for the "day before election" and the first Tuesday of November as a proxy for "election day." This approach aligns with the fact that U.S. presidential elections are traditionally held on the first Tuesday of November, providing a standardized framework for analysis. By aggregating these values across multiple non-election years and presenting them in a box plot, we establish a baseline that captures typical market behaviors around this period in the absence of an election.<sup>15</sup> This allows for a clearer assessment of how election years differ in terms of volatility and trading volume.

In the left plot, which captures intra-day volatility (percentage price movement relative to the opening price), we observe a significant spike in volatility on the day after the election in election years compared to non-election years. This suggests heightened uncertainty or reactionary movements by investors as they digest the results and consider the anticipated economic policies of the incoming administration. The elevated volatility reflects rapid buying and selling as market participants adjust their positions based on expected changes in regulatory, tax, or fiscal policies.

The right plot illustrates trading volume, measured by the total number of contracts traded. Here, too, we see a noticeable increase in trading volume on the day after the election in election years compared to non-election years. This surge in activity highlights that election

<sup>15</sup> CHAVALI, K. – ALAM, M. – ROSARIO, S. (2020): Stock market response to elections: An event study method, pp. 9-18.

results bring about a period of high engagement on the stock market, as investors react to the political shift and reposition portfolios accordingly. Elevated volume suggests that elections serve as a catalyst for reallocation, with investors either capitalizing on new opportunities or hedging against anticipated risks.

Overall, the day after a presidential election stands out as a particularly active day in capital markets, marked by both heightened volatility and increased trading volume, as market participants respond to the implications of the newly elected administration's agenda.

**Table 1: Two-Week Percentage Change in Key Asset Classes Around U.S. Presidential Elections (2012, 2016, 2020, 2024)**

<b>Election Period</b>	<b>Year</b>	<b>S&amp;P 500</b>	<b>Gold</b>	<b>USD/EUR</b>	<b>Bitcoin</b>
<b>2012</b>	<b>Pre-Election</b>	0.29	-1.53	1.89	-7.96
	<b>Post-Election</b>	-2.91	1.16	0.34	7.61
<b>2016</b>	<b>Pre-Election</b>	-0.54	0.5	-2.03	8.36
	<b>Post-Election</b>	2.74	-5.01	4.42	5.41
<b>2020</b>	<b>Pre-Election</b>	-3.86	-1.05	1.09	13.84
	<b>Post-Election</b>	7.65	-1.11	-1.71	26.08
<b>2024</b>	<b>Pre-Election</b>	-2.37	-0.3	-0.52	-1.75
	<b>Post-Election</b>	1.52	-6.31	3.13	29.14

Source: Own computations (Finance Yahoo, Crypto Compare)

Table 1 shows the two-week percentage change in the prices of four major asset classes - S&P 500, Gold, USD/EUR exchange rate, and Bitcoin - around the U.S. presidential elections in 2012, 2016, 2020, and 2024. For each election year, the table captures the price movement of each asset in the two weeks preceding the election and the two weeks following the election.

These percentage changes offer insight into market sentiment and asset performance as investors respond to the anticipated policies of the incoming administration. Positive values indicate price appreciation over the two-week period, while negative values reflect a decline in price. By comparing pre- and post-election changes, we can observe patterns of investor behavior associated with different political outcomes, economic expectations, and broader market reactions around elections.

Table 1 reveals some interesting trends in how different asset classes responded in the two weeks before and after each U.S. presidential election from 2012 to 2024, with notable differences between Democratic and Republican victories.

The S&P 500 shows mixed performance in the pre-election period, but a clear positive reaction in the post-election period for Republican wins (2016 and 2024). In 2016, following Trump's victory, the S&P 500 rose by 2.74%, reflecting optimism regarding pro-business policies. Conversely, during Democratic wins (2012 and 2020), the S&P 500 showed a stronger rebound post-election only in 2020 with a 7.65% increase after Biden's win, possibly due to the anticipated economic stability measures during the pandemic. Overall, Republican wins appear to generate a more consistent positive response in the S&P 500 post-election.



Gold generally behaves as a safe-haven asset, often appreciating during periods of uncertainty. In Democratic wins, Gold shows slight increases post-election in 2012 and a small decline in 2020, indicating that the asset may attract demand pre-election but stabilize postelection as investor uncertainty eases. For Republican wins, Gold experiences a sharp postelection drop in both 2016 and 2024 (e.g., -5.01% in 2016 and -6.31% in 2024), suggesting reduced demand for safe-haven assets as opposed to more growth focused assets, such as stocks or cryptocurrencies.

The USD/EUR exchange rate shows consistent appreciation (strengthening of the USD) following Republican wins in both 2016 and 2024, with a post-election rise of 4.42% and 3.13%, respectively. This strengthening may reflect investor expectations of policies that support the dollar, such as tax cuts and deregulation. In contrast, Democratic wins show more muted post-election currency movements, with only a small gain in 2012 and a decline in 2020, suggesting that Democratic administrations might create less of a bullish impact on the USD.

Bitcoin's response is particularly interesting due to its emerging role as an alternative asset. Bitcoin experienced a significant post-election surge in both 2020 (Biden's win, +26.08%) and 2024 (Trump's win, +29.14%), possibly reflecting increasing adoption and investor appetite for cryptocurrencies regardless of the party in power. Notably, Bitcoin showed strong gains pre-election in 2016 and 2020, indicating that it may attract speculative interest during periods of uncertainty or policy transition, aligning with its reputation as a decentralized asset.

**Overall Implications:** The table suggests that different political outcomes influence asset classes in unique ways. Republican victories tend to boost the S&P 500 and the USD while reducing demand for safe-haven assets like Gold. Democratic victories, in contrast, show a mixed effect on equity markets and a neutral to slightly positive effect on Gold. Bitcoin stands out as relatively unaffected by party lines, reflecting its unique role as a speculative and relatively new asset in times of broader economic uncertainty.

The implications of U.S. election outcomes extend beyond domestic markets due to the interconnected nature of the global financial system. For instance, international markets, particularly in regions with strong economic ties to the U.S., often exhibit heightened volatility during election periods.

## **Conclusion**

This study examined the performance of key asset classes - S&P 500, Gold, USD/EUR exchange rate, 10-year U.S. Treasury Bonds, and Bitcoin - in the two-week periods before and after U.S. presidential elections from 2012 to 2024. By comparing market reactions to both Democratic and Republican victories, we identified patterns in investor behavior and asset class responses to anticipated policy shifts.

The findings reveal that Republican victories tend to boost equity markets (S&P 500) and the USD, reflecting investor optimism around pro-growth, business-friendly policies. In contrast, Democratic victories are associated with more modest stock market gains and increased demand for safe-haven assets like Gold, which may indicate a preference for stability-focused policies. Bitcoin, as an emerging asset class, exhibited strong post-election gains in recent years regardless of party, highlighting its growing role as an alternative asset, especially during times of economic uncertainty.

These results suggest that market responses to U.S. elections are driven not only by economic expectations tied to each party's platform but also by the evolving characteristics and investor perceptions of each asset class. While the analysis highlights trends associated with political outcomes, it also emphasizes that election impacts are influenced by broader economic and geopolitical conditions specific to each cycle. Overall, this study further underscores the importance of considering political factors in portfolio strategy around election periods,

with different assets responding uniquely based on party outcomes and prevailing economic circumstances.

For investors, these findings suggest the need for strategic portfolio adjustments around election periods. Diversifying into safe-haven assets, such as Gold, during Democratic wins could mitigate volatility, while focusing on equities and the USD might be advantageous under Republican administrations. Policymakers should note that clear and predictable economic policies can reduce market uncertainty, potentially stabilizing investor sentiment globally. Future research could explore these dynamics in emerging markets, where U.S. policy changes often have pronounced effects on capital flows.

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# THE DECLINE OF FRENCH POLITICAL AND SECURITY INFLUENCE IN WEST AND CENTRAL AFRICA

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**Abstract:** The aim of this article is to give an overview of French dominance in the political and security sphere over its former colonies in West and Central Africa, with a focus in its decline in this decade. After a brief look at the background of French political influence, attention will shift to the military presence of France on the continent and its withdrawal. The role of the USA, as the great power closest to France and thus its preferred successor, will also be touched upon. The main conclusion of the paper is that the decline of French influence has been too rapid to determine whether the turn away from France is sustainable or whether it is only a short-term fluctuation which will return to the traditional pattern of dependence on France. The main methods used were the study and analysis of online sources, mainly articles from online databases of scientific journals and relevant media portals.

**Keywords:** Central Africa, Françafrique, French foreign policy, neocolonialism, Sahel, West Africa

**JEL:** F50, F54

## Introduction

For the French colonial empire in Africa, decolonization often comes across as a purely formal act of granting the colonial territories formal independence while preserving in place the uneven economic ties between the metropole and these newly independent territories, the French military infrastructure (and thus the ultimate say of the French metropole in the security aspect of exercising internal sovereignty within the former colonies) as well as the cultural and educational ties legitimizing continued French political influence in the region. This neocolonialist relationship has been given the name Françafrique.<sup>1</sup> The term is used in two ways – on the one hand, it represents ongoing French influence over the political, military, economic and financial aspects of existence of the newly independent African states, on the other hand it is also used as a geographic designation for the grouping of the former colonies that are subject to this relationship.

The lack of significant violent conflict as part of the struggle for independence in most of French Africa, as opposed to the cases of Algeria or Indochina, meant that there was no clear rupture between colonial and postcolonial elites – rather, the gradual nature of decolonization led to favorable conditions for the maintenance of pro-French elites and relationships in the newly created West and Central African countries. The abolition of the colonial empire took place in stages, with its transformation into the French Union in 1946 and then the French Community in 1958, before dissolving such a formalized structure entirely with the *de iure* independence (and withdrawal from the Community) of the African countries in 1960 as the “year of Africa”. From then onwards, relationships were generally guided by bilateral treaties, where France could use its dominant multidimensional power and influence to obtain favorable deals with its former colonies.

The goal of this paper is to present an overview of French political and security dominance over its former colonies in West and Central Africa, with a focus on the decline

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<sup>1</sup> ETOGHO, E. – EBEN, S. – DALTON, A. (2022): French Neocolonialism in Africa: Historical Overview and Summary of Current Events, pp. 829-830.

of this dominance in the 2020s. Its purpose is to shed light on the changing political situation taking place throughout the region over the past several years. This situation can be placed within the context of the growth of multipolarity in international relations since the beginning of the 21<sup>st</sup> century, with the decline of the political clout and economic dominance of the narrowly defined West and the commensurate rise of new powers of the global South. This trend results in the diminishing of the relative power and influence of the Western powers to the benefit of these new powers, but potentially also to the benefit of the other countries of the global South which are or have been dependent on the Western powers in various aspects of their survival and development. The situation can thus also be defined as an aspect of the rise of the global South in general and the African continent in particular. As such, these changes, specifically the decline of French political and military influence over its former colonies, can be seen as a continuation of the process of decolonization – this time not as a formal phenomenon of granting *de iure* independence to formerly colonized territories, but as an attempt by the former colonies to achieve *de facto* independence from informal patterns of political and economic control. Another purpose is therefore to showcase the political and military situation in the studied region to show the underlying conditions which led to the current reorientation of several countries of the region away from France. The diminution of French power over the previous few years comes across as a significant turning point in the history of the countries of the continent since they gained independence, given the strength of French dominance over its former colonies in the past decades. An understanding of the past and present situation is key to evaluating the future prospects of the countries of Francophone West and Central Africa in overcoming the cycle of poverty and dependence, solving their security, economic and social problems, and becoming more equal partners with the rest of the international community in tackling challenges like terrorism, migration and human trafficking on the global stage. The main methods used were the study and analysis of online sources, mainly articles from online databases of scientific journals and relevant media portals.

## **1 The Political Background of Françafrique**

Whether through bilateral or multilateral arrangements, the common denominator was the continued influence of France in most of the newly independent countries, in a pattern that gained the name Françafrique. Its architect was a businessman and adviser to presidents from Charles de Gaulle to Jacques Chirac named Jacques Foccart (31. 8. 1913 – 19. 3. 1997), who created the networks of political loyalties and business interests that shaped the relationships between France and its former African colonies for decades after their independence.<sup>2</sup> As head of the “cellule africaine” (Africa cell) of the French presidential administrations, he was responsible for crafting the overt and covert French policies towards the continent.

The most important goal of French political influence was to support the rise and continuation in power of pro-French political leaders throughout the countries of Françafrique, while removing those seen as a threat to French interests. The latter aspect was sometimes achieved through assassinations (either directly or through their African proxies) of African political leaders advocating for more substantive independence, such as Cameroonian activists Ruben Um Nyobé in 1958 and Félix-Roland Moumié in 1960, Sylvanus Olympio of Togo in the coup of 1963, Outel Bono of Chad in 1979 or Thomas Sankara of Burkina Faso in 1987.<sup>3</sup> Intimidation was also used, as was the case with Guinea under Ahmed Sékou Touré, which refused to join the French Community in 1958, opting for full

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<sup>2</sup> WHITNEY, C. R. (1997): Jacques Foccart Dies at 83; Secret Mastermind in Africa.

<sup>3</sup> ETOGHO, E. – EBEN, S. – DALTON, A. (2022): French Neocolonialism in Africa: Historical Overview and Summary of Current Events, p. 831.

independence from France. The French colonial officials retaliated by destroying public property and infrastructure before their withdrawal, both as a punishment aimed at the Guinean new postcolonial government and as a warning to other countries contemplating the same decision.<sup>4</sup> More visibly, this policy was manifested by continuous French support of political strongmen who consequently cemented their rule for decades, such as the Bongo family in Gabon (president Omar Bongo being in power between 1967-2009 and his son Ali Bongo between 2009-2023, when he was ousted in a coup), the Gnassingbé family in Togo (Gnassingbé Eyadéma in power between 1967-2005 and his son Faure Gnassingbé since 2005), Paul Biya in Cameroon (in office from as prime minister from 1975 and as president from 1979 to date), Blaise Compaoré in Burkina Faso (in office between 1987-2014, following the coup that led to the ouster and killing of Sankara) the Déby family in Chad (president Idriss Déby in power between 1991-2021 and his son Mahamat Déby since 2021). These leaders often kept themselves in power through elections or constitutional amendments abolishing term limits which were widely seen as not being transparent, free and fair. France's support for these leaders and its silence concerning the methods they used to stay in power contrasted with its rhetoric promoting democracy and the rule of law and in the long term it legitimized the idea of coups as a method of breaking the cycle of fraudulent elections. French support for leaders who took power through coups themselves (such as Blaise Compaoré or Idriss Déby) also contrasted with the denouncing of coups aimed against the allies of France,<sup>5</sup> such as Alpha Condé of Guinea in 2021 or Mohamed Bazoum of Niger in 2023.

Once in power, the pro-French leaders could rely on French military assistance in case of coup attempts against them, as seen in Gabon in 1965, when French forces helped put down a revolt against president Léon M'ba, or in Togo in 1986, when the French supported president Gnassingbé Eyadéma against putschist forces. This assistance could also be long-term, exemplified by French military operations such as Operation Épervier in Chad between 1986-2014, and Operation Serval in Mali between 2012-2014, both of which were superseded by Operation Barkhane from 2014 to 2022.<sup>6</sup> The latter operation spanned the entire French Western Sahel region as part of the regional conflict against Islamic jihadist movements. To better coordinate the regional response against Islamic jihadism, five countries of the region (Burkina Faso, Chad, Mali, Mauritania and Niger) established the G5 Sahel.<sup>7</sup> This group of five states, all of which were ruled by pro-French governments at the time, was seen as the evolution of the need to coordinate a common response towards jihadism that led to the region-wide French military operation in the form of Operation Barkhane. The coups in Mali (2021), Burkina Faso (2022) and Niger (2023),<sup>8</sup> motivated in large part by the perceived failure of French military involvement, led to the withdrawal of these three countries from the grouping, leaving it moribund. Conversely, in the wake of the withdrawal of these three countries from G5 Sahel, and, more importantly, from the Economic Community of West African States (ECOWAS), they created a new grouping called the Alliance of Sahel States (ASS) or Alliance des États du Sahel (AES). If this new organization endures, it may become the nucleus of a formalized regional opposition to the continuation of French influence in the form of *Françafrique*.

While the position of France in its former African colonies may be shrinking, that does not mean that these countries are freeing themselves from foreign influence beyond that of France. The region has many qualities which attract political and economic players from outside

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<sup>4</sup> FRENCH, H. W. (2024): *The End of Françafrique?*

<sup>5</sup> ETOGHO, E. – EBEN, S. – DALTON, A. (2022): *French Neocolonialism in Africa: Historical Overview and Summary of Current Events*, p. 839.

<sup>6</sup> CHENA, S. (2020): *Un Sahel couleur kaki. Multiplication des acteurs, complexification des enjeux*, p. 78.

<sup>7</sup> ANTIL, A. (2020): *Le G5 Sahel et le concept de « sécurité-développement »*, pp. 61-62.

<sup>8</sup> EBEN, S. – DALTON, A. (2022): *The Geopolitics of French Wars in Africa: What Can Be Done?*, p. 960.

– a wealth of natural resources, a strategic location between the Euro-Mediterranean realm and further Sub-Saharan Africa, and rising populations meaning expanding markets (notably for weapons due to the proliferation of insurgencies in the region). These conditions have not changed despite the changing position of its former (post-)colonial hegemon, meaning that other powers have expressed or demonstrated ambitions to play a larger role in the political, security and economic affairs of these countries. Indeed, the region is expected to remain an object rather than a subject of international relations for decades to come. The decline of *Françafrique* simply raises the obvious question of who will fill the power vacuum left behind by France. To a limited extent, the situation seems to be reverting to the days of the Cold War, with the USA and Russia taking a renewed interest in the region. Furthermore, with the economic dominance of French companies decreasing, new contenders have arrived on the scene, with motives that are more economical than political. Foremost among them is China, which has been active on the continent since the beginning of the new millennium, but there are also newer players such as India, Japan, Brazil, Turkey, Saudi Arabia and the UAE.<sup>9</sup>

## **2 The Decline of French Influence in the Military-Security Sphere**

Probably the most visible sign of continued French influence in its former colonies has been the presence of French military forces stationed in bases across the countries of the region, as well as the utilization of these forces by France to either prevent coups d'état against friendly governments in these countries (or tacitly enable these coups by withholding their forces) or to combat against various rebellions and militants on behalf of these allies. In recent years, however, France has been reluctant to use its military to protect their governing allies, as was seen during the coups in Niger in July 2023 and in Gabon the following month.<sup>10</sup> This is most likely a result of the recognition of French governing elites that their heavy-handed interventionist presence in the past was doing more harm than good by strengthening the narrative, both in the affected countries and globally (and not least in France itself) of the metropole continuing its dominance over the region even after decolonization via neocolonialist practices. While successive French presidents kept repeating declarations that the era of *Françafrique* was over in their time,<sup>11</sup> the repeated instances of French military intervention made these claims hollow in the eyes of the people of the affected African states, resulting in their progressive discontent with the influence of their former colonial metropole and thereby the progressive strengthening of anti-French sentiment. This was compounded by the continuing inability of these countries to break out of their chronic and severe poverty, which further led to the identification of the permanent economic problems of the former French colonies with their elites backed by France, and thus ultimately with France itself. The coups of the past few years seem to be the culmination of this discontent, demonstrated by the apparent popular support for the coups.

While the current expulsion of French military sources is mostly visible and associated with the Coup Belt countries of the Sahel, the drawdown can be said to have started outside of the Sahel region, in the Central African Republic in 2021. That year, French president Macron froze military ties with the former French colony on the grounds that its government was clamping down on political opposition and had done nothing to prevent a burgeoning anti-French disinformation campaign linked to Russia. While this termination of military cooperation was done on the French initiative unlike the future instances in the states

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<sup>9</sup> OBADARE, E. (2023): A “New Scramble for Africa”?

<sup>10</sup> KEATEN, J. – MEDNICK, S. – ANNA, C. (2023): France’s waning influence in coup-hit Africa appears clear while few remember their former colonizer.

<sup>11</sup> FAYE, O. (2023): The repeated farewells of French presidents to 'Françafrique'.

of the Sahel, it demonstrates France has been losing ground to rival powers, in this case Russia in the domain of military influence over its former colonies.

Yet the military influence of France truly started to unravel over the course of 2022 and 2023, when three countries of the Sahel – in order, Mali, Burkina Faso and Niger – expelled French soldiers from their territory. It started in August 2022, when the final contingent of 4 500 French troops taking part in Operation Barkhane left Mali. The following January, the ruling military junta of Burkina Faso, installed after the coup of September 30, 2022, asked the French troops in the country to leave as well, giving them a deadline of four weeks. The French withdrawal was accomplished by February 18, 2023, with the country swiftly turning to the Russian mercenary Wagner Group as a replacement for the French military presence. The last instance of French military withdrawal from the territory of a former ally was the case of Niger, which underwent a coup in July 2023. By December 22, the first of the formerly 1 500 French soldiers had left the country, along with the French embassy being closed.<sup>12</sup>

However, these recent developments do not mean that the military presence of France in its former colonies is at an end. There are still several countries that continue to host French military bases. As of November 2023, French military personnel are present in five countries in Africa – Chad, Gabon, Ivory Coast, Senegal and, outside of the scope of this article but mentioned for the sake of completeness, Djibouti, which hosts the largest remaining contingent at 1 500 soldiers. Of these countries, Chad is becoming especially important for France and its other allies of the global West. Chad is the last partner among the states of the Sahel coup belt willing to host French soldiers in the continuing fight against rebels, Islamist militants and people traffickers, after France were forced to withdraw its forces from the other above mentioned countries. The country is currently host to almost 1 000 soldiers quartered at three bases – near the capital N'Djamena, at Abéché in the east of the country and at Faya in the north. The mandate of these forces, designated as the French Elements in Chad (Éléments français au Tchad, EFT) is to provide logistical, intelligence and counter-terrorism support to the Chadian army (Faye, 2023) [10].<sup>13</sup>

Another important contingent remains in Gabon, which is the last country to host French bases in what was formerly French Equatorial Africa, and has done so since its formal independence in 1960. This is despite the August 2023 coup that unseated longtime French ally president Ali Bongo, with the coup leaders maintaining a more conciliatory stance towards France, not wishing to turn their back on the country completely, unlike their counterparts in the Sahel. Whichever way the situation in Gabon develops, the country is still the location of two military bases – the Charles de Gaulle Camp in the capital of Libreville, and an air unit at the Guy Pidoux air base also near the capital. Together, the French Elements in Gabon (Éléments français au Gabon, EFG), as they are termed since 2014, comprise 350 soldiers. As for the Ivory Coast, it is the seat of French operational control for the region with a forward operating base, supporting upwards of 950 soldiers, being set up as part of a defense agreement in 2015. The current French presence in the country dates to 2002, when France set up the peacekeeping Operation Licorne in the aftermath of the Ivorian civil war.<sup>14</sup> Lastly there is Senegal, which is the location of two military camps near the capital Dakar, as well as a high-frequency radio transmitting station at Rufisque, also near the capital. These bases hold 400 French troops, known as the French Elements in Senegal (Éléments français au Sénégal, EFS) (Faye, 2023) [10].<sup>15</sup>

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<sup>12</sup> LAWAL, S. (2023): Au revoir, Sahel: Did 2023 crush France's influence in Africa?

<sup>13</sup> FAYE, M. (2023): Why does France have military bases in Africa?

<sup>14</sup> CHENA, S. (2020): Un Sahel couleur kaki. Multiplication des acteurs, complexification des enjeux, p. 78.

<sup>15</sup> FAYE, M. (2023): Why does France have military bases in Africa?



### **3 Managing French Decline: Can the USA Take Over France's Role?**

The power most ready to replace French influence in Françafrique is the USA, which has been present in the region since the time of its decolonization. In the context of the Cold War, it has attempted to keep the countries within the liberal capitalist bloc and prevent the expansion of Soviet or general left-wing influence, whether in the form of Marxism, African Socialism or left-wing nationalism and pan-Africanism, due to ideological alignment in opposition to these perceived enemies. In the pursuit of this goal, the USA has often collaborated with France and other Western partners, e.g. the UK, Israel, (West) Germany, etc. As such, it is the country that France would prefer to cede influence to, if such a step should prove necessary, compared to powers such as Russia or China. While the USA has stepped back from Africa as a whole in the decades after the end of the Cold War, in recent years it has been returning to the continent, with a special focus on the Sahel (as well as East Africa) in the context of the War on Terror and the proliferation of militant Islamist groups. An early example of this return to Africa was the establishment of the United States African Command (AFRICOM) of the US Department of Defense in 2007. Prior to this move, most of Africa (apart from Egypt, Sudan, Kenya and the countries of the horn of Africa) was part of the European Command, showing the low status of the continent in American military strategy and planning, as well as the perceived linkage of African issues with those of their former European colonial metropolises. Yet in spite of this attempt to increase US political and security influence over the continent through the elevation of Africa into a separate military command, the results have been mixed, with the USA unable to come to an agreement with any African country to host the headquarters of this command, which means that the headquarters of AFRICOM are located near Stuttgart in Germany. A more successful result of US intentions to play a larger role in the security domain within the African continent was the opening of a US military drone base in Agadez, Northern Niger, in 2019. This base has a central strategic location with regards to Northern, Western and Central Africa, making Niger an important linchpin of US (and Western) military power in the region. This was demonstrated by the reluctance by the USA to label the coup in Niger as such, which was rewarded by the ruling junta in enabling the drone base to remain in the country instead of being expelled like the French military presence. This pragmatic stance shows the importance of Niger to the USA.<sup>16</sup> It also demonstrates that the interest of the USA in the region is primarily political and military, as part of its geopolitical rivalry with Russia and China. But even in spite of this reality, the USA does have increasing economic interests in the the countries of the region, especially in natural wealth, as is evident from the presence of American-headquartered multinational companies such as ConocoPhillips.<sup>17</sup> And while the interests of these two powers are closely aligned in the realm of military security, their interests in the sphere of economics are often at odds. As an example, the USA has been prodding the African countries to create a continent-wide free trade zone, which would further diminish French economic influence over its former colonies. The USA can also present itself as a desirable trading partner by pointing to its strong economic relationship with Anglophone countries in Africa and emphasizing the benefits of these relations, and thereby reorient trade and investment opportunities from France to itself, at least in the case of African governments and elites which would prefer to continue developing closer ties to the West. Yet the USA must remain wary of being too successful in undercutting French influence in Western and Central Africa unless it is willing and able to pick up the responsibilities, whether military, financial or otherwise, that go with this influence. Otherwise, it may just be aiding those domestic African

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<sup>16</sup> AJALA, O. (2024): Scramble for the Sahel – why France, Russia, China and the United States are interested in the region.

<sup>17</sup> GAYA, M. L. (2023): How the Sahel region's mineral and energy wealth is being stolen.

and foreign interests which seek to decrease the power of the West in Africa in general, and replace it with non-Western powers, notably Russia and China.<sup>18</sup>

### Conclusion

After more than sixty years following the dissolution of the French colonial empire on the African continent, it is obvious that France has maintained outsized influence over its former colonies. In the political and security realms, France has been the guarantor of stability in the region for better or worse, often intervening against military coups (or letting them happen by staying on the sidelines), thereby preserving its political allies in power for several decades in some cases. France has also continued to use its military bases on the territories of the former colonies and conduct military operations on behalf of these countries and their ruling elites against Islamist and separatist insurgencies, providing the sort of military firepower the African countries themselves lack and thereby holding the regional balance of power in its hands.

However, the years since the beginning of this decade seem to be a period of significant change in this reality, with several former French colonies rejecting continued influence from their erstwhile ruling country. This development is mostly apparent in the realms of politics and security, with several countries (in order, Mali in 2020, Guinea in 2021, Burkina Faso in 2022 and both Niger and Gabon in 2023) undergoing coups d'état in the name of rectifying the poor economic and security situation of their countries which the putschists blame on their national pro-French political elites. As a result of these coups, the affected countries have been turning away from France as their main political and security ally and turning elsewhere, especially towards Russia and its Wagner Group paramilitary organization. This has led to the expulsion of French troops from Mali, Guinea and Niger. While France preserves its military bases and good relations with several other countries, its general influence in the region is at a significant ebb compared to even a decade previously.

Since the turn away from France by the discussed countries is too recent, it is not yet clear whether it is truly the beginning of the end of *Françafrique*, or merely a short-term disturbance which will eventually return back to the previous “normal” of the region as a sphere of influence of France. Much will depend on the success or failure of the new regimes of the “Coups Belt” in fighting the Islamist and separatist insurgents and in addressing the economic problems which the former ruling elites failed to resolve. If the new leaders of these states fail, this may open the door for a return of French political and military influence to the region. Much will also depend on whether other outside powers (the USA, Russia, China and others) will be willing and able to fill in the vacuum left by the French withdrawal, to provide the necessary economic and military support to prop up the still fledgling states of the region before they can stand on their own feet. But this poses its own risk to the states seeking substantive independence from France, in that they may (knowingly or not) exchange French dominance for that of another great power, meaning that their newfound sovereignty might prove to be just as illusory as that of today. In the end, the path to true independence and meaningful sovereignty lies in the decisions of the countries of *Françafrique* themselves.

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<sup>18</sup> JOHANSSON, K. (2023): US Response to the Decline of French Influence throughout Francophone Africa.

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# CÉSAIRE, BAUMAN AND ADORNO AND HORKHEIMER ON THE HOLOKAUST

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**Abstract:** This paper compares Zygmunt Bauman's thesis on modernity and the Holocaust with Theodor Adorno and Max Horkheimer's critique of the Enlightenment and its connection to modernity in relation to the Holocaust. Both approaches reject the Holocaust as a unique event, though for Bauman, it is unique in its rationality and bureaucracy, embodying a modernist form. However, Bauman argues that modernity does not inevitably lead to the Holocaust. Bauman and Adorno consider the Enlightenment to be inherently totalitarian. While neither directly addresses the Holocaust's relationship to modernity, they suggest that modernity, rooted in Enlightenment principles, is fundamentally problematic. Aimé Césaire offers a corrective perspective, pointing to genocides that occurred prior to the Holocaust during colonization. For Césaire, the Holocaust is not exceptional, as similar events already occurred.

**Keywords:** Holocaust, modernity, colonialism, genocide, rationality

**JEL:** L23, Q01

## Introduction

Where should one look for the causes of the Holocaust? Many social scientists have attempted to answer this question. The main debate lies between those who view the Holocaust as an extraordinary event, detached from the civilization in which it occurred, and those who argue that it is an integral part of that civilization, requiring profound reckoning.

This article aims to compare two somewhat different responses from the second camp: Zygmunt Bauman, author of *Modernity and the Holocaust*, and Theodor Adorno and Max Horkheimer of the Frankfurt School, authors of *Dialectic of Enlightenment*.

Both Bauman and Adorno with Horkheimer reject the notion of the Holocaust as something exceptional. While Habermas emphasized German responsibility for the crimes of the Holocaust, Bauman rejected this thesis, seeing the Holocaust as universal and deeply connected to modernity. In this, he aligned with Adorno and Horkheimer.

Bauman references Adorno and Horkheimer's work in the concluding part of his trilogy *Modernity and Ambivalence*. He writes: "Every reader of the book will notice that the central issue is firmly rooted in themes first articulated by Adorno and Horkheimer in their critique of Enlightenment (and, through it, modern civilization)"<sup>1</sup> Bauman expressed an "elective affinity" with Adorno, considering Adorno's critique of the "rationality (not banality) of evil" one of his most significant legacies.<sup>2</sup>

In the first section, I will explore Aimé Césaire's perspective on the Holocaust, followed by a comparison of Bauman's views with those of Adorno and Horkheimer.

## 1 Aimé Césaire: Experiences of "pre-Nazism" Beyond Europe

An empirical precursor to Bauman and Adorno with Horkheimer is the postcolonial approach to the Holocaust. This perspective cannot regard the Holocaust as exceptional within Western civilization, as genocide was a regular feature of colonial violence. The death toll from centuries of colonialism far exceeded the number killed during the Holocaust.

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<sup>1</sup> CATLIN, J. (2022): Bauman, the Frankfurt School, and the tradition of enlightened catastrophism, p. 201.

<sup>2</sup> CATLIN, J. (2022): Bauman, the Frankfurt School, and the tradition of enlightened catastrophism, p. 201.

One of the leading figures in this school of thought was Aimé Césaire, a writer and politician from Martinique who served in the French National Assembly from 1945 to 1993. His *Discourse on Colonialism* is a cornerstone of postcolonial thought and addresses, among other issues, the Holocaust.

Césaire's central idea is that "colonization systematically robs the colonizer of their civility, as it literally stupefies, degrades, and awakens in them latent instincts such as greed, violence, racial hatred, and moral relativism."<sup>3</sup> He illustrates how colonial violence corrupts both the colonized and the colonizer: "Whenever a Vietnamese head is severed or an eye gouged out, and France tolerates it, when a girl is raped and France tolerates it, when a Malagasy is silenced and France tolerates it, the civilization that burdens the world with its dead weight gains ground, regression sets in, gangrene spreads, and at the end of all these broken agreements and extended lies [...] a poison enters Europe's veins, and the continent begins its slow but certain descent into barbarism."<sup>4</sup>

For Césaire, colonization is not only a problem for the colonized, who are gradually destroyed, but also for the colonizer, who is degraded psychologically. The deliberate harm done to others also harms oneself.

This thought leads Césaire to connect colonialism and Nazism: "And so, one fine day, the bourgeoisie wakes up to a shocking recoil: Gestapos appear, prisons fill, torturers innovate, refine, and debate around execution tables."<sup>5</sup>

People recognize Nazism but fail to admit that "before we became its victims, we were its accomplices; we endorsed this Nazism before we began to suffer from it."<sup>6</sup> This complicity was overlooked because "until now, Nazism only affected non-European nations."<sup>7</sup> According to Césaire, every distinguished, humanist, Christian bourgeois carries a Hitler within and cannot forgive Hitler "not for the crime itself, the crime against humanity, the degradation of man, but the crime against the white man, the degradation of the white man, and for extending colonialist methods, which had so far been reserved for Algerian Arabs, Indian coolies, and African Negroes, to Europe."<sup>8</sup>

Césaire concludes that "no one colonizes innocently, no one colonizes with impunity."<sup>9</sup> For him, a civilization that defends colonization is morally bankrupt, a civilization in decline.

At the end of the dead-end street called Europe stands Hitler, because "no one colonizes innocently, no one colonizes with impunity."<sup>10</sup> For Césaire, a civilization that defends colonization is a sick civilization, a morally afflicted civilization. "Colonization is a bridgehead leading to the civilization of barbarism, from which the total negation of civility can erupt at any moment."<sup>11</sup> "The colonizer, who secures a clear conscience by beginning to see the other as an animal and learning to treat them as such, objectively and slowly becomes an animal himself."<sup>12</sup>

Césaire's reflections on colonialism and Nazism are significant for discussions about the causes of the Holocaust. It is crucial to note that his essay was first published in 1950, when the atrocities of colonialism were well-known. Bauman's *Modernity and the Holocaust* was published in 1989, and Adorno and Horkheimer's *Dialectic of Enlightenment* in 1947.

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<sup>3</sup> CÉSAIRE, A. (2011): Rozprava o kolonialismu, pp. 87-88.

<sup>4</sup> CÉSAIRE, A. (2011): Rozprava o kolonialismu, p. 88.

<sup>5</sup> CÉSAIRE, A. (2011): Rozprava o kolonialismu, p. 88.

<sup>6</sup> CÉSAIRE, A. (2011): Rozprava o kolonialismu, p. 88.

<sup>7</sup> CÉSAIRE, A. (2011): Rozprava o kolonialismu, p. 88.

<sup>8</sup> CÉSAIRE, A. (2011): Rozprava o kolonialismu, p. 88.

<sup>9</sup> CÉSAIRE, A. (2011): Rozprava o kolonialismu, p. 89.

<sup>10</sup> CÉSAIRE, A. (2011): Rozprava o kolonialismu, p. 89.

<sup>11</sup> CÉSAIRE, A. (2011): Rozprava o kolonialismu, p. 89.

<sup>12</sup> CÉSAIRE, A. (2011): Rozprava o kolonialismu, p. 92.

This connection between Nazism and colonialism could have been drawn even during the Holocaust itself. German genocides in Africa were not isolated events but rather unremarkable components of colonialism. The defeat in the First World War and the loss of colonies significantly reduced Germany's opportunities for mass murder and plundering.

Colonialism was not only marked by genocide but also by the establishment of concentration camps. While these camps were primarily labor camps where death was a frequent, albeit unintended, consequence, it is important to remember that Germans also used such facilities to concentrate subjugated populations.<sup>13</sup> Both systems, colonialism and later totalitarian regimes, shared the need to control people in order to exploit their labor for self-enrichment. While genocides occurred in ways other than through concentration camps, it is also noteworthy that whereas the Nazi goal was to rid Germany or Europe of Jews—whether through deportation or extermination—the aim of colonization was never total annihilation, as the exploitation of labor would have then been impossible.

There is an argument to consider about the mass deaths in colonial concentration camps, where intent is debatable. One must question how mass death can be regarded as unintentional. Large-scale death could have been prevented, and failing to do so when people are under the control of a government places the blame for those deaths on that authority. If someone dies of starvation under the control of a party that has enough food, it is difficult to label it neglect. When it involves tens of thousands of people, the term genocide may also be applicable.

## 2 Bauman, Adorno, and Horkheimer on the Holocaust

What Aimé Césaire contributed to our understanding of the Holocaust is its connection to colonialism. The atrocities of colonialism preceded the atrocities of Nazism. While this empirical link is evident, it is complemented by theoretical connections. Both Nazism and colonialism are tied to modernity, raising the question: what is the nature of this connection?

Adorno and Horkheimer, as well as Bauman, provide differing answers. For Bauman, the Holocaust is a possible but not inevitable product of modernity, while Adorno and Horkheimer see modernity as inherently linked to the Holocaust.

For Bauman, "modern civilization in itself is certainly not a sufficient condition for the Holocaust; however, it is undoubtedly its necessary condition."<sup>14</sup> He describes the Holocaust as "a unique but significant and reliable test of the hidden possibilities of modern society."<sup>15</sup>

Bauman writes that "the light the Holocaust sheds on our understanding of bureaucratic rationality is blindingly evident when we realize the extent to which the very idea of the Final Solution was the product of bureaucratic culture"<sup>16</sup> Physical extermination was chosen as "the most suitable and effective means of achieving the expanded goals."<sup>17</sup> This decision was "a product of routine bureaucratic processes: calculations of ends and means, budget balancing, and universal application of rules."<sup>18</sup> Importantly, institutions responsible for the Holocaust "were not, in any legitimate sociological sense, pathological or abnormal."<sup>19</sup>

Bauman identifies three factors that erode moral barriers to cruelty: authorization, routine, and dehumanization. Orders must come from individuals authorized to issue

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<sup>13</sup> KREIENBAUM, J. (2019): *A Sad Fiasco: Colonial Concentration Camps in Southern Africa, 1900–1908*.

<sup>14</sup> BAUMAN, Z. (2002): *Modernita a holokaust*, p. 38.

<sup>15</sup> BAUMAN, Z. (2002): *Modernita a holokaust*, p. 36.

<sup>16</sup> BAUMAN, Z. (2002): *Modernita a holokaust*, p. 40.

<sup>17</sup> BAUMAN, Z. (2002): *Modernita a holokaust*, p. 42.

<sup>18</sup> BAUMAN, Z. (2002): *Modernita a holokaust*, p. 42.

<sup>19</sup> BAUMAN, Z. (2002): *Modernita a holokaust*, p. 46.

commands, and the actions must become routine, specified through directives. The loyalty to an organization suppresses personal preferences or identity in favor of obedience to orders. Morality is replaced by discipline.

Another key feature is the fragmentation of the killing process. By dividing labor into small tasks, none of which carries the moral weight of murder, the process becomes a routine procedure among other duties. The perpetrators dissociate themselves from guilt and view their roles as ordinary subordinates within a larger system.

This implies, however, that rationality is ineffective against the Holocaust. On the contrary, it is rationality itself that facilitates the Holocaust. The rational division of labor into specific tasks, which makes the work easier and to some extent even possible, ultimately results in a morally unacceptable act.

Bauman writes, "Modern genocide is a genocide with a goal,"<sup>20</sup> one aimed at a "grand vision of a better and radically different society. Modern genocide is a component of social engineering meant to create an orderly society aligned with a plan for perfection."<sup>21</sup> The Enlightenment, with its rigid definitions of truth and identity based on reason, may share a similar aim: to eliminate anything perceived as irrational or unsuitable for the envisioned perfect society. The goal itself therefore does not absolve modernity of the fact that the possibility of genocide can become its necessity.

It is important to recognize Bauman's similarity to Horkheimer. He compares Auschwitz to a modern factory. He quotes Feingold, who stated that Auschwitz was a profane extension of the modern factory system. He mentions chimneys, cyanide pellets produced by the German chemical industry. It was simply a "normal" integration into German production chains, except that the result was not another product, but death. However, all the ingredients were "normal."<sup>22</sup> He also quotes Stillman and Pfaff, stating that Buchenwald belongs to our West just as much as River Rouge in Detroit – "we cannot deny Buchenwald as a random deviation in the essentially healthy Western world."<sup>23</sup>

Adorno and Horkheimer offer a more abstract perspective on the Holocaust, primarily relating it to the Enlightenment, which they view as its foundation. "Enlightenment is totalitarian,"<sup>24</sup> or in other words, "Enlightenment is totalitarian like few other systems."<sup>25</sup> However, the connection between fascism and the Enlightenment is not always clear due to the abstract nature of the philosophical treatise *Dialectic of Enlightenment*. For Adorno and Horkheimer, the problem lies in reifying thought. This, like sick thinking, "contains the will of a subjective purpose imposed on an external thing, forgets the thing itself, and in doing so already performs violence upon it, which is later carried out in practice. The unconditional realism of civilized humanity, which culminates in fascism, is a special case of paranoid delusion that dehumanizes nature and ultimately the very nations themselves."<sup>26</sup> The madness of rationality then manifests in the fact that "the detached production giants did not overcome the individual by ensuring their full satisfaction, but by erasing them as a subject. In this lies their perfect rationality, which merges with their madness."<sup>27</sup>

Bauman not only mentions the issue of colonialism but also that of nature. It is here that Adorno and Horkheimer make a significant innovation by positioning reason as a form

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<sup>20</sup> BAUMAN, Z. (2002): *Modernita a holokaust*, p. 137.

<sup>21</sup> BAUMAN, Z. (2002): *Modernita a holokaust*, p. 137.

<sup>22</sup> BAUMAN, Z. (2002): *Modernita a holokaust*, p. 31.

<sup>23</sup> BAUMAN, Z. (2002): *Modernita a holokaust*, p. 31.

<sup>24</sup> ADORNO, T. – HORKHEIMER, M. (2009): *Dialektika osvícenství*, p. 20.

<sup>25</sup> ADORNO, T. – HORKHEIMER, M. (2009): *Dialektika osvícenství*, p. 36.

<sup>26</sup> ADORNO, T. – HORKHEIMER, M. (2009): *Dialektika osvícenství*, p. 189.

<sup>27</sup> ADORNO, T. – HORKHEIMER, M. (2009): *Dialektika osvícenství*, p. 200.



of domination, as an oppressor. They compare humanity to God in relation to nature: "As the ruler over nature, the forming god and organizing spirit are equal to each other. The true resemblance to God in humans lies in their sovereignty over earthly existence, in the lord's gaze, in command. Myth transitions into enlightenment, and nature into mere objectivity... Enlightenment treats things as a dictator treats people. It knows them to the extent that it can manipulate them."<sup>28</sup>

In this regard, the presumption of the Holocaust as a possibility is the most questionable. Enlightenment supremacy over nature leads humanity toward its own destruction. Since nature is also the foundation of human existence, the Enlightenment approach becomes the basis of the ongoing ecocide. It is clear that the last victim of this ecocide will be humanity itself. After its end, perhaps some form of self-correction will occur in different climatic conditions. It is apparent that, at the time of writing *Modernity and the Holocaust*, the climate crisis may not have seemed as critical as it does today, and from a sociological or philosophical perspective, it may not have played as significant a role in Bauman's thinking as it might today. However, this does not change the fact that if modernity enabled the Holocaust and also enables the ongoing ecocide, it may be worth considering whether both are possible or necessary consequences of modernity. It is clear that in doing so, we must keep in mind that although genocides occur relatively often, they certainly do not happen constantly and everywhere, and they often occur out of sight. The ongoing ecocide is also something against which many people define themselves, but they are simply too weak to reverse it.

Bauman emphasizes the modern elements necessary for the Holocaust. The first is racial symbolism, "the vision of an endemic and fatal defect, which is essentially incurable and which, moreover, can spread spontaneously if left unchecked."<sup>29</sup> Similarly crucial is medical practice, which is "a model of health, normality, the strategy of separation, and surgical techniques"<sup>30</sup> and finally, the engineering approach to society, "the belief in the artificiality of social order, expertise."<sup>31</sup> "For these reasons, the exterminatory version of anti-Semitism should be seen as a thoroughly modern phenomenon; something that could only have emerged in the advanced stage of modernity."<sup>32</sup>

Bauman also connects modernity and planning elsewhere. According to him, the lethal combination "came from the typically modern ambition for social planning and engineering, along with the typically modern concentration of power, resources, and managerial expertise."<sup>33</sup>

Perhaps the most significant distinction between Horkheimer and Adorno on one hand and Bauman on the other is their attitude toward science. While, according to Bauman, it failed, for Adorno and Horkheimer, science itself is a domain of domination, which leads to totality and the Holocaust.

Bauman emphasizes that "anger and fury are, as tools of mass extermination, pitifully primitive and ineffective. Under normal circumstances, they burn out before the work is completed."<sup>34</sup> Not only are anger and fury ineffective, but Nazi Germany was not at the top of the antisemitism hierarchy in Europe during the 1930s and 40s. Simply hating Jews is not enough for the Holocaust. Modernity is necessary. This finding is undoubtedly important, but it is also, to some extent, a theoretical blind alley. The theoretical question, in fact, goes in the exact opposite direction. While a pogrom can be driven by "irrationality," the point of the

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<sup>28</sup> BAUMAN, Z. (2002): *Modernity a holokaust*, p. 22-23.

<sup>29</sup> BAUMAN, Z. (2002): *Modernity a holokaust*, p. 115.

<sup>30</sup> BAUMAN, Z. (2002): *Modernity a holokaust*, p. 115.

<sup>31</sup> BAUMAN, Z. (2002): *Modernity a holokaust*, p. 115.

<sup>32</sup> BAUMAN, Z. (2002): *Modernity a holokaust*, p. 115.

<sup>33</sup> BAUMAN, Z. (2002): *Modernity a holokaust*, p. 120.

<sup>34</sup> BAUMAN, Z. (2002): *Modernity a holokaust*, p. 136.

Holocaust is its rationality. Anger and fury would never reach proportions that would lead to something as monumental as the Holocaust. On the contrary, something entirely different is needed for that. What is contentious is how much this difference allows the Holocaust and to what extent it causes it.

Bauman emphasizes that our everyday life is not lived according to the principles of Auschwitz. "The fact that the Holocaust is modern does not mean that modernity is the Holocaust."<sup>35</sup> "The Holocaust is a byproduct of modern efforts to create a totally planned, fully controllable world - efforts that went out of control and broke loose from the chain. Most of the time, this was prevented. The ambitions of these efforts clash with the plurality of the human world."<sup>36</sup> Bauman repeats his fundamental thesis that the Holocaust is not an inevitable consequence of modernity. At the same time, he writes that the Holocaust is unique precisely because it is modern. It combines "ordinary factors of modernity, which are typically separated under normal circumstances."<sup>37</sup>

An important part of Bauman's book consists of very specific elements of rationality that enabled the Holocaust. The first is the division of tasks, so that no one had full responsibility for the killings. Similarly, killing at a distance works when the victims are psychologically invisible. "In remote killing, the connection between the massacre and an entirely innocent action - such as pulling a trigger, turning on an electric current, or pressing a key on a computer - is most likely to remain purely a theoretical concept (this tendency is greatly aided by the very contradiction between the consequence and its immediate cause - the disproportion that resists understanding grounded in ordinary experience)."<sup>38</sup> The most well-known example is atomic bombs. With the push of a button, a pilot can kill thousands of people. The symbolic beginning of modern warfare is artillery, which was the first to allow killing at a distance, with targets invisible to those who are shooting.

It is about the social production of distance. Rationalization in the form of, for example, business management, is another form of separation. Such rationalization results not only in the division of tasks but also in the restriction of solidarity between different groups.

Another key element of separation is expertise. Without knowledge, responsible action is considered to be that which follows the advice of experts. Any improvements that made killing more efficient were the result of small technical adjustments that in themselves did not appear as improvements in the removal of people. For example, the efficiency of trucks was simply a problem that needed to be solved.

What is key is that the Holocaust was a "rational, planned, scientifically informed, expert-driven, efficiently managed, coordinated process."<sup>39</sup>

Adorno and Horkheimer emphasized the significance of equivalence in modern society. "Diversity is made comparable by reducing it to abstract quantities. What is not expressed in numbers, thus ultimately in units, becomes for the Enlightenment a form of taxation, and modern positivism refers it to poetry."<sup>40</sup> The totalitarianism of Enlightenment lies in the mathematization of the world. Nature is understood purely mathematically: "even that which escapes this understanding, the unsolvability and irrationality, is enclosed by mathematical terms"<sup>41</sup> (36). Enlightenment leads to extremity today through artificial intelligence. As early as the 1940s, Adorno and Horkheimer wrote: "Thinking becomes reified into an automatically

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<sup>35</sup> BAUMAN, Z. (2002): *Modernita a holokaust*, p. 140.

<sup>36</sup> BAUMAN, Z. (2002): *Modernita a holokaust*, p. 140.

<sup>37</sup> BAUMAN, Z. (2002): *Modernita a holokaust*, pp. 140-141.

<sup>38</sup> BAUMAN, Z. (2002): *Modernita a holokaust*, p. 54.

<sup>39</sup> BAUMAN, Z. (2002): *Modernita a holokaust*, p. 134.

<sup>40</sup> ADORNO, T. – HORKHEIMER, M. (2009): *Dialektika osvícenství*, p. 21.

<sup>41</sup> ADORNO, T. – HORKHEIMER, M. (2009): *Dialektika osvícenství*, p. 36.

occurring process, competing with the machine it creates, so that this machine may eventually replace thinking."<sup>42</sup> The mathematical procedure turns thinking into a thing and simultaneously a tool.

### Conclusion

The aim of this paper was to compare Bauman's thesis on modernity and the Holocaust with Adorno and Horkheimer's critique of the Enlightenment and its associated modernity in relation to the Holocaust. Both approaches reject the Holocaust as a unique phenomenon, although for Bauman, it is unique in its rationality and bureaucracy, i.e., in its modernist form. However, Bauman argues that modernity does not necessarily lead to the Holocaust. Both Bauman and Adorno view the Enlightenment as totalitarian. They do not directly address the Holocaust and its connection to modernity, but it is clear that they consider modernity, which is rooted in the Enlightenment, to be fundamentally problematic. A certain correction to these two perspectives is offered by Aimé Césaire, who points to the existence of genocides prior to the Holocaust during colonization. For him, the Holocaust is not exceptional, as it already occurred in a certain sense. The question remains to what extent this claim contradicts Bauman's assertion regarding the existence of numerous genocides that preceded the Holocaust. For Bauman, these genocides differ fundamentally in form. Césaire does not discuss form, only content. However, the existence of concentration camps prior to the Holocaust suggests that the Holocaust is not unique even in its modern form. Modernity facilitates murder and also facilitated it during colonialism.

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<sup>42</sup> ADORNO, T. – HORKHEIMER, M. (2009): *Dialektika osvícenství*, p. 37.

# MIGRATION DISCOURSE IN V4 COUNTRIES. CASE OF POLAND<sup>1</sup>

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**Abstract:** This paper seeks to analyze the specificities of migration discourse in Poland, a Visegrad Group country. The first part provides a theoretical framework for understanding discrimination against immigrants. The second part delves into the evolution of immigration discourse in Poland over the past decade, examining three key migration events that have shaped public opinion. This paper aims to analyze the evolution of migration narratives in Poland during three key periods: the 2015-2016 migration crisis, the 2021 migration crisis at the Polish-Belarusian border, and the influx of Ukrainian refugees since 2022.

**Keywords:** immigration, migration crisis, refugees, Poland, society

**JEL:** F22, O15

## Introduction

2015 marked a pivotal year for the European Union in terms of international migration. The Syrian civil war and other African conflicts led to a surge of refugees seeking asylum at EU borders. This influx, termed the "migration crisis," significantly impacted the EU's asylum policy. Initially, the crisis primarily affected EU's southern border states. To alleviate the pressure, a plan was proposed to redistribute refugees across member states. However, the Visegrad Four countries (Poland, Hungary, Slovakia, and the Czech Republic) opposed these refugee quota scheme. A two-year temporary quota scheme, ending in September 2017, aimed to redistribute refugees proportionally among member states. This relocation scheme highlighted the V4 countries' stance towards migrants from Africa and the Middle East.

In our paper we focused on migration discourse in countries of V4, specifically in Poland in last ten years. The European Union (EU) faced a significant migration crisis in 2015-2016, which had a profound impact on all member states.<sup>2</sup> This period marked the first time immigration became a highly politicized issue not only in Poland, but also in other V4 countries. Since then, migration has remained a prominent topic of public discourse and concern within Poland.

The 2015-2016 migration crisis, along with the subsequent border crisis with Belarus in 2021, witnessed a negative portrayal of migrants. This led to strong opposition from the ruling "Law and Justice" party towards migrants attempting to enter Polish territory. However, Poland's response to immigration has shifted dramatically since the Russian invasion of Ukraine in February 2022. Ukrainian refugees fleeing the conflict have been met with widespread sympathy and support from all major political parties in Poland.

Migration discourse is a vast and complex field of study that encompasses all the communicative practices related to migration as a social and political phenomenon. It includes a wide range of genres, from news reports and editorials to parliamentary debates and everyday conversations. As van Dijk stated in his study *Discourse and Migration*: „discourse analysis is not a method, but a broad, multidisciplinary field of study of the

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<sup>1</sup> This text is one of the outputs of the project APVV-23-0040 *Migration Discourse in the V4 Countries through the Lens of Political Linguistics*.

<sup>2</sup> HUTTER S. – KRIESI H. (2022): Politicising Immigration in Times of Crisis. In: *Journal of Ethnic and Migration Studies*, 2022, Vol. 48, No. 2, pp. 341-365.

humanities and social sciences, a field that therefore should rather be called Discourse Studies.” Discourse can not only deal with migration and its aspects, but be a direct part of the phenomenon, as would be the case with migrant stories or parliamentary discourse in the formulation of migration policy.<sup>3</sup> In our paper, as the main method, we chose analysis of context and narrative, which are the qualitative methods. Context analysis is a systematic methodology employed to comprehend the intricate interplay of factors that influence a specific phenomenon, text, or event. It involves a meticulous dissection of a complex situation into its constituent elements to facilitate a deeper understanding of its meaning and significance. By examining the surrounding context, researchers can illuminate the underlying causes, consequences, and implications of a particular subject of inquiry. Context analysis is a versatile tool that can be applied across various scientific disciplines such as social and political sciences.<sup>4</sup> By systematically considering the contextual factors, researchers can enhance the rigor and validity of their findings, leading to a more comprehensive and nuanced understanding of the world.

The aim of this paper is to, with help of context and narrative analyses identify the migration discourse in Poland over the last ten years. Paper will be divided into two parts. The first part will focus on immigration and racism from teoretical point of view, the second part will analyse immigration to Poland in last ten years: the migration crisis of 2015-2016, the migration crisis on the Polish-Belarusian border, and the war in Ukraine, with which Ukrainian refugees are connected.

## **1 Immigration and discrimination**

Scholars emphasize the intricate relationship between political discourse and its societal context. The enactment of legislative norms, including the creation and modification of regulations, often results in the modification or replacement of previously established legal frameworks. Kraler argues that these norms subsequently shape the treatment of immigrants across various institutional contexts. This, in turn, impacts immigrants' daily lives and reinforces a legislative divide between the native population and immigrant communities. Moreover, proposed migration policies can exacerbate social and economic inequalities, potentially leading to discriminatory practices against specific immigrant groups.<sup>5</sup>

Perroco and Puppa characterize anti-immigration discourse as a form of racism targeting asylum systems and the welfare state. Employing Italy as a case study, they analyze the arguments and conceptual frameworks underpinning this discourse, particularly in the context of social welfare provision for asylum seekers. Refugees are often dehumanized and stigmatized as passive recipients and abusers of social benefits. The authors highlight the broader implications of this racist discourse on public policymaking. Specifically, they identify its influence on social welfare policies, where politicians exploit anxieties about immigration to curtail social rights, and migration policies, which serve to control and regulate the influx of migrants. Perroco and Puppa argue that this discourse has the most significant impact on relations between the native population and immigrants, often fostering distrust and hostility.<sup>6</sup>

Social security systems can be implicated in the perpetuation of migrant racism. This phenomenon, often referred to as "migrant racism in social security," arises from the intersection of racial discrimination within social security systems and racist discourses surrounding social benefits. Discriminatory legislation and restrictive measures related

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<sup>3</sup> van DIJK, T. A. (2018): *Discourse and Migration*, p. 230.

<sup>4</sup> GIDDENS, A. (1987): *Social Theory and Modern Sociology*.

<sup>5</sup> KRALER, A. (2006): *The legal status of immigrants and their access to nationality*, p. 38.

<sup>6</sup> PERROCO, F. – DELLA PUPPA, F. (2023): *The Racionalized Welfare Discourse on Refugees and Asylum Seekers: The Example of „Scroungers“ in Italy*, p. 59.

to accessing social benefits significantly exacerbate this issue.<sup>7</sup> As Mudde stated in his research: „immigration is seen as a multifaceted threat on the cultural, religious, security, economic, and political fronts.”<sup>8</sup>

Over the past decade, migration discourse within the Visegrad Four countries has increasingly taken on an anti-immigration tone. This trend is largely influenced by public narratives that portray migrants and refugees, particularly those with darker skin, as a burden on the welfare state. This discourse intensified significantly following the 2015 migration crisis, which had a profound impact on European Union member states. As noted earlier, the 2015-2016 migration flows primarily originated from Syria, driven by civil war, and from various African nations experiencing armed conflict.<sup>9</sup> The influx of migrants, primarily from Syria, Afghanistan, Iraq, Eritrea, and Nigeria, at the EU's southern external borders triggered a humanitarian crisis and heightened security concerns. This led to intense debates among EU member states regarding refugee quotas and the differentiation between economic migrants and refugees.<sup>10</sup> Politicians from the V4 states frequently characterized migrants from these countries as economic migrants rather than refugees. This perception underpinned the V4 countries' unified stance of rejecting refugee quotas imposed by the European Union.

Several Member States have explicitly indicated that they do not welcome irregular migration, particularly from Muslim populations (Hungary, Poland).<sup>11</sup>

Migration racism with support of far-right parties and groups in several countries in Europe is growing. It sets the tone of the debate on immigration, particularly related to Muslim or African migrants. With terrorist attacks in France and Belgium in 2015 and 2016, criminality and terrorism are increasingly racialised. The introduction of new border policies and counter-terrorism measures in some Member States led to ethnic profiling, discriminatory policing of migrants, as well as racist attacks against migrants, asylum seekers, refugees and their accommodation in EU Member States.<sup>12</sup>

However, right-wing mainstream parties have furthered their rightward shift, employing anti-migrant, racist, and xenophobic rhetoric to consolidate their electoral base.

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<sup>7</sup> PATTILLO, M. – STIEGLITZ, S. – ANGOUMIS, K. (2023): Racism against racialized migrants in healthcare in Europe: a scoping review, p. 201.

<sup>8</sup> MUDDE, C. (2010): The Relationship Between Immigration and Nativism in Europe and North America, p. 1. [online]. 2016. [2023-01-11]. Dostupné na internete: [https://works.bepress.com/cas\\_mudde/35/](https://works.bepress.com/cas_mudde/35/).

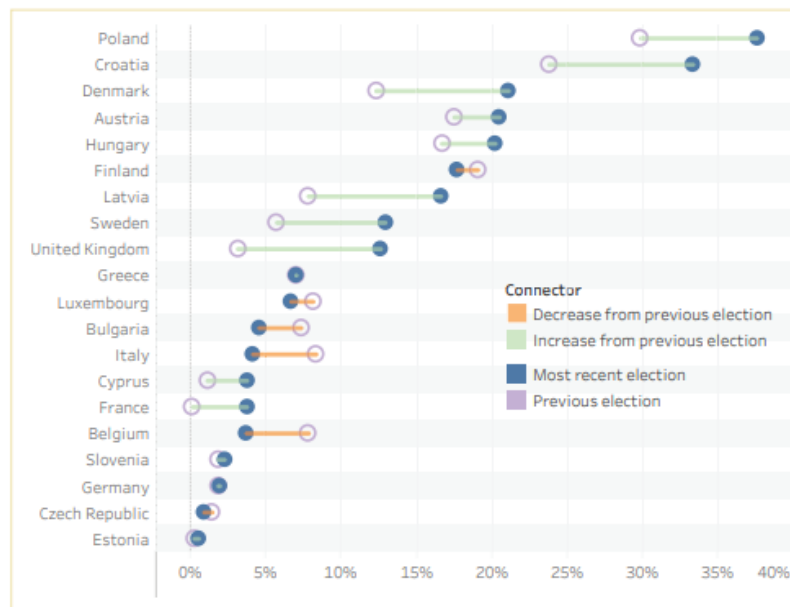
<sup>9</sup> EUROSTAT (2016): Asylum in the EU Member States.

<sup>10</sup> DUDÁŠOVÁ, M. (2016): Aktuálne otázky nemeckej migračnej politiky, p. 104.

<sup>11</sup> ENAR (2016): Racism and Discrimination in the Context of Migration in Europe, p. 10.

<sup>12</sup> POLAKOW-SURANSKY, S. (2016): The Ruthlessly Effective Rebranding of Europe's New Far Right.

**Figure 1: Electoral success for political parties using xenophobic/racist ideas and policies - percentage of votes of last two elections**



Source: European Network Against Racism, p. 12.

During this period, European academics and scholars have observed a sustained rise in nativist tendencies within immigration and national security policies and laws. Nativism, as political ideology, prioritizes the interests of native-born citizens, often manifests as opposition to immigration. Guia defines nativism: „as construction of nationalism. Nativism does not function as a nation-building ideology in the way nationalism worked in the modern period, instead nativism modifies already existing constructions of nationhood along ‘native’ and ‘non-native’ lines.” In nativism left and right positioning is fading away in favour of the native/foreigner axis, as we can replace native by "us" and foreigner by "them". Nativist ideologies often find justification in racist, religious, or ideological prejudice. While nativism is inherently nationalistic and xenophobic, nationalism and xenophobia can exist independently of nativist sentiments.<sup>13</sup>

Immigration and security policies have increasingly been employed as tools to safeguard the interests of the native population within nation-states. Some countries have resisted EU harmonization efforts as a means of reasserting their national identity and sovereignty. This phenomenon is particularly salient in debates surrounding migration, racism, and European integration. As observed throughout European history, nativist movements often utilize the figure of the "other" to reinforce and promote their own national identities. This strategy has been particularly prominent in response to the significant increase in migration "crisis" during 2015-2016. Politicians have employed divisive rhetoric, fostering a sense of "us versus them."<sup>14</sup>

While racism is unequivocal violation of democratic and civic norms, nativism, on the other hand, in its more civic manifestations, may not be as overtly challenging to democratic values. Academics observed that many politicians in Central Europe are embracing anti-Islam prejudice. According to Guia: „Islamophobia, as fear of, hatred of, and discrimination against Muslims or Islam is one of the postwar characteristics of nativism in Europe.”<sup>15</sup> Islamophobia, a form of racism, constructs Muslims as inherently dangerous and often involves their dehumanization. Muslim migrants face heightened suspicion when

<sup>13</sup> GUIA, A. (2016): The Concept of Nativism and Anti-Immigrant Sentiments in Europe, pp. 1-2.

<sup>14</sup> ENAR (2016): Racism and Discrimination in the Context of Migration in Europe, p. 9.

<sup>15</sup> GUIA, A. (2016): The Concept of Nativism and Anti-Immigrant Sentiments in Europe, p. 10.

politicians characterize migrants as "invaders."<sup>16</sup> Kaya and Özcan pointed out that: „rise of Islamophobia is one of the consequences of international migration, and the reason for its transformation into cultural racism.”<sup>17</sup>

## 2 Immigration and Discrimination. Case of Poland

Poland has faced a few migration crisis in the past decade. Since 2015, migration (immigration) has become a serious topic of discussion and concern. Migration crisis had the impact on the all states of EU and Poland nevertheless. In 2018 all V4 countries have rejected the EU's relocation schemes as mechanism to relocate asylum-seekers from south member states such as Italy or Greece, which were highly impacted on by the crisis.<sup>18</sup>

Since 2007, governments in Poland have formulated immigration laws in such a way that residents of non-EU Eastern European countries or former Soviet Union countries (Armenia, Georgia) are prioritised as incoming immigration over other third-country residents.<sup>19</sup> Poland currently does not have an official strategic framework for immigration and integration. In 2012, the then-governing administration developed a migration policy, but in 2016, it was abolished by the ruling Law and Justice party (PiS) and has not been replaced to this day. Poland does not currently have an official strategic framework for immigration and integration. In 2012, the then government developed a migration policy, but it was abolished by the ruling PiS party in 2016 and has not been replaced to date. The governments' overall approach to refugees is characterised by selectivity based on country of origin, with refugees from Belarus<sup>20</sup> and Ukraine ( as of 2022) having a simplified asylum process compared to refugees from other countries. A more restrictive approach is applied to other third-country nationals, especially those from Islam countries. As an example, we consider it important to highlight on rejected the EU's relocation schemes. As Okólski and Wach (2020) found out in their research, between 2015 and 2018, Poland experienced a significant decline in asylum applications, with figures dropping from over 12,000 to approximately 4,000.<sup>21</sup> Klaus assumes that this trend coincides with the ascendance of the Law and Justice Party (PiS) government in 2015 and the subsequent implementation of increasingly restrictive asylum policies towards citizens from Muslim countries.<sup>22</sup> Polish government has made it clear that irregular and in particular Muslim immigrants are not welcome in its nation-state. Polish politicians and media commentators have stated anti-migrant rhetoric and racist hate speech with impunity.<sup>23</sup> Migration discourse in Poland against muslim immigrants confirmed by the statement of the Polish Member of European Parliament Janusz Korwin-Mikke, whose referred to refugees as “human garbage” during a debate in the European Parliament.<sup>24</sup> Also Krzyżanowska and Krzyżanowski consider use of anti-refugee and anti-immigration rhetoric (since 2015) by right-wing Law and Justice Party (Prawo i Sprawiedliwość) had a significant impact on the public

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<sup>16</sup> Migrant's Right Network (2024): Who is welcome? Islamophobia + Migration.

<sup>17</sup> KAYA, E. – ÖZCAN-ÖZEL, M. S. (2021): International Migration and The Rise of Islamophobia as A "New Racism" Type, p. 3094.

<sup>18</sup> GUILD, E. – COSTELLO, C. – MORENO-LAX, V. (2017): Implementation of the 2015 Council Decisions Establishing Provisional Measures in the Area of International Protection for the Benefit of Italy and of Greece.

<sup>19</sup> Ministry of Family and Social Policy (2021): Informacja o zatrudnieniu cudzoziemco w Polsce (stan na 1 lipca 2021 r).

<sup>20</sup> BOROWSKI, J. (2020): Morawiecki: Polska może stać się drugim domem dla Białorusinów.

<sup>21</sup> OKÓLSKI, M. – WACH, D. (2020): Immigration and integration policies in the absence of immigrants: a case study of Poland.

<sup>22</sup> KLAUS, W. (2020): Between closing borders to refugees and welcoming Ukrainian workers. Polish migration law at the crossroads.

<sup>23</sup> ENAR (2016): Racism and Discrimination in the Context of Migration in Europe, p. 10.

<sup>24</sup> BANKS, M. (2015): A Controversial Polish MEP Stirs up Storm of Protests after Likening Refugees from Syria as “Human Garbage”.



sphere.<sup>25</sup> Pędziwiatr has pointed to an increased polarisation and securitisation of migration.<sup>26</sup> The migrants (refugees from the Middle East) in 2015-2016 are referred to as ‘illegal’, they have been criminalized or constructed as potential terrorists. In one fell swoop, certain migrants have been problematised, racialised, criminalised and othered. ENAR (European Network Against Racism) in their research stated that: „terrorism in the name of Islam has been singled out as the biggest threat to Europe”. After terrorist events in France and Belgium in 2015 and 2016 academics and scientists have noted an increase in aggressive Islamophobic and anti-migrant rhetoric and hate speech in countries like Poland, Hungary, Slovakia, Latvia or Lithuania.<sup>27</sup> According to a study by the CBU, between 2015 and 2017, government measures in Poland characterised by physical or psychological violence against refugees (e.g. surveillance, forced deportation or removal, including the use of physical force) gained higher support among the population compared to support for refugee integration.<sup>28</sup>

On the other hand, African migrants, many in need of humanitarian protection in Europe, were framed by politicians and other commentators as ‘economic’ or ‘illegal’ migrants.

The second migration crisis was in the 2021, usually referred as Polish–Belarusian border crisis.<sup>29</sup> In the summer of 2021, a significant number of individuals, primarily from Iraq and Afghanistan, attempted to cross the Polish-Belarusian border (EU’s external border) to enter the EU. The Polish government accused Belarusian authorities of orchestrating these border crossings in retaliation for EU sanctions imposed following the 2020 Belarusian presidential elections, which included asset freezes and travel bans.<sup>30</sup> This situation has increased more border patrols. Furthermore, the systematisation of pushbacks of migrants by border guards at the border by Polish authorities represented a breach of EU laws by Poland (Grzeškowiak 2023). During this Polish-Belarus border crisis according to Bala-Akal politicians and media in Poland: „militarized language referring to migrants as a “military tool” in Lukashenko’s “hybrid warfare” against the EU.”<sup>31</sup> Migration was securitized as threat to national security and the government of Poland has seized the opportunity: „to operate out of bounds and in violation of their obligations under international refugee law.”<sup>32</sup> According to Babakova et al, the then ruling Law and Justice (PiS) party described the situation on the Polish-Belarusian border as a security threat, or more precisely refugees as a security threat. The Polish government, reinforced by right-leaning media, described the situation as a "hybrid war" initiated by the authorities in Belarus, with the alleged cooperation of Belarusian and Russian security forces.<sup>33</sup>

After Russia’s 2014 invasion of Crimea, the number of immigrants from Ukraine has continued to rise in last decade.<sup>34</sup> After Russian invasion in Ukraine (2022), many Ukrainian refugees have arrived in Poland and have been met with a positive welcome across Polish

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<sup>25</sup> KRZYŻANOWSKA, N. – KRZYŻANOWSKI, M. (2018): Crisis and Migration in Poland: Discursive Shifts, Anti-Pluralism and the Politicisation of Exclusion.

<sup>26</sup> PĘDZIWIATR, K. (2019): The New Polish Migration Policy – False Start.

<sup>27</sup> ENAR (2016): Racism and Discrimination in the Context of Migration in Europe, p. 10.

<sup>28</sup> BIENKOWSKI, M. – ŚWIDERSKA, A. (2017): Postawy wobec imigrantów i uchodźców: Panel Badań Społecznych CBU.

<sup>29</sup> BALICKI, J. (2022): Migration Crisis on the Polish–Belarusian Border (2021–2022) from a Humanitarian and Human Rights Perspective.

<sup>30</sup> Consilium (2023): EU Restrictive Measures against Belarus.

<sup>31</sup> BALA-AKAL, A. (2021): European Union-Belarus Border Crisis: Why the narrative of “hybrid warfare” is dangerous.

<sup>32</sup> Ibid..

<sup>33</sup> BABAKOVA, O. – Fiałkowska, K. – KINDLER, M. – ZESSIN-JUREK, L. (2022): CMR Spotlight: who is a ‘true’ refugee? On the limits of Polish hospitality.

<sup>34</sup> WYSIŃSKA-DI CARLO, K. – KLAUS, W. (2018): Pracodawcy i pracodawczynie a zatrudnianie cudzoziemców i cudzoziemek. Warszawa: Stowarzyszenie Interwencji Prawnej.

society (government, the media, public figures, citizens).<sup>35</sup> According to UNHCR the highest number of Ukrainian refugees (across European countries) approximately 1,55 million have registered for protection<sup>36</sup> in Poland.<sup>37</sup>

According to Hargrave, Homel and Dražanová: „the arrival of Ukrainian refugees since February 2022 marks a new chapter in Poland’s migration context, and the policies surrounding it, building on over three decades of transformation since the country’s democratic transition.”<sup>38</sup> The reason why Ukrainian refugees in particular are positively received among Polish society is that they are fleeing Russian aggression. It is in the narrative that Russia is the aggressor and Ukraine is the victim that we can see, according to Barton-Hronešová, the historical experience of Poland, when Russia was the aggressor and Poland was the victim.<sup>39</sup> The military conflict in Ukraine has provoked strong feelings of solidarity towards Ukrainians in Polish society. Polish society sees the Ukrainians as part of "us" (fighting for European democratic values) and Russia and its allies as part of "them".<sup>40</sup> Another finding was the perception of Ukrainians in Poland as contributors to the Polish economy, as well as the perception of Ukrainians as a culturally, historically, religiously (Christianity), but also geographically close nationality.<sup>41</sup> Already a year after the war, analyses suggest that the financial and material support provided by ordinary Polish citizens to Ukrainians is decreasing over time.<sup>42</sup> We can assume that Poles are tired or less able to provide support, especially in the context of rising inflation and energy prices. Negative narratives about Ukrainians are propagated in Poland mainly by far-right media and politicians. Some analysts also cite possible Russian efforts to spread disinformation in order to provoke social tensions between Poles and Ukrainians.<sup>43</sup>

## Conclusion

Since 2015, dominant narratives surrounding immigrants and refugees have increasingly polarized into an "us versus them" dichotomy. While refugees from the Middle East and Africa have been portrayed as a threatening "other," Ukrainian refugees have been characterized as belonging to the "us" group, united with Poland against Russian aggression. Public attitudes toward refugees and other migrants in Poland have undergone a significant shift: from a relatively positive stance in the pre-2015 period to a negative turn following the 2015 migration crisis, and then to a wave of solidarity with Ukrainian refugees since 2022. In contrast, refugees from the Middle East and Africa, particularly those from predominantly Muslim countries, have been constructed as the "bad other." Negative narratives surrounding these groups first emerged in mainstream public discourse during the 2015 European refugee crisis, coinciding with the PiS party's successful parliamentary election campaign, and again in 2021 in response to events at the Poland-Belarus border.

It is the lack of awareness of the conflicts in the Middle East and Africa, their complexity and physical distance from Poland, that makes it difficult for Polish society to understand and

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<sup>35</sup> CBOS (2022): Polish public opinion 2/2022; Ipsos (2022): World refugee day: global attitudes towards refugees.

<sup>36</sup> From February 2022 to May 2022.

<sup>37</sup> UNHCR (2022): Operational Data Portal. Ukraine refugee situation. Webpage. UNHCR (<https://data.unhcr.org/en/situations/ukraine>) (accessed 29 Sept 2022).

<sup>38</sup> HARGRAVE, K. – HOMEL, K. – DRAŽANOVÁ, L. (2023): Public narratives and attitudes towards refugees and other migrants, p. 32.

<sup>39</sup> BARTON-HRONEŠOVÁ, J. (2022): Why are Ukrainian refugees mobilizing empathy across Eastern Europe?

<sup>40</sup> HARGRAVE, K. – HOMEL, K. – DRAŽANOVÁ, L. (2023): Public narratives and attitudes towards refugees and other migrants, p. 34.

<sup>41</sup> DRAŽANOVÁ, L. (2022): Why are Ukrainian refugees highly welcomed across Central and Eastern Europe?

<sup>42</sup> THEUS, J. (2022): Fala pomocy ukraińskim uchodźcom opada – dowodzi sondaż OKO.press. Władza PiS zawiodła.

<sup>43</sup> BONI, M. – NIE MCZYCKI, S. – SEK, M. et al. (2022): Disinformation and cyber security.

empathise with the situations for which refugees have left their countries of origin. Similarly, the relatively small numbers of refugees from the Middle East and Africa - especially outside the major cities - and the ethnic homogeneity of Poland, demonstrate that opportunities for interpersonal contact with these groups were much more limited.

Among the dominant narratives about refugees from the Middle East and Africa, the influence of racism and Islamophobia is pronounced. As noted above, negative narratives about refugees from the Middle East and Africa are often based on longer-standing stereotypes. The broader literature suggests that narratives that portray refugees and other migrants as a threat, or promote an "us versus them" narrative, are successful if they are framed in a way that resonates with individuals' broader worldviews.

We observed a negative shift in public sentiment post-2015, to a remarkable outpouring of solidarity toward Ukrainians fleeing the Russian invasion. Polish society have shown supportive attitudes and positive narratives towards refugees from Ukraine. After the beginning of the war in Ukraine, we see a change in the narrative of refugees, where the "us versus them" narrative is changing to "only us" narrative. The reason for this is the historical, cultural, linguistic and geographical proximity of the two nationalities.

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# AN ANALYSIS OF THE CURRENT STATE OF THE ECONOMY OF UZBEKISTAN

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**Abstract:** Uzbekistan, being a landlocked country in Central Asia, has been liberalizing its economy from its Soviet past since 1991 when declaring independence. Since then the country has faced a challenging path of economic transition. For over three decades now the country eased, with caution, restrictions on different areas of the economy, such as the agricultural, energy or manufacturing sector. The country's dependence on the export of raw materials has not changed and remains (mainly cotton and natural gas). Challenges for the private sector include bureaucratic inefficiencies and limited foreign investments. This research is based on the review of existing literature, including scientific papers and databases such as from the World Bank. It should examine the attractiveness of the country for foreign investors. Despite the strong positive economic development over the last years the country in areas as the GDP or corruption improved investment policies, or transparent tax incentives for green technologies could support the country's further development.

**Keywords:** Uzbekistan, Central Asia, Liberalization

**JEL:** F10, F62, N15

## Introduction

In recent years, Uzbekistan has made significant strides in improving its investment climate, rising in global rankings such as the Economic Freedom Index and the World Bank's Ease of Doing Business report. These improvements are largely attributed to reforms in business registration, taxation, and access to loans. To further promote the country's investment appeal internationally, plans include providing consulting support to exporters, publicly discussing investment reports, collaborating with rating agencies, and expanding connections with potential investors. The plans also include improving online resources on investment activities in the Republic, conducting media campaigns, translating key materials into foreign languages and reducing administrative barriers.<sup>1</sup> It has simplified the opening and running of businesses by reducing the number of licenses, introducing electronic business registration and simplifying the issuance of construction permits, which has significantly reduced the time needed for tasks and costs of companies. Additional reforms include enhancing intellectual property protections, creating a "single window" for investors, introducing online tax payments, as well as simplifying customs procedures to facilitate foreign economic activity. The country has also established special economic zones (SEZs) like Navoi and Angren, which offer incentives such as tax holidays, reduced customs duties, and streamlined regulations to attract investors.<sup>2</sup>

Uzbekistan's economic integration efforts, including its WTO accession talks and joining the EU's GSP+ system, are enhancing its global trade presence with key exports in gold, services, metals and food while its main trading partners remain China, Russia, Turkey, and Kazakhstan. Major infrastructure projects, such as the Trans-Afghan Railway and connections to China, aim to boost transport and trade capacities, capitalizing

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<sup>1</sup> NIYOZOV, Z. – MAKHSUDOV, O. (2023): Investment attractiveness of the enterprise, as well as factors influencing its development in the economy of Uzbekistan.

<sup>2</sup> JIYANOVA, N. – KARIMOV, A. (2024): Supporting investments in Uzbekistan: Opportunities and Challenges.

on its strategic location in Central Asia. While global economic growth faces risks and slowdowns, Uzbekistan's GDP growth projections remain steady, its diversification strategy should focus on a limited number of technologies that maximize the impact on resource conservation, competitiveness and sustainable development.<sup>3</sup> Uzbekistan has implemented reforms to improve its business environment, diversify its economy, and attract investments in priority sectors such as energy, infrastructure, agriculture, and tourism, earning praise from international organizations.<sup>4</sup>

The "Strategy of the Investment Policy of the Republic of Uzbekistan until 2025" aims to enhance economic competitiveness, develop production and export capacity, and improve regional development and welfare. Key objectives include improving the investment climate, expanding domestic investment sources, and attracting foreign investments, with a focus on public-private partnerships and corporate securities investments, targeting over 1002.5 billion soums in decentralized investments from 2019-2025.<sup>5</sup> With a young labor force averaging 28 years of age and extensive untapped natural resources, Uzbekistan holds strong investment potential, particularly for labor-intensive industries. Its diversified economy, combined with efforts to improve the investment climate and stimulate both traditional and emerging industries, has the potential to boost regional economic activity, increase employment, and enhance government revenues.<sup>6</sup>

Key reforms in Uzbekistan's energy sector include the establishment of the Ministry of Energy in 2019, restructuring of large state-owned enterprises into separate entities for production, transportation, distribution, and sales, with plans to attract investors. In February 2021, Uzbekistan approved the auctioning of 11 state assets and 18 enterprises, with proceeds primarily directed to the State Budget. The authors express disagreement with the State's approach to privatization, particularly in the case of the Fergana Oil Refinery (FNPZ), suggesting that selling the state share is an inadequately justified measure. They argue that maintaining state control over strategic enterprises ensures stable, long-term income and economic security, and propose alternatives like building an oil pipeline and issuing internal bonds to supply raw materials. Their position highlights a preference for steady government-led resource management and the safeguarding of public interests over one-time sales of state assets.<sup>7</sup>

Uzbekistan, possesses significant transport and transit potential, and is prioritizing infrastructure projects, such as the "One Belt, One Road" initiative, regional cooperation, and economic diversification to enhance trade and GDP growth, despite global economic challenges.<sup>8</sup> However, despite significant progress, Uzbekistan still faces challenges, including high levels of corruption, limited access to finance, a complicated legal system, and restrictive currency controls, all of which can deter foreign investment.<sup>9</sup>

This research should provide an in-depth analysis of the current state of the economy of Uzbekistan. It covers briefly the five stages of the country's foreign economic development, and highlights the impact of the Strategy of the Investment Policy of the Republic

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<sup>3</sup> KURPAYANIDI, K. – ABDULLAEV, A. (2023): Scenarios for the development of the economy of Uzbekistan in the conditions of instability of the world economy.

<sup>4</sup> JIYANOVA, N. – KARIMOV, A. (2024): Supporting investments in Uzbekistan: Opportunities and Challenges.

<sup>5</sup> KAKHKHOROV, O. – AZIMOV, O. (2021): Economic efficiency of attracting and using investments in Uzbekistan.

<sup>6</sup> NIYOZOV, Z. – MAKHSUDOV, O. (2023): Investment attractiveness of the enterprise, as well as factors influencing its development in the economy of Uzbekistan.

<sup>7</sup> RASULEV, A. – VORONIN, S. – SHOMURODOV, T. (2022): New opportunities on economic development of Uzbekistan.

<sup>8</sup> KURPAYANIDI, K. – ABDULLAEV, A. (2023): Scenarios for the development of the economy of Uzbekistan in the conditions of instability of the world economy.

<sup>9</sup> JIYANOVA, N. – KARIMOV, A. (2024): Supporting investments in Uzbekistan: Opportunities and Challenges.



of Uzbekistan. Furthermore, focus is put on selected key economic indicators to understand the current state of the economy.

## 1 Literature review

Literature on the economy of Uzbekistan is currently not yet widespread as is the case for other Central Asian countries, like Kazakhstan. However, in recent years the country's development gained interest also among international researchers. Still, most sources are in Uzbek or Russian language, while sources from Russian or English are translated by the author.

Talipova et al. (2022) explores in their article the evolution of the innovative development of foreign economic activity in Uzbekistan in particular the relevant stages of Uzbekistan's liberalization of foreign economic activity starting since 1991 to present, dividing it into 5 stages, analyzing policy development, strengths, and weaknesses across each phase, while highlighting the transition toward innovative growth in a globalized context.<sup>10</sup> Azimov (2024) focuses in his work on the small DSGE model for the economy of Uzbekistan. In his study he develops a tailored Dynamic Stochastic General Equilibrium (DSGE) model to analyze Uzbekistan's macroeconomic stability, incorporating sectoral dynamics, capital inflows, and policy impacts through advanced estimation techniques. The DSGE model for Uzbekistan consists of key components such as households, firms, in this simplified model in the cotton, gold mining and services sectors, the government, the central bank, the external sector reflecting the dynamics of exports and capital inflows, as well as financial intermediaries facilitating capital flows.<sup>11</sup> The study uses simulations to assess the impact of monetary, fiscal, external, productivity, and capital flow shocks on Uzbekistan's economy, examining policy responses and sector-specific dynamics.

Another approach is used by Zakhidov (2024) using a regression analysis. The analysis showed a weak inverse relationship between inflation and consumer spending but identified a strong negative correlation between consumer spending and purchasing power parity (PPP), highlighting the sharp decline in consumer spending as PPP increased. Indeed, the analysis reveals that Uzbekistan's consumer spending averaged USD 44.65 billion, with significant variability, while purchasing power parity averaged USD 6,948.8, and inflation rates averaged 11.7% over the observed period.<sup>12</sup>

Focusing on trade data Tajekeev and Stephens (2023) research the Central Asian Tiger states based on a time series analysis which evaluates the transformation of Uzbekistan's trade from 2017 to 2020, achieved through political reforms, export diversification, and investments in local enterprises. The authors used methods for analyzing the comparative trade advantages are RCA (relative comparative advantage) and RSCA (symmetrical relative comparative advantage). Trade data from 2017–2020 reveals top exports such as precious stones, cotton, and fuels, alongside top imports like machinery, vehicles and iron, highlighting strategic policy-driven changes in export sectors with comparatively stable import trends. 4- Top trade partners from 2017–2020 include Central Asian and former Soviet republics for exports, but 49% of export flows are to unspecified destinations, while imports originate from a broader range of countries including China, Russia, and South Korea.<sup>13</sup>

Strategic planning for the country's economy involves using alternative scenarios to address complex factors such as growth sources, challenges, and barriers, with models

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<sup>10</sup> TALIPOVA, N. – MAKHMUTKHODJAEVA, L. – KHAZRATHULOVA, L. (2022): Evolution of innovative development of foreign economic activity of the Republic of Uzbekistan.

<sup>11</sup> AZIMOV, U. (2024): Small DSGE model for Uzbekistan Economy.

<sup>12</sup> ZAKHIDOV, G. (2024): Inflation and its effects on consumer behaviour and economic policies.

<sup>13</sup> TAJEKEEV, Z. – STEPHENS, A. (2023): The Central Asian Tiger: Export specialization in Uzbekistan: Opportunities for economic diversification and development.

assessing potential outcomes. Kurpayanidi and Abdullaev (2023) conducted a study on the innovation scenario which predicts an increase in economic growth from the current 5.0-5.5% to 7.0-7.5%, focusing not only on growth pace but also on achieving a higher quality and more sustainable economic development.<sup>14</sup> However, a scenario that maintains current development trends, with a focus on investment and employment growth, faces obstacles such as water scarcity and a decrease in GDP growth, which, given the unfavorable trend in GDP capital intensity, raises doubts about achieving above-average development level by 2030.

## **2 Stages of liberalization of foreign economic activity**

Returning to Talipova et al. (2022) and the description of the development of foreign economic activity it can be noted that during 1991-1995, Uzbekistan's initial economic reforms focused on establishing institutional frameworks for foreign economic activity, as well as addressing economic challenges through trade liberalization and protectionist policies to stabilize and develop the national economy. During the second stage (1996-2003) of Uzbekistan's economic development, the focus was on further foreign trade liberalization, protectionist measures to support domestic producers, stimulating import substitution and exports, rationalizing tariff policies, and expanding of the scope of financial tools for trade, ultimately leading to a positive trade balance, export growth, and increasing competitiveness despite global economic challenges. During the third stage (2004-2008), Uzbekistan's foreign economic activity saw significant growth in exports, investments, and foreign trade turnover due to currency reforms, high global commodity prices for exported goods, and measures to liberalize and modernize trade processes, with notable increases in finished goods exports by 23.2% and strengthened trade ties with both CIS and non-CIS countries. During the fourth stage (2009-2016), despite global economic crises impacting trade volumes and commodity prices, Uzbekistan implemented measures to support exporters, expanded foreign trade with Iran, Turkey and China, and achieved positive growth in foreign trade turnover, driven by exports of raw materials and non-primary goods, but faced ongoing challenges with competitiveness and logistics. Since 2017 (the fifth stage), Uzbekistan's foreign economic activity has been driven by the further liberalization and modernization agenda outlined in "The Strategy of Actions for the Further Development of Uzbekistan in 2017-2021, fostering regional cooperation, diversifying exports, reducing customs duties, and liberalizing the currency market, which has led to increased foreign trade, involving 2,700 new enterprises and the production of 206 new types of products supplied to markets in 42 countries. Despite challenges such as the COVID-19 pandemic, which impacted the economy and trade flows, overall economic growth was not derailed.<sup>15</sup>

## **3 Main economic indicators**

Uzbekistan's nominal GDP is projected to exceed earlier forecasts by 2030, partly due to higher-than-expected inflation, prompting adjustments in monetary policy to gradually reduce inflation rates. According to the Baykhonov et al. (2021), in order to achieve long-term socio-economic growth, the country needs to develop a socially-oriented market economy, focusing on human capital, innovation, macroeconomic stability, and structural reforms, including market economy transitions and improved public administration

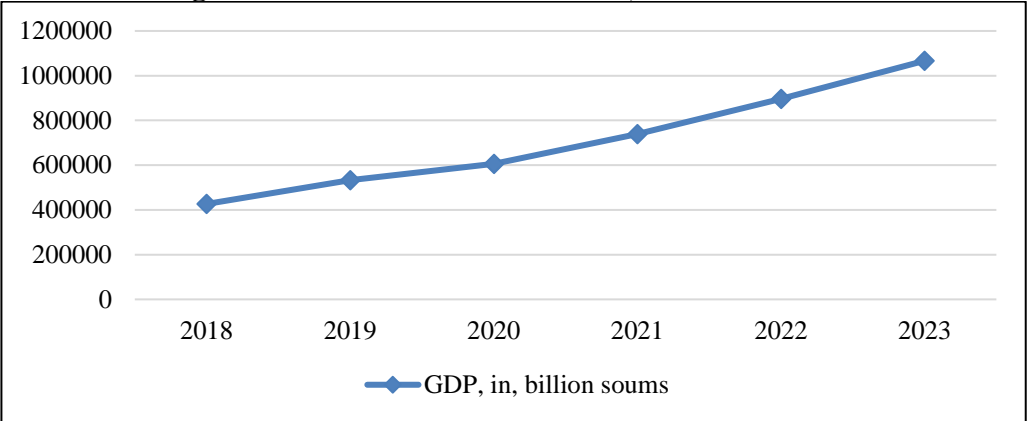
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<sup>14</sup> KURPAYANIDI, K. – ABDULLAEV, A. (2023): Scenarios for the development of the economy of Uzbekistan in the conditions of instability of the world economy.

<sup>15</sup> TALIPOVA, N. – MAKHMUTKHODJAEVA, L. – KHAZRATHULOVA, L. (2022): Evolution of innovative development of foreign economic activity of the Republic of Uzbekistan.

efficiency.<sup>16</sup> The Uzbek government has successfully bolstered silk production and export specialization through strategic investments in infrastructure, quality improvements, and programs supporting rural silkworm farming, exemplifying effective economic reform. There also has been implemented targeted policies to encourage value-added production and export diversification in the cotton and textile industries, copper, zinc and agriculture. The cotton and textile industries have been significantly expanded also thanks to tax incentives, subsidizing international marketing activities and the creation of cotton and textile clusters that transform raw cotton exports into diversified textile and apparel products. The production of copper and products based on it was incentivized through tax exemptions, subsidies, and VAT reductions, while the elimination of administrative barriers in the form of simplifying the process of obtaining the necessary permission became a determining factor for the development of the mining of precious stones. In agriculture, policies focused on modernizing fruit and vegetable exports and promoting dried fruit production to add value, leading to increased exports even during the pandemic.<sup>17</sup> While gas production has declined, the electric power sector saw a slight increase in electricity generation, but it faces significant challenges due to outdated infrastructure and insufficient capacity to meet growing demand.<sup>18</sup>

**Figure 1: Gross Domestic Product, in billion soums**



Source: Statistics Agency under the President of the Republic of Uzbekistan (2024): Macroeconomic Indicators.

In 2021, Uzbekistan planned to launch projects worth USD 6.5 billion as part of its active investment policy, which has mobilized 716 trillion soums (USD 83 billion) since 2017 to finance economic and infrastructure development, which is twice the previous period. This investment has primarily supported industrial and infrastructure projects, contributing to increased industrial GDP share by 8%, the launch of over 47,000 projects, and the creation of more than 680,000 jobs, though challenges in productivity and regional disparities remain, prompting a call for improved investment efficiency and targeted projects.<sup>19</sup> To counteract the pandemic's impact, the government implemented tax benefits and fiscal support measures for individuals and businesses, resulting in solid GDP growth in 2020 and 2021. Economic growth is expected to stabilize at a 5% average annual rate over the next 4 years

<sup>16</sup> BAYKHONOV, B. – ABDULHAKIMOV, Z. – KHAILOV, N. – SOLIEVA, G. (2021): Analysis of the development of the economy of the Republic of Uzbekistan on the basis of reducing the effects of the pandemic.

<sup>17</sup> TAJEKKEEV, Z. – STEPHENS, A. (2023): The Central Asian Tiger: Export specializations in Uzbekistan: Opportunities for economic diversification and development.

<sup>18</sup> RASULEV, A. – VORONIN, S. – SHOMURODOV, T. (2022): New opportunities on economic development of Uzbekistan.

<sup>19</sup> KAKHKHOROV, O. – AZIMOV, O. (2021): Economic efficiency of attracting and using investments in Uzbekistan.

despite pandemic-related challenges.<sup>20</sup> Interestingly, during COVID-19 the market capitalization of listed domestic companies decreased significantly.

**Table 1: Market capitalization of listed domestic companies in Uzbekistan (in per cent of GDP)**

<i>Year</i>	<i>Indicator</i>
2020	8.68
2021	7.46

Source: World Bank Group (2024): Market capitalization of listed domestic companies (% of GDP).

Indeed, financial shocks increase not only output and employment, but also inflation, while external shocks lead to lower GDP and increase unemployment. This can be also seen with the example of Uzbekistan. Productivity shocks in the service sector boost overall economic activity, and capital inflows drive growth but may risk overheating.<sup>21</sup> To address these issues and support investment, the government should focus on simplifying business procedures, improving SME access to finance, combating corruption, and strengthening the legal system, particularly intellectual property protections and dispute resolution mechanisms. Prioritizing key sectors such as energy, infrastructure, agriculture, and tourism with additional incentives can attract more investors, while proactive risk management strategies can help investors navigate challenges and capitalize on Uzbekistan's economic opportunities.<sup>22</sup>

Investments play a crucial role in global economies by driving structural transformations, enhancing export potential, and fostering high-tech industries through foreign technologies and management practices. In Uzbekistan, investment accounted for 37.1% of GDP in 2019, with efforts focused on further growth. Uzbekistan's stock market value remains low at 6% of GDP, compared to higher percentages in other countries like Singapore and Malaysia. The role of investments in the economies of countries around the world is invaluable. Since investments allow for structural transformations in the economy, further strengthening of the country's export potential, the creation of high-tech competitive industries, the introduction of advanced foreign technologies, know-how and management experience. To address these issues, Uzbekistan planned to develop a strategy for 2020-2025 aimed at increasing the ratio of freely traded securities to GDP to at least 10-15% by 2025.<sup>23</sup>

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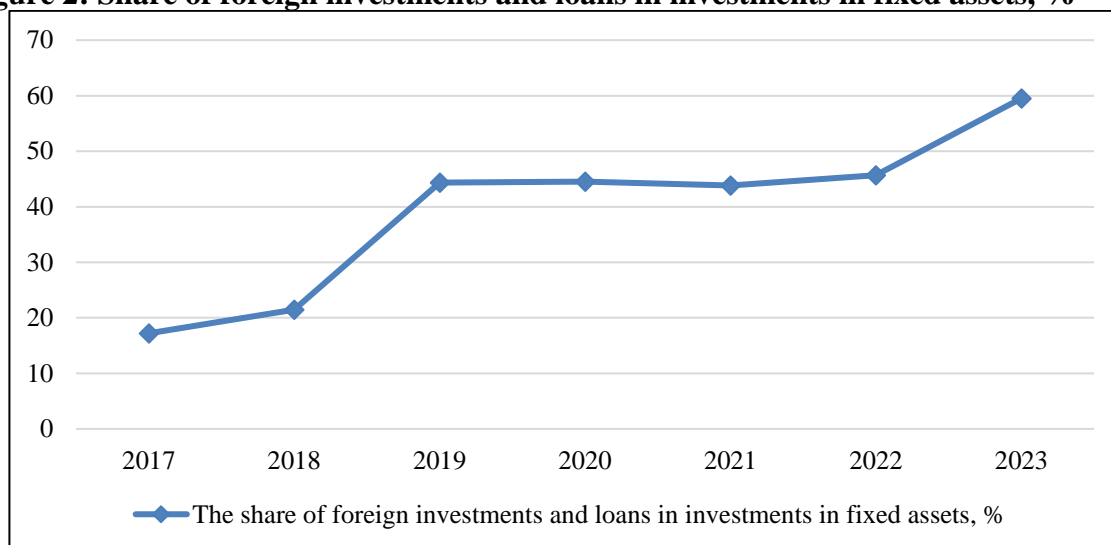
<sup>20</sup> BAYKHONOV, B. – ABDULHAKIMOV, Z. – KHAILOV, N. – SOLIEVA, G. (2021): Analysis of the development of the economy of the Republic of Uzbekistan on the basis of reducing the effects of the pandemic.

<sup>21</sup> AZIMOV, U. (2024): Small DSGE model for Uzbekistan Economy.

<sup>22</sup> JIYANOVA, N. – KARIMOV, A. (2024): Supporting investments in Uzbekistan: Opportunities and Challenges.

<sup>23</sup> OZATBEKOVA, O. – OZATBEKOV, Y. – GULAMOV, A. (2022): The importance of the development of financial markets in the economy of Uzbekistan.

**Figure 2: Share of foreign investments and loans in investments in fixed assets, %**



Source: Statistics Agency under the President of the Republic of Uzbekistan (2024): Investments.

Uzbekistan's modernization and investment strategy aims to improve its business climate, attract foreign investments, foster innovation, and enhance human capital, with a goal of ranking among the top 50 in the Global Innovation Index by 2030.<sup>24</sup> According to the data of the Ministry of Investment and Foreign Trade, the total volume of foreign investments in 2021 will reach USD 10.5 billion, while USD 7.6 billion of them are foreign direct investments, which exceeds the figures of the previous year by \$ 1 billion.<sup>25</sup>

Uzbekistan's external debt has risen significantly, primarily used for social and strategic investment projects, which, while supporting economic growth in the short term, may slow GDP growth over the long term due to debt repayment obligations. Additionally, a decline in foreign trade turnover, especially in 2020, has further contributed to the anticipated gradual slowing of GDP growth from 2022 to 2030, with growth rates projected to increase by 1.6 times instead of doubling.<sup>26</sup>

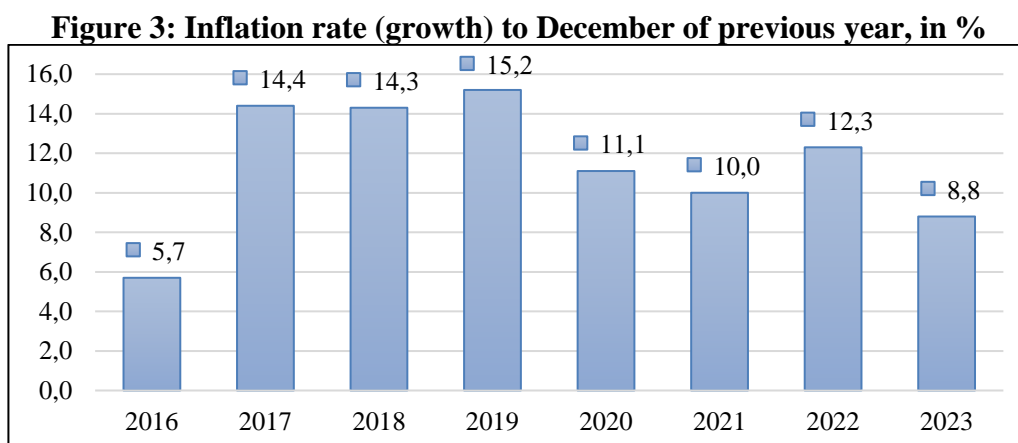
Inflation in Uzbekistan has shown fluctuations, from an average of 10.1% since 2006, with a peak of 20.1% in January 2018 decreasing to 7.98% in March 2024, reflecting persistent inflationary challenges. These trends have prompted shifts in consumer behavior toward essential goods and services and necessitated policy responses by the Central Bank and government to manage inflation and ensure sustainable economic growth. However, the inflation rate, which reached its lowest rate since 2016 at 8.77% in 2023, significantly impacts consumer behavior and economic policies, with key contributors including rising prices for beef, fruits, and fuel, while certain staples like flour and sunflower oil saw price reductions.<sup>27</sup>

<sup>24</sup> NIYOZOV, Z. – MAKHSUDOV, O. (2023): Investment attractiveness of the enterprise, as well as factors influencing its development in the economy of Uzbekistan.

<sup>25</sup> KAKHKHOROV, O. – AZIMOV, O. (2021): Economic efficiency of attracting and using investments in Uzbekistan.

<sup>26</sup> BAYKHONOV, B. – ABDULHAKIMOV, Z. – KHAILOV, N. – SOLIEVA, G. (2021): Analysis of the development of the economy of the Republic of Uzbekistan on the basis of reducing the effects of the pandemic.

<sup>27</sup> ZAKHIDOV, G. (2024): Inflation and its effects on consumer behaviour and economic policies.



Source: Statistics Agency under the President of the Republic of Uzbekistan (2024): Macroeconomic Indicators.

Simulating various policy scenarios reveals that a gradual shift to inflation targeting and countercyclical fiscal policies can stabilize economic output, while developing the financial sector enhances monetary policy effectiveness and improve the allocation of capital inflows. Additionally, the support of the services sector growth reduces dependence on commodity exports and fosters economic diversification. Impulse response analysis shows that monetary policy shocks, like higher interest rates, reduce investment and output while lowering inflation, with pronounced effects in the services sector.<sup>28</sup> Certainly, an important point is the level of corruption. As to Transparency International (2023) Uzbekistan faces, as other countries in the region a rather high level of perceived corruption, but with a positive tendency. While being placed in 2017 on the 157<sup>th</sup> place in 2023 the rating was improved to be ranked 121<sup>st</sup>. The table below shows the index rating for the last seven years.

**Table 2: Corruption Perceptions Index**

<i>Year</i>	<i>Rating</i>
2023	121
2022	126
2021	140
2020	146
2019	153
2018	158
2017	157

Source: Transparency International (2024): Corruption Perceptions Index.

The Concept of socio-economic development of Uzbekistan until 2030 aims to double GDP, achieve 6.4% annual economic growth, and stimulating industry, construction, and services, alongside achieving goals in the field of renewable energy sources and energy efficiency. However, the COVID-19 pandemic severely disrupted economic stability.<sup>29</sup> According to the data, between 2017 and 2019, the number of state-owned enterprises in Uzbekistan operating at a loss increased, reaching 14.2%, with a decline in associated tax revenues. In order to overcome these difficulties, Uzbekistan is committed to reducing state presence in the economy through structural reforms, including privatizing and transforming

<sup>28</sup> AZIMOV, U. (2024): Small DSGE model for Uzbekistan Economy.

<sup>29</sup> BAYKHONOV, B. – ABDULHAKIMOV, Z. – KHAILOV, N. – SOLIEVA, G. (2021): Analysis of the development of the economy of the Republic of Uzbekistan on the basis of reducing the effects of the pandemia.

state assets, aiming to enhance market competition, efficient resource allocation, and productivity, despite challenges in its economic development.<sup>30</sup>

### Conclusion

Uzbekistan's economy is at a crossroads. The country has made substantial progress in its reform efforts towards liberalization, that is including liberalizing the currency, promoting industrial diversification, and improving the business climate in particular also for foreign companies and investors. On the one hand the GDP is rising solidly. Also the country manages to attract continuously higher foreign investments. But those are still on a relatively low level. A reason for the higher investments might be seen as an effect of the reforms to improve the business environment. However, understanding a still bureaucratic system a focus on the use of technologies could support the development in the Ease of Doing Business index to a better position. The "Strategy of the Investment Policy of the Republic of Uzbekistan until 2025" may be one strong pillar of the future development.

However, the country faces challenges during its transition to a more open and sustainable economy. Shortfalls, for instance the high levels of corruption, strict currency controls or the difficult legal system, do not make it very attractive for foreign companies to invest in or to export to the country. To enhance Uzbekistan's investment climate, the authors' recommendations include refining investment policies, expanding public-private partnerships or fostering tourism through e-commerce initiatives. Key measures may include transparent tax incentive processes, support for green technologies, combating corruption, ensuring rule of law, and aligning bank rates with inflation for economic flexibility. Researches also gave as a recommendation for the development of food exports, highlighting the need of standardizing food safety rules while maintaining government support for small and medium-sized businesses.

Furthermore, Uzbekistan has good potential to be seen as a reliable and efficient transport and logistics transit country within the China driven "One Belt One Road" initiative. Still, investments in infrastructure (and soft infrastructure) will be required. In particular the logistics sector and new and adapted transport corridors through Uzbekistan might be interesting for further research, considering changes in the transport patterns resulting from the Russian-Ukrainian crisis. Also industry sectors with above-average development and investment opportunities might be interesting to be highlighted in further research.

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# MODIFICATION OF THE UENO'S MODEL OF INTEREST RATES<sup>1</sup>

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**Abstract:** Shadow rate models of interest rate are modelling interest rates through a theoretical, unobservable shadow rate. We consider a shadow rate model which is a simplified version of the multifactor Ueno's model. Our model assumes a certain boundary level, at which the determination of the short-term interest rate from the shadow rate changes. A shadow rate below this value implies that the interest rate is no longer equal to the shadow rate, but to its certain modification. We present results of the calibration of this model using maximum likelihood estimation for three different data sets. They provide examples of three different possible results: statistically insignificant parameter denoting the boundary, significant positive value and significant negative value of this parameter.

**Keywords:** interest rate, shadow rate, maximum likelihood

**JEL:** E43, C22

## Introduction

Interest rates play a crucial role in modern economies. They serve as a tool of monetary policy and they influence a wide range of economic activities, such as consumption, saving, business investments, pension systems. Therefore, understanding interest rates and modelling their behaviour is a crucial task, essential for analyzing economic conditions, guiding policies and forecasting future trends. There are several possible approaches to modelling interest rates. In this paper we use the stochastic modelling. The interest rates are influenced by a large number of factors, such as market shocks, changes in monetary policy, and other economic variables. Stochastic models capture the random nature of these changes and model their aggregation through a selected stochastic process.

In this paper we consider shadow rate models of interest rates, as a class of short rate models. In classical short rate models, it is the short-term interest rate that is modelled by a stochastic process. However, in shadow rate models, it is not the short-term rate directly, but an auxiliary shadow rate, from which the short rate is determined. Modelling interest rates through the introduction of shadow rates has its roots at times when the negative interest rates were considered unrealistic and the models were trying to include this assumption into their formulations. They often included the so-called zero lower bound. However, recently negative interest rates were a reality on several money markets for a certain time. New models need to take this new phenomenon into account.

We study the model originating from Ueno's model<sup>2</sup> and its simplified version,<sup>3</sup> which we modify in the following way. In our paper, the determination of the short rate from the shadow rate changes at a certain value, which we assume to be a constant parameter. We are interested in the sign of this parameter and in its significance, i.e., our aim is to establish whether the transformation changes at the zero level or there is a statistically significant nonzero value, at which the change occurs.

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<sup>2</sup> UENO, Y. (2017): Term Structure Models with Negative Interest Rates.

<sup>3</sup> KOŠŮTOVÁ, L. – STEHLÍKOVÁ, B. (2024): Calibration of the Ueno's Shadow Rate Model of Interest Rates.

The paper is organized as follows. In Section 1 we provide an overview of shadow rate models of interest rates. In Section 2 we formulate the model, describe the estimation method and the data. Subsequently, in Section 3 we present estimates the parameters and observe the sign and the significance of the new parameter. Final remarks and ideas for future research, based on our results, are given in the conclusions.

## 1 Shadow rate models of interest rates

Shadow rate models of interest rates have been pioneered by Fischer Black,<sup>4</sup> who introduced the concept of the shadow rate as a theoretical construct, while the nominal rates are seen as options on the shadow rate. While the shadow rate is nonnegative, it coincides with the short rate. When the shadow rate drops to negative values, the short rate is equal to zero.

Black has not specified a model of the shadow rate itself. However, several other models of this kind have been subsequently proposed. Since the shadow rate is supposed to attain also negative values, a popular choice is to consider a model based on Gaussian processes and, subsequently, normally distributed variables. A two-factor model has been proposed by Ichiue and Ueno (2007), in which the shadow rate itself and its long-term equilibrium level follow correlated Gaussian processes. Kim and Singleton (2012) construct a shadow rate by means of a quadratic function of latent Gaussian factors. Realdon (2016) studies a wide range of shadow rate models constructed from Gaussian processes by means of taking a maximum as in the Black's model, taking an exponential, a power, or a combination of these factors. Gorovoi and Linetsky (2004) derive analytical solutions for bond prices in shadow rate model which use Gaussian or square-root process. Another possible approach lies in using the well known Nelson-Siegel model in the shadow rate setting, which is the approach of Christensen and Rudebusch (2016).

Negative interest rates emerging on the monetary market made it necessary to address this possibility in the models. Lemke and Vladu (2017) divide the time period into subperiods with different lower bounds. The model by Ueno (2017) is a multifactor shadow rate model, which can be seen as a generalization of Black's model and affine Gaussian models. Wu and Xia (2020) assume the dependence on the exogeneous variables. A quadratic Gaussian short rate model been proposed by Kikuchi (2024). The model assumes a stochastic lower bound, which is modelled by a Brownian bridge pinned at zero at the initial time and at a random termination time, representing the first appearance of negative interest rates and the random end date of the negative rates period.

## 2 Model and data

The model under consideration is based on the model proposed by Ueno (2017) and its one-dimensional version studied by Košútová and Stehlíková (2024). Our transformation between the shadow rate and the short rate reads as

$$r_t = \max(s_t, k(s_t - B) + B) = \begin{cases} k(s_t - B) + B, & \text{if } s_t < B, \\ s_t, & \text{if } s_t \geq B, \end{cases} \quad (2)$$

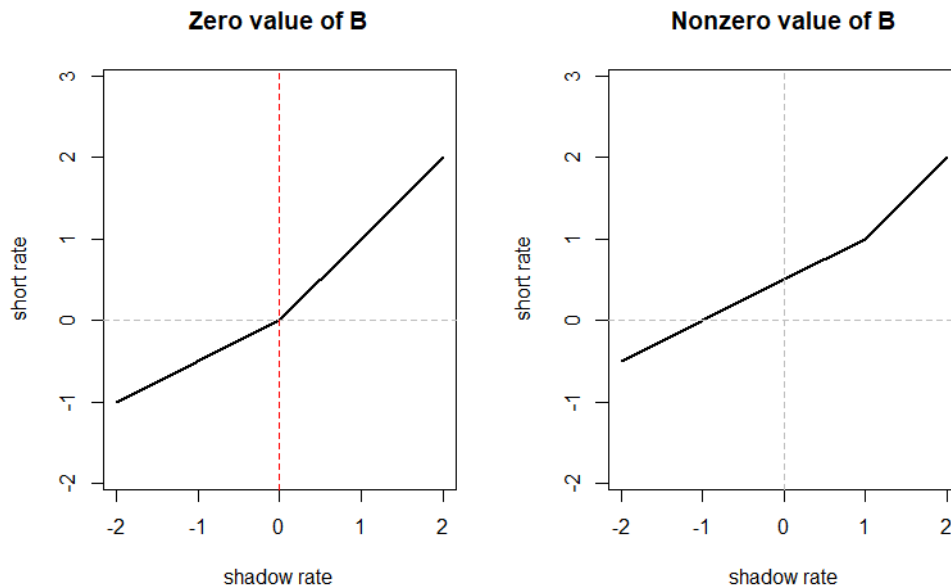
where the parameter  $k$  is assumed to be from the interval  $(0, 1]$  and  $B$  is an unrestricted parameter. This means that if the shadow rate is greater than  $B$ , the short rate is equal to the shadow rate. However, if the shadow rate becomes less than  $B$ , the transformation rule is a linear function with slope  $k$  and the intercept chosen to keep the transformation continuous.

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<sup>4</sup> BLACK, F. (1995): Interest rates as options.

In Figure 1 we compare the transformation between the shadow rate and the short rate for the case of zero and nonzero value of  $B$ .

**Figure 1: Transformation of the shadow rate into the short rate**



Note: The red lines denote the level of the shadow rate, for which the slope of the line changes (i.e., the parameter  $B$ ). The grey lines denote the coordinates. Parameter  $k = 0.5$  is used in both graphs, the parameter  $B$  equals 0 (left) and 1 (right) respectively.

The range  $k \in (0, 1)$  of the values of the multiplication parameter implies that the short rate is higher than it would be without the transformation. The value  $k = 1$  corresponds to no change, i.e. the short rate equals the shadow rate for all of its values.

The stochastic process modelling the shadow rate is the mean-reverting Gaussian process, known also as Vasicek process:<sup>5</sup>

$$ds_t = \kappa(s_t - \theta)dt + \sigma dw_t, \quad (3)$$

where  $\kappa, \sigma > 0, \theta \in \mathbb{R}$  are the parameters and  $w_t$  is a Wiener process.

We estimate the parameters of the model by the maximum likelihood method. For the fixed values of the parameters  $k$  and  $B$  the shadow rate can be recovered and estimators of parameters  $\kappa, \sigma, \theta$  are known in closed form.<sup>6</sup> Therefore, the optimization is essentially two-dimensional. The parameter  $k$  is restricted to lie between zero and unity from the definition of the model. Since the parameter  $B$  distinguishes the ranges with different behaviour of the short rate, we restrict its value to lie between the 20<sup>th</sup> and 80<sup>th</sup> quantile of the short rate data. In this way, both regions contain sufficiently large number of data points, in order to estimate the behaviour of the interest rate in each of them.

The likelihood function is constructed from the conditional densities, obtained by differentiating the conditional cumulative distribution function. The derivation is analogous to the case of the zero boundary,<sup>7</sup> therefore we provide only the key step, which is the comparison of the values with the parameter  $B$ :

<sup>5</sup> VASICEK, O. (1977) An equilibrium characterization of the term structure.

<sup>6</sup> BRIGO, D. – MERCURIO, F. (2007): Interest Rate Models - Theory and Practice, p. 62.

<sup>7</sup> KOŠŮTOVÁ, L. – STEHLÍKOVÁ, B. (2024): Calibration of the Ueno's Shadow Rate Model of Interest Rates.

$$\mathbb{P}(r_{t+\Delta t} < x | r_t) = \begin{cases} \mathbb{P}(s_{t+\Delta t} < x | s_t = r_t), & \text{if } r_t \geq B, x \geq B, \\ \mathbb{P}\left(s_{t+\Delta t} < x \mid s_t = B + \frac{r_t - B}{k}\right), & \text{if } r_t < B, x \geq B, \\ \mathbb{P}\left(s_{t+\Delta t} < B + \frac{x - B}{k} \mid s_t = r_t\right), & \text{if } r_t \geq B, x < B, \\ \mathbb{P}\left(s_{t+\Delta t} < B + \frac{x - B}{k} \mid s_t = B + \frac{r_t - B}{k}\right), & \text{if } r_t < B, x < B. \end{cases} \quad (4)$$

The optimization of the log-likelihood function is performed in the R programming language.<sup>8</sup> We have used the particle swarm optimization from the *metaheuristicOpt* package.<sup>9</sup> The point, found in this step, has been used as a starting point in the *maxLik* function from the *maxLik* package.<sup>10</sup> Because of the precision of the previous optimization step, it does not lead to a significant improvement of the estimates; however, it provides us the standard errors of the estimates.

For our analysis we use the quarterly data of short-term interest rates from the key short-term economic indicators in the OECD database.<sup>11</sup> They are the rate at which short-term borrowings are effected between financial institutions or the rate at which short-term government paper is issued or traded in the market. Where available, they are based on three-month money market rates. They are averages of daily rates, measured as a percentage.<sup>12</sup> We use the data from the time period 1999-2023 (i.e, 25 years) for Denmark, Euro Area 19 and Sweden.

We make the following observations: No change of the short rate formation during the time period considered would mean  $k = 1$  or a value of  $B$  outside of the range of the data. Since we impose a restriction on the estimate of  $B$ , the latter is not possible and we expect the estimate of  $B$  to approach a boundary of admissible values. Together with our initial interest in sign and significance of the parameter  $B$ , this leads to the following two questions:

- Is there a boundary dividing different behaviour of the short rate?
- If it is indeed meaningful to consider a transformation of the shadow rate, is the value of the parameter  $B$  statistically significantly different from zero? That is, does the change occur at zero level as in (Košútová and Stehlíková, 2024) or is there a reason to include the new parameter  $B$ , as proposed in this paper?

### 3 Results

The results of the maximum likelihood estimation are presented in Table 1 (Denmark), Table 2 (Euro Area 19) and Table 3 (Sweden). Besides the estimates of the parameters, we show the 20<sup>th</sup> and 80<sup>th</sup> quantile of the data in order to assess the parameter  $B$  in Table 4.

Firstly we note that there is no problem arising with parameter  $B$  being potentially equal to 20<sup>th</sup> or 80<sup>th</sup> quantile of the data, or parameter  $k$  equal to 1 (or even statistically not significantly different from 1, since the confidence interval for this parameter based on asymptotic normality of maximum likelihood estimates does not include the value 1). Neither of these cases occur and we can therefore conclude that the behaviour of the short rate changes in all three datasets.

<sup>8</sup> R CORE TEAM (2023). R: A Language and Environment for Statistical Computing.

<sup>9</sup> SEPTEM RIZA, L. – IIP – PRASETYO NUGROHO, E. – PRABOWO, M. B. A. – JUNAETI, E. – ABDULLAH, A. G. (2019): metaheuristicOpt: Metaheuristic for Optimization.

<sup>10</sup> HENNINGSSEN, A. – TOOMET, O. (2011): maxLik: A package for maximum likelihood estimation in R.

<sup>11</sup> OECD (2024): OECD Data Explorer

<sup>12</sup> OECD (2024): Short-term interest rates.

**Table 1: Maximum likelihood estimates for Denmark**

<i>Parameter</i>	<i>Estimate</i>	<i>Standard error</i>	<i>Significance(p-value)</i>
$k$	0.147	0.025	0.000
$B$	-0.071	0.070	0.311
$\kappa$	0.087	0.088	0.321
$\theta$	1.630	2.290	0.477
$\sigma$	0.969	0.084	0.000

**Table 2: Maximum likelihood estimates for Euro Area**

<i>Parameter</i>	<i>Estimate</i>	<i>Standard error</i>	<i>Significance(p-value)</i>
$k$	0.142	0.028	0.000
$B$	-0.258	0.065	0.000
$\kappa$	0.081	0.091	0.374
$\theta$	1.796	2.407	0.456
$\sigma$	0.906	0.076	0.000

**Table 3: Maximum likelihood estimates for Sweden**

<i>Parameter</i>	<i>Estimate</i>	<i>Standard error</i>	<i>Significance(p-value)</i>
$k$	0.281	0.046	0.000
$B$	0.280	0.107	0.009
$\kappa$	0.061	0.080	0.442
$\theta$	1.526	3.536	0.666
$\sigma$	0.950	0.086	0.000

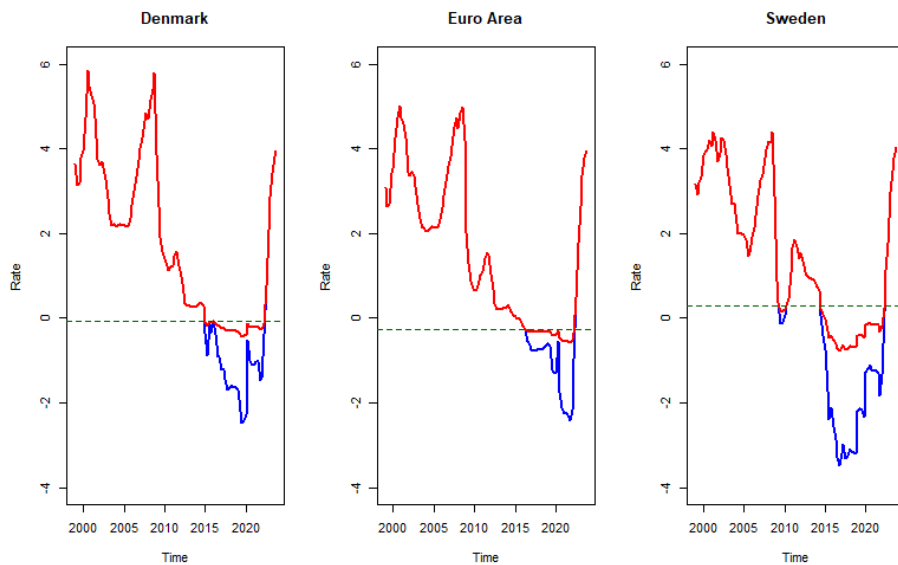
**Table 4: Quantiles of the data and estimates of parameter  $B$** 

<i>Country</i>	<i>20<sup>th</sup> quantile</i>	<i>80<sup>th</sup> quantile</i>	<i>Parameter <math>B</math></i>
Denmark	-0.197	3.734	-0.017
Euro Area	-0.313	3.433	-0.258
Sweden	-0.198	3.498	0.280

Results vary regarding the parameter  $B$ , its sign and significance. Its estimate is negative in the case of Denmark and Euro Area and positive in the case of Sweden. However, in the case of Denmark it is not significantly different from zero (the p-value corresponding to the hypothesis that  $B$  equals zero is 0.331). Therefore, the three datasets which we analyzed are examples of three different behaviours: a positive significant value of  $B$  (Sweden), a negative significant value of  $B$  (Euro Area) and insignificant value of  $B$  (Denmark).

Furthermore, we show the evolution of the short rates and shadow rates, together with the value of  $B$  in Figure 2. As it follows from the definition of the model, the values of the shadow rate below  $B$  are lower than the values of the short rate. It is the shadow rate that is governed by the same process during the while time period. Therefore, it can be concluded that low interest rates are behaving differently from the rest. However, the level, when this behaviour changes, is different: we encountered significant both positive and negative value, as well as a value for which the hypothesis of zero is not rejected.

**Figure 2: Estimated boundary value and shadow rate**



Note: The dashed lines show the values of the boundary  $B$ , where the short rate changes its behaviour. The red lines are the observed short-term interest rates, the blue lines are the estimated shadow rates. We remind that for the values greater than  $B$  these two rates coincide.

### Conclusion

In this paper we proposed a shadow rate model of interest rates. The estimation using the maximum likelihood method has shown that in some cases our new parameter is not necessary, but there are also datasets where it is significant. We encountered both its positive and negative values, which were significant.

The "shadow" in this model it is an auxiliary rate, for which the same stochastic process could be used to model the whole time period. Based on our results we can conclude that for the low values of the short-term rate its behaviour is different. What we visualize by the estimated shadow rate is a trajectory of a process, which is a certain transformation obtained from the observed short-term rate, which is governed by the same diffusion process (3), without a change of its parameters. In particular, it has the same volatility. We can see that in order to satisfy this condition, the values would have to achieve lower levels than they do in reality.

A shortcoming of this approach is a limited range for the shadow rate behaviour. When it is not equal to the short rate, it is restricted to be its multiple, while the multiplication constant is the same during the whole period. Also, the region, when the shadow rate is not equal to the short rate does not change, and it is given by a comparison with a certain value. On the other hand, it provides an analytically tractable model, which makes it possible to reproduce certain features observed in the data. When the interest rate modelling is only a part of a larger model, the simplicity of the interest rate model is essential. This model might serve as an alternative to Vasicek model, which is a simple model allowing negative interest rates, but it assumes the same process of the form (3) to hold for the whole range of the data. In particular, it is not able to capture the smaller volatility when the interest rates are in the low regime. The proposed model does not suffer from this problem.

In this paper we considered only modelling of the short-term interest rates. The formulation of the model allows, after a specification of so-called market price of risk, the computation of interest rates with different maturities by means of Monte Carlo simulations or numerically solving a partial differential equation for bond prices. A natural extension

of our approach is considering also term structures of interest rates and the ability of the model to fit them.

Finally, although we used only the datasets with both positive and negative values, they are not necessary in order to apply the model. It is possible that also in the case of interest rates which remained positive during the whole time period under consideration, there are different regimes for higher and lower values. The proposed model could be used to identify such a difference.

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# JIANG QING AND RENAISSANCE OF THE POLITICAL CONFUCIANISM<sup>1</sup>

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**Abstract:** The aim of the following study is to analyse the main features and characteristics of the ancient political Confucianism and its reappropriation in the Jiang Qing's book *A Confucian Constitutional Order. How China's Ancient Past Can Shape Its Political Future*. Study is divided into two main parts. First part deals with ancient Confucian political philosophy and its meritocratic dimensions that constitute the basis of Qing's theoretical approach. Second part scrutinizes Qing's critique of sovereignty and legitimacy of power in Western liberal democracies, as well as his own three-dimensional concept of legitimacy of power.

**Keywords:** Confucianism, meritocracy, liberal democracy, global society, legitimacy, power, China

**JEL:** D72, P30, Z18

## Introduction

Qing's pivotal book *A Confucian Constitutional Order. How China's Ancient Past Can Shape Its Political Future* was published in 2013 under auspices of Princeton University Press. Jiang Qing is one of the most prominent as well as controversial figures of the contemporary confucianism.<sup>2</sup> His book presents an outline of the reformed political system of China, emphasizing the national and traditional Chinese philosophy which, until the 20th century, developed continuously in China for several millennia and created a complex social, economical and political institutional imperial system.

As the title of the book suggests, Qing maintains that elements of the ancient ethical and political principles of the Confucian tradition of thought are still relevant to various contemporary problems associated with the crisis of a global society, ideologically stemming from the Western, Euro-American democratic culture and its peculiar capitalist system of production.<sup>3</sup> *A Confucian Constitutional Order* is also a critique of Western and political philosophy, emphasizing mistakes and obsolescence of the ideas of social contractualism (Hobbes, Locke, Rousseau, etc.), which is based on mistaken and incorrect assumptions and requires comprehensive up-to-date institutional reform. Qing addresses this critique through an ancient Confucian concept of the three-dimensional legitimacy of power, contrasting it thus with the liberal democratic one-dimensional concept of legitimacy. However, critique of the Western political system and philosophical ideas is not the main aim

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<sup>2</sup> Qing was born into a prominent Chinese family. In 2001 he founded a private Confucian academy in the southern Chinese province of Guizhou. See BELL, D. (2013): Introduction, pp. 1-10; LI, Z. (2020): Confucian Meritocracy, political legitimacy and constitutional democracy, p. 1079.

<sup>3</sup> On the issue of capitalism and global civilization, see analysis of HRUBEC, M. (2015): *Odjištěná společnost*; SOLÍK, M. (2015): *Rozpory a alternativy globálneho kapitalizmu*. The concept of global civilization is analyzed thoroughly in FEBER, J. – PETRUCIJOVÁ, J. (2018): *Pojem globálnej civilizácie*. Environmental aspects associated with the crisis of Western capitalist global society are further analyzed in ŠTAHEL, R. (2019): *Pojem krízy v environmentálnom myslení*; ŠTAHEL, R. (2020): *K filozofii ekologickej civilizácie*.

of his book. It is only a starting point for the outline of his own proposal for a solution of the problem, which, from a philosophical point of view, could be characterized in distinctive Chinese terminology as a search for a harmonious and well-ordered society.

The following study attempts to analyse and contextualise Qing's main theoretical theses and proposals in the broader frame of historical circumstances, philosophical ideas, and related political narratives to examine whether they are applicable in practice. In the first part of the study, we will analyse the historical sources and the theoretical underpinnings that form the preconditions for his institutional reform. Specifically, we will focus on the ancient Confucian idea of meritocracy and its relationship to fundamental democratic values and institutions. In the second part of the study, we shall analyse Qing's concept of the three-dimensional legitimacy of political power in comparison with the modern Western democratic one-dimensional concept of legitimacy.

### 1 Political Confucianism in Ancient China

Chinese ancient political philosophy is characterised by an ambivalent stance towards democratic institutions and ideas. On the one hand, we find some ideas about good rulers and their cordial and clement relationship with the subjected citizens. Mencius distinguished three parts of the state according to their overall importance, most important being the people (ordinary citizens), followed by the “spirits” of the earth and grain. Ruler is evaluated only as the third, least important entity in the state.<sup>4</sup> Xunzi illustrates this idea of “people first” by an old Chinese proverb: “the ruler is the boat and the common people are the water. It is the water that bears the boat up, and the water that capsizes it”.<sup>5</sup> It is clear from these references that the will of the people, their needs, sentiments, and judgement were the source of the legitimacy of the power and rule of the monarch. Common people cannot be simply ignored or be arbitrary ruled upon. As has been noted by Anne Cheng, one of the most important ideas of the historical Confucius was probably the reinterpretation of the traditional notion of the king, the “Son of the Heaven” (*tianzi*). Confucius added a moral dimension to this ancient concept when he argued that the primary duty of educated elites should be to govern common people for their greatest good.<sup>6</sup> Thus, in the ancient political Confucianism, principally it did not matter whether the ruler came from a socially prestigious and distinguished family, or whether he came from a poor circumstances.

On the other hand, in ancient Chinese philosophy we will hardly find any idea of the equality of all men, quite the contrary. The old saying quoted from the *Book of Documents* states that “equality is based on inequality”.<sup>7</sup> For Xunzi, the basic criterion of distinction between people was not so much their physical strength or beauty, not even their origin and social status.<sup>8</sup> The crucial difference between people was their ability to attain virtue and knowledge, and behave in accordance with them. It were solely these two qualities which distinguished one man above the other, and which entitled one to a higher degree of political autonomy and personal freedoms. The true king is defined by his knowledge and mastery of the ritual propriety (*li*)<sup>9</sup> and social hierarchy is tiered by their ability to behave in accordance with virtuous ideals and knowledge of ritual propriety.

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<sup>4</sup> MENCIUS (1942): *The Book of Mencius*, pp. 120-121. Mencius' statement can be understood to mean that the people are more important than the state, and the state is more important than the ruler, see SHIN, D. CH. (2013): *How East Asians View Meritocracy*, p. 263.

<sup>5</sup> HSÜN TZU (1963): *Basic Writings*, p. 37.

<sup>6</sup> CHENG, A. (2006): *Dějiny čínského myšlení*, pp. 56-57.

<sup>7</sup> HSÜN TZU (1963): *Basic Writings*, p. 36.

<sup>8</sup> XUNZI (1988): *A Translation and Study of the Complete Works I*, pp. 196-211.

<sup>9</sup> „Although they be the descendants of ritual and dukes or knights and grand officers, if they are incapable of devotedly observing the requirements of ritual and moral principles, they should be relegated to the position of commoners. Although they be the descendants of commoners, if they accumulate culture and study, rectify their

Virtue and knowledge are very exclusive spiritual assets and hard to attain. To master it, one needed to follow difficult and manifold Confucian interpretation of the ritual tradition running back to the legendary dynasties of Xia, Shang and Zhou.<sup>10</sup> Ritual propriety is one of the so-called “five virtues”: humaneness (*ren*), righteousness (*yi*), wisdom (*zhi*) and trustworthiness (*xin*). Exact translation of these concepts into European languages is only possible at the cost of significant reductionism, because their meaning and content is defined by situational context. The concept of ritual propriety, for example, conveyed a person's ability to behave according to clearly defined norms during social events, whether it was the principles of proper combat during war, or manners during table talks, or the recitation of speeches and poems in public, or the conduct of religious sacrifices and rituals in temples, or the pronouncement of judgments and political decisions in courts, or the conduct of the father towards family members, or the communication norms in bureaucracy, etc. Humaneness or benevolence (*ren*) is composite logogram carrying two distinct meanings – “person” and “two”. Humaneness not only denotes good behaviour towards other people in the sense of a ruler's benevolence and helpfulness to the ruled, but is also associated with a universal type of education that empower a person to carry out practical actions and decisions in social relations towards people with lower or higher status. In classical Confucianism, humaneness is the basic criterion of the definition of social class, the so-called well born people, or “gentlemen” (*junzi*). It is associated with the higher education, because this social class had the privilege to decide in political matters.<sup>11</sup> The highest level of education was traditionally a privilege of the king and highest born aristocracy. The king was defined by his ability to “appoint other men to office”, each according to his own capacities as well as merits.<sup>12</sup> The role of the king was to distribute tasks and work among other people. He had to excel in his ability to have a perfect knowledge of human characters and to be able to evaluate individuals on the basis not only of their origin, but also of their adherence to social morals and rules. Although the main concern of the king, and of the community as a whole, was to ensure the welfare and harmony of all its members, political Confucianism essentially expressed strong paternalistic tendencies. In idealistic, philosophic way people with knowledge and impeccable moral character were empowered to discipline “lowly” people, as well as to decide what was good for them. As had been pointed out by Daniel Bell, “only those who acquire knowledge and virtue ought to participate in government, and the common people are not presumed to possess the capacities necessary for substantial political participation.”<sup>13</sup>

From a theoretical perspective, political Confucianism is based on the idea of meritocracy. Meritocracy is in ancient Confucian texts divided into two branches, which forms a higher unity: into “technical” and “moral” meritocracy.<sup>14</sup> This unity had to be achieved by a detailed knowledge of classical texts (the so-called Five Classics),<sup>15</sup> and by ascetic life and morals in accordance with the teachings of Confucius as laid out in *Analects*. Chinese emperor could not act just as an absolutist ruler in the spirit of the maxim *l'État, c'est moi*. He had to demonstrate subordination to the extra-personal authority of the Heaven, embodied in

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character and conduct, and are capable of devotedly observing the requirements of ritual principles and justice, they should be brought to the ranks of a prime minister, knight, or grand officer.” See XUNZI (1990): A Translation and Study of the Complete Works II., p. 94.

<sup>10</sup> DUDLEY, T. (1934): *The Confucian Utopia*, p. 67.

<sup>11</sup> HONG, CH. (2019) *Political Equality, Confucian Meritocracy, and Citizenly Participation: A Reflection*, p. 119.

<sup>12</sup> XUNZI (1990): *A Translation and Study of the Complete Works I.*, p. 157; *cf.* also pp. 94-112.

<sup>13</sup> BELL, D. (2006): *Liberal Democracy. Political Thinking for an East Asian Context*, p. 154.

<sup>14</sup> As some authors point out, the peculiarity of the Chinese conception of meritocracy, *pace* the modern Western view, which puts emphasis only on technocracy, is precisely the unity of the technocratic and moral dimensions. See SHIN, D. CH. (2013): *How East Asians View Meritocracy*, pp. 267-271; ZHANG, Y. (2018): *The Future of Meritocracy: A Discussion of Daniel Bell's The China Model*, p. 52.

<sup>15</sup> *Book of Rites, Book of Odes, Book of Documents, Book of Changes, Spring and Autumn Annals.*

authoritative texts and rituals embedded in ancient traditions. True king also had to excel in practical knowledge and knowledge of political, economic, military affairs, and he had to be the wisest man in the country. We can get a better idea of how the control mechanisms that were used to examine the competence of rulers in Confucian philosophy functioned by scrutinizing the meaning of the notion “filial piety” (*xiao*). Filial piety did not consist in blind and uncritical following of authority and orders. It presupposed a critical relationship between authority and its subjects at all social levels, from the relations within the family between father and the son to the relations between members of the royal court. As put by Xunzi, the filial piety is identified with the highest standard of conduct: “to follow the dictates of the Way rather than those of one's lord and to follow the requirements of morality rather than the wishes of one's father”.<sup>16</sup> It was the duty of the ministers to criticize and contradict the emperor whenever his decisions or considerations did not seem to be in accordance with the will of Heaven, *e. g.* what is appropriate and virtuous. This was to prevent the sovereign from transgression, from accidentally deciding against the will of Heaven and putting his own benefit before what is good for the society as a whole.

The tenets of political Confucianism were partially designed to be implemented at practical, institutional level. In the book *Waiting for the Dawn: A Plan for the Prince*, Huang Zongxi, a Confucian scholar from the 17th century, mentions the Imperial College from Eastern Han Empire as exemplary governmental institution where ancient Confucians mentored and educated political elites. According to this book, back in the days Confucian scholars had a number of privileges – they could express their views on the official policies of the imperial court freely and without any censorship, the principal of the College had the power to examine both the emperor and his ministers. Each month the emperor would sit in the College classroom and, in the presence of students and officials of the royal court, the principal would enquire him about the knowledge of the Confucian texts, and practical principles of how to run a country most effectively. Confucian scholars did not confine themselves solely to education and examination of political leaders, but also played an important role as advisors and supervisors of generals, judges, priests, and other high-ranking state officials and magistrates.<sup>17</sup> In addition to the Imperial College, Jiang Qing enumerates numerous other offices, institutions, and practices in Chinese governmental lore that were introduced by Confucian scholars throughout the centuries for the purpose of disciplining political elites and officials with aim to endow them with superior morals and knowledge. This Confucian practices constituted a long-term programme for complex political reform that overarched generations of Chinese scholars.<sup>18</sup> Its final goal was to restore the Golden age of the very first Chinese dynasties and recreate peaceful, harmonious and prosperous society (*datong shehui*). In order to implement this programme, a meritocratic system of official examinations was established in China, which, with various modifications, ups and downs persisted for more than two millennia until the end of the reign of the last Chinese dynasty Qing in the years 1911- 1912.<sup>19</sup>

## **2 Qing's Three-dimensional model of the legitimacy of power**

Following this ancient tradition, Qing elaborates his reflections about Confucian political reforms in China. He found an idea of the threefold legitimacy of power in two ancient

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<sup>16</sup> XUNZI (1994): A Translation and Study of the Complete Works III., p. 251.

<sup>17</sup> ZONGXI, H. (1993): *Waiting for the Dawn: A Plan for the Prince*, p. 92.

<sup>18</sup> QING, J. (2009): *Le confucianisme de la « Voie royale »*, direction pour le politique en Chine contemporaine; *cf.* also QING, J. (2013): *A Confucian Constitutional Order. How China's Ancient Past Can Shape Its Political Future*, p. 40.

<sup>19</sup> FREDERICKSON, H. G. (2002): *Confucius and the moral basis of bureaucracy*.

texts, *The Gongyang Commentary* and *The State of Equilibrium and Harmony*.<sup>20</sup> Qing's "The Way of the Humane Authority" is divided into Way of Heavens, Way of Earth and Way of Man, which correspond to three types of legitimacy of power: the sacral legitimacy, the historical legitimacy and the democratic legitimacy.<sup>21</sup>

One of the most significant and interesting contributions of Qing's book is the way in which he is able to use the philosophy of ancient Confucianism to address a comprehensive critique to the Western political philosophy, particularly that of liberalism. In this ideology persists one important element of medieval thought – the one-dimensional conception of the legitimacy of power and of the sovereign. Instead of God as the guarantee of the legitimacy of power and the source of political sovereignty, liberalism has placed the sovereign will of the people. According to Qing, "in contemporary Western politics, the people play the role that God played in the Middle Ages."<sup>22</sup> Paradoxically, the one-dimensional conception of legitimacy represents a medieval mindset from which the sacred has disappeared in favour of secular dimension. This is the largest defect of liberal democracy and Qing is demonstrating it by broadly formulated argumentation and explication.

Qing identifies the causes of West's reductive approach to the idea of legitimacy not only in the atheistic nature of Enlightenment philosophy as such, but particularly in the British utilitarian hedonistic calculus. The political representatives of utilitarian liberalism were fully employed with satisfaction of as many individual desires for as many citizens as was possible. This was considered to be the highest, greatest good. Due to this worldview, in a society that worships unconditional economic growth, capitalization, commercialism, any demand for "restraint" has disappeared from political discourse. The lack of the Western society for certain limits and restrictions on individual consumption led to ignorance and marginalization of universalistic ethics and moral philosophy. Qing is ready to concede that this "erosion" is on the brink of total destruction of any other type of sovereignty except its only one dimension, that is the "will of the people". The most grave consequence of this neglect is seen in the environmental sphere, because the "very desires that democracy is built upon are the main political cause of ecological problems."<sup>23</sup>

Qing's conclusions are in accordance with conclusions of other academics and scholars, who point out that Confucianism represents one of the historically oldest concepts of ecological civilization,<sup>24</sup> stemming from the works of ancient authors in *The Spring and Autumn* and *The Warring States* periods (6th-3rd centuries BCE).<sup>25</sup> Lack of the sacred legitimacy – in the terms of ancient Confucianism "The Way of Heaven", is currently evident, and need and necessity to introduce a new type of the politics of ecology in the sense of respecting ecological values that are superior to the materialistically and hedonistically oriented western type of legitimacy, are becoming ever more persistent. According to Qing, once the will of the people comes into conflict with ecological values, it loses its legitimacy, because planet or earth is more important than unrestricted satisfaction of our non-essential needs.<sup>26</sup>

Western's loss of sacred legitimacy is intricately linked to the loss of the historical and cultural legitimacy, or, in Confucian vocabulary, the Way of the Earth. The demise

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<sup>20</sup> *The Gongyang Commentary on The Spring and Autumn Annals* is considered to be the root text of the Chinese liberalism and a primer of Confucian logic. MILLER, H. (2015): Introduction, p. 1. *The State of Equilibrium and Harmony* is one of the Four books of classical Confucianism and its author is Confucius' only grandson Zisi (481-420 BCE).

<sup>21</sup> QING, J. (2013): A Confucian Constitutional Order..., p. 28.

<sup>22</sup> QING, J. (2013): A Confucian Constitutional Order..., p. 30.

<sup>23</sup> QING, J. (2013): A Confucian Constitutional Order..., p. 36.

<sup>24</sup> ŠTAHEL, R. (2020): K filozofii ekologickej civilizácie, pp. 820-825; cf. SNYDER, S. (2006): Chinese Traditions and Ecology: Survey Article.

<sup>25</sup> GUO, Q. – CUI, T. (2015): A Study on Pre-Qin Confucian Scholars Environmental Ethics.

<sup>26</sup> QING, J. (2013): A Confucian Constitutional Order, pp. 35-36.

of this second type of legitimacy manifests itself in “historical nihilism”. This loss is associated in the Western philosophical tradition with reductionist interpretation limiting political discourse on social order to the categories of the abstract reason and the will of the people. According to Qing, “state is not a deliberately constructed public service body dedicated to providing for human needs”, nor “an interest group (a company) formed to obtain secular interests”, but rather “lofty and spiritual, transcending the secular interests and selfish desires of a given time. It is a mysterious body from a distant past”.<sup>27</sup> It has its own historical essence, continuously evolving across generations for hundreds of years, and in the case of China as well as some other nations more than thousands of years. The historical and cultural type of legitimacy assumes that the social contract will respect not only the voices of the present generations, but also consent given by many previous generations, which constituted the body of the state in past. These past generations are embedded in the culture of the state, its history and institutions. The individual generation that renews the social contract in the periodically recurring act of democratic election cannot transcend the short-term goals that always concern the “here and now” as the object of people's current needs and their consumption preferences. The loss of historical legitimacy is worst in the cases where liberal democracy was forcefully imposed on different, non-Western cultures and institutions. Qing presupposes that functional elements of culture and politics are formed in the process of evolution. State is in a sense similar to a living organism, which acquires its uniqueness and identity through a continuous and long term evolution in environment where not only rationality but also chance plays an important role. Changes in political institutions should therefore not be the result of sudden shifts of the will of the people, shifts that in one or two generations completely negate and erase the slow and natural development of state traditions, customs and morals. It is only throughout the longer time periods that generations of people gradually figure out what are the most efficient ways for the government of society. Qing argues that pluralistic, three dimensional conception of the legitimacy of the power surpasses democracy and presents “an ideal and hope for political development” for contemporary politics on a global scale.<sup>28</sup>

The three-dimensional conception of legitimacy does not exclude democracy and liberalism from politics *en bloc*. However, due to contemporary problems of the global society, it is necessary to expand western one-dimensional conception of legitimacy of power with two other types – sacral legitimacy and historical-cultural legitimacy. “Each form of legitimacy has its own intrinsic justification, and each contributes in its own way to the work of checks and balances, contributing to the whole through what is different in each. This is the Chinese spirit of each exercising its proper role so as to obtain harmony”.<sup>29</sup>

It should be noted that Qing's critique refers not only to liberalism (although it is the main object of his inquiry), but also to Marxism. During the so-called Century of Humiliation (1839-1949), Chinese intellectuals made the mistake of adopting the Western principle of popular sovereignty and western ideas of communism have to be reformed in the spirit of traditional Chinese culture.<sup>30</sup> Nevertheless, People's Republic of China maintains various institutional features and principles of meritocracy, *e. g.* the mechanism of recruiting members to *Chinese People's Political Consultative Conference (CPPCC)*.<sup>31</sup> Some scholars go so far in evaluating the political regime of the People's Republic of China that they refuse to characterize it as Marxist or Communist, and instead talk about vertically arranged three-layered model of society with democracy at the bottom, experiment in the middle and meritocracy at the top.<sup>32</sup>

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<sup>27</sup> QING, J. (2013): A Confucian Constitutional Order, p. 73.

<sup>28</sup> QING, J. (2013): A Confucian Constitutional Order, p. 40.

<sup>29</sup> QING, J. (2013): A Confucian Constitutional Order, p. 37.

<sup>30</sup> QING, J. (2013): A Confucian Constitutional Order, p. 95-96.

<sup>31</sup> LI, CH. (2009): Where Does Confucian Virtuous Leadership Stand?, pp. 534-535

<sup>32</sup> BELL, D. (2015): The China Model. Political Meritocracy and the Limits of the Democracy, p. 180.

## Conclusion

Qing's critique of the modern Western political philosophy and history of thought is heading forward through the past. Ideals of traditional Chinese philosophy and its long history of Confucianism unfolds new horizons for new ecological as well as political struggles the global society is dealing with. Political meritocracy is being studied not only from the viewpoint of ancient Chinese philosophy, but also in the perspective of western scholars, who are coming to the similar conclusions that Qing. Western scholars emphasize the need to implement complementary institutional mechanisms in governments and parliaments of liberal democracies that would ensure the selection of autonomous political elites, independent from the short-term rotation of electoral cycles and the volatility and irrationality of ever-changing public opinion.<sup>33</sup>

Qing's idea of legitimacy can be interpreted also through different approach – descriptive (empirical) and normative. The descriptive perspective emphasizes the long-term historical development of Confucianism as the dominant culture throughout the whole East Asian region. The normative perspective, on the other hand, emphasizes the inclusion of the democratic elements of political legitimacy as a political authority that respects the will of the people as a partial, but definitely not absolute, authority. In this sense, as a part of the threefold “hybrid conception of legitimacy”, Western liberal democracy is in compliance with the commonly held belief in Confucian cultures and nations, who perceive state institutions and authorities as excellent providers of the welfare state with its health care system, social insurance and economic security.<sup>34</sup>

Qing's conception is based on the assumption that democracy can only be successful and vital in East Asian communities if the priorities of individual and liberal rights are in accordance with the traditional Confucian values that emphasize moral responsibility for community, social cohesion, hierarchy of social roles, and collective welfare. In other words, western political ideologies had to respect traditional Confucian cultures and values in order to be beneficial for the East Asian region.<sup>35</sup>

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<sup>33</sup> BEST, H. – HIGLEY, J. (2010): *Democratic Elitism: New Theoretical and Comparative Perspectives*.

<sup>34</sup> LI, Z. (2020): Confucian Meritocracy, political legitimacy and constitutional democracy, p. 1078.

<sup>35</sup> O'DWYER, S. (2020): Confucian Democrats, Not Confucian Democracy, p. 211.

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# DEVELOPMENT OF FOREIGN TRADE ACTIVITIES OF AUSTRALIAN COMMONWEALTH AND THE EAST ASIA COUNTRIES

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**Abstract:** An integral part of the development of international relations is the deepening of economic interdependence. Modern trends in the world economy such as multipolarity and globalisation have led to restructuring processes that have resulted in Australia's increasing integration into the world economy. Nevertheless, the success of Australia's trade activities and closer interactions with Asian countries are largely due to the economic progress and reforms in the Asian region in the 1970s-80s. The primary objective of this article is to provide a comprehensive analysis of Australia's foreign trade activities with Asian countries that would be useful in assessing the current state of Australia-Asia cooperation. An attempt will be made to assess the dynamics of the development of trade relations and to assess the prospects for their future development. Standard methods such as retrospective, comparative analysis, synthesis and time series analysis will be used to achieve the set tasks.

**Keywords:** foreign trade, Australia-Asia relations, ASEAN, export of goods

**JEL:** F23, F63

## Introduction

Over time, and with the expanding interconnectedness of countries, economic cooperation between the Commonwealth of Australia and East Asian countries has become increasingly important. With the dynamic progress in the Asia-Pacific region, economic and political ties have begun to intensify, especially with leading powers such as China, Japan, South Korea, Singapore, India, Vietnam and other members of the ASEAN group. In 1981, Asia accounted for only 21% of world GDP, but today there are projections that this level will reach 45% by 2026.<sup>1</sup> The ASEAN grouping, representing a sales market of over 650 million, is one of the fastest growing regions and plays a role as a major trading partner for Australia. Trade cooperation between ASEAN countries and Australia dates back to 1974, when the Commonwealth of Australia became the Association's first non-Asian dialogue partner. That step laid the foundation for future political and economic cooperation.<sup>2</sup>

A major milestone in deepening trade relations was the signing of the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA), which entered into force in 2010. The number of countries involved, the comprehensiveness of the coverage of sectors such as services, investment or customs procedures, have taken the partnership to a new level, making the cooperation one of the most important on the world stage. The diversity of ASEAN presents opportunities for Australian business, from the sophisticated Singaporean economy to the emerging markets of Cambodia.

The partnership of the selected samples is a key element, especially in terms of economic growth and regional empowerment. The growing importance of their trade

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<sup>1</sup> AUSTRALIAN GOVERNMENT. AUSTRALIAN TRADE AND INVESTMENT COMMISSION (2024): Global ties and open markets: Proximity to Asia's powerhouse economies.

<sup>2</sup> AUSTRALIAN GOVERNMENT. DEPARTMENT OF FOREIGN AFFAIRS AND TRADE (2024): ASEAN AND AUSTRALIA.

cooperation is underpinned by trade liberalisation, increasing demand for Australian-produced natural resources and technological advances. As Moore suggests, thanks to the application of Facing Asia into practice, announced by Australia at the turn of the millennium, the share of Asian countries in the regional export structure of Australian products has risen from an initial 49 per cent to a level of 56%.<sup>3</sup>

## 1 Economic history of Australia

Australia's export performance in the first half of the 20th century was concentrated on a limited number of products, and the product portfolio at that time represented a much smaller base. This is linked to the fact that the economic benefits during British settlement were not evident. In the early 20th century the current origins of economic activity were laid as a result of the discovery of fertile land and favourable climatic conditions in the South East and Tasmania. At that time economic activity was based on the production of agricultural products such as barley, potatoes or herbs, which were traditionally used by Aboriginal people. A relatively small range of agricultural produce was exported to markets in the British Empire.<sup>4</sup>

Agriculture, local manufacturing and construction began to spread at a rapid pace to appease the needs of a growing population that was increasingly concentrated in coastal areas, creating urban centres where production was concentrated. Advances in mining attracted significant amounts of British capital, while the expansion of the continent was supported by spending, particularly in transport and infrastructure. The skills brought by growing immigrant groups contributed to the growth of the economy and the associated emergence of free societies, including the idea of the rule of law and stable political systems.<sup>5</sup>

The creation of the Commonwealth of Australia in 1901 expanded the opportunities for foreign intervention in international markets and certainly brought changes in the arrangements of political and economic power. With the formation of the federation, the Australian government was allowed to centralise selected state policies, but at the same time retained a degree of autonomy in selected areas. This resulted in Australia being given the right to decide on the application of trade barriers (tariff or non-tariff), the power to determine and coordinate policy for international trade. A significant step was the abolition of colonial tariffs and the creation of a single Australian market.<sup>6</sup>

After the formation of the Federation, production was stimulated by the following factors: rural expansion, technological advances (the creation of refrigeration facilities), and the introduction of agricultural machinery. Data indicate that until the outbreak of World War I, merchandise trade was centered on the production of cotton, coal, and gold, which accounted for the largest share of foreign trade. In addition, there was a diversification of the rural area, where cotton production remained dominant, but dairy production and wheat cultivation increased.<sup>7</sup>

After the outbreak of World War I in 1914, the export sector was disrupted by the closure of markets and shipping. Climatic conditions also contributed to the recession, during which the production of meat and dairy products declined significantly. Coal exports were banned for military purposes, leading to the disbanding of the workforce. It is reported that between June and December 1914 unemployment in Australia increased by twice.<sup>8</sup> The overall impact of the

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<sup>3</sup> MOORE, M. (2001): The WTO: Challenges Ahead, Canberra, Speech at the National Press Club.

<sup>4</sup> AUSTRALIAN GOVERNMENT. DEPARTMENT OF FOREIGN AFFAIRS AND TRADE (2024): Australia's trade through time.

<sup>5</sup> ATTARD, B. (2005): The Economic History of Australia from 1788: An Introduction.

<sup>6</sup> Ibid.

<sup>7</sup> AUSTRALIAN GOVERNMENT. DEPARTMENT OF FOREIGN AFFAIRS AND TRADE (2024): Australia's trade through time.

<sup>8</sup> YULE, P. (2016): Organization of War Economies (Australia).

First World War was marked by the mass disruption of imports, the British export embargo on munitions-related materials, high transportation costs, and the stagnation of the manufacturing industry. Nevertheless, Australia's economic policies were able to recover the country relatively quickly, although the recovery was not entirely uniform.

By 1941, the Australian economy was booming, the private sector was expanding, more women were entering the workforce, and many factories were turning to military production. Job creation, especially in the manufacturing sector dramatically reduced unemployment in Australia. By the beginning of the Second World War unemployment stood at over 8% and by 1943 this had fallen to 0.95%.<sup>9</sup> Nevertheless, the Australian economy has been severely constrained in supplying basic foodstuffs to its citizens. The nation provided clothing, fuel and food to the Allies, which adversely affected the Australian population. Rural production had to increase to feed not only the Allies but to meet domestic demand.<sup>10</sup>

## **2 The Evolution of the territorial structure of Australia's foreign trade**

The post-war world order led to Asian countries presenting new outlets for Australian products. This means that Australian trade patterns have evolved rapidly over the past century and hence we can say that the territorial structure of Australia's foreign trade has changed. What did this structure look like before?

From the time of colonisation until Australia's independence, it was European countries that were Australia's main trading partners. This stems from historical ties when Australia was politically and economically attached to Great Britain and was its colony. Figures suggest that total trade with Great Britain was five times greater than total trade with the United States, which was Australia's second trading partner at the time.<sup>11</sup> At the turn of the 20th century, the UK was the source of 70% of Australia's imports and 80% of its exports. The strength of the links was also demonstrable in the period when the Australian pound was linked to sterling, in which Australian banks maintained their reserves.<sup>12</sup>

Although trade relations between the UK and Australia have been the most visible, partnerships with other European states - Germany, the Netherlands or France - have been strengthening, as evidenced by Australian Government data. Germany was Australia's third largest trading partner and the country had a special position in the Australian market. This was related to the specialisation of German firms in exporting technologically advanced goods such as chemicals, machinery or medical devices. Like Great Britain, German-Australian relations were adversely affected by political events and the disruption of trade relations during the wars. After 1945, relations between the countries were restored and even in 1959 a bilateral trade agreement was signed, which once again allowed German firms access to the Australian market.<sup>13</sup>

## **3 Asian countries as a new trading partner**

Engagement in the Asian region became a priority area of Australia's foreign policy in the second half of the 20th century, driven not only by trade issues but also by geopolitical strategy. The rise of the Communist Party in China, the Korean War, the Vietnam War, the turmoil in the Middle East, Cold War tensions and other factors forced a reassessment of the direction of 'White Australia's' foreign policy. The Menzies Liberal Government has emphasised the importance of Asia as a key partner in maintaining stability, progress and economic growth.

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<sup>9</sup> RESERVE BANK OF AUSTRALIA (2024): The Spectre of Inflation.

<sup>10</sup> AUSTRALIAN GOVERNMENT. DEPARTMENT OF VETERANS' AFFAIRS (2024): Sharing Australia's military and service history through the experiences our veterans: From wool to wirraways.

<sup>11</sup> AUSTRALIAN BUREAU OF STATISTICS (2024): Trade since 1900.

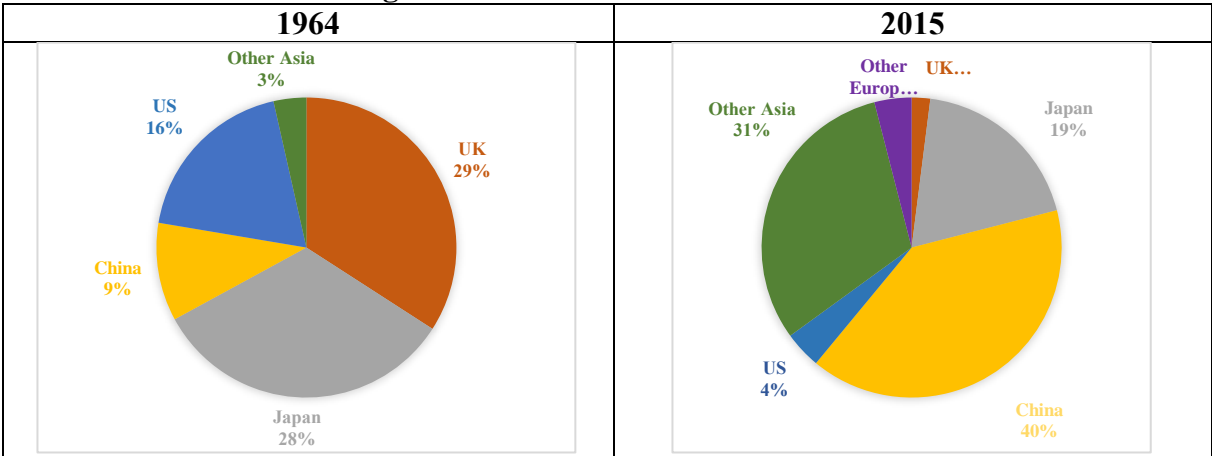
<sup>12</sup> RESERVE BANK OF AUSTRALIA (2024): Trends in Australia's Balance of Payments.

<sup>13</sup> COLEMAN, W. (2015): Was the First world war disturbing or reinforcing of Australia's economic mode?

After 1945, the relationship between Australia and Asia shifted from isolation to engagement in a number of sectors - diplomacy, trade, cultural exchange, and not least technology transfer. The most significant milestone in the building of Australia-Asia relations was the Whitlam administration's abolition of the 'White Australia' policy in 1973, opening the way for deeper interaction and increased Asian immigration to Australia.<sup>14</sup>

In the light of changing political events, Asian countries have set themselves on the path of industrialization and have undertaken a number of economic reforms, which have beneficially affected their economic opportunities. The transformation of national economies in countries such as South Korea, Singapore and Japan have made them important trading partners for Australia, ties with which remain unbroken to this day. Structural reforms, changes in comparative advantage and trade liberalisation have not only benefited exports of Australian products, but have also encouraged the growth of imports of goods from Asian countries, where even imports from such samples as Indonesia or Thailand have been seen.<sup>15</sup>

**Chart 1: Change in the territorial structure of trade over time**



Source: author's own elaboration based on data from Australian Government: Fifty years of Australalia’s trade

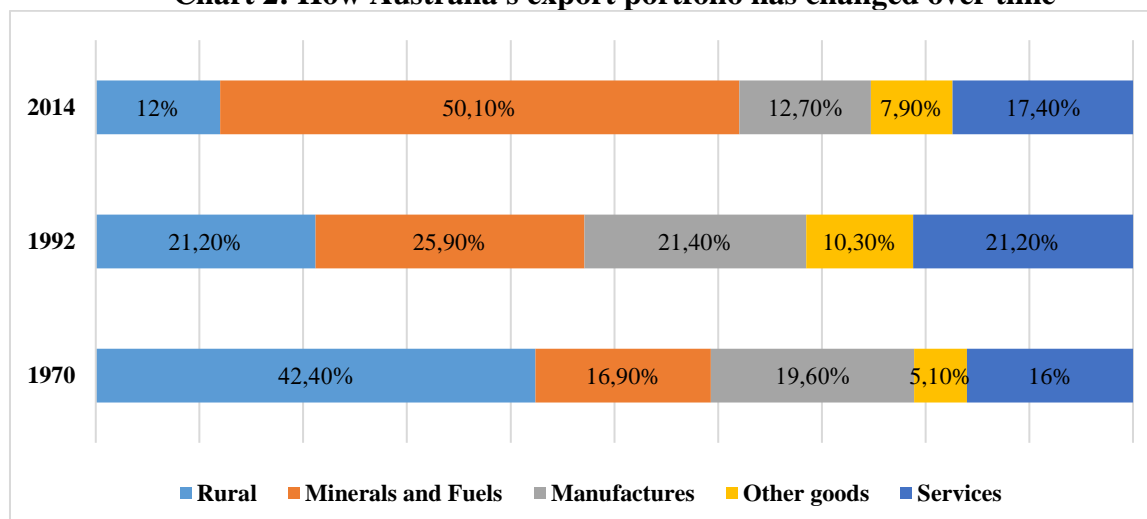
There is no doubt that the growth of the East Asian market has intensified Australia's foreign trade activities. A major post-war achievement was the establishment of economic relations with Japan, which gained the position of leading export partner in the period 1966-1967. This trend was maintained until 2009-2010, after being overtaken by China.<sup>16,17</sup>

**4 Commodity structure of Australia’s external trade**

The end of the Second World War not only transformed the territorial structure of Australia's foreign trade, but also marked the commodity focus of the state towards energy resources and more technology-intensive products.

<sup>14</sup> RESERVE BANK OF AUSTRALIA (2013): The United Kingdom and Australia: Shared History, Shared Outlook.  
<sup>15</sup> AUSTRALIAN GOVERNMENT. AUSTRALIAN TRADE AND INVESTMENT (2024): Global ties and open markets: Proximity to Asia’s powerhouse economies.  
<sup>16</sup> HALVORSON, D. (2019): Reinterpreting Australia’s historic engagement with Asia.  
<sup>17</sup> DRYSDALE, P. – LU, W. (1996): Australia’s Export Performance in East Asia.

**Chart 2: How Australia's export portfolio has changed over time**



Source: author's own elaboration based on data from Australian Government: Fifty years of Australalalia's trade, p. 4

While agricultural products have been characterised by high price volatility, Asian countries' demand for Australian raw materials has served as a driver of prosperity and generated significant revenue for the Australian government budget. Based on Australian parliamentary data in the 1980s-1990s, it was possible to observe a slight decline in the volumes of agricultural exports to East Asian countries, due to the increasing export of fuels and mineral raw materials. Why has there been a reorientation in the commodity structure of Australia's foreign trade?

The world economy has been negatively affected by events such as the crises of the 1970s and 1980s known as the oil shocks, the 1987 stock market crash, and the sharp decline in exchange rates as well as the exchange rate. The movement of the exchange rate and especially of the Australian dollar created new opportunities for trade cooperation as Australian products became cheaper on international markets and thus more competitive compared to American or European products. In the meantime, Australia's trade policy brought into focus the East Asian countries, which by then had completed the process of transforming their economies towards technology-intensive goods. The 1989 Asia Report issued by the Hawke government emphasised the need for closer coordination with countries such as Japan, South Korea and China. The aim was to turn its attention to the Asia-Pacific region and reduce dependence on its historical allies. The report reflected on the economic importance of these countries and recommended focusing on the export of raw materials, as industrialisation, rapid urbanisation, the intensification of the use of machinery and the creation of an industrial base required vast quantities of natural materials. Japan was one of the first countries to rise rapidly to a new position in the world economy, bringing with it the expansion of heavy industry - steel, chemicals, automobiles and shipbuilding.

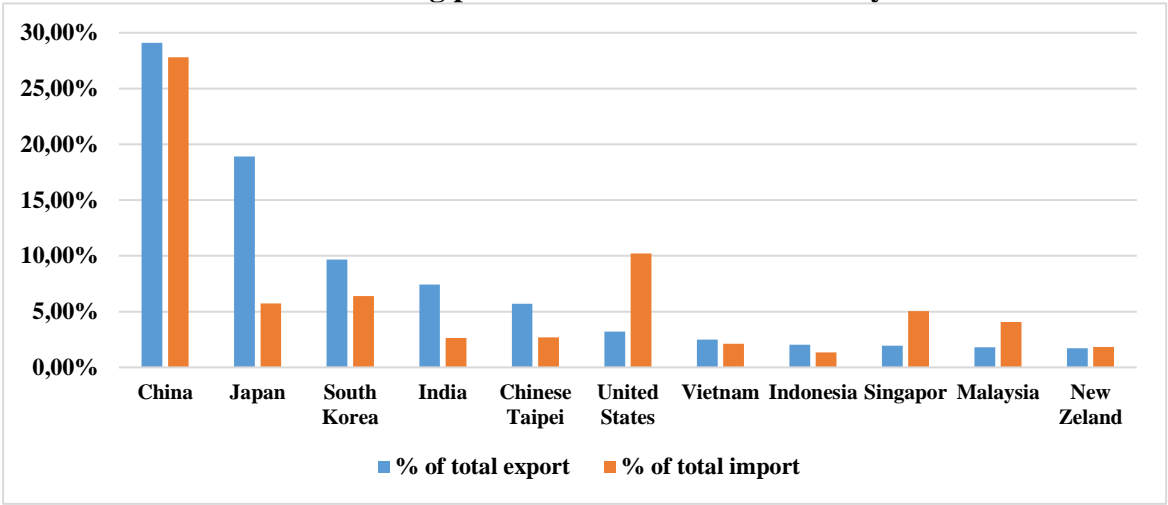
Increased demand for natural materials has been focused on the Australian market due to its relative proximity, lower cost compared to other global suppliers and the creation of new partnerships. With its sources of quality iron ore and coal, Australia has been able to meet Asian demand and provide a stable supply, an essential element of economic growth. Revenues from iron ore and coal sales increased substantially as expanding Asian mining projects demanded increasing quantities of materials. As statistics show, the value of ore and scrap metal receipts increased from US \$85.3 million to US \$215.2 million in 1966-1969,

while receipts from coal sales rose from an initial US\$68.7 million to US \$114.8 million in the same period.<sup>18</sup>

**5 The current state of economic interaction**

Australia has long-standing ties with ASEAN through which the vision of an open, stable and prosperous region is promoted. Australia's trade interests and those of ASEAN member countries are linked at a multi-dimensional level. The importance of cooperation is fundamentally built on complementary economic structures, with Australia, as a raw material exporter, supplying the industrial-oriented countries of ASEAN. Yet, the partnership with the East Asian bloc is not limited to the exchange of natural goods, but is built on a high level that encompasses ecological, investment, political, strategic and social connectivity. In 2022, Australia's largest trading partners were:

**Chart 3: Share of trading partners in Australia's two-way trade in 2022**



Source: author's own elaboration based on OEC data. Available online: <https://oec.world/en/profile/country/aus?yearlyTradeFlowSelector=flow1>

East Asian markets have maintained significant positions in Australian trade to date, due not only to geographic proximity, but also to stable demand for Australian raw materials, a rapidly growing middle class population in Asia, and the reliability of adherence to trade agreements, which is mainly due to cultural considerations.

While the world is transitioning to clean energy and renewables, Asia's industrial-oriented countries maintain high consumption of energy raw materials, especially oil and coal, due to rapid urbanisation. Limited reserves of indigenous deposits and underdeveloped infrastructure in some Asian countries, such as Indonesia, are slowing the transition to clean energy. In addition, renewables require significant investment to build them as well as fossil fuels to produce them. The production of wind turbines or solar panels is linked to the production of steel or plastic - fossil components. In addition, the transport of renewable energy sources as well as their subsequent installation is provided by vehicles or ships, the performance of which depends on petrochemical components such as ethylene. Based on the information of government statements, it is possible to say that in the short term, renewable sources will not be able to fully cover the increased energy demand and therefore Asian countries have to use other sources, which are fossil fuels. Therefore, energy demand in ASEAN countries has been on a positive trend for decades. Statistical data suggest that on average, demand is growing at 3% per annum and is projected to double by 2050. Australia currently supplies more than 1/3

<sup>18</sup> PARLIAMENT OF AUSTRALIA (2024): Australia and Japan – A trading tradition.

of Japan's energy needs. In 2023, Australia exported \$35.4 billion worth of coal to Japan. AUD 41% of total exports to Japan.<sup>19</sup>

**Table 1 Commodity structure of Australia's exports to Southeast Asia in 2020**

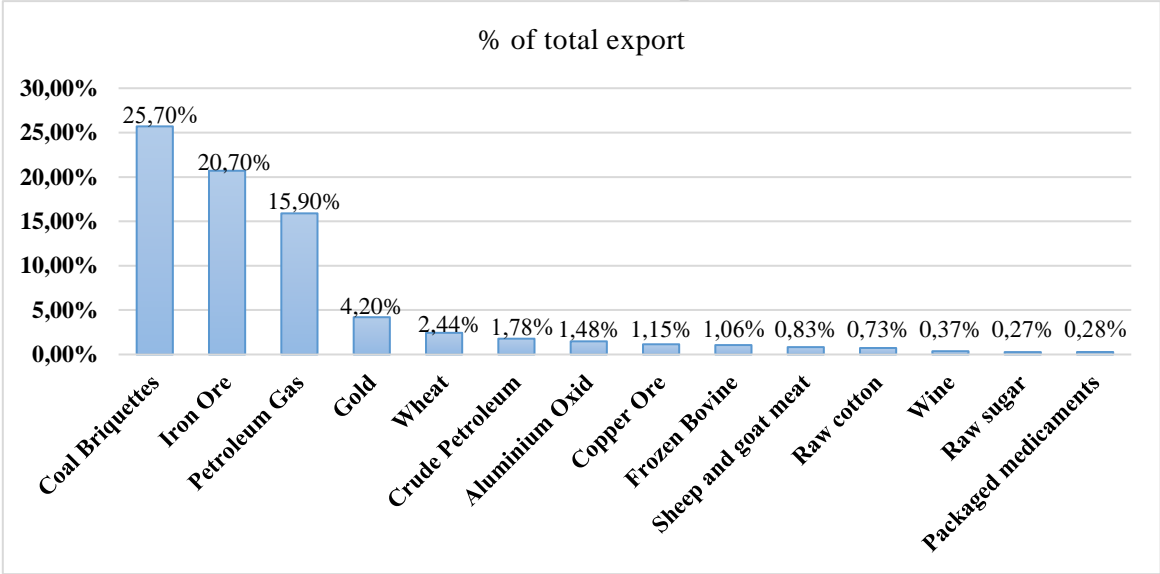
Minerals and flues	<b>31,3 bil.USD</b>
Manufactured goods	<b>9,4 bil.USD</b>
Agriculture (forestry and fisherles)	<b>17,6 bil.USD</b>
Other goods	<b>16,0 bil.USD</b>

Source: author's own elaboration based on Australian Governemnt data

The table below provides an overview of commodities exported to Asian markets. It is worth mentioning that LNG exports have experienced growth over the period, making the country the world's largest exporter. Coal remained the dominant export commodity despite a slight decline compared to the 2018-2019 period, mainly related to measures during the 2019 coronacrisis. Coal revenues fell by AUD 15 billion during that time. Uranium also saw a slight decline - AUD 0.7 billion.<sup>20</sup>

There is no doubt that energy resources make a significant contribution to Australia's economic growth and strengthen its position in markets. Despite this fact, the Commonwealth of Australia is focusing its energies on the production and export of other important items, which, however, do not contribute as significantly as energy products. The commodity structure of Australia's foreign trade in 2022 looked like the following chart.

**Chart 4 Australia's total exports in 2022**



Source: author's own elaboration based on OEC data. Available online: <https://oec.world/en/profile/country/aus?yearlyTradeFlowSelector=flow0>

Multilateral trade liberalisation agreements facilitate mutual trade. At the strategic level, cooperation includes the initiative known as the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA) and the ambitious Regional Comprehensive Economic Agreement (RCEP)-Regional Comprehensive Economic Agreement. These agreements eliminate or reduce trade barriers, mainly in the form of tariffs, thereby facilitating the movement of goods and services. This type of partnership presents an opportunity for Australia to diversify its export

<sup>19</sup> ARMSTRONG, Sh. (2024): Australia’s energy transition collides with Japan’s energy security.  
<sup>20</sup> AUSTRALIAN GOVERNMENT. GEOSCIENCE AUSTRALIA (2024): Overview.



markets, reducing the risk of economic shocks, income instability, and dependence on a limited number of goods and services, while strengthening strategic autonomy from other blocs on the world stage.<sup>21</sup>

### **Conclusion**

The current trade partnership between Australia and ASEAN is a key pillar of economic stability and growth in both regions. In modern relations, countries such as China, Japan, South Korea are major buyers of Australian products, although in the past Australia has had close trade activities with the United Kingdom. Australia's historical attachment to the European market has been overcome by several factors: the abolition of the 'White Australia' policy which banned migration from Asian states, the process of transformation to more sophisticated products in East Asian countries, the establishment of industrial bases, urbanisation, political unrest associated with the notion of the 'Cold War' and a growing middle class. These events served as factors for the Australian government to reassess its territorial ties and break away from its dependence on existing states. Australia has been able to effectively exploit the opportunity of the rapid rise of heavy industry in Asia, which requires vast amounts of fossil fuels. This has served as an engine for diversifying the export portfolio, and shifting comparative advantage towards, the secondary sector.

This trade framework is mutually beneficial as Australia has found a new outlet that can guarantee a stable demand for domestic goods. On the other hand, Australia has had the opportunity to prove itself as a reliable partner that has been providing quality mineral and energy resources for several decades. Mutual cooperation is supported by the signing of an agreement on the creation of a free trade area, which not only removes trade barriers to the movement of goods and services, but also focuses on several aspects, including small and medium-sized enterprises, the digitalisation of trade or investment.

On the basis of current trends, we can expect greater engagement and a strengthening of the partnership, which will be accompanied by an increase in trade exchanges. We can continue to expect growth in demand for energy resources as many Asian countries still face challenges in the clean energy transition. The Australia-ASEAN relationship is a consolation and a promise towards a more illusive future in the Indo-Pacific region. The Australian Government views ASEAN as the centre of a reliable, prosperous and secure region that respects state sovereignty and strives for strategic balance. The Commonwealth of Australia recognises ASEAN's position as a key instrument to future prosperity and growth.

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<sup>21</sup> Ibid.

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# INDIA'S STRATEGIC ROLE IN THE INDO-PACIFIC<sup>1</sup>

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**Abstract:** This paper examines India's strategic role in the evolving geostrategic and geoeconomic construct of the Indo-Pacific. It traces the region's significance as a nexus of global economic and political interests, shaped by the shift in economic power from the West to Asia. The paper focuses on India's transition from the Look East Policy to the Act East Policy, reflecting its response to China's growing influence and the changing security dynamics in the region. By exploring India's engagement with multilateral frameworks like ASEAN, QUAD, and bilateral strategic partnerships, the paper highlights its efforts to address security, economic, and environmental challenges, alongside the broader implications for Indo-Pacific cooperation and the global order.

**Keywords:** India, Indo-Pacific relations, economy, security, stability, China

**JEL:** O19, N00, P48

## Introduction

The Indo-Pacific region represents a burgeoning geostrategic and geoeconomic concept that is assuming an increasingly pivotal role in the realm of international relations, including the domains of defence and security studies. The term refers to a geographic area that extends from the east coast of Africa across the Indian Ocean to the western Pacific Ocean. „The novelty of the term Indo-Pacific, therefore, is the inclusion of the Indian Ocean in a geopolitical and security area that spreads all the way from the western Indian Ocean to the shores of North America. It is a term that bridges the two oceans and the seas that dominate the geopolitics of Northeast, Southeast, and South Asia”, as explained in the wider context by Pardo and Leveringhaus in 2022.<sup>2</sup>

As by Heiduk and Wacker (2020), “Indo-Pacific” is a political term and therefore neither purely descriptive nor value-neutral. In particular, the Trump administration’s “Free and Open Indo-Pacific” concept aims to contain China and is thus an expression of the growing strategic rivalry between Washington and Beijing. In Beijing, “Indo-Pacific” is primarily understood as a U.S.-led containment strategy directed against China.”<sup>3</sup> They confirm that in light of the growing economic influence of Asia and the increasing strategic importance of the Indian and Pacific Oceans, it seems probable that countries in the region and beyond will begin to establish new economic and strategic partnerships.<sup>4</sup>

Nevertheless, it is imperative that countries within the Indo-Pacific region collaborate more assiduously in domains such as maritime security, natural disaster management, job creation, health protection, sustainable fisheries, marine resource management, science and technology development, and environmental protection.<sup>5</sup> Meanwhile, the economic integration of the region has considerable potential and the establishment of an institutional

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<sup>2</sup> PARDO, R. P. – LEVERINGHAUS, N. (2022): Security and defence in the Indo-Pacific: What is at stake for the EU and its strategy?, p. 3.

<sup>3</sup> HEIDUK, F. – WACKER, G. (2020): From Asia-Pacific to Indo-Pacific: significance, implementation and challenges, pp. 2, 5.

<sup>4</sup> Ibidem, p. 5.

<sup>5</sup> Ibidem, pp. 14, 25.

framework for economic cooperation could yield significant benefits. Similarly, the fostering of cultural and people-to-people exchanges has the potential to reinforce regional cohesion and mitigate the prevailing misunderstandings.<sup>6</sup>

This is possible to say today that the concept can also be seen as a natural evolution of India's Look East Policy (LEP), which India has been pursuing for more than two decades. The LEP has facilitated the rebuilding of traditional relations between India and countries in Southeast and East Asia, while simultaneously strengthening the linkages between the Indian Ocean and the Pacific Ocean, as illustrated by Map 1.<sup>7</sup> This map visualizes that stated by Poonkham, “The Indo-Pacific is now an increasingly enlarged and expanded global region, reflecting the geoeconomic and geostrategic significance of the two oceans and a broader area of full-fledged cooperation.”<sup>8</sup>

**Map 1: Indo-Pacific region**



Source: SAHA, H. V. P. (2023): No ‘sayonara’ for Japan in Indo-Pacific geopolitics. *The Hindu*. 2023, April 2. <https://www.thehindu.com/opinion/op-ed/no-sayonara-for-japan-in-indo-pacific-geopolitics/article66692354.ece>

One of the factors that has brought this issue into sharp focus is China and its rise, not only in this region, but also on the global stage. However, India-China relations are characterised by a dynamic equilibrium between cooperation and conflict, exemplified by India's claim to permanent membership of part of the UN Security Council. This dynamic is analogous to that observed in the US-China relationship.<sup>9</sup> The Indo-Pacific region offers a potential space for the simultaneous ascendance of both superpowers, China and India, within a framework of peaceful coexistence. However, new security challenges are emerging in the region, with maritime security representing a pivotal concern in the forthcoming years. However, this is undermined by the emergence of new, non-traditional security threats and maritime boundary disputes, particularly in the South China Sea, which will continue to attract international attention.<sup>10</sup>

The emergence of the Indo-Pacific region represents a significant strategic shift in the global economic landscape, with the distribution of economic power shifting from the West to

<sup>6</sup> HEIDUK, F. – WACKER, G. (2020): From Asia-Pacific to Indo-Pacific: significance, implementation and challenges, p. 8.

<sup>7</sup> SINGH, B. P. (2015): India's Look East Policy: An Assessment, p. 101.

<sup>8</sup> POONKHAM, J. (2022). *The Indo-Pacific: a Global region of Geopolitical struggle*, n.p.

<sup>9</sup> REDDY, J. G. (ed.) (2016): *Dynamics of India-China Relations: Implications for New World Order*, p. 25.

HEIDUK, F. – WACKER, G. (2020): From Asia-Pacific to Indo-Pacific: significance, implementation and challenges, pp. 11-17.

<sup>10</sup> Ibidem, p. 5, 17. SAHA, P. – MISHRA, A: (2020). *The Indo-Pacific Oceans Initiative: Towards a Coherent Indo-Pacific Policy for India*, p. 2.

the East in the current century. Despite the notable expansion of economic collaboration between the two in recent times, the geostrategic and geopolitical context remains highly uncertain.<sup>11</sup> It is perceived by countries such as the United States, Japan, Australia and ASEAN that India's role is of great consequence. India's engagement in the region represents a strategic shift, reflecting an awareness of the evolving security environment and the growing threat from non-state actors on its continental borders, which now extend into the maritime domain. Paraphrasing Japan prime minister's (Abe) words, Heiduk and Wacker confirm the above saying „In response to China's "aggressive behaviour" in Asia, he [Abe] proposed the formation of a democratic coalition composed of Japan, the United States, India and Australia to jointly protect global public goods, especially the freedom of navigation.“<sup>12</sup>

India is seeking to develop an extraordinary maritime capability to operate in the Indo-Pacific, a goal that China shares. The Indo-Pacific environment will serve as a litmus test for the ability of the two countries to co-exist or clash. As claimed by Saha and Mishra, „India-as a champion of the principle of 'Free and Open Indo-Pacific' or FOIP-has initiated engagements with its partners in the region, such as the IndoPacific Oceans Initiative (IPOI) that aims to ensure the security and stability of the region's maritime domain.“<sup>13</sup> The United States, in collaboration with its regional partners (Japan, South Korea, and Australia), has expressed interest in India playing a role in counterbalancing the rise of China and the stagnation of Japan, with the aim of creating a stable regional balance of power. China exerts greater influence than the United States in the region and is likely to seek control of Taiwan and the South China Sea.<sup>14</sup>

Both are committed to the principles of democracy and the rule of law. India must address these emerging challenges, enhance collective capacity, and facilitate intra-regional collaboration through organisations such as the Indian Ocean Rim Association for Regional Cooperation (IOR-ARC) to achieve equilibrium in the Indo-Pacific region in the context of the altered geopolitical landscape since the post-Cold War era.<sup>15</sup>

Any discussion of this issue must take into account the rise of QUAD,<sup>16</sup> ASEAN centrality, and India's bilateral and trilateral engagements in the Indo-Pacific. India is attempting to leverage this region as a strategic interest. The present situation gives rise to new geopolitical challenges for India in terms of its relationship with China. The question thus arises as to whether these states can be characterised as competing friends or rivals. The overarching objective is to determine how India can leverage the Indo-Pacific region to advance its national interests.<sup>17</sup>

Nevertheless, the countries of the Indo-Pacific region share numerous common concerns,<sup>18</sup> and thus the deepening of cooperation and cohesion could prove an effective means of addressing these issues collectively. Furthermore, the establishment of a regional security

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<sup>11</sup> BERKOFISKY, A. – MIRACOLA, S. (eds.) (2019): *Geopolitics by other means: The indo-pacific reality*, p. 10.

<sup>12</sup> HEIDUK, F. – WACKER, G. (2020): *From Asia-Pacific to Indo-Pacific: significance, implementation and challenges*, p. 17, e.g.

<sup>13</sup> SAHA, P. – MISHRA, A: (2020). *The Indo-Pacific Oceans Initiative: Towards a Coherent Indo-Pacific Policy for India*, p. 1.

<sup>14</sup> RAJAGOPALAN, R. (2020): *Evasive balancing: India's unviable Indo-Pacific strategy*. HEIDUK, F. – WACKER, G. (2020): *From Asia-Pacific to Indo-Pacific: significance, implementation and challenges*, pp. 16 - 17, e.g.

<sup>15</sup> BERKOFISKY, A. – MIRACOLA, S. (eds.) (2019): *Geopolitics by other means: The indo-pacific reality*, p. 27.

<sup>16</sup> ROY-CHAUDHURY, R. – De ESTRADA, K. S. (2018): *India, the Indo-Pacific and the Quad*, pp. 181-194.

<sup>17</sup> KUMAR, P. (2020): *Indo A Geopolitical Study of the Indo-Pacific through the Theories of Ancient East and Modern West*, pp. 88-89. PANT, H. V. (2020): *India and the Indo-Pacific: Opportunities and Challenges in the PostCOVID Order*, pp. 98-99.

<sup>18</sup> LADWIG, W. C. (2024): *The Indo-Pacific in Indian Foreign Policy*, n.p.

architecture would serve to address common security challenges and threats in a significant manner.<sup>19</sup>

## **2 The Indo-Pacific region as a political-geographical construct**

The global shift of economic power from the West to the East (Asia) and the growing geostrategic importance of the Indo-Pacific region have resulted in a complex interplay of cooperation and competition between established and emerging powers in the region. Despite a notable increase in economic collaboration between the two in recent times, the geostrategic and geopolitical context remains highly uncertain. Indeed, the emergence of new trends and issues in the Indo-Pacific region presents both distinctive opportunities and significant challenges in the present era.

These developments have generated considerable interest and debate among researchers, academics, and policymakers around the globe. For example, a group of researchers focused on maritime issues, as e.g. French et al. (2014).<sup>20</sup> They centred on the maritime policy challenges and opportunities emerging in the Indian Ocean and the Western Pacific region. In 2013, Pulipaka and Singh<sup>21</sup> discussed the transformation of India's relationship with the United States and the Association of Southeast Asian Nations.<sup>22</sup> Besides those researchers mentioned, in their report also Cronin et al.<sup>23</sup> even in 2012 examined China's growing military assertiveness and territorial claims in the South China Sea (SCS) and the future of US foreign policy strategy in the SCS and the overall impact of territorial disputes on the maritime commons.<sup>24</sup> In this context, Lawrence and Prabhakar ten years ago<sup>25</sup> already discussed the growing maritime and geopolitical competition between a rising China and an emerging India in the region.

Most studies mentioned in this paper have focused on examining the engagement of regional actors with the concept of the Indo-Pacific, with a particular emphasis on their response to the prevailing power dynamics and rivalry between the United States and China, as well as their strategic considerations in choosing sides.<sup>26</sup>

The Indo-Pacific region is a composite entity comprising marine and coastal areas, characterised by a multiplicity of cultures, ethnicities, religions, economic models, and governance structures. The common denominator uniting the disparate subsystems within the Indo-Pacific is the sea.<sup>27</sup> In this regard, Lawrence W. Prabhakar analysed the concept through seven approaches, namely constructivism, balance of power, global power shift, strategic

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<sup>19</sup> BISHOYI, S. (2015): *Geostrategic Imperative of the Indo-Pacific Region: Emerging Trends and Regional Responses*, pp. 89-102.

SAHA, P. – MISHRA, A: (2020). *The Indo-Pacific Oceans Initiative: Towards a Coherent Indo-Pacific Policy for India*, pp. 3-4.

<sup>20</sup> FRENCH, D. – MICHEL, D. – PASSARELLI, R. (2014): *Sea Change: Evolving Maritime Geopolitics*. In *The Indo-Pacific Region*, pp. 11-17.

<sup>21</sup> PULIPAKA, S. – SINGH, H.K. (2022): *Asia's Arc of Advantage India, ASEAN and the US: Shaping Asian Architecture*, n. p.

<sup>22</sup> MAZARR, M. J. et al. (2023): *U.S. Major Combat Operations in the Indo-Pacific: Partner and Ally Views*, pp. 18-19. BISHOYI, S. (2015): *Geostrategic Imperative of the Indo-Pacific Region: Emerging Trends and Regional Responses*, pp. 89-102.

<sup>23</sup> CRONIN, P. M. – DUTTON, P. A. – FRAVEL, M. T. – HOLMES, J. R. – KAPLAN, R. D. – ROGERS, W. – STOREY, I. (2012): *The United States, China, and the South China Sea*, pp. 7-16.

<sup>24</sup> BISHOYI, S. (2015): *Geostrategic Imperative of the Indo-Pacific Region: Emerging Trends and Regional Responses*, pp. 89-102.

<sup>25</sup> LAWRENCE, W. – PRABHAKAR, S. (2014): *India's Evolving Security Relations and Partnerships in the Indo-Pacific*, pp. 45-59.

<sup>26</sup> See e.g. POON, J. – PENG, P. – XIAOYING, Q. – YANG, Y. (2024): *End of the Asia-Pacific: Geoeconomics, belt and road and the Indo-Pacific*, n. p.

<sup>27</sup> KIRONSKA, K. et al. (2023): *Strategies and approaches of EU countries to the Indo-Pacific region: Implications for Slovakia*, p. 4.

choices of autonomy, concert of democracies, Indo-Pacific regionalism, and Indo-Pacific community.<sup>28</sup>

Indeed, it represents the nexus of economic, political, and strategic interests of the world. The region is endowed with a wealth of natural resources, particularly hydrocarbons, which serve as the main source of energy for the global industrial economy. The aforementioned resources are the subject of contention between both established and emerging powers. In recent years, as a consequence of the global shift in economic power, it has rapidly become a focal point for international trade and investment. In fact, it represents a significant market that covers almost half of the global population. This is clearly demonstrated by the prevailing economic themes that currently shape regional politics. In this context, the maintenance of regional peace and stability, freedom of navigation, and maritime security have become of paramount importance, given that in excess of 90% of world trade by volume is conducted by sea.<sup>29</sup> The region comprises numerous critical chokepoints for global trade, including the Strait of Malacca, which plays a pivotal role in the growth of the world economy<sup>30</sup>. Furthermore, the surge in port construction<sup>31</sup> has increased the strategic significance of the Indo-Pacific, which is poised to foster increased trade flows and the potential for heightened strategic competition.<sup>32</sup> In recent times, the growing influx of raw materials, oil and gas into the region has contributed to the ascendance of Asia. Furthermore, there is an increasing flow of labour, capital, and consumer goods from Asia to other regions of the world. Indeed, the region serves as the primary driver of global economic growth and development. In this context, Admiral Sureesh Mehta, former Chief of the Indian Navy, correctly identifies the geostrategic imperative of the region as a global strategic growth and expansion of aspiring powers. He further suggests that this can be controlled and regulated through the control of the movement of goods and keys at chokepoints in the region.<sup>33</sup>

The concept of the Indo-Pacific remains a subject of contention from a political standpoint. It would appear that Australia and the United States have a comparable geographical perspective of the Indo-Pacific, namely the original Asia-Pacific region in addition to India. However, the geographical understanding of Japan and India is much more expansive, encompassing two continents (Asia and Africa) and two oceans (Pacific and Indian). The member states of the Association of Southeast Asian Nations (ASEAN) have not yet established a definitive regional boundary, as long as the Association maintains its central role in the future regional architecture.<sup>34</sup>

The political dispute over the geographical construct serves to illustrate the strategic importance of the Indo-Pacific region itself. The Indo-Pacific region encompasses the world's most populous state (China), the most populous democracy (India), and the most populous predominantly Muslim state (Indonesia). Seven of the ten largest standing armies in the world

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<sup>28</sup> BISHOYI, S. (2015): *Geostrategic Imperative of the Indo-Pacific Region: Emerging Trends and Regional Responses*, pp. 89-102.

<sup>29</sup> KIRONSKA, K. et al. (2023): *Strategies and approaches of EU countries to the Indo-Pacific region: Implications for Slovakia*, p. 9.

<sup>30</sup> WANG, X. – DU, D. – PENG, Y. (2024): *Assessing the Importance of the Marine Chokepoint: Evidence from Tracking the Global Marine Traffic*, n.p.

<sup>31</sup> CHOUDHURY, D. (2024): *Convergence of the Indo-Pacific with the Indian Ocean - Is a Maritime-Centric Approach Enough? An Indian Perspective*, pp. 1, 5-7.

<sup>32</sup> BISHOYI, S. (2015): *Geostrategic Imperative of the Indo-Pacific Region: Emerging Trends and Regional Responses*, pp. 89-102.

<sup>33</sup> BISHOYI, S. (2015): *Geostrategic Imperative of the Indo-Pacific Region: Emerging Trends and Regional Responses*, pp. 89-102.

<sup>34</sup> KIRONSKA, K. et al. (2023): *Strategies and approaches of EU countries to the Indo-Pacific region: Implications for Slovakia*, p. 10.



are located in the Indo-Pacific region,<sup>35</sup> and approximately one-third of the world's shipping traffic passes through the South China Sea. In light of these considerations, Bishoyi (2020) posits that for the United States government, the Indo-Pacific represents a critical region for the future of the United States.<sup>36</sup>

In this context, by Dar (2022) the benchmark for the Indo-Pacific region is the continued acquisition of US access to the region in the face of China's military and economic rise as a counter-hegemonic power. The United States, India, Japan, Australia, and other partners such as Taiwan and the Philippines are concerned that an expansionist China will simply control the entire Indo-Pacific space.<sup>37</sup>

As China's influence in the South China Sea continues to grow, neighbouring states that perceive a threat will seek to balance against it.<sup>38</sup> The concept of the Indo-Pacific region, which encompasses a vast area from East Africa in the west to the United States in the east, has been developed with the aim of fostering a sense of shared identity among Asian states.<sup>39</sup> This initiative has been spearheaded by Japan and India, with Australia also playing a pivotal role.<sup>40</sup>

Dar,<sup>41</sup> Bishoi<sup>42</sup> and others above mentioned posit that the objective is not merely to counterbalance China, but to establish a common bond to maintain the status quo and thus the continuation of the American unipolar order.

In essence, the Indo-Pacific region is characterised by the emergence of new frameworks that are shaped by a complex interplay of competing and converging security interests. This is particularly evident in light of the ongoing global power shift towards the region. It is of particular significance that maritime powers such as Australia, China, Japan, India, and the United States are defining the centre of the Indo-Pacific region<sup>43</sup>. In order to achieve their national objectives, these powers are seeking to dominate and influence each other. These powers illustrate the increasing geostrategic significance of the Indo-Pacific region for the maintenance of peace and prosperity in the region and the wider world.<sup>44</sup>

### **3 “Act East Policy” and Factors Boosting India's Position**

The shift from the Look East Policy (LEP) to the Act East Policy (AEP) can be attributed to a number of factors, both domestic and external. On the domestic front, the actions of the Modi government since 2014 have had a significant influence. Additionally,

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<sup>35</sup> THE DEPARTMENT OF DEFENSE (2019): Indo-Pacific Strategy Report Preparedness, Partnerships, and Promoting a Networked Region. Report, pp. 1-2.

<sup>36</sup> BISHOYI, S. (2015): Geostrategic Imperative of the Indo-Pacific Region: Emerging Trends and Regional Responses, pp. 89-102.

<sup>37</sup> RAJAGOPALAN, R. (2020): Evasive balancing: India's unviable Indo-Pacific strategy, p. 75. DAR, A. (2022): India's Indo-Pacific Policy: Unpacking the Underpinnings and Challenge, n. p.

<sup>38</sup> SAHA, P. – MISHRA, A. (2020): The Indo-Pacific Oceans Initiative: Towards a Coherent Indo-Pacific Policy for India, p. 6.

<sup>39</sup> SUNDARARAMAN, S.: (2023). Understanding the Indo-Pacific, pp. 11-12, 17.

<sup>40</sup> DAR, A. (2022): India's Indo-Pacific Policy: Unpacking the Underpinnings and Challenge, n. p.

<sup>41</sup> NAG, B. – CHAKRABORTY, D. – AGGARWAL, S. (2021): India's Act East Policy: RCEP Negotiations and Beyond, n. p.

DAR, A. (2022): India's Indo-Pacific Policy: Unpacking the Underpinnings and Challenges, n. p.

<sup>42</sup> BISHOYI, S. (2015): Geostrategic Imperative of the Indo-Pacific Region: Emerging Trends and Regional Responses, pp. 89-102.

<sup>43</sup> BARUAH, D. B. (2020): India in the Indo-Pacific: New Delhi's Theater of opportunity, n. p.

<sup>44</sup> PARDO, R. P. – LEVERINGHAUS, N. (2022): Security and defence in the Indo-Pacific: What is at stake for the EU and its strategy?

external factors, including the rise of China's influence and the broader post-Covidian developments in the world, have played a role in this shift.<sup>45</sup>

The Modi government has recently reintroduced India's Look East Policy (LEP), which was first launched in 1991, as the Act East Policy.<sup>46</sup> Jarendram in the analysis released in 2014 claimed that "...the Modi Government must pursue a stable environment in its neighbourhood before it can seek to expand its influence further afield."<sup>47</sup> This new policy aims to enhance people-to-people contact and regional connectivity, while also seeking to play a more prominent and active role in this strategically important region.<sup>48</sup>

India's interest in the region is not merely a matter of geography; it is primarily driven by economic considerations.<sup>49</sup> India's relationship with countries in South-East and East Asia is characterised by a long historical tradition. The LEP, initiated in the early 1990s, served to reinvigorate this traditional relationship, while the Modi government's 'Act East Policy' has further reinforced these ties in more recent times. India has reinforced its relations with two crucial subregions of Asia, particularly in the realms of economics, defence, politics and diplomacy, as well as strategic matters.<sup>50</sup>

As released by the Ministry of External Affairs of India,<sup>51</sup> at present India is engaged in bilateral relations at the level of 'strategic partnerships' with Indonesia, Vietnam, Japan, South Korea, China and Australia. India's strategic relationship with ASEAN and the United States<sup>52</sup> has undergone a significant transformation over the past decade. Additionally, there are quadrilateral and trilateral partnerships involving India, Japan, Australia, and the United States. India's strategic partners in the region are not only seeking to further strengthen their relations with India on a wide range of issues, including trade and investment, defence, maritime security, science and technology, and disaster management, but are also urging India to play a more active role in the Indo-Pacific and beyond. In particular, the United States views India as a pivotal player in its rebalancing strategy towards the region.<sup>53</sup>

The implementation of India's LEP strategy and America's rebalancing strategy has resulted in the establishment of a novel synergy in the regional relations between the two countries. However, there is a concern that China may engage in a significant military expansion in the Indian Ocean region, potentially transforming it into a focal point of great power competition in Asia. China has rapidly developed its relationship with countries on the periphery of the Indian Ocean, which is perceived as a 'string of pearls' strategy to contain a rising India.<sup>54</sup>

China has recently expanded its influence in the region through the funding of significant maritime infrastructure projects, including the development of the Hambantota port in Sri Lanka and the Gwadar port in Pakistan. While these infrastructure facilities are currently intended for commercial purposes, Mehta asserts that they also possess considerable potential for military utilisation as well. Furthermore, he asserts that China's

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<sup>45</sup> Ibidem, n. p. NGAIBIAKCHING, P. A. (2020): India's Act East Policy and ASEAN: Building a Regional Order Through Partnership in the Indo-Pacific, pp. 67-78.

<sup>46</sup> RAJENDRAM, D. (2014): India's new Asia-Pacific strategy: Modi acts East, pp. 1-4.

<sup>47</sup> Ibidem, p. 4.

<sup>48</sup> LOUIS, Y. M. – SINGH, J. (2024): Does India's Act East Policy matter to Southeast Asia?, n. p.

<sup>49</sup> HEIDUK, F. – WACKER, G. (2020): From Asia-Pacific to Indo-Pacific: significance, implementation and challenges, p. 26.

<sup>50</sup> Ibidem.

<sup>51</sup> See more information at: <https://www.mea.gov.in/foreign-relations.htm>

<sup>52</sup> HEIDUK, F. – WACKER, G. (2020): From Asia-Pacific to Indo-Pacific: significance, implementation and challenges, p. 2,5.

<sup>53</sup> NGAIBIAKCHING, P. A. (2020). India's Act East Policy and ASEAN: Building a Regional Order Through Partnership in the Indo-Pacific, pp. 67-78. BISHOYI, S. (2015): Geostrategic Imperative of the Indo-Pacific Region: Emerging Trends and Regional Responses, pp. 89-102.

<sup>54</sup> KHURANA, G. (2008): China's 'String of Pearls' in the Indian Ocean and Its Security Implications, pp. 1-39.

capacity to exert pressure on India in the Indian Ocean is becoming an increasingly influential factor in the broader dynamics of Asian security.<sup>55</sup>

Furthermore, the emergence of new security concerns, maritime border disputes, and the competition for resources between major powers have contributed to an increase in India's security challenges. In the rapidly evolving geostrategic and geoeconomic landscape of the Indo-Pacific, India's future prosperity and overall security depend on its capacity to engage effectively with both regions and to maintain peace and stability within them.<sup>56</sup>

In response to these altered circumstances, India is pursuing multilateral collaboration with regional and extra-regional powers to protect and promote its national interests. Over time, it has become a pivotal regional actor, establishing a significant strategic presence. India acknowledges the pivotal role of the Association of Southeast Asian Nations (ASEAN) in the Indo-Pacific region and aims to assume a pivotal role in shaping the economic and security architecture of the region.<sup>57</sup>

In this context, India is pursuing the integration of its Northeast region with Southeast Asia through the strengthening of economic cooperation, enhanced connectivity, the promotion of cultural and people-to-people exchanges, and the development of capacity. In order to address the emerging security challenges in the region, India's objective is to cultivate a collaborative strategy that enables all regional nations to confront both conventional and unconventional security challenges while guaranteeing the security, accessibility, and openness of vital maritime routes for navigation and trade.<sup>58</sup> India represents the principles of freedom of navigation and the security of sea lines of communication as enshrined in international law. It is on the cusp of becoming a net provider of security in the Indian Ocean region and beyond.<sup>59</sup>

In light of the growing geostrategic importance of the Indo-Pacific region, it is imperative for India to capitalise on the opportunities it presents. These can be classified as the so-called domestic political determinants of India's evolving policy on Indo-Pacific relations. The prevailing view is that the maximisation of benefits arising from the global power shift has been slow due to the presence of domestic political constraints. It is therefore imperative that a comprehensive and long-term strategy is developed to protect and advance India's foreign policy interests in the region. Furthermore, it is imperative that India assumes an active role in the construction of a regional economic and security architecture.<sup>60</sup>

The election of the Modi government in May 2014, which was accompanied by a historic mandate, and its "Act East Policy" have provided a new impetus to India's engagement in this vital region. The government is currently pursuing the formation of close strategic alliances with both regional and non-regional countries, with the objective of establishing robust regional economic and security frameworks. Nevertheless, the future trajectory of India's engagement in the Indo-Pacific will be largely shaped by its continued domestic economic development, peace and stability at home, and the nature of its relations with South Asian countries. In response to China's strategy, India has sought to further enhance

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<sup>55</sup> RUNDE, D. F. – HARDMAN, A. – BONIN, C. (2024): Responding to China's growing influence in ports of the global South, n. p. BISHOYI, S. (2015): Geostrategic Imperative of the Indo-Pacific Region: Emerging Trends and Regional Responses.

<sup>56</sup> CORDNER, L. (2010): Rethinking maritime security in the Indian Ocean Region, pp. 67-85.

<sup>57</sup> GOPAL, P. (2024): India and collective defence in the Indo-Pacific: Possibilities, prospects and challenges, n. p.

<sup>58</sup> CHAUHAN, P. – LAHIRI, D. – KUMAR, R. (2022): Maritime Perspectives 2022: Non-Traditional Dimensions of Maritime Security, pp. 28, 53.

<sup>59</sup> RAJAGOPALAN, R. (2020): Evasive balancing: India's unviable Indo-Pacific strategy, pp. 75-79.

<sup>60</sup> GOPAL, P. (2024): India and collective defence in the Indo-Pacific: Possibilities, prospects and challenges. n. p. BISHOYI, S. (2015): Geostrategic Imperative of the Indo-Pacific Region: Emerging Trends and Regional Responses, pp. 89-102.

its maritime and security cooperation<sup>61</sup> with countries in Southeast and East Asia, including Singapore, Indonesia, Malaysia, Japan, Vietnam, the Philippines, and others. Nevertheless, India's strategic influence, particularly in East Asia, is not on a par with China's growing influence in the eastern Indian Ocean. India has placed greater emphasis on trade and connectivity in its Indo-Pacific vision, with the objective of proposing a constructive framework for development and connectivity in which it can play a distinctive role.<sup>62</sup>

However, the Indo-Pacific region is of broader significance for India, encompassing the Indian Ocean and extending from the shores of Africa to the shores of America, as Prime Minister Modi has observed. Furthermore, the United States has been vocal in its vision of the Indo-Pacific as a bulwark against a rising China, while India has been reluctant to acknowledge China as the primary driver of its Indo-Pacific policy.<sup>63</sup>

India's Look East/Act East policy can be understood in two key contexts. First, it represents India's endeavour to redefine its regional geopolitical context, amidst challenges in its immediate vicinity. Second, it reflects efforts to address the persistent economic underdevelopment of India's troubled northeastern region by leveraging opportunities to integrate this geographically isolated area. Over time, the policy has undergone a shift in orientation, embracing the "Indo-Pacific" as a geopolitical framework for counterbalancing China's growing influence. The current policy, in terms of the transition from LEP to AEP, is primarily concerned with strategic interests, rather than trade or connectivity.<sup>64</sup>

In other words, India has established strategic partnerships with several key players in the region and has embraced the concept of the "Indo-Pacific" with remarkable rapidity. Although the "Look East" policy, initiated in 1991, initially appeared to be primarily focused on fostering economic growth through engagement with the dynamic economies of Southeast Asia, the emergence of strategic concerns related to China's rise eventually became a significant consideration. Consequently, India's strategy towards South and Southeast Asia became closely aligned with its broader policy towards China.<sup>65</sup>

India's Look East/Act East policy can be understood in two key contexts. First, it represents India's attempt to redefine its neighborhood amid challenges of its immediate surroundings. Second, it reflects efforts to address the persistent economic underdevelopment of India's troubled northeastern region by leveraging opportunities to integrate this geographically isolated area. Over time, the policy has shifted towards embracing the "Indo-Pacific" as a geopolitical framework for counterbalancing China's growing influence.<sup>66</sup>

Indeed, it is not only India that is pursuing these intricate policies in the region in response to the rise of China and its influence. Many countries that border China also pursuing similar complex policies, which has resulted in a paucity of consensus in the literature regarding the characterisation of these policies. Some scholars describe them as "hedging," while others insist on describing them as "balancing." Others posit that none of these concepts adequately encapsulates the contradictory policies adopted by countries in this region, including India. They describe these policies as "evasive balancing," which they define as an attempt

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<sup>61</sup> NGAIBIAKCHING, P. A. (2020). India's Act East Policy and ASEAN: Building a Regional Order Through Partnership in the Indo-Pacific, pp. 67-78. BARUAH, D.B. (2020): India in the Indo-Pacific: New Delhi's Theater of opportunity, n. p.

<sup>62</sup> KUMAR, P. (2020): Indo A Geopolitical Study of the Indo-Pacific through the Theories of Ancient East and Modern West, pp. 88-89. PANT, H.V. (2020): India and the Indo-Pacific: Opportunities and Challenges in the PostCOVID Order, pp. 98-99.

<sup>63</sup> RAJAGOPALAN, R. (2020): Evasive balancing: India's unviable Indo-Pacific strategy, pp. 75-79.

<sup>64</sup> RAJAGOPALAN, R. (2020): Evasive balancing: India's unviable Indo-Pacific strategy, pp. 75-79.

<sup>65</sup> Ibidem.

<sup>66</sup> CHATTERJEE, S. (2019): Imageries of Space: Looking East and the Indo-Pacific, pp. 151-189. GANGULY, S. – SRIDHARAN, E. (eds.) (2024): The Oxford Handbook of Indian Politics.

to achieve balance while maintaining the subject's assurance. The researcher's classification aligns with this perspective.<sup>67</sup>

## Conclusion

As proved by the text above, the Indo-Pacific region has the potential to become a significant contributor to global peace and prosperity, contingent upon the ability of the United States and China to collaborate effectively. The researchers mentioned in this paper claim that region has the potential to become a source of global political instability if the two major powers remain in a state of conflict. The consequences of developments in the region will be felt globally, regardless of the direction in which they occur.<sup>68</sup>

In light of the aforementioned developments, a number of questions arise in the sources, which form the basis for this paper. One of them arises as to whether the Indo-Pacific will become a theatre of conflict in the US-China rivalry. Another one relates to recent FOIP and should be formulated as this one, eventually - How will China respond to Japan's "Free and Open Indo-Pacific" (FOIP) strategy? FOIP clearly shows strong dynamics in the issues, as on 20 March 2024, during a visit to New Delhi, India, Japan's Prime Minister delivered a policy speech titled "The Future of the Indo-Pacific: Japan's New Plan for a 'Free and Open Indo-Pacific'—'Together with India, as an Indispensable Partner.'" In this speech, the Japanese Prime Minister unveiled Japan's updated strategy for a Free and Open Indo-Pacific (FOIP).<sup>69</sup>

So what response might other regional actors offer to another strategic competition, i.e. between the United States and China in the Indo-Pacific region? As various researchers ask, the question might be "What are the strategic implications of the concept of the "Indo-Pacific" for the transformation of the regional order?" And consequently, "What institutional structures will emerge in the Indo-Pacific region and how will they affect the region's economic, political, and strategic dynamics?"<sup>70</sup>

As proved by conclusions made by the aforementioned experts, India's strategic orientation must be realigned to encompass not only the Indian Ocean but also the Pacific. It is open to question whether the region is exposed to great power rivalry to any significant extent, or whether economic interdependence will prove sufficient to overcome conflicts and lead to the emergence of a unified strategic system in the Indo-Pacific region through a combination of accelerated economic and security linkages. As highlighted by recent diplomatic steps by Modi, to ensure India to assume a more proactive and positive role on the global stage, it must develop its diplomatic capabilities and expand the scope of its regional engagement. As Kumar concludes, this can be achieved through bilateral and multilateral security dialogues, which will facilitate the formation of a consensus for collective security measures.<sup>71</sup> Tarapore to illustrate mentioned that India regarded 2020 as a pivotal strategic juncture, marked by a markedly assertive China on its periphery

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<sup>67</sup> DAR, A. (2022): India's Indo-Pacific Policy: Unpacking the Underpinnings and Challenges, n. p. RAJAGOPALAN, R. (2020): Evasive balancing: India's unviable Indo-Pacific strategy, pp. 75-79. BISHOYI, S. (2015): Geostrategic Imperative of the Indo-Pacific Region: Emerging Trends and Regional Responses.

<sup>68</sup> BUTCHER, J. D. (2024): Simply another practice among others? Analysing the rise of strategic partnerships, pp. 1-22.

<sup>69</sup> Policy speech by Prime Minister KISHIDA Fumio at the Indian Council of World Affairs (ICWA) (2023), n. p. MAZARR, M. J. et al. (2023): U.S. Major Combat Operations in the Indo-Pacific: Partner and Ally Views, pp. 35-36.

<sup>70</sup> See e.g. KAI, H. – Li, M. (2020): Understanding the dynamics of the Indo-Pacific: US - China strategic competition, regional actors, and beyond, p. 6. ROY-CHAUDHURY, R. – De ESTRADA, K. S. (2018): India, the Indo-Pacific and the Quad, pp. 181-194.

<sup>71</sup> KUMAR, P. (2020): A Geopolitical Study of the Indo-Pacific through the Theories of Ancient East and Modern West, n. p.

and a distinctly disordered international system in the wake of the pandemic.<sup>72</sup> However, it did not pursue a significant military balancing act. This concept can be employed to elucidate India's strategic adjustment following 2020, including, in the context of the Quad, a minilateral grouping comprising Australia, India, Japan, and the United States. The Tarapore's concept of zonal balancing<sup>73</sup> provides a useful framework for understanding the strategic logic of the Quad and for anticipating some of its potential limitations.

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<sup>72</sup> TARAPORE, A. (2023): Zone balancing: India and the Quad's new strategic logic, pp. 239-257.

<sup>73</sup> *Ibidem*.

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# DECOMPOSITION OF GDP PER WORKING-AGE PERSON IN EUROPEAN UNION COUNTRIES: AN APPLICATION OF THE LOGARITHMIC METHOD<sup>1</sup>

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**Abstract:** This article examines the influence of labour productivity and employment rate on the Gross Domestic Product (GDP) per working-age person in European Union countries. By applying the logarithmic method for causal analysis, the study quantifies how deviations in these two factors contribute to differences in GDP per working-age person compared to the EU average. The analysis reveals the direction and magnitude of each factor's impact across the twenty-seven EU countries, providing insights into the underlying causes of economic disparities among member states. The findings highlight the significant role of both labour productivity and employment rate in shaping economic well-being within the EU.

**Keywords:** Gross domestic product, labour productivity, employment rate, causal analysis, logarithmic method, European Union

**JEL:** E01, J21, O47

## Introduction

Wealth and prosperity are fundamental objectives for societies and nations, serving as key indicators of economic development and quality of life. Gross Domestic Product (GDP) is a primary measure used to assess the economic performance and wealth of countries. Comparing GDP among nations enables the identification of economic disparities and facilitates the diagnosis of underlying causes. In the context of the European Union (EU), such comparisons are crucial for understanding economic cohesion among member states and for formulating policies aimed at reducing inequalities.

Labour plays a pivotal role in generating wealth and enhancing prosperity. It significantly shapes the trajectory of human life and determines the degree of participation in social and economic activities. Work fulfils numerous essential functions, including productive, educational, cultural, ethical, and moral roles. Primarily, it provides the financial means necessary for individuals and their families to meet their needs. On a broader scale, labour is a source of national output, contributes to the growth of this output, and thereby affects the overall well-being of society.

However, it is not merely the engagement of labour that determines societal prosperity but the effectiveness with which this labour is utilised. Variations in the economic conditions of life among different regions – not only between countries but also within countries – are influenced by both the proportion of the working population and the productivity associated with the utilisation of the labour factor.

Labour productivity is a key driver of economic growth and competitiveness.<sup>2</sup> A high level of labour productivity means that more goods and services are produced per unit of labour input, leading to higher incomes and improved standards of living. Similarly,

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<sup>2</sup> FÅRE, R. – GROSSKOPF, S. – MARGARITIS, D. (2006): Productivity growth and convergence in the European Union, p. 111.

the employment rate is a crucial indicator of an economy's ability to effectively utilise its human resources.<sup>3</sup> Economies with high employment rates make full use of their labour potential, whereas low employment rates can indicate underutilisation of human capital, leading to lost opportunities for economic growth and development.<sup>4</sup>

Recent studies confirm the importance of labour productivity and employment rates in explaining differences in GDP per capita among countries.<sup>5</sup> To address these disparities, the European Union has implemented various initiatives. One such initiative is the European Semester, which provides a framework for coordinating economic policies across EU countries, focusing on structural reforms that enhance productivity and employment.<sup>6</sup> It aims to promote sustainable economic growth, social inclusion, and convergence among member states. By addressing country-specific challenges related to labour productivity and employment rates, the European Semester supports efforts to improve competitiveness and reduce economic disparities within the EU. Policies targeting improvements in education, training, and labour market participation are integral parts of this process.

Given the importance of labour productivity and employment rate in shaping economic outcomes, the purpose of this article is to determine their impact on GDP per working-age person in individual EU countries. By applying the logarithmic method for causal analysis, the study assesses how deviations in these factors contribute to the differences in GDP per working-age person among the examined economies. The average values for the entire EU are compared with those for each country, forming the basis for final conclusions.

## 1 Data and Variable Definitions

This study conducts a causal analysis to determine the influence of two selected factors on the deviation of GDP per working-age person from the average value characterising the entire European Union. It is important to note that, throughout the analysis, any mention of deviation refers to the positive or negative deviation from the EU average.

The research focuses on data for the year 2023. GDP values are considered in current prices and are expressed in purchasing power standards (PPS). Using current prices ensures that the data reflect the nominal monetary value of goods and services produced during the period, measured at the prices prevailing at that time. Expressing GDP in PPS accounts for variations in price levels and eliminates the effects of exchange rate fluctuations, allowing for more accurate comparisons of real disparities in prosperity and labour productivity among EU countries. This approach adjusts for differences in purchasing power and cost of living across member states.

All data utilised in this article are sourced from Eurostat. Specifically, GDP data are obtained under the indicator 'Gross domestic product at market prices', expressed in million PPS. These data are compiled according to the European System of Accounts 2010 (ESA 2010), which ensures comparability of economic statistics across EU member states.

Employment data are presented in thousands and are based on the resident population concept from the Labour Force Survey (LFS). This approach reflects the actual population residing and working in each country, providing greater accuracy in national analyses.

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<sup>3</sup> MARELLI, E. – SIGNORELLI, M. – TYROWICZ, J. (2012): Crises and joint employment–productivity dynamics: a comparative perspective for European countries, pp. 361-394; EUROPEAN COMMISSION (2023): *Employment and social developments in Europe. Addressing labour shortages and skill gaps in the EU*, p. 5.

<sup>4</sup> FEDOTENKOV, I. – KVEDARAS, V. – SANCHEZ-MARTINEZ, M. (2024): Employment protection and labour productivity growth in the EU: skill-specific effects during and after the Great Recession, p. 209.

<sup>5</sup> BARRO, R. J. – SALA-I-MARTIN, X. (2004): *Economic growth*, pp. 433-460; EUROPEAN COMMISSION (2024): *Employment and social developments in Europe. Upward social convergence in the EU and the role of social investment*, p. 71.

<sup>6</sup> EUROPEAN COMMISSION (2024): *The European Semester*. Brussels.

The employment figures represent annual average numbers of people working, aligning with standard practices to ensure greater stability and comparability across countries.

Labour productivity and employment rate analyses typically consider the working-age population, commonly defined as persons aged 15 to 64. However, to enhance precision and focus on those more likely to have completed education and be actively participating in the labour market, this study defines the working-age group as those aged 20 to 64. Such an adjustment reduces distortions in comparative assessments, particularly for countries where a significant portion of the younger age group remains in the education system and does not participate actively in the labour market.

The labour force comprises people who are either working or actively seeking employment. This article focuses on employed individuals rather than the entire labour force, which includes both employed and unemployed persons. By concentrating on those who are actively generating output, the study directly compares GDP with the workforce responsible for its creation, thereby providing a more accurate assessment of labour productivity. Including unemployed individuals could distort the evaluation, as they are not involved in GDP generation.

The data collected are presented in table 1.

**Table 1: Gross Domestic Product, Population, and Number of Employed Persons in EU Countries in 2023**

Country	GDP (million PPS)	Population aged 20–64 (thousands)	Employed persons aged 20–64 (thousands)
Austria	417,801.2	5,563	4,244
Belgium	531,456.4	6,820	4,879
Bulgaria	156,900.9	3,717	2,813
Croatia	112,948.2	2,236	1,575
Cyprus	34,883.1	570	459
Czechia	379,752.5	6,312	4,865
Denmark	287,349.1	3,424	2,731
Estonia	42,433.9	793	646
Finland	223,763.2	3,121	2,440
France	2,626,149.9	37,708	27,399
Germany	3,721,878.4	49,838	40,255
Greece	272,901.4	6,102	4,057
Hungary	275,970.5	5,747	4,576
Ireland	424,588.3	3,108	2,471
Italy	2,204,006.6	34,577	22,702
Latvia	48,450.8	1,090	828
Lithuania	95,543.3	1,725	1,360
Luxembourg	59,955.9	424	313
Malta	23,026.0	350	292
Netherlands	903,206.4	10,460	8,671
Poland	1,132,379.0	22,026	16,776
Portugal	323,330.9	6,119	4,789
Romania	570,702.9	11,153	7,568
Slovakia	151,715.0	3,322	2,553
Slovenia	73,902.3	1,247	960
Spain	1,637,011.6	29,298	20,684
Sweden	456,295.0	5,942	4,900
<b>EU (27)</b>	<b>17,193,752.9</b>	<b>262,790</b>	<b>195,807</b>

Source: Own elaboration based on Eurostat online data (codes: nama\_10\_gdp, demo\_pjan, lfsi\_emp\_a), retrieved on 15 November 2024.

Using these data, a decomposition of GDP per working-age person is performed, breaking down the dependent variable into two main factors:

- Labour productivity ( $Y$ ), measured as GDP per employed person.
- Employment rate ( $Z$ ), defined as the proportion of employed persons to the total population in the specified age group.

Since  $X = Y \cdot Z$ , where  $X$  denotes GDP per working-age person, it is possible to assess how deviations in labour productivity and employment rate contribute to deviations in GDP per working-age person. The multiplicative relationship between these variables makes the logarithmic method particularly suitable for this purpose, as it allows transformation of products into sums, facilitating the decomposition of the contributions of these factors.

## 2 Methodology

Given that labour productivity and employment rate are the factors determining the value of GDP per working-age person, it is important to quantify – for each of the twenty-seven countries examined – the influence of deviations of these two factors on the deviation of the dependent variable. For this purpose, a causal analysis is performed, which enables the exploration of the structure of the deviation of GDP per working-age person in individual countries.

In causal analysis, the objective is to determine how selected factors affect a given variable, specifying the direction and degree of their impact. This analysis answers the question of whether a particular factor causes an increase or decrease in the variable under study and quantifies the effect of the deviation of each factor on the deviation of the dependent variable from the comparison base. The logarithmic method is employed to conduct the causal analysis, involving the following computational steps:

1. Construction of a ratio equality: Representing the ratio calculated for the dependent variable as the product of the ratios calculated for the factors influencing it.
2. Logarithmic transformation: Taking the logarithm of both sides of the constructed ratio equality.
3. Determination of relative impacts: Dividing both sides of the resulting equation by the logarithm of the ratio concerning the dependent variable, to obtain the relative impact of the deviation of each factor.
4. Calculation of impact effects: Multiplying both sides of the derived equation by the deviation of the dependent variable, to quantify the impact of the deviation of each factor in terms of the deviation of the dependent variable.

To develop the appropriate ratio equality, the dependent variable  $X$  is expressed as the product of factors  $Y$  and  $Z$ . The average value of variable  $X$ , calculated for the entire European Union, serves as the reference base and is denoted by  $\bar{x}$ . The value of this variable calculated for the  $i$ -th country ( $i = 1, 2, \dots, 27$ ) is denoted by  $x_i$ .

A ratio  $x_i^*$  concerning variable  $X$  is defined as:

$$x_i^* = \frac{x_i}{\bar{x}}.$$

Since  $x_i = y_i \cdot z_i$  and  $\bar{x} = \bar{y} \cdot \bar{z}$ , dividing  $x_i$  by  $\bar{x}$  yields:

$$\frac{x_i}{\bar{x}} = \frac{y_i z_i}{\bar{y} \cdot \bar{z}} = \left(\frac{y_i}{\bar{y}}\right) \cdot \left(\frac{z_i}{\bar{z}}\right), \quad \text{or} \quad x_i^* = y_i^* \cdot z_i^*, \quad (1)$$

where:

$$y_i^* = \frac{y_i}{\bar{y}}, \quad z_i^* = \frac{z_i}{\bar{z}}.$$

Thus, the ratio  $x_i^*$  can be expressed as the product of the ratios  $y_i^*$  and  $z_i^*$ .

From a mathematical perspective, both sides of the equation can be logarithmically transformed, provided the arguments of the logarithms are positive. The values of  $x_i^*$ ,  $y_i^*$ , and  $z_i^*$  are always positive; therefore, the equation can be logarithmically transformed using any logarithm base greater than zero and not equal to one. The choice of logarithm base has no effect on the final results of the causal analysis, only on the intermediate results. In practice, common logarithms (base 10) or natural logarithms (base  $e$ ) are typically used. For the calculations in this study, the common logarithm is employed.

By taking the logarithm of both sides, the equation becomes:

$$\log x_i^* = \log(y_i^* \cdot z_i^*). \quad (2)$$

Further mathematical transformations give:

$$1 = \frac{\log y_i^*}{\log x_i^*} + \frac{\log z_i^*}{\log x_i^*}, \quad (3)$$

where:

$\frac{\log y_i^*}{\log x_i^*}$  represents the relative impact of the deviation of factor  $Y$  on the deviation of variable  $X$ ,  
 $\frac{\log z_i^*}{\log x_i^*}$  represents the relative impact of the deviation of factor  $Z$  on the deviation of variable  $X$ .

Next, both sides of the equation are multiplied by the deviation calculated for variable  $X$ , resulting in:

$$x_i - \bar{x} = (x_i - \bar{x}) \frac{\log y_i^*}{\log x_i^*} + (x_i - \bar{x}) \frac{\log z_i^*}{\log x_i^*}, \quad (4)$$

where:

$(x_i - \bar{x}) \frac{\log y_i^*}{\log x_i^*}$  is the impact effect relating to factor  $Y$ , i.e., the deviation of variable  $X$  caused by the deviation of factor  $Y$ ,

$(x_i - \bar{x}) \frac{\log z_i^*}{\log x_i^*}$  is the impact effect relating to factor  $Z$ , i.e., the deviation of variable  $X$  caused by the deviation of factor  $Z$ .

This approach enables the decomposition of the deviation of the dependent variable  $X$  from the EU average into components attributable to deviations in labour productivity  $Y$  and employment rate  $Z$ . The relative impacts provide information about the direction and strength of the influence of each factor in comparison to the other, while the impact effects quantify these influences in the units of the dependent variable (PPS per person).

### 3 Comparative Analysis of EU Countries Based on Individual Variables

#### 3.1 Analysis of GDP per Working-Age Person

For each country, the GDP per working-age person ( $x_i$ ) was calculated by dividing the country's GDP by the number of its residents aged 20–64. Subsequently, a ratio was constructed by dividing the value obtained for the  $i$ -th country by the mean value calculated for the entire European Union ( $\bar{x}$ ). The results of these computations are presented in table 2.

**Table 2: Comparative analysis of GDP per working-age person**

Country	GDP per working-age person ( $x_i$ ) (PPS per person)	Ratio ( $x_i^* = \frac{x_i}{\bar{x}}$ )	Country	GDP per working-age person ( $x_i$ ) (PPS per person)	Ratio ( $x_i^* = \frac{x_i}{\bar{x}}$ )
Luxembourg	141,572	2.164	Czechia	60,162	0.920
Ireland	136,616	2.088	Slovenia	59,273	0.906
Netherlands	86,351	1.320	Spain	55,875	0.854
Denmark	83,923	1.283	Lithuania	55,401	0.847
Belgium	77,929	1.191	Estonia	53,484	0.817
Sweden	76,785	1.174	Portugal	52,843	0.808
Austria	75,110	1.148	Poland	51,411	0.786
Germany	74,680	1.141	Romania	51,170	0.782
Finland	71,692	1.096	Croatia	50,508	0.772
France	69,645	1.064	Hungary	48,018	0.734
Malta	65,812	1.006	Slovakia	45,671	0.698
<b>EU (27)</b>	<b>65,428</b>	<b>1.000</b>	Greece	44,725	0.684
Italy	63,743	0.974	Latvia	44,452	0.679
Cyprus	61,154	0.935	Bulgaria	42,208	0.645

Source: Own computations based on table 1.

In eleven countries, GDP per working-age person surpassed the mean level for the entire European Union, while in sixteen countries it was lower. The highest value was observed in Luxembourg, where in 2023, this measure constituted 216.4% of the EU average. Conversely, the lowest value was recorded in Bulgaria, where it amounted to 64.5% of the EU average.

In Slovakia, GDP per working-age person in 2023 was over 30% below the EU average. In the ranking based on the values of the considered indicator, Slovakia occupied the twenty-fourth position.

### 3.2 Analysis of Labour Productivity

Labour productivity ( $y_i$ ) for each country was estimated by dividing the country's GDP by the number of employed persons aged 20–64. A ratio was then constructed by dividing the value of  $y_i$  by the mean value for the EU ( $\bar{y}$ ). The results obtained for all the countries under study are presented in table 3.

**Table 3: Comparative analysis of GDP per employed person**

Country	Labour productivity ( $y_i$ ) (PPS per person)	Ratio ( $y_i^* = \frac{y_i}{\bar{y}}$ )	Country	Labour productivity ( $y_i$ ) (PPS per person)	Ratio ( $y_i^* = \frac{y_i}{\bar{y}}$ )
Luxembourg	191,552	2.181	Czechia	78,058	0.889
Ireland	171,829	1.957	Slovenia	76,982	0.877
Belgium	108,927	1.240	Cyprus	75,998	0.865
Denmark	105,218	1.198	Romania	75,410	0.859
Netherlands	104,164	1.186	Croatia	71,713	0.817
Austria	98,445	1.121	Lithuania	70,252	0.800
Italy	97,084	1.106	Portugal	67,515	0.769
France	95,848	1.092	Poland	67,500	0.769
Sweden	93,121	1.060	Greece	67,267	0.766
Germany	92,458	1.053	Estonia	65,687	0.748
Finland	91,706	1.044	Hungary	60,308	0.687
<b>EU (27)</b>	<b>87,810</b>	<b>1.000</b>	Slovakia	59,426	0.677
Spain	79,144	0.901	Latvia	58,515	0.666
Malta	78,856	0.898	Bulgaria	55,777	0.635

Source: Own computations based on table 1.

In eleven countries, GDP per employed person exceeded the EU average, while in sixteen countries it was lower. Among all EU countries, the highest labour productivity was found in Luxembourg, where the level in 2023 was over 118% higher than the EU average. In contrast, the lowest value was observed in Bulgaria, where the discussed indicator was 36.5% below the EU average.

In Slovakia, labour productivity in 2023 amounted to two-thirds of the EU average. Based on this measure, Slovakia ranked twenty- fifth among the EU countries.

### 3.3 Analysis of Employment Rate

Table 4 presents the employment rates for individuals aged 20 – 64 in each EU country, defined as the proportion of employed persons to the total population in this age group. Appropriate ratios were calculated by dividing the employment rate of the  $i$ -th country ( $z_i$ ) by the mean employment rate for the EU ( $\bar{z}$ ).

**Table 4: Comparative analysis of employment rate**

Country	Employment rate ( $z_i$ )	Ratio ( $z_i^* = \frac{z_i}{\bar{z}}$ )	Country	Employment rate ( $z_i$ )	Ratio ( $z_i^* = \frac{z_i}{\bar{z}}$ )
Malta	0.835	1.120	Slovakia	0.769	1.031
Netherlands	0.829	1.113	Austria	0.763	1.024
Sweden	0.825	1.107	Poland	0.762	1.022
Estonia	0.814	1.093	Latvia	0.760	1.020
Germany	0.808	1.084	Bulgaria	0.757	1.016
Cyprus	0.805	1.080	<b>EU (27)</b>	<b>0.745</b>	<b>1.000</b>
Denmark	0.798	1.070	Luxembourg	0.739	0.992
Hungary	0.796	1.069	France	0.727	0.975
Ireland	0.795	1.067	Belgium	0.715	0.960
Lithuania	0.789	1.058	Spain	0.706	0.948
Portugal	0.783	1.050	Croatia	0.704	0.945
Finland	0.782	1.049	Romania	0.679	0.911
Czechia	0.771	1.034	Greece	0.665	0.892
Slovenia	0.770	1.033	Italy	0.657	0.881

Source: Own computations based on table 1.

In nineteen countries, the employment rate was higher than the EU average, while in eight countries it was lower. The highest employment rate was recorded in Malta, where in 2023, it was 112% of the EU mean. Conversely, the lowest rate was observed in Italy, where 65.7% of the working-age population were employed, compared to the EU mean of 74.5%.

In Slovakia, the employment rate in 2023 was slightly above the EU average, at nearly 77%. Based on the indicator under discussion, Slovakia occupied the fifteenth position among the considered countries.

## 4 Application of the Logarithmic Method in Causal Analysis

After conducting a comparative analysis of EU countries based on the three individual variables – GDP per working-age person, labour productivity, and employment rate – it is pertinent to examine, for these individual countries, the relationship between the selected dependent variable and the two explanatory variables influencing it. This section applies the logarithmic method to decompose the deviations of GDP per working-age person from the EU average into components attributable to deviations in labour productivity and deviations in employment rate.

To more easily identify commonalities among countries, the twenty-seven EU member states were classified into four groups based on whether their labour productivity ratio ( $y_i^*$ ) and employment rate ratio ( $z_i^*$ ) are greater than or less than 1. This classification enriches the comparative analysis by allowing for the detection of countries with similar characteristics.



Table 5 presents, for each country under study, the equation  $x_i = y_i \cdot z_i$  and the ratio equality  $x_i^* = y_i^* \cdot z_i^*$ , where  $x_i^* = \frac{x_i}{\bar{x}}$ ,  $y_i^* = \frac{y_i}{\bar{y}}$ , and  $z_i^* = \frac{z_i}{\bar{z}}$ . As previously mentioned, the countries are grouped according to the values of  $y_i^*$  and  $z_i^*$ .

**Table 5: Classification of EU countries based on labour productivity and employment rate ratios**

<b>Higher Employment Rate</b>	Malta:	$65,812 = 78,856 \cdot 0.835$ <b>1.006 = 0.898 \cdot 1.120</b>	Ireland:	$136,616 = 171,829 \cdot 0.795$ <b>2.088 = 1.957 \cdot 1.067</b>	
	Cyprus:	$61,154 = 75,998 \cdot 0.805$ <b>0.935 = 0.865 \cdot 1.080</b>	Netherlands:	$86,351 = 104,164 \cdot 0.829$ <b>1.320 = 1.186 \cdot 1.113</b>	
	Czechia:	$60,162 = 78,058 \cdot 0.771$ <b>0.920 = 0.889 \cdot 1.034</b>	Denmark:	$83,923 = 105,218 \cdot 0.798$ <b>1.283 = 1.198 \cdot 1.070</b>	
	Slovenia:	$59,273 = 76,982 \cdot 0.770$ <b>0.906 = 0.877 \cdot 1.033</b>	Sweden:	$76,785 = 93,121 \cdot 0.825$ <b>1.174 = 1.060 \cdot 1.107</b>	
	Lithuania:	$55,401 = 70,252 \cdot 0.789$ <b>0.847 = 0.800 \cdot 1.058</b>	Austria:	$75,110 = 98,445 \cdot 0.763$ <b>1.148 = 1.121 \cdot 1.024</b>	
	Estonia:	$53,484 = 65,687 \cdot 0.814$ <b>0.817 = 0.748 \cdot 1.093</b>	Germany:	$74,680 = 92,458 \cdot 0.808$ <b>1.141 = 1.053 \cdot 1.084</b>	
	Portugal:	$52,843 = 67,515 \cdot 0.783$ <b>0.808 = 0.769 \cdot 1.050</b>	Finland:	$71,692 = 91,706 \cdot 0.782$ <b>1.096 = 1.044 \cdot 1.049</b>	
	Poland:	$51,411 = 67,500 \cdot 0.762$ <b>0.786 = 0.769 \cdot 1.022</b>			
	Hungary:	$48,018 = 60,308 \cdot 0.796$ <b>0.734 = 0.687 \cdot 1.069</b>			
	Slovakia:	$45,671 = 59,426 \cdot 0.769$ <b>0.698 = 0.677 \cdot 1.031</b>			
	Latvia:	$44,452 = 58,515 \cdot 0.760$ <b>0.679 = 0.666 \cdot 1.020</b>			
	Bulgaria:	$42,208 = 55,777 \cdot 0.757$ <b>0.645 = 0.635 \cdot 1.016</b>			
<table border="1" style="margin: auto;"> <tr> <td style="text-align: center;">           European Union (27)  <math>65,428 = 87,810 \cdot 0.745</math>  <b>1.000 = 1.000 \cdot 1.000</b> </td> </tr> </table>					European Union (27) $65,428 = 87,810 \cdot 0.745$ <b>1.000 = 1.000 \cdot 1.000</b>
European Union (27) $65,428 = 87,810 \cdot 0.745$ <b>1.000 = 1.000 \cdot 1.000</b>					
<b>Lower Employment Rate</b>	Spain:	$55,875 = 79,144 \cdot 0.706$ <b>0.854 = 0.901 \cdot 0.948</b>	Luxembourg:	$141,572 = 191,552 \cdot 0.739$ <b>2.164 = 2.181 \cdot 0.992</b>	
	Romania:	$51,170 = 75,410 \cdot 0.679$ <b>0.782 = 0.859 \cdot 0.911</b>	Belgium:	$77,929 = 108,927 \cdot 0.715$ <b>1.191 = 1.240 \cdot 0.960</b>	
	Croatia:	$50,508 = 71,713 \cdot 0.704$ <b>0.772 = 0.817 \cdot 0.945</b>	France:	$69,645 = 95,848 \cdot 0.727$ <b>1.064 = 1.092 \cdot 0.975</b>	
	Greece:	$44,725 = 67,267 \cdot 0.665$ <b>0.684 = 0.766 \cdot 0.892</b>	Italy:	$63,743 = 97,084 \cdot 0.657$ <b>0.974 = 1.106 \cdot 0.881</b>	

**Lower Labour Productivity**

**Higher Labour Productivity**

Source: Own elaboration based on tables 2, 3, and 4.

In the upper-right quadrant of table 5 are seven countries – Ireland, Netherlands, Denmark, Sweden, Austria, Germany, and Finland – where both the labour productivity ratio ( $y_i^*$ ) and the employment rate ratio ( $z_i^*$ ) exceed 1. Consequently, the GDP per working-age person ratio ( $x_i^*$ ) for these countries is also greater than 1.

In the lower-right quadrant are four countries – Luxembourg, Belgium, France, and Italy – where  $y_i^* > 1$  and  $z_i^* < 1$ . For Luxembourg, Belgium, and France, the positive deviation in labour productivity from the EU average outweighs the negative deviation in employment rate, resulting in a positive deviation of GDP per working-age person ( $x_i^* > 1$ ). In the case of Italy, however, the positive deviation in labour productivity is insufficient to offset the negative deviation in employment rate, leading to a negative deviation of GDP per working-age person ( $x_i^* < 1$ ).

The upper-left quadrant includes twelve countries – Malta, Cyprus, Czechia, Slovenia, Lithuania, Estonia, Portugal, Poland, Hungary, Slovakia, Latvia, and Bulgaria – where  $y_i^* < 1$  and  $z_i^* > 1$ . For Malta, the positive deviation in employment rate from the EU average is greater than the negative deviation in labour productivity, resulting in a positive deviation of GDP per working-age person ( $x_i^* > 1$ ). For the remaining countries in this group, the negative deviation in labour productivity dominates, leading to a negative deviation of GDP per working-age person ( $x_i^* < 1$ ).

In the lower-left quadrant are four countries – Spain, Romania, Croatia, and Greece – where both  $y_i^*$  and  $z_i^*$  are less than 1. Accordingly, the GDP per working-age person ratio ( $x_i^*$ ) for these countries is also less than 1.

Following the established methodological procedure, the logarithmic method was further applied to decompose the deviation of GDP per working-age person into components attributable to deviations in labour productivity and employment rate. This method involves logarithmic transformation to exploit the property that the logarithm of a product equals the sum of the logarithms, thereby facilitating the decomposition of the multiplicative relationship into an equation containing additive components.

The final results obtained from applying the complete logarithmic method are presented in table 6. For each country, the table provides the equation (3) and the resulting equation (4) derived from it. In table 6, the countries are grouped into four categories based on the signs of their impact effects: whether  $(x_i - \bar{x}) \frac{\log y_i^*}{\log x_i^*}$  is greater than zero or less than zero, and whether  $(x_i - \bar{x}) \frac{\log z_i^*}{\log x_i^*}$  is greater than zero or less than zero. This classification corresponds to the earlier grouping in table 5 based on the values of  $y_i^*$  and  $z_i^*$ .

It is important to note the relationship between the ratios and the corresponding impact effects.

When  $x_i^* > 1$ , it implies  $x_i - \bar{x} > 0$ , meaning the country's GDP per working-age person is above the EU average. Conversely, when  $x_i^* < 1$ , it implies  $x_i - \bar{x} < 0$ .

Similarly, if  $y_i^* > 1$ , then  $(x_i - \bar{x}) \frac{\log y_i^*}{\log x_i^*} > 0$ , indicating that the deviation in labour productivity contributes positively to the deviation in the dependent variable. If  $y_i^* < 1$ , then  $(x_i - \bar{x}) \frac{\log y_i^*}{\log x_i^*} < 0$ , showing a negative contribution to the deviation in the dependent variable.

The same logic applies to the ratio  $z_i^*$  and its corresponding impact effect  $(x_i - \bar{x}) \frac{\log z_i^*}{\log x_i^*}$ . If  $z_i^* > 1$ , then  $(x_i - \bar{x}) \frac{\log z_i^*}{\log x_i^*} > 0$ , meaning that the deviation in employment rate contributes positively to the deviation in GDP per working-age person. Conversely, if  $z_i^* < 1$ ,

then  $(x_i - \bar{x}) \frac{\log z_i^*}{\log x_i} < 0$ , meaning that the deviation in employment rate contributes negatively to the deviation in GDP per working-age person.

**Table 6: Relative impacts and impact effects of the deviations in labour productivity and employment rate in individual EU countries**

<b>Higher Employment Rate</b>	Malta:	1 = -18.384 + 19.384 <b>384 = -7,057 + 7,441</b>	Ireland:	1 = 0.912 + 0.088 <b>71,188 = 64,913 + 6,276</b>	
	Cyprus:	1 = 2.139 + (-1.139) <b>-4,273 = -9,140 + 4,866</b>	Netherlands:	1 = 0.616 + 0.384 <b>20,924 = 12,879 + 8,045</b>	
	Czechia:	1 = 1.403 + (-0.403) <b>-5,266 = -7,388 + 2,122</b>	Denmark:	1 = 0.726 + 0.274 <b>18,496 = 13,436 + 5,059</b>	
	Slovenia:	1 = 1.332 + (-0.332) <b>-6,154 = -8,199 + 2,045</b>	Sweden:	1 = 0.367 + 0.633 <b>11,358 = 4,167 + 7,190</b>	
	Lithuania:	1 = 1.341 + (-0.341) <b>-10,027 = -13,446 + 3,419</b>	Austria:	1 = 0.828 + 0.172 <b>9,683 = 8,021 + 1,662</b>	
	Estonia:	1 = 1.440 + (-0.440) <b>-11,943 = -17,200 + 5,257</b>	Germany:	1 = 0.390 + 0.610 <b>9,252 = 3,608 + 5,644</b>	
	Portugal:	1 = 1.230 + (-0.230) <b>-12,584 = -15,483 + 2,899</b>	Finland:	1 = 0.475 + 0.525 <b>6,264 = 2,975 + 3,290</b>	
	Poland:	1 = 1.091 + (-0.091) <b>-14,017 = -15,293 + 1,276</b>			
	Hungary:	1 = 1.214 + (-0.214) <b>-17,410 = -21,143 + 3,733</b>			
	Slovakia:	1 = 1.086 + (-0.086) <b>-19,756 = -21,458 + 1,702</b>			
	Latvia:	1 = 1.050 + (-0.050) <b>-20,975 = -22,026 + 1,050</b>			
	Bulgaria:	1 = 1.035 + (-0.035) <b>-23,219 = -24,039 + 820</b>			
	<b>European Union (27)</b>				
	<b>Lower Employment Rate</b>	Spain:	1 = 0.658 + 0.342 <b>-9,552 = -6,289 + (-3,263)</b>	Luxembourg:	1 = 1.011 + (-0.011) <b>76,144 = 76,946 + (-802)</b>
Romania:		1 = 0.619 + 0.381 <b>-14,258 = -8,831 + (-5,427)</b>	Belgium:	1 = 1.233 + (-0.233) <b>12,501 = 15,408 + (-2,907)</b>	
Croatia:		1 = 0.782 + 0.218 <b>-14,919 = -11,673 + (-3,246)</b>	France:	1 = 1.402 + (-0.402) <b>4,217 = 5,914 + (-1,697)</b>	
Greece:		1 = 0.701 + 0.299 <b>-20,702 = -14,504 + (-6,199)</b>	Italy:	1 = (-3.848) + 4.848 <b>-1,685 = 6,484 + (-8,170)</b>	

**Lower Labour Productivity**

**Higher Labour Productivity**

Source: Own elaboration based on tables 2, 3, 4 and, 5.

To illustrate the results, the case of Slovakia is considered. In 2023, Slovakia's GDP per working-age person ( $x_i$ ) was 45,671 PPS, while the EU average ( $\bar{x}$ ) was 65,428 PPS.

This represents a negative deviation of 19,756 PPS, meaning that Slovakia's GDP per working-age person was about 30.2% lower than the EU average. If Slovakia's labour productivity had been equal to the EU average, its GDP per working-age person would have been 1,702 PPS higher (approximately 3.1% higher) than the EU average due to its higher employment rate of 0.769 compared to the EU average of 0.745. Conversely, if Slovakia's employment rate had been at the EU average, its GDP per working-age person would have been 21,458 PPS lower (approximately 32.3% lower) than the EU average due to its lower labour productivity of 59,426 PPS per employed person compared to the EU average of 87,810 PPS per employed person.

This analysis indicates that although Slovakia has a relatively high employment rate compared to other EU countries, the significant negative deviation in labour productivity more than offsets the positive effect of the higher employment rate. As a result, Slovakia's GDP per working-age person remains below the EU average. The positive impact effect of the employment rate's deviation is only able to slightly mitigate, but not fully counterbalance, the negative impact effect of the labour productivity's deviation.

Thus, the logarithmic method of causal analysis provides a richly informative decomposition of the factors contributing to deviations in GDP per working-age person. It determines, for each individual country, the relative importance of its higher or lower labour productivity and its higher or lower employment rate compared to the benchmark values used for comparison.

### **Conclusion**

Undeniably, gainful employment performs numerous beneficial functions in a person's life. Among the advantages of having a job, the most significant is the acquisition of financial resources, enabling individuals and their families to meet their needs. Engaging in professional work is often a necessary condition for realising personal desires and life aspirations, including material and non-material goals.

However, the positive impact of employment should not be confined to the individual dimension. The participation of a country's or region's inhabitants in the workforce and their focus on measurable outcomes are elements that translate into the overall prosperity of society.<sup>7</sup> Studies indicate that the labour factor is one of the determinants responsible for the differentiation of countries and regions in terms of the economic conditions of life for residents.<sup>8</sup> In countries and regions where the proportion of the working population is high and labour productivity is elevated, a relatively higher level of prosperity is achieved.<sup>9</sup>

In this article, the influence of labour productivity and employment rate on GDP per working-age person in individual EU economies was determined. The analysis was based on data from 2023. The logarithmic method of causal analysis was applied to decompose the deviations of GDP per working-age person from the EU average into components attributable to deviations in labour productivity and employment rate.

GDP per working-age person among the twenty seven EU countries in 2023 ranged from 42,208 PPS per person aged 20-64 (the lowest value observed in Bulgaria) to 141,572 PPS per person (the highest value recorded in Luxembourg). Consequently, the ratio comparing the values of this indicator in individual economies to the EU average varied from 0.645 to 2.164.

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<sup>7</sup> HAIDER, A. – JABEEN, S. – RANKADUWA, W. – SHAHEEN, F. (2023): The nexus between employment and economic growth: a cross-country analysis, pp. 1-4.

<sup>8</sup> TURCZAK, A. (2017): Analiza przyczynowa różnic w poziomie PKB per capita między województwami w Polsce [Causal analysis of differences in GDP per capita between voivodeships in Poland], pp. 85-89.

<sup>9</sup> PARIBONI, R. – TRIDICO, P. (2020): Structural change, institutions and the dynamics of labor productivity in Europe, pp. 1275.

Labour productivity in EU countries in 2023 ranged from 55,777 PPS per employed person (again, the lowest value pertaining to Bulgaria) to 191,552 PPS per employed person (the highest value, once more relating to Luxembourg). The ratio comparing labour productivity in individual economies to the EU average spanned from 0.635 to 2.181.

In 2023, the employment rate among persons aged 20–64 varied in EU countries from 65.7% (the lowest rate registered in Italy) to 83.5% (the highest rate noted in Malta). Accordingly, the ratio comparing employment rates in individual economies to the EU average ranged from 0.881 to 1.120.

The case of Slovakia exemplifies the findings of the analysis. Slovakia's GDP per working-age person was relatively low compared to other EU countries, amounting to less than 70% of the EU average. The country was characterised by low labour productivity, which in the examined year was approximately one-third lower than the EU average. Conversely, Slovakia's employment rate was over 103% of the mean calculated for the entire European Union.

The study highlights the crucial role of both labour productivity and employment rate in shaping the economic well-being of EU countries. The findings suggest that efforts to improve labour productivity, particularly in countries where it is significantly below the EU average, could substantially enhance GDP per working-age person. Similarly, policies aimed at increasing the employment rate can have a positive impact, although the effect may be insufficient to fully offset low labour productivity.

Despite the valuable insights provided by this investigation, it is not without limitations. One constraint is that it considered data from only a single year, 2023. Future research could extend the analysis over multiple years to examine the direction of changes and identify emerging trends over time. Another limitation is that the study compared entire countries without accounting for regional disparities within countries, which can be critical in some cases. Incorporating regional data could provide a more nuanced understanding of the factors influencing GDP per working-age person.

Moreover, the analysis was based on three aggregate variables. A potential extension of this research could involve decomposing these variables further. For instance, labour productivity could be analysed in terms of sectoral contributions, technological advancement, and capital intensity. The employment rate could be examined concerning demographic factors, educational attainment, and specific labour market policies.

Additionally, the study focused on labour productivity measured per employed person rather than per hour worked. Differences in average working hours across countries may affect productivity comparisons. Subsequent research could consider productivity per hour to account for variations in working time, thereby providing a more accurate assessment.

A significant contribution of this work is the application of a robust methodological procedure – the logarithmic method of causal analysis – which proved effective in quantifying the impacts of labour productivity and employment rate on GDP per working-age person. The findings underscore the importance of both factors in economic performance and provide insights that could inform policy decisions aimed at enhancing prosperity and reducing disparities within the European Union.

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# INTRA-GROUP FINANCIAL SUPPORT AGREEMENTS IN BANKING ACCORDING TO SLOVAK AND EUROPEAN UNION LAW

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**Abstract:** In the present paper, we address the issue of intra-group financial support in banking. Chronologically, we move from the possibility (or rather impossibility) of this form of support during the financial crisis in 2008-2009 to the present time, when intra-group financial support as part of the so-called banking union is enshrined in the EU sources of law and, on their basis, in the Slovak legislation. We examine the issue from the point of view of the involvement of the National Bank of Slovakia, comparing its position in approving intra-group financial support at the time of the financial crisis and today. We look in detail at the powers that the National Bank of Slovakia has in this process at present time and how it can influence the final decision on whether or not to provide the intra-group support.

**Keywords:** Intra-group financial support, intra-group financial support agreements, ring-fencing of assets, Banking Union, National Bank of Slovakia, European Banking Authority  
**JEL:** E53, G21, K33

## Introduction

During the global financial crisis in 2008-2009, I served as a Chief Legal and Compliance Officer at a Slovak commercial bank owned by the Slovak shareholders. Compared to other commercial banks on the Slovak market, this was an exception; the vast majority of them were owned by foreign banks or foreign financial groups,<sup>1</sup> which was the case throughout Eastern Europe.<sup>2</sup> At the outbreak of the financial crisis in Europe, the banking market in the Slovak Republic was stable and sound,<sup>3</sup> which could not be said of Western Europe.<sup>4</sup> Thus, foreign banking groups began to pour capital out of their Slovak subsidiary banks to strengthen or even save themselves or their subsidiary banks in Western Europe. The outflow of capital from Slovakia on a larger scale was prevented only by a swift reaction of the National Bank of Slovakia (hereinafter also referred to as “NBS”), which, within the scope of its competence, first issued interim measures on the obligation of banks to maintain a set daily volume of liquid assets, to seek prior approval from the NBS in the event of an expected decline, and also to

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<sup>1</sup> An overview of banks and branches of foreign banks operating on the Slovak banking market as of 1 January 2008.

<sup>2</sup> BERGLÖF, E. – KORNIYENKO, Y. – PLEKHANOV, A. – ZETTELMEYER, J. (2009): Understanding the crisis in emerging Europe. Working Paper No. 109, p. 10 [online]. In. *European Bank for Reconstruction and Development*, 2009.

<sup>3</sup> In 2008, the Slovak banking sector had a high share of deposits from customers, which significantly exceeded the volume of loans to customers. Domestic banks were thus less exposed to the risk of high volatility in financial markets. The adoption of the euro as the common currency also contributed significantly to the increase in primary customer deposits. In the last months of 2008, banks recorded an increase in deposits from customers. On the other hand, corporate term deposits fell in the last quarter of 2008, reflecting the deteriorating financial position of the corporate sector. Cited according to the Analysis of the Slovak Financial Sector in 2008 (“Analýza slovenského finančného sektora za rok 2008”) (p. 13) elaborated by the National Bank of Slovakia.

<sup>4</sup> E. g. GODDARD, J. – MOLYNEUX, P. – WILSON, J. O. S. (2009): The financial crisis in Europe: evolution, policy responses and lessons for the future. In. *Journal of Financial Regulation and Compliance*, vol. 17, No. 4, 2009, pp. 362-370. Also see Financial Stability Report 2009 (“Správa o finančnej stabilite 2009”) (p. 22) elaborated by the National Bank of Slovakia.

submit to the NBS daily information on the volume of their liquid assets and on the occurrence of any liability above the set amount that could cause non-compliance with the set minimum amount of liquid assets. As the validity and enforceability of these interim measures were not sustainable in the long term, the NBS subsequently proceeded to conceptual solutions - on 21 October 2008, the Bank Board of the NBS approved a measure on banks' own funding resources and on securities dealers' own funding resources (“Opatrenie, ktorým sa mení a dopĺňa opatrenie Národnej banky Slovenska č. 4/2007 o vlastných zdrojoch financovania bánk a požiadavkách na vlastné zdroje financovania bánk a o vlastných zdrojoch financovania obchodníkov s cennými papiermi a požiadavkách na vlastné zdroje financovania obchodníkov s cennými papiermi v znení opatrenia Národnej banky Slovenska č. 10/2007“)<sup>5</sup> and subsequently on 28 October 2008 the Bank Board of the NBS approved a new measure on liquidity of banks and branches of foreign banks (“Opatrenie o likvidite bánk a pobočiek zahraničných bánk a o postupe riadenia rizika likvidity bánk a likvidity pobočiek zahraničných bánk a o zmene opatrenia Národnej banky Slovenska č. 11/2007 o predkladaní výkazov, hlásení a iných správ bankami, pobočkami zahraničných bánk, obchodníkmi s cennými papiermi a pobočkami zahraničných obchodníkov s cennými papiermi na účely vykonávania dohľadu a na štatistické účely“).<sup>6</sup> The situation was similar in several other EU countries, although not everywhere.<sup>7</sup>

In the meantime, the regulatory environment for the banking sector in the European Union has moved to a completely different level. The creation of barriers to the transfer of assets within banking groups (ring-fencing of assets), although legally permissible and legitimate, was judged by the ECOFIN meeting and subsequently by the European Commission to be inappropriate and counter-productive.<sup>8</sup> In response to the financial crisis, the Banking Union was created for euro area Member States, the powers of EU regulators were strengthened and cooperation between Member States' supervisors was increased. The Banking Union also includes the creation of a legal framework for the recovery and resolution of credit institutions and investment firms,<sup>9</sup> which includes, inter alia, intra-group funding. What options would the National Bank of Slovakia have today if it wanted to prevent capital outflows from Slovakia within a financial group, and could it prevent this at all? Can it decide on its own or must it coordinate with other regulators? What are the mechanisms under which liquidity can be spilled across borders within a financial group? These are the questions that this paper will seek to answer.

In this paper we use the scientific methods of induction, deduction, generalization and comparison.

We will examine the legal regulation not only in the Slovak Act No. 483/2001 Coll. on Banks and on Amendments to Certain Acts, as amended (hereinafter referred to as the “Act on Banks“ or “AB“) and marginally also in Act No. 566/2001 Coll. on Securities and Investment Services and on Amendments to Certain Acts, as amended (hereinafter referred to as the “Act on Securities“ or “AS“), which regulate the so-called intra-group financial support and Act No. 747/2004 Coll. on Financial Market Supervision and on Amendments to Certain Acts, as amended (hereinafter referred to as the “AFMS“), which is the basic procedural

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<sup>5</sup> The measure was subsequently published under No. 17/2008 in the NBS Bulletin (“Vestník NBS“) No. 31/2008.

<sup>6</sup> The measure was subsequently published under No. 18/2008 in the NBS Bulletin 18/2008 (“Vestník NBS“) No. 31/2008; it is still in force until today.

<sup>7</sup> For more details see ALLEN, F. – GU, X. – KOWALEWSKI, O. (2013): Corporate governance and intra-group transactions in European bank holding companies during the crisis, In. *Global Banking, Financial Markets and Crises (International Finance Review, vol. 14)*, Emerald Group Publishing Limited, Leeds, 2013, pp. 365-431.

<sup>8</sup> Commission services' feasibility report on "asset transferability" within cross border banking groups of 14 November 2008.

<sup>9</sup> Point 4. of the Communication from the Commission to the European Parliament and the Council – A Roadmap towards a Banking Union (COM/2012/0510).



regulation governing the procedure of the National Bank of Slovakia in regulating the financial market, as well as sources of EU law, namely:

- Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council, as amended (hereinafter referred to as “Bank Recovery and Resolution Directive“ or “BRRD“),
- Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, as amended (hereinafter referred to as “Capital Requirements Directive“ or “CRD“),
- Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, as amended (hereinafter referred to as “Capital Requirements Regulation“ or “CRD“),
- Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, as amended (hereinafter referred to as “EBA Regulation“).

### **1 The concept of intra-group financial support and intra-group financial support agreements**

In the following, it is necessary to deal with the explanation of some terms. The basic concept is “sub-group“. It is a grouping [Article 33t(1) AB]:

1. on the one hand, a parent bank, a parent bank in the European Union, a financial holding company, a mixed financial holding company, a holding company with mixed activities established in the Slovak Republic, a parent financial holding company, a parent financial holding company in the European Union, a parent mixed financial holding company or a parent mixed financial holding company in the European Union, and
2. on the other hand, a subsidiary of a person referred to in ad 1. which is an institution<sup>10</sup> or financial institution<sup>11</sup> subject to supervision on a consolidated basis under the AB.

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<sup>10</sup> Institution means a credit institution (in the Slovak Republic, a bank) or an investment firm that meets the conditions under Article 4(1)(1)(b) CRR, that has been granted the necessary authorisation by 27. 12. 2020 [Article 4(1)(3) CRR in conjunction with Article 8 and Article 8a(3) CRD in conjunction with Article 4(1)(1)(b) CRR].

<sup>11</sup> Financial institution means an undertaking other than an institution, the principal activity of which is to acquire holdings or to pursue one or more of these activities:

- lending including, inter alia: consumer credit, credit agreements relating to immovable property, factoring, with or without recourse, financing of commercial transactions (including forfeiting),
- financial leasing,
- payment services,
- issuing and administering other means of payment (e.g. travellers' cheques and bankers' drafts) insofar as such activity is not covered by previous point,
- guarantees and commitments,
- trading for own account or for account of customers in any of the following: money market instruments, foreign exchange, financial futures and options, exchange and interest-rate instruments and transferable securities,
- participation in securities issues and the provision of services relating to such issues,
- advice to undertakings on capital structure, industrial strategy and related questions and advice as well as services relating to mergers and the purchase of undertakings,

A subsidiary within the meaning of Article 7(18) of the AB is a subsidiary, with reference to Article 4(1)(16) of the CRR and Article 22(4) of the Act No. 431/2002 Coll. On Accounting, as amended, which is an entity in which the parent entity has a decisive influence, either directly or indirectly through its subsidiary entities.<sup>12</sup> The subsidiary must also be an institution (see above) or a financial institution (see above) subject to supervision on a consolidated basis under the AB.

The context of Article 33t(1) AB, the purpose of the definition of 'sub-group' and the interpretative provision of paragraph 38 of the preamble to the BRRD show that it is a primarily a cross-border grouping of the entities referred to in points 1. and 2. above (the so-called cross-border sub-group). Since our legislation does not narrow it in this way, the literal wording of Article 33t(1) allows for a sub-group to include a grouping of national entities.

A contract may be concluded between individual members of a sub-group (at least two, but also more), the content of which is a commitment to provide financial support to one or more members of that sub-group. However, in order to be able to speak of a 'intra-group support contract' as defined in Article 33t(1) AB, it is necessary that the purpose of the financial support is fulfilled. Following a euro-conform interpretation on the basis of Article 19(1) BRRD - the respective provision of Article 33t(1) AB must be interpreted as meaning that financial support can be provided to a sub-group member which fulfils the conditions for the imposition of an early intervention measure pursuant to Article 65a(1) AB or a comparable measure under the law of the EU Member State in which that sub-group member is established. The purpose of this regulation is to allow liquidity spillovers within a sub-group, including across national borders, for the purpose of rescuing a sub-group member. The cross-border provision of financial support is subject to strict conditions and the supervisory authority in the country from which the liquidity is to be transferred has the right to actively intervene in the process.

The conditions for the imposition of an early intervention measure within the meaning of Article 65a(1) AB are:

- the NBS has detected deficiencies in the bank's activities consisting in non-compliance with or circumvention of the provisions of the AB, legally binding acts of the European Union applicable to the performance of banking activities or other generally binding legal regulations applicable to the performance of banking activities or
- the NBS has good reasons to suspect that a shortfall in activity may occur in the near future, in particular due to the deteriorating financial situation of the bank.

Although the provision of Article 33t(1) AB suggests that financial support within a sub-group could be provided to any member of the sub-group, however, in relation to Article 65a(1) AB and Article 27 BRRD, only one logical conclusion can be reached, namely that such financial support can only be provided to an institution, i.e. in the Slovak Republic to a bank (or to an investment firm under the conditions set out in Articles 71dk and 144 AS). In the case of other entities, the basic prerequisite for the provision of financial support under the sub-group, which is the fulfilment of the conditions for the imposition of an early intervention measure, is not fulfilled. According to the current legislation, these can only be implemented in the Slovak Republic against a bank or an investment firm and in another EU Member State

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- money broking,
  - portfolio management and advice,
  - safekeeping and administration of securities,
  - issuing electronic money,

including a financial holding company, a mixed financial holding company, a payment institution and an asset management company, but excluding insurance holding companies and mixed-activity insurance holding companies (Article 4(1)(26) CRR in conjunction with points 2. to 12. and 15. of the Annex I CRD).

<sup>12</sup> Within the meaning of Article 4(1)(16) *in fine* CRR subsidiaries of subsidiaries shall also be considered to be subsidiaries of the undertaking that is their original parent undertaking.

against an institution. In another EU Member State, a comparable measure allowed by its legal system, i.e. the legal system of the Member State in which the 'affected counterparty' (the institution to which the financial support is to be provided), is considered equivalent to an early intervention measure under the AB.

The defining features of a group support contract are therefore:

- it is a bilateral or multilateral legal act - a contract,
- the contract has been concluded by the members of a sub-group,
- the object of the contract is the provision of financial support by one or more members of the sub-group to one or more other members of the same sub-group - in the Slovak Republic to a bank (under the conditions set out in the AS to an investment firm) or in another Member State to an institution, if the conditions for the imposition of an early intervention measure or the imposition of a comparable measure in the Member State in which such member is established are met for that member (those members).

Finally, Article 33t(1) AB also defines the term "intra-group support" It refers to financial support within a sub-group provided on the basis of an intra-group support agreement, which is the provision of:

1. a loan ,
2. a guarantee or
3. property which may be used for security purposes.

The above list of forms of intra-group support should be considered exhaustive. However, group support in the form of any combination of the above forms of support in one or more transactions is permissible (Article 19(5)(b) BRRD). The recipient of group support is the bank (or investment firm) or institution to which, as a member of a sub-group, financial support is to be or has been provided under a group support agreement.

In international financial practice, forms of group support include:<sup>13</sup>

- a) a committed facility,
- b) a subordinated loan,
- c) issuance of a letter of credit,
- d) guarantee,
- e) an equity injection,
- f) a bond swap,
- g) bond repurchase agreements (bond lending agreements/repo agreements),
- h) letter of comfort,
- i) declaration of backing and others.

In terms of the systematic breakdown of forms of group support, letters (a), (b) and (g) can be classified in the group ad 1. above, letters (c) and (d) in the group ad 2. and letters (h) and (i) in the group (ad) 3.

Group support is also defined negatively. It is not considered to be a funding mechanism between members of a sub-group if none of its members qualifies for the imposition of an early intervention measure as we defined it above or a comparable measure. Similarly, the provision of financial support within a sub-group to any member of the sub-group that is experiencing financial difficulties, on a case-by-case basis and in accordance with the sub-group's policy, is not group support if such provision of financial support does not pose a risk to the sub-group as a whole (cf. Article 19(2) and (3) of the BRRD).

When assessing the EU's intra-group support legislation as a tool for implementing early intervention measures, it is important to highlight its sophistication, which ensures a strong framework of legality and legitimacy. The EU system for intra-group support measures is not discretion-based but rules-based. First, the rules that regulate intra-group financial support

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<sup>13</sup> BASEL COMMITTEE ON BANKING SUPERVISION: *The Joint Forum – Report on intra-group support measures*. Basel: Bank for International Settlements, 2012, p. 10 et seq.

agreements include a list of requirements to be fulfilled by those agreements, which need to take into account both the interest of all participating entities and the public interest to not undermine financial stability, or the resolvability of the providing institution.<sup>14</sup> On the other hand, rigidity, complexity and increased transaction costs are disadvantages. The legislation also does not provide answers to all the questions and problems that may arise in the context of the provision of group support.<sup>15</sup>

Article 33t(3) AB allows for the provision of intra-group support without the prior conclusion of a intra-group support agreement, provided that the following conditions are met:

1. such a procedure is in accordance with the internal rules of the group concerned,
2. the group member intending to provide intra-group support assesses that the provision of group support is necessary and does not pose a risk to the group concerned,
3. the conditions for providing intra-group support within the meaning of Article 33t to 33v AB must be met.

Ad 1.: Such rules may be laid down in an internal binding document which is common to the whole group or at least a sub-group thereof within which the group support is to be provided. It may be a contract concluded between the members of the group (sub-group), a constituent document of the members of the group (sub-group), i.e. in Slovak law a memorandum of association, by-laws or articles of association, a decision of the competent body of the person controlling the group (sub-group) or of the subsequent decisions of the bodies of the individual members of the group (sub-group), or an internal regulation of the members of the group (sub-group) adopted in accordance with a uniform group template. The form is not important, the content is important. Even if the group (sub-group) does not have any rules adopted for the provision of intra-group support, such provision must not conflict with the rules operating within it. Compliance of intra-group support with the rules governing the group (sub-group) is a matter for the NBS, as the supervisor on a consolidated basis, to assess. Should the intra-group support be provided in contravention thereof, this is grounds for the imposition of a sanction pursuant to Article 50(1) or Article 51(1)(c) AB.

Ad 2.: We consider the literal wording of this condition being inappropriate because it impermissibly subjectivises it, i.e. its fulfilment or non-fulfilment depends on the assessment of the sub-group member intending to provide group support and not on objective criteria. However, Article 19(3)(a) BRRD states that the fulfilment of that condition is objectively formulated: '*A group financial support agreement shall not constitute a prerequisite to provide group financial support to any group entity that experiences financial difficulties if the institution decides to do so, on a case-by-case basis and according to the group policies if it does not represent a risk for the whole group*'. Thus, the condition of providing intra-group support without entering into a contract is only met if (i) such support is provided to an entity experiencing financial difficulties and (ii) its provision does not pose a risk to the group as a whole. It is not sufficient if the entity providing the group financial support (albeit on the basis of credible evidence) assesses conditions (i) and (ii) to be met. That is the euro-conform interpretation of the provision. It also follows from its text that the providing of the intra-group support (and its acceptance) must be voluntary (cf. paragraph 38 of the BRRD preamble). If intra-group support is provided on the basis of a group support agreement, the voluntary nature of both the provision and the acceptance of the intra-group support is evident from that fact alone.

Ad 3.: If the intra-group support is provided without an intra-group support agreement, the conditions laid down in Article 33t (2), (4) to (7) and Articles 33s to 33v AB must

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<sup>14</sup> RAMOS, D. – SOLANA, J.: Bank Resolution and Creditor Distribution: The Tension Shaping Global Banking – Part I: “External and Intra-Group Funding” and “Ex Ante planning v. Ex Post Execution” Dimensions. In.: *University of Miami Business Law Review*. Volume 28, 1/2019, pp. 83-84 [online]. [1. 12. 2024].

<sup>15</sup> *Ibid*, pp. 85-86.

be fulfilled. We will not pay them a closer attention at this point and refer to the wording of the Act on Banks.

A member of a (sub)group which has provided intra-group support to another member or other members of the (sub)group is obliged to inform the NBS of this fact without delay if NBS exercises banking supervision over the (sub)group or if it exercises supervision on a consolidated basis over the relevant group. In the event that such a member fails to comply with this obligation, he runs the risk of a sanction pursuant to Article 50(1) or Article 51(1)(c) of the Act on Banks.

Art. 19(3)(b) BRRD also provides for the opposite situation, where Member States may not directly or indirectly make the exercise of the right of establishment in their territory conditional on the existence of an intra-group support agreement (cf. also paragraph 38 of the BRRD preamble). This provision was not transposed into the text of the Act on Banks by an explicit legal regulation, since the Act on Banks never made the granting of a banking licence or the establishment of a branch of a foreign bank on the territory of the Slovak Republic conditional on the fulfilment of such a requirement.

## **2 Procedural stages in the provision of intra-group support under a contract**

The procedural rules in the provision of intra-group support apply in two stages. The first is the approval of the intra-group financial support agreement and is governed by Articles 33u and 33v AB and Articles 19-22 BRRD; the second is the approval of the actual provision of the intra-group financial support on the basis of the contract. The second stage is governed by Articles 33w to 33y ZB and Articles 23-25 BRRD.

The first stage of the intra-group support process consists of the following procedural steps:

1. reaching agreement on a draft intra-group support agreement,
2. submission of an application for approval of the draft intra-group support agreement to the NBS,
3. a decision by the NBS on the request for approval of the draft intra-group support agreement,
4. approval of the draft intra-group support agreement by the shareholders of the future contracting parties,
5. the conclusion of the intra-group support agreement.

The second stage of the intra-group support process consists of the following procedural steps:

1. examination of the fulfilment of the conditions for providing the intra-group support,
2. the decision to provide and accept intra-group support,
3. review of the decision to provide and accept intra-group support by the counterparty,
4. delivery of the decision to the NBS, other regulators concerned and the EBA,
5. delivery of the notification of the intention to provide intra-group support to the NBS,
6. the decision of the NBS to allow/not to allow the intra-group support and any subsequent proceedings in liaison with the EBA,
7. the actual provision of the intra-group support.

In the following text, we will discuss in more detail the respective procedural steps, first in the first stage and then in the second stage of the provision of intra-group support, with particular emphasis on the role of the NBS in them.

### 3 Approval of the intra-group financial support agreement

Once the intra-group support agreement has been agreed between the parties and its content has been finalised after mutual negotiations, it is necessary to have the draft approved by the relevant regulators. Of these, the most important is the regulator that supervises the relevant group (sub-group) controlled by the parent bank on a consolidated basis. This procedure is based on Article 20(1) BRRD, according to which the EU parent institution shall submit to the consolidating supervisor an application for approval of any proposed group support agreement; the application shall include the wording of the proposed agreement and shall identify the (sub)group entities that wish to be parties to it.

The term EU parent institution is defined in Article 4(1)(29) of the CRR.<sup>16</sup> The AB uses the term parent bank (however, in conjunction with Article 71dk(2) of the AS, it may also refer to an investment firm) and includes a specific footnote referring to the aforementioned provision of the CRR.

Article 111(1) of the CRD sets out when the NBS supervises a parent bank on a consolidated basis. According to this provision, it is when the NBS supervises the parent bank on an individual basis.

Even if an intra-group support agreement is intended to be entered into by a number of entities within a sub-group, only the parent bank (even if it is not a party to the contract) is entitled and, at the same time, obliged to apply to the NBS (or other regulator supervising the subgroup on a consolidated basis) for its approval. This is not a request for prior approval, which is otherwise the rule in the NBS's regulatory activity in relation to banks (cf. Articles 28, 30-32 AB), but since it is an approval of a draft contract and not of the contract itself, it has practically the same effects as if it were a prior approval. Without prior approval, the relevant legal act is void (cf. Article 28(5) AB); without approval of the draft intra-group support agreement, its subsequent conclusion would be equally void (Article 39 of the Civil Code in conjunction with Article 33t(1) AB).

In addition to the general requirements set out in Article 16(3)-(5) AFMS, the parent bank's application to the NBS must also contain a description and justification of each of the conditions for concluding an intra-group support agreement pursuant to Article 33t(1) and (5)-(7) AB<sup>17</sup> (if these are the essential content elements of the said agreement,

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<sup>16</sup> *EU parent institution* means a parent institution in a Member State which is not a subsidiary of another institution authorised in any Member State, or of a financial holding company or mixed financial holding company set up in any Member State.

<sup>17</sup> According to Article 33t(5) AB an (intra-)group financial support agreement may only be concluded if:

- (a) each party is acting freely in entering into such agreement;
- (b) the agreement sets out principles for determining the consideration to be paid for the provision of group financial support;
- (c) the value of consideration is determined no earlier than at the time when a decision to provide group financial support is adopted;
- (d) in entering into such agreement and in determining the consideration for the provision of group financial support, each party is acting in their own best interests which may take account of any direct or indirect benefit that may accrue to a party as a result of the provision of group financial support;
- (e) each party providing group financial support must have full disclosure of relevant information from any party receiving such support prior to determination of the consideration for the provision of group financial support and prior to any decision to provide group financial support;
- (f) the conditions for the provision of group financial support are stipulated in accordance with the requirements of Article 33w;
- (g) the consideration to be paid for the provision of group financial support may take account of information in the possession of the party providing such support based on it being in the same group as the party receiving group financial support and which is not available to the public;
- (h) the principles for the calculation of the consideration to be paid for the provision of group financial support must not take account of any anticipated temporary impact on market prices arising from events external to the group.

it is not necessary to justify them separately; it is sufficient that they are set out in the attached draft agreement). The application should also be accompanied by:

- relevant documents confirming compliance with the conditions (e.g. opinion of supervisory authorities from other Member States proving compliance with the condition pursuant to Article 33t(6) AB),
- a draft intra-group support agreement identifying the members of the (sub)group to be contracting parties.

The approval procedure before the NBS shall be initiated on the first working day following the receipt of the written application for approval of the draft intra-group support agreement by the NBS (Article 16(2) AFMS). Upon receipt of the application, the NBS, as a supervisory authority on a consolidated basis, shall send a copy thereof to the supervisory authorities supervising the entities who are to be parties to the intra-group support agreement. It must do so without delay, with the aim of reaching a joint decision (Article 20(2) BRRD). The NBS identifies these supervisors by assigning the relevant supervisor to each (prospective) contracting party to the intra-group support agreement, the draft of which is attached to the application.

The NBS shall decide on the request for approval of the draft intra-group support agreement within 4 months of its receipt, seeking to reach a joint decision with the supervisory authorities of each (prospective) contracting party to the intra-group support agreement on whether:

- this proposal complies with the content and formalities of the intra-group support agreement as required by Article 33t(5) and (7) AB (see footnote 17 above),<sup>18</sup>
- the requirements for the validity of the intra-group support agreement pursuant to Article 33t(5) and (6) AB (see footnote 17 above) are fulfilled in respect of it;<sup>19</sup> and
- the conditions for the provision of the intra-group support pursuant to Article 33w AB (see Title 4 of this paper below) are fulfilled,

taking into account the possible consequences of this decision, including the fiscal consequences of the provision of the benefit under the intra-group support agreement in the Member States in which the group concerned operates. Such fiscal consequences may consist, for example, in the need to provide funding from the national budget in relation to group resolution plans (Article 13(10) BRRD) or in relation to the recognition or enforcement of third country resolution procedures (Article 95(d) BRRD).

In relation to the proceeding conducted by NBS, the following options are possible:<sup>20</sup>

- (a) within 4 months, the NBS is able to reach a joint decision with the relevant supervisors:
  - (aa) without the involvement of the European Banking Authority (EBA); or
  - (ab) with the involvement of the EBA;

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According to Article 33t(6) AB an (intra-)group financial support agreement *may only be concluded if, at the time the proposed agreement is made, in the opinion of their respective supervisory authorities, none of the parties meets the conditions for the imposition of a measure in accordance with Article 65a(1) or a comparable measure under the law of the Member State in which the party concerned is established.* According to Article 33t(7) AB *rights arising from a group financial support agreement are to be exercised by the contracting parties on their own, without taking account of the contractual rights of third persons.*

<sup>18</sup> See this source for more details on the content and formalities of an intra-group financial support agreement: WINKLER, M. Komentár k § 33t. In. VOJTKO, M. – GUNIŠ, S. – VLÁŠEK, P.: *Zákon o bankách. Komentár*. 1. vydanie. Bratislava : C. H. Beck, 2024, pp. 722-728.

<sup>19</sup> Ibid, pp. 728-731.

<sup>20</sup> For the sake of clarity, reference may be made to the graphical presentation of the above process. See MERC, G.: Chapter 7 – Intra-group Financial Support Agreements (IGFSAs). In. *Understanding Bank Recovery and Resolution in the EU: A Guidebook to the BRRD*. Vienna: World Bank Group, Financial Sector Advisory Center, 2017, p. 57.

(b) within 4 months, the NBS fails to reach a joint decision with the competent supervisory authorities; and

(ba) the EBA is involved; or

(bb) the EBA is not involved.

Ad (aa): As long as everything is going smoothly and all authorities concerned, under the leadership of the NBS, are acting in a way that they are willing to agree with each other in order to reach a joint decision (Article 20(5) BRRD), there is no need to involve the EBA in the process. The joint supervisory decision is to take the form of a document containing a fully reasoned decision under the BRRD; it is to be provided to the applicant by the supervisor on a consolidated basis (Article 20(5) BRRD *in fine*), i.e. in our case the NBS. It will therefore be a decision of the first-instance Financial Market Supervision Unit of the NBS, incorporating the affirmative opinions of the other authorities concerned.

Ad (ab): Before the expiry of the 4-month period for a joint decision, the NBS or any of the supervisory authorities concerned (Article 20(5) BRRD *in fine*) are entitled to ask the EBA for assistance in reaching an agreement. In such a case, the EBA shall proceed in accordance with Article 31 of the EBA Regulation. According to that provision, the EBA has a general coordination role between competent authorities, in particular in cases where adverse developments could potentially jeopardise the orderly functioning and integrity of financial markets or the stability of the financial system of the EU. One of the forms of fulfilling this coordination role is the so-called non-binding mediation (Article 31(c) of the EBA Regulation), which is precisely applicable in this case. In this case, as in ad (aa), the procedure will be concluded by a decision of the Financial Market Supervision Unit of the NBS incorporating the consensual views of the other authorities concerned.

Ad (ba): If, despite its best efforts, the NBS fails to reach a common agreement with the other supervisory authorities concerned within the statutory 4-month period, any of the authorities concerned has the right to refer the matter to the EBA before the expiry of that period, in accordance with Article 19 of the EBA Regulation. In this case, however, the EBA does not carry out non-binding mediation as in the case ad (ab) above, but the so-called settlement of disagreements between competent authorities in cross-border situations. In this procedure, the EBA adopts a decision within one month, requesting the authorities concerned to take specific measures with binding effect or to refrain from acting in order to settle the matter in order to ensure compliance with EU law (Article 19(3) of the EBA Regulation). The NBS will await receipt of the EBA's decision, which is binding on it. In the meantime, it may suspend the proceedings pursuant to Article 21(1)(c) or (e) AFMS.

Ad (bb): If, despite its best efforts, the NBS fails to reach a common agreement with the other authorities concerned within the statutory 4-month period and the procedure ad (ba) above does not apply, it is obliged to decide on the application itself by its own decision. In this decision, it is obliged to take into account the views and comments of the supervisory authorities concerned raised during the 4-month period.

Each of these options ends with a decision of the NBS either to approve the application or to reject it; the third option is to discontinue the proceedings (Article 22 AFMS). If the statutory conditions are met, the NBS will approve the draft intra-group support agreement, otherwise it will reject the application; however, in the case of procedure ad (ba) above, it must take into account the EBA's decision. From a formal point of view, the NBS decision must contain a statement, reasons and a notice of appeal [Article 27(1) AFMS]. The decision is delivered to the applicant parent bank and the supervisory authorities concerned [Article 33u(3) AB *in fine*, Article 20(6) BRRD]. The question arises here whether the other (prospective) parties to the intra-group support agreement are also parties to the proceedings and thus whether they should also be served with the NBS decision. In general, the supervised entity whose rights or obligations are the subject of proceedings or the person entitled to submit an application for



authorisation, licence, approval, consent or prior approval pursuant to a special law or an application for another decision pursuant to a special Act is a party to the proceedings conducted by the NBS; in proceedings for the imposition of a fine, other sanction or remedial measure under AFMS or special Act, the supervised entity or other person to whom the fine, other sanction or remedial measure is to be imposed is a party to the proceedings [Article 15(1) AFMS]. The decision of the NBS is binding on the (prospective) contractual parties to the intra-group support agreement [Article 33u(7) AB] and their right to conclude the agreement will depend on it, but only one entity – the parent bank – is the applicant. In the approval procedure before the NBS, the parent bank's application for approval is decided, so we consider that only it is a party to the proceedings. Therefore, only it can lodge an appeal against the decision of the NBS [Article 29(4) AFMS].

Pursuant to Article 33u(8) AB, the NBS shall submit to the Resolution Board the intra-group support agreement it has approved as well as amendments thereto. This provision is not correctly worded. The NBS does not approve the intra-group support agreement, but only its draft, so only this draft it can submit to the Resolution Board. The approved proposal becomes a contract only when it is signed by all parties, which may not be known to the NBS at all or may be known only after certain time [e.g. when the decision to provide intra-group support pursuant to Article 33x(3)(a) AB is delivered].

There is one more interesting thing about Article 33u(8). It is clear from its text that the NBS is also to approve in advance any amendment to the intra-group support agreement or to the proposal for its amendment (draft amendment). The procedure is likely to be similar to that described above.

Once the NBS (or other supervisory authority on a consolidated basis) has approved the draft intra-group support agreement, the shareholders of each of the prospective parties to the agreement must approve the draft agreement at a general meeting before the agreement is actually concluded<sup>21</sup> [Article 33v(1) AB]. The resolution of the general meeting must also include an authorisation for the statutory body to decide on the acceptance of the group support (in the case of the recipient) or the provision of the group support (in the case of the provider) under the second stage of the process on the provision of the intra-group support (see above). The AB even provides in Article 33v(1) *in fine* for a specific ground for the invalidity of a group support agreement, which is the revocation of the above-mentioned authorisation of the statutory body.

The approval of the draft intra-group support agreement by the general meetings or shareholders of all prospective contracting parties, together with the authorisation for their statutory bodies to decide on the implementation (provision or reception) of the intra-group support, completes the approval process of the draft agreement. The next step will be its conclusion. The group support agreement shall be signed by the statutory bodies of the parties or their authorised representatives.

### **3 Approval of the provision of the financial intra-group support**

Article 33w AB sets out the conditions for the provision of group support, which must be examined by the member of the sub-group that is to provide the intra-group support (the provider). In this context, however, it should be emphasised that the fulfilment of the conditions pursuant to Article 33w AB is also one of the mandatory content requirements of the intra-group financial support agreement. However, in the process of approving a draft intra-group support agreement, these conditions are only formally examined; we believe that

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<sup>21</sup> Of course, the real approving authority depends on the specific legal form of the sub-group member in question. However, based on the euro-conform interpretation of the term "shareholders" in Article 21 BRRD, it will always be the highest decision-making body of the relevant contracting party, where its shareholders (owners) adopt decisions.

they do not even have to be specifically mentioned in the agreement itself and that it is sufficient to refer to the relevant provisions of the Act on Banks. From a formal point of view, they are also examined by the NBS (or other regulator supervising on a consolidated basis) at the first stage of the provision of intra-group financial support. This is different from the second stage, where they have to be examined already materially, first on the part of the provider of the intra-group support and subsequently also on the part of the NBS or other regulators.

According to Article 33w AB a member of a sub-group may provide intra-group financial support only if all of the following conditions are met:

- (a) there is a reason to believe that the provision of intra-group financial support will materially improve the financial position of the recipient of such support;
- (b) intra-group financial support is provided to preserve or restore the financial stability of the group concerned as a whole or of any member of that group in the interest of the sub-group member providing such support;
- (c) intra-group financial support is provided for consideration in accordance with the conditions laid down in Article 33t(5);
- (d) according to the information that is available to the statutory body of the sub-group member providing intra-group financial support, there is a reason to believe that, at the time the decision to provide such support is taken, the sub-group member accepting that support pays consideration for the support provided;
- (e) the provision of intra-group financial support does not represent a threat to the liquidity or solvency of the sub-group member providing such support;
- (f) the provision of intra-group financial support does not represent a threat to the financial stability of the Member State in which the sub-group member providing that support is established;
- (g) at the time when intra-group financial support is provided, the sub-group member providing that support meets the requirements of Act on Banks concerning capital and liquidity and the provision of such support is unlikely to breach these requirements, except when NBS as the supervisory authority of the sub-group member concerned grants approval for noncompliance with these requirements;
- (h) at the time when intra-group financial support is provided, the sub-group member providing that support meets the requirements of this Act concerning large exposures and the provision of such support is unlikely to breach these requirements, except when NBS as the supervisory authority of the sub-group member concerned grants approval for non-compliance with these requirements;
- (i) the provision of intra-group financial support is unlikely to endanger the resolvability of the sub-group member that intends to provide such support.

On the basis of Article 23(2) BRRD, the EBA was required to elaborate draft regulatory technical standards specifying conditions (a), (c), (e) and (i) and submit them to the European Commission for approval. The Commission was also given the power to adopt those regulatory technical standards in accordance with Articles 10 to 14 of the EBA Regulation. The Commission has made use of this power and on 23 March 2016 issued Delegated Regulation (EU) 2016/1075 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges, containing a detailed interpretation of the above conditions (a), (c), (e) and (i). EBA had under

Article 23(3) BRRD its own competence to further specify conditions (b), (d), (f), (g) and (h). This competence was exercised on 8 December 2015 with the issuance of EBA Guidelines specifying the conditions for group financial support under Article 23 of Directive 2014/59/EU (EBA/GL/2015/17).

After examining the conditions for providing the intra-group support under Article 33w ZB and finding that these conditions are fulfilled, the provider may proceed to a decision on its provision. At that time, the group support agreement has already been signed, so the procedure is followed. However, the provision of group support must also be formalised. It must be adopted by the statutory body of the provider (usually a public limited company, so its board of directors), it must be in writing and it must have certain substantive requirements, including:

- a) the text of the resolution of the statutory body of the provider to grant the intra-group support or part of it,
- b) the reasoning of the resolution,
- c) a description of how compliance of the provision of the financial support with the requirements of the AB (in particular the conditions set out in Articles 33t and 33w) is ensured,
- d) the objective of the provision of the intra-group support.

Ad a): Although not explicitly stated in the Act, any decision to grant intra-group support must contain the text of the resolution or statement of the approving authority. If the provider of the intra-group support is a public limited company, which is likely to be the most common case, its statutory body is the board of directors [Article 191(1) of the Commercial Code]. Minutes signed by the chairman of the board of directors and the recorder shall be taken of the board of directors' meetings and of its decisions [Article 195(1) of the Commercial Code]. These minutes will therefore have to clearly state the wording of the decision (resolution), which will usually start with the words "the board of directors approves". If the provider of intra-group support were another legal form of legal entity, e.g. a limited liability company, the approval of a majority of the managing directors would be required, unless the articles of association provide for a higher number of votes (Article 134 of the Commercial Code).

The wording of the resolution of the statutory body will be based on the intra-group support agreement, but it is necessary to specify some parameters, in particular to specify precisely the type, amount, consideration (remuneration) and the manner and time of repayment of the intra-group support.

Ad (b), (c) and (d): Article 33x(1) AB, in line with Article 24 BRRD, explicitly requires that the decision of the statutory body of the provider of intra-group support be reasoned. In the reasoning, it will be appropriate to refer to the steps preceding the approval of the provision of the financial support itself, in particular to the intra-group support agreement and the process of its approval, specifying the reasons for its conclusion and, consequently, the reasons which led the statutory body of the provider to take the decision to provide the group support itself (if these have since changed, otherwise it is sufficient to refer to the reasons for the conclusion of the intra-group support agreement). The remaining two mandatory elements, i.e. the objective of the support (which may overlap to a large extent with the reasons for providing it) and the description of how compliance of the support with the requirements of the AB is ensured, may be included in the reasoning. It is the description of how compliance with the requirements of the law has been ensured that is an important part of the decision, as it verifies whether the provider has fulfilled its legal obligation and carefully examined these conditions. This is then an important basis for the NBS, which also has a duty to examine

the fulfilment of the necessary conditions in the context of the procedure for an application for prior approval to provide intra-group support.

As well as on the provider's side, on the recipient's side the intra-group support must be decided by the statutory body. In this case, however, the law does not lay down any requirements as to the form and content of the decision. At least in the wording of the resolution, the two decisions should be identical (of course, the recipient does not approve the provision, but the reception of the group support). In practice, the provider's decision will probably precede the recipient's decision, and it will thus be possible to incorporate the resolution of the provider's decision into the text of the beneficiary's decision, if necessary.

Prior to the actual provision of intra-group support, the provider is obliged to verify whether the decision of the recipient (beneficiary) to accept and receive intra-group support has been taken by its statutory body and whether it coincides with the statement taken by the provider; likewise, prior to the actual receipt of intra-group support, the beneficiary is obliged to verify whether the decision of the provider to provide support has been taken by its statutory body, whether it coincides with the statement taken by the beneficiary, and whether it complies with the legal requirements. If the counterparty has its seat in another EU Member State, it shall verify that the respective condition laid down by the law of that Member State has been fulfilled.

The decision to provide intra-group support is to be delivered by the provider pursuant to Article 33x(3) AB to:

1. NBS,
2. the supervisory authority supervising the recipient of the intra-group support,
3. the supervisory authority which supervises the group concerned on a consolidated basis, if different from the supervisory authorities referred to in ad 1. and 2.,
4. EBA.

Ad 1.: If the NBS is the supervisor on a consolidated basis of the group within which the intra-group support is to be provided, it shall establish a college of supervisors for the purpose of facilitating the performance of the tasks prescribed by the Act on Banks (Article 48(9)). In such a case, the NBS shall also be obliged to immediately inform the other members of this college, the Resolution Board and the members of the resolution college established by the Resolution Board for the purpose of carrying out the necessary tasks and to ensure cooperation and coordination with the resolution authorities of third countries.

Ad 2. and 3.: The above mentioned obligation to inform imposed on NBS shall also apply if the supervisors concerned have sent their members to a college of supervisors established by the NBS, a resolution college or a European resolution college established by the Resolution Board. Indeed, the NBS's obligation to inform those colleges is an obligation under the AB, which is stricter than BRRD. Moreover, as the member of those colleges is not directly the competent supervisory authority but only a member nominated by it, it is not a question of fulfilling the same information obligation more than once, but of several information obligations existing simultaneously and at several levels.

Ad 4: To inform EBA is necessary given its role in the next phase of the procedure as described below.

A similar information obligation to regulators as the provider has is absent for the recipient. This information obligation of the provider is only established by Slovak AB over and above the provisions of the BRRD. We believe that this legislation is redundant. It would be sufficient to fulfil this information obligation together with the information obligation (application for prior approval) under Article 33y AB (see below).

Once the information obligation on the adoption of the decision to provide intra-group support has been fulfilled, the provider (through its statutory body) is obliged to fulfil a further

information obligation, namely to notify the intention to provide the intra-group support, to the same entities as in the first case, i.e.:

1. NBS,
2. the supervisory authority supervising the recipient of the intra-group support,
3. the supervisory authority which supervises the group concerned on a consolidated basis, if different from the supervisory authorities referred to in ad 1. and 2.,
4. EBA.

This notification shall include a detailed description of all relevant aspects of the proposed intra-group financial support that are not part of the decision of the statutory body of the provider and thereto shall be annexed:

- the decision of the statutory body of the provider to provide the intra-group support with the particulars set out in Article 33x(1) AB (see above); and
- a copy of the intra-group support agreement with confirmation of its validity in relation to the contractual parties thereto, if such a contract has been concluded (the case where intra-group support may be provided without an agreement is regulated in Article 33t(3) AB - see above).

If the aforementioned notification obligation towards the NBS is fulfilled by a bank supervised by the NBS, the said notification is deemed to be an application for prior approval for the provision of intra-group support, which must comply with the requirements pursuant to the AFMS (Article 33y(3), first sentence AB). It does not follow from the wording of this provision that there should be a statutory irrebuttable legal presumption, the application of which would mean that a procedural legal act already carried out should be regarded as a request for prior approval with *ex tunc* effects, i.e. on the date of delivery to the NBS. Rather, it should be understood that the bank making such a submission has a duty to ensure from the outset that it has the requisites under Article 16(3) to (5) AFMS and thus not to treat it as an ordinary notification.

The NBS has a relatively short time limit of 5 working days to decide on an application for prior approval for intra-group financial support, calculated from the date of receipt of a complete application. However, it is important to note that the NBS has dealt with the case before, so it is familiar with the factual and legal circumstances of the case, as well as the file, and is usually able to decide on the case very quickly. The NBS informs the supervisors of its decision without delay in points 2. and 3. above. However, where the NBS is the supervisor responsible for exercising supervision on a consolidated basis, it shall immediately inform the other members of the college of supervisors, the Resolution Board and the members of the resolution college of its decision or of a decision notified to it by another supervisor.

The NBS may decide on the application for prior approval to provide intra-group support as follows:

- (a) grant the application in its entirety,
- (b) grant the application only in part,
- (c) not grant the application,
- (d) not decide on the application within the statutory time limit of 5 working days.

Ad a): The NBS will grant the application, i.e. it will only grant prior approval for the provision of intra-group support to the supervised bank if the conditions for such provision laid down in the AB, in particular in Articles 33t(5) and (6) or (3) and Articles 33u(3), 33v(1), 33w and 33x(1) and (2), are met (see above). No countermeasure may be taken against such a decision by the supervisory authorities referred to in points 2. and 3. above and, unless challenged by the party(ies) to the proceedings, the decision of the NBS will become final and effective. Subsequently, the intra-group support may actually be provided.

Ad b) and c): If the conditions for providing group support laid down in the AB are not fulfilled, the NBS shall prohibit or restrict the provision of the intra-group financial support by decision. In procedural terms, this means that the NBS rejects the application in whole or in part by its decision. Such a decision must be reasoned [Art. 27(1) and (3) AFMS, Art. 25(2) *in fine* BRRD]. In such a case, the supervisory authorities referred to in points 2. and 3. above have the powers pursuant to Article 25(4) BRRD – to refer the matter to the EBA within two days of receipt of the notification by the NBS and to request its assistance in the exercise of EBA's coordination function, in particular non-binding mediation [Article 31(c) of the EBA Regulation].<sup>22</sup>

Ad d): If the NBS fails to make a decision on the application for prior approval within the statutory 5-day period, intra-group support may be provided in accordance with the terms and conditions set out in the application for prior approval and its attachments. Although it is not explicitly worded in the Act in this way, there is a *de facto* presumption of the NBS's approval when it fails to decide within the statutory time limit, similarly to what is stated in Article 9(4) AB *in fine*. According to this provision, if the NBS does not decide on a bank's application for consent to an amendment to its articles of association within 30 days of receipt of a complete application, consent to the relevant amendment to the articles of association is deemed to have been granted. Failure by the NBS to decide within the 5-day period on an application for prior approval to provide intra-group support has the same effect. We are convinced that this 5-day period will, as in the case under Article 9(4) AB, be calculated from the date of receipt of the complete application. Thus, if the provider of intra-group support were to send the NBS only an ordinary notification of the intention to provide such support, in the same wording as to the other addressees under points 2 to 4 above, i.e. the submission would not have the content and formalities of an application for prior approval under Article 16(3)-(5) AFMS, the NBS could, before the expiry of the 5-day period, suspend the proceedings and invite the applicant to remedy the deficiencies in the application [Article 21(1)(a) AFMS] without giving rise to a presumption of its approval. Nor would the failure of the NBS to issue a decision within the statutory time limit on the ground that proceedings have been discontinued pursuant to Article 22 AFMS, result in a presumption of approval. However, as a practical matter, it is necessary for the NBS to inform all addressees of the notification under points 2. to 4. above of the suspension or discontinuance of the proceedings in order to avoid the presumption of approval on the part of those authorities. Otherwise, it could happen that those authorities would assume it, which could trigger certain irreversible procedures within the (sub)group.

In this case, only the provider of the intra-group financial support is the applicant and the NBS proceedings are deciding on its application, so we consider that only it is a party to the proceedings. Therefore, only it can appeal against the decision of the NBS [Article 29(4) of the AFMS]. Supervisory authorities according to points 2. and 3. above, which are not satisfied with the NBS decision on restriction or prohibition of granting group aid, are not parties to the proceedings in the Slovak Republic, so they cannot file an appeal against the decision. Seeking the assistance of the EBA is their only possibility to overturn the NBS decision.<sup>23</sup>

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<sup>22</sup> Similarly, where the opposite is the case and an authority from another Member State supervising the receiver (beneficiary) has restricted or prohibited the provision of intra-group support and the NBS, as the supervisory authority supervising the provider or the supervisory authority responsible for supervision on a consolidated basis, disagrees with such a decision, the NBS has the right to request the assistance of the EBA with mediation within two days of becoming aware of the issuance of such a decision [Article 33y(6) AB].

<sup>23</sup> Again, for the sake of clarity, reference may be made to the graphical presentation of the above process. See MERC, G.: Chapter 7 – Intra-group Financial Support Agreements (IGFSAs). In: *Understanding Bank Recovery and Resolution in the EU: A Guidebook to the BRRD*. Vienna: World Bank Group, Financial Sector Advisory Center, 2017, p. 57.

If the competent supervisor restricts or prohibits intra-group support and if the group recovery plan refers to such intra-group support, the competent supervisor of the group member whose support has been restricted or prohibited may request the supervisor on a consolidated basis to initiate a reassessment of the group recovery plan or, if the recovery plan is drawn up on an individual basis, request the group member concerned to submit a revised recovery plan [Article 25(7) BRRD].

Further provisions of Article 33y AB transpose this provision of the BRRD into Slovak law. They address the case where the NBS is the supervisor on a consolidated basis and the group recovery plan includes the possibility to use intra-group support, but the supervisor of a member of that group (the provider) has decided to prohibit or restrict the provision of intra-group support among the members of that group, the NBS has the following rights and obligations:

- may review the group recovery plan,
- may invite a beneficiary (receiving entity) which is supervised by the NBS on an individual basis and which has been prevented or restricted from receiving intra-group support to update its recovery plan,
- is required to review the group recovery plan if requested to do so by the supervisor of a group member that has been prohibited or restricted from receiving group support.

When the NBS proceeds with the review of the group recovery plan, it shall proceed in accordance with respective Articles of the AB (33r).<sup>24</sup>

If a supervisor supervising on a consolidated basis a group whose group recovery plan includes the possibility to benefit from group support and any of the supervisors of the members of that group has decided to prohibit or restrict the provision of group support to a beneficiary supervised by the NBS on an individual basis, the NBS has the following options:

- it may request the supervisor supervising the group concerned on a consolidated basis to reconsider the group recovery plan; or
- it may invite a member of the group concerned - a beneficiary (recipient) that has been prohibited or restricted from receiving group support - to update its recovery plan.

### **Conclusion**

Even after the creation of the Banking Union in the EU with the establishment of common rules for financial support agreements within a cross-border group, national regulators have the right to influence both the content and the scope of the group support. However, they should act in synergy with each other and take into account not only the interests of the regulated entities or the banking sector in their own country, but also the interests of the other regulators concerned. If they fail to find a common solution, the EBA will become involved in the process, either in its coordination function or, if necessary, by a binding decision.

The National Bank of Slovakia has the possibility to intervene in the process of providing group support at several stages:

1. when approving the draft intra-group support agreement, 2. when granting prior approval for the provision of group support (if the provider of group support is a bank supervised by the NBS).

In exercising its decision-making power on intra-group support, the NBS cannot act completely independently, unlike in the previous period, but it still has the right (and duty) to promote the interests of the Slovak banking sector, but in the context of the interests of the banking sector of the other euro area countries concerned.

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<sup>24</sup> In general, see also this source: Die neuen europäischen Regeln zur Sanierung und Abwicklung von Kreditinstituten [online]. In: *Deutsche Bundesbank Monatsbericht*, 6/2014, s. 31-46.

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# CHANGES IN AFRICAN TRADE WITH SELECTED PARTNERS<sup>1</sup>

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**Abstract:** The aim of this paper is to analyze the changing patterns in Africa's export destinations. The paper covers the period between 1995 and 2023. Based on UNCTAD data we focus on the changes in shares of most important trade partners of African countries and describe the political and historical context of their relations to Africa. We conclude a significant increase in Chinese share and a decrease in the share of Western powers, most strikingly the USA. While Russia has focused more on Africa lately, their interest has not increased the trade relations between Russia and Africa, which remain minuscule.

**Keywords:** Africa, China, foreign trade, geopolitics

**JEL:** F14, F50, F54

## Introduction

This paper examines the evolution of Africa's international relations and trade patterns from 1995 to 2023, with a particular focus on the continent's interactions with key global actors such as the United States, the United Kingdom, France, Russia, and China. The historical context is essential to understanding current dynamics, as Africa's colonial history has shaped its political and economic relationships, often leading to continuing dependency despite formal independence. The paper aims to analyze the changing patterns in Africa's export destinations, exploring how shifting geopolitical and economic factors have influenced trade flows.

The primary topic of this paper is the development of Africa's trade relations over nearly three decades, paying particular attention to the roles played by former colonial powers and emerging global economic powers like China. It highlights the changing significance of different trading blocs and countries, such as the European Union, BRICS, and Least Developed Countries (LDCs), in shaping Africa's foreign trade. The study also touches upon the intra-regional trade within Africa, a critical area for future economic development, though not examined in detail here.

To achieve the aim of the paper, we employ a quantitative approach, utilizing data from the UN Trade and Development database, which covers African exports between 1995 and 2023. The analysis is structured around graphical representations of trade flows, which illustrate shifts in the shares of various countries and regions in Africa's export destinations. This enables the identification of key trends, such as the rise of China as a dominant partner, the decline in Africa's exports to traditional markets like the USA and European formerly colonialist countries, and the emergence of new trade dynamics with countries like Russia and Slovakia. Through this analysis, the paper aims to provide an understanding of how Africa's trade relations have evolved in the context of global political and economic changes.

## 1 International relations of Africa

Although African history before its discovery and colonisation period is rich and varied, it is difficult to reconstruct due to limited written sources. Nevertheless, according to Hugon,<sup>2</sup>

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<sup>1</sup> This paper is part of the project I-24-106-00 *Changes in the positions of global actors in economic relations with Africa*.

<sup>2</sup> HUGON, P. (2015): *African Geopolitics*, pp. 12-24.

several African empires actively traded with the Arab world across the Sahara desert, e.g. Ghana in the 11<sup>th</sup> century, Mali in the 14<sup>th</sup> century, and Songhai and Bornu in the 16<sup>th</sup> century.

Later, during the mercantilist period, Africa was at the base of so-called triangular commerce with Europe, where Africa supplied slave labour while the Americas were a source of spices, sugar and precious metals. By then, the slave trade had a long history in Africa in four different directions: Arabo-Muslim or eastern slave trade, Saharan slave trade, intra-African slave trade, and Atlantic slave trade, which is the most emphasised in geopolitics. After the abolition of slavery in the Americas, European empires divided Africa up and began the period of colonisation, that lasted until the second half of the 20<sup>th</sup> century.

The colonial system had four characteristics: the establishment of an administration, the appropriation of land, the domination of mercantile capital, and the establishment of a colonial pact. As a result, the political independence achieved after World War II was accompanied by continuing economic dependence, where foreign actors controlled important sectors including energy, transport, and banking.

As Kornegay and Mthembu<sup>3</sup> claim, African geopolitics gives the region several distinguishing features among the regions of the “Global South”. Unlike the Americas, Africa did not experience settler imperialism and only selected regions within Africa attracted settlers before and during colonial periods. Also, owing to the central geographic position, vastness of the area and geographical diversity, no single empire managed to conquer the whole African continent. These features also mean that Africa is divided along several lines, the most important being the division by the Sahara desert into North Africa and sub-Saharan Africa.

The central position of Africa and its diversity and division makes it vulnerable to the influences and interests of external actors. The interest of foreign actors in Africa has been fueled by mineral resources reserves which are still the most important export commodity of most African countries. Another increasingly interesting asset of Africa within the global world is demography. Africa with its young and growing population is following a very different trend than the population in other parts of the world, chiefly Europe.

After gaining independence, African countries followed different economic trajectories, influenced partially by their differing geography and political and demographic factors. Hugon<sup>4</sup> introduces five groups: (1) countries at war, failed or fragile states; (2) less advanced countries that are neither dependent on mining nor failed; (3) countries dependent on mining and oil production; (4) agricultural-export countries; and (5) open agro-industrial countries. The combination of economy, politics, geography and demographics has created three regional powers, South Africa, Nigeria and Ethiopia.

The colonial history of African countries is determinative for their international relations for several reasons, including the short history of independence and limited power of African countries in international relations and in some international organisations, especially those with voting based on monetary contributions (Bretton Woods Institutions). Relatively short independence also limits the time for African countries to create effective intra-regional cooperation and trade relations.

However after African countries gained their independence, they started to build their international relations mostly with countries on the left, including the Soviet Union, as these were in opposition to the former colonial powers of Western Europe. Meanwhile, the trade ties to former European colonizers remained mostly in place. This in-between position of not only African formerly colonized countries resulted in the creation of the Non-Aligned Movement in 1961. The establishing conference was led by five leaders, including two from

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<sup>3</sup> KORNEGAY, F. – MTHEMBU, P. (2020): Africa and the World: Navigating Shifting geopolitics, pp. 1-20.

<sup>4</sup> HUGON, P. (2015): African Geopolitics, pp. 24-35.

Africa: Kwame Nkrumah from Ghana and Gamal Abdel Nasser from Egypt. During this time, the Cold War era, countries in Africa were cooperating more closely with either the USA or the Soviet Union and often these countries picked their allies from national political movements. Despite attempts of African countries during these decades to achieve economic independence through industrialization, the new global order seems to have led to “a resurgence of the spirit of the 1885 Berlin”<sup>5</sup> conference. Global powers trying to carve their spheres of influence within Africa while securing their area of influence from new competitors (namely China).

### 1.1 Relations of Africa with selected countries

According to Hugon,<sup>6</sup> several countries have important positions in Africa and continue to cultivate their position in selected regions, including France, the United Kingdom, the USA, Russia, and China. France, as a former colonial power, still maintains its military presence in Africa, mainly through international missions. In recent years, however, French troops withdrew from several Sahel region countries due to changes in local political regimes resulting from coups (Mali, Niger, Burkina Faso).<sup>7</sup> Despite the declining physical presence of France in the Sahel region of Africa, one relic of the colonial era remains in place. It is used daily in 14 countries of Africa, and that is the CFA franc (CFA - *Communauté Financière Africaine*). In their book about the CFA franc, Pigeaud and Sylla argue, that the currency’s continued existence favours French and European interests, including preferential access for French companies, exports and products while gaining access to raw materials at favourable prices.<sup>8</sup>

The outlook on Africa in the United Kingdom differed from that in France, another major colonial power, even during the colonial era.<sup>9</sup> To this day, there is no clear African policy in Britain, as it is partially covered by UK foreign policy within the Commonwealth. The UK focuses its policy towards providing substantial development assistance and trying to combine its self-interest with ethical concerns while promoting economic liberalism.

The USA has historically played a less significant role than European countries in Africa, with the exception of Liberia. During the Cold War, US Africa policy has been anti-Soviet. Since then, in light of the September 2001 terrorist attacks, US policy in Africa has focused on three main areas: the fight against Islamist terrorism, trade and investment in oil, and aid and trade relations based on liberalism (through the Africa Growth and Opportunity Act).

During the Cold War, the Soviet Union saw Africa as one of the battlegrounds with the USA and maintained close cooperation with several socialist-leaning states, soldiers from which trained in the Soviet Union. The Soviet Union also support the African National Congress, the main political actor fighting against the apartheid regime in South Africa. The dissolution of the Soviet Union paused Russian involvement in Africa until circa 2005. Since then Russian mining companies operate in African countries, Russia and some African countries support each other during controversial votings in the United Nations Security Council and Russian mercenaries have been present in several African countries since 2017, including Sudan, Libya, the Central African Republic, Mali, Burkina Faso, Niger,<sup>10</sup> and Mozambique.

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<sup>5</sup> NETSHITENZHE, J. (2020): The multiple determinants of geopolitics and Africa’s place in a potent economic, ideological and psychological mix.

<sup>6</sup> HUGON, P. (2015): African Geopolitics, pp. 136-152.

<sup>7</sup> News Wires (2024): France to reduce troops in West and Central Africa to 600, say sources.

<sup>8</sup> OBENG-ODOOM, F. (2022): Africa’s Last Colonial Currency: The CFA Franc Story by Fanny Pigeaud and Ndongo Samba Sylla.

<sup>9</sup> HLAVOVÁ, N. (2017): Rozdiely medzi britským a francúzskym kolonializmom v subsaharskej Afrike.

<sup>10</sup> BANCHEREAU, M. – DONATI, J. (2024): What to know about Russia’s growing footprint in Africa.

Probably the most discussed country in connection to Africa in recent decades is China. Akyeampong and Xu<sup>11</sup> divide the relations between China and Africa into three phases. The first phase (1960s to 1970s) was characterized by cooperation within the non-aligned movement with significant infrastructural cooperation on building the TAZARA railway. The second phase (late 1980s to 1990s) was described as a return of China to Africa through the intensification of diplomatic ties. In the third phase (since the early 2000s) China represents an alternative to the Western world as the second biggest economy globally. Chinese-African relationship is based on the win-win principle in trading or the principle of non-interference. China only has one political requirement, and that is, that Taiwan is not recognized. The trade between China and African countries is growing rapidly, though this south-south cooperation still follows the post-colonial model from an African point of view, where China imports raw materials from Africa and supplies African markets with manufactured goods. However, this approach is still preferred among African leaders to condescending colonial and post-colonial attitudes of European countries towards Africa.

### **1.2 Trade relations of Africa with selected countries**

Foreign trade in African countries has been undergoing a significant transformation, at least on paper, with the introduction and implementation of the African Continental Free Trade Agreement (AfCFTA). Although the practical impact of this agreement has been limited to selected countries and selected goods, it plays an important role in economic predictions and studies of African relations with the rest of the world. African intra-regional trade is one of the lowest among world regions.<sup>12</sup> However, the prospects of intra-regional trade growth are seen as very important for African future development.

The problems with the implementation of AfCFTA might be further reinforced by the trade policies of Africa's major trade partner, e.g. the European Union. Luke et al.<sup>13</sup> argue, that the EU undermines the AfCFTA by continuously negotiating trade conditions with individual African countries rather than acknowledging the existence of the agreement that includes the whole African market, albeit theoretically. Examples of this behaviour are so-called Deep and Comprehensive Free Trade Area agreements with North African countries or deepening existing Economic Partnership Agreements to include Investment, services and intellectual property rights.

Economic relations between the European Union and African countries happen with the colonial era baggage (even after Brexit, EU members that colonized Africa are France, Italy, Spain, Portugal and Germany) and are influenced by it, although the specific influence is nuanced. Glaister et al.<sup>14</sup> studied the impact of colonial history on FDI flows and confirmed the theory that prior colonial relations lead to greater inward FDI, which can be explained by language, and institutional compatibility. They also found that the relation between the length of independence and the volume of FDI from former colonizers follows a U-shaped trajectory. This can be attributed to the initial severing of ties with former colonizers and later capitalizing on the institutional similarity.

The geopolitical tension in today's world influences Africa and its trade. With the election of Trump as president of the USA, an increase in tariffs against China is expected. This trade war might also influence Africa, as the study by Annang<sup>15</sup> suggests. Based on his

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<sup>11</sup> AKYEAMPONG, E. – XU, L. (2015): The Three Phases/Faces of China in Independent Africa: Reconceptualizing China-Africa Engagement.

<sup>12</sup> ZAGORŠEKOVÁ, N. (2024): Intra-Regional Trade in Africa.

<sup>13</sup> LUKE, D. et al. (2021): The European Union is undermining prospects for a free trade agreement with Africa.

<sup>14</sup> GLAISTER, K. W. et al. (2020): Foreign Direct Investment to Africa: Is There a Colonial Legacy?

<sup>15</sup> ANNANG, E. (2020): Impact of the US-China Trade War on Africa's Economy.

calculations, a trade war between the USA and China would increase African GDP and trade, however, Africa could lose some foreign direct investment.

Chinese trade with African countries predominantly follows a pattern where China imports manufactured goods to Africa and exports raw materials. The criticism of China therefore includes the negative impact of importing cheap produce from China that ruins the local competition (e.g. in the textiles industry). On the other hand, cheap imported goods benefit African customers and in most sectors, they compete against imports from other countries, not against African producers. According to Langdon et al.,<sup>16</sup> African success in integrating into global value chains depends on addressing domestic constraints (infrastructure gap, human capital constraints, trade finance) and is not the responsibility of Chinese trade policy.

Russian trade engagement in Africa is limited compared to the position of China especially. Russia focuses more on political engagement and security in Africa, which brings them specific trade deals. Military contract agreements between Russia and 43<sup>17</sup> African countries have resulted in major deals in this sector (e.g. Nigerian government agreed to purchase Russian attack helicopters).<sup>18</sup> Russia is also actively promoting cooperation in the sector of nuclear energy and it has signed nuclear cooperation agreements with 20 African countries. Economic cooperation between Russia and African countries is mainly facilitated by state-owned Russian businesses like Rosneft, Tatneft, Gazprom and Rosatom. Rosatom has been particularly active in signing deals with African countries, although many of them fell through, including the 2019 agreement with Rwanda, which now signed a deal with German-Canadian company.<sup>19</sup> On the other hand, the building of a nuclear power plant in Egypt by Rosatom continues successfully.<sup>20</sup>

## 2 Data and methods

In the second part of this paper, we are focusing on the description of African trade with selected partners and its development and changes over time. The group of selected partners that this paper focuses on is already described in the first part of this paper and includes the United States of America, United Kingdom, France, Russia and China.

However, in the analytic part of the paper, we included also other trade partners, e.g. Germany and Slovakia, and some groups of countries or international organizations, e.g. BRICS, LDCs, European Union, OECD. We also included the development of intra-regional trade within Africa in the graphs. In this paper, we will however not discuss the trade relations among countries within Africa in detail, as this was the topic of another paper previously published as part of the same project.<sup>21</sup>

The source of data in this paper is the database of UN Trade and Development, which covers the period between years 1995 and 2023, which is also the period covered and analysed in this paper. Specifically, we used the database “Merchandise trade matrix, annual”.<sup>22</sup>

Data used in this paper are based on exports from all African countries, which include 54 independent countries (members of the UN) and six other territories, which include small islands that are overseas territories of European countries and Western

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<sup>16</sup> LANGDON, S. et al. (2018): African Economic Development, pp. 526-552.

<sup>17</sup> CAPRILE, A. – PICHON, E. (2024): Russia in Africa: An atlas.

<sup>18</sup> DROIN, M. – DOLBAIA, T. (2023): Russia Is Still Progressing in Africa.: What’s the Limit?

<sup>19</sup> Rédaction Africanews (2024): Rwanda strikes deal to build nuclear reactor.

<sup>20</sup> Egypt Today staff (2024): Rosatom affirms adherence to timeline of implementing Egypt's Dabaa Nuclear Power Plant.

<sup>21</sup> ZAGORŠEKOVÁ, N. (2024): Intra-Regional Trade in Africa.

<sup>22</sup> UNCTAD (2024): Merchandise trade matrix, annual.

Sahara, a disputed territory annexed by Morocco. While the data cover the period between 1995 and 2023, groups of countries used are calculated based on the current membership of these countries, so the European Union includes 27 countries, OECD covers the trade data of its 38 member states, the group of Least Developed Countries includes 45 countries and BRICS includes trade data from Brazil, Russian Federation, India, China and South Africa.

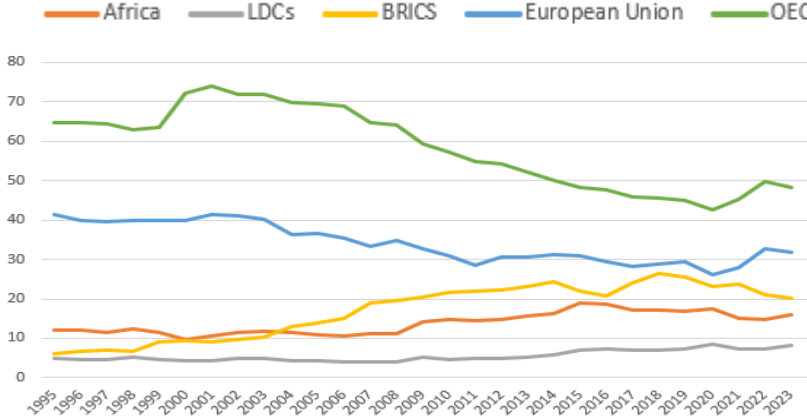
In this paper, we used figures to compare the shares of individual countries or groups of countries on African exports. Based on this graphical representation we identify the trends and describe the most striking changes in African export destinations. The paper describes trade with all products. We calculated and presented in figures the shares of countries and groups of countries on African exports as a share of trade with the whole world. The paper results are represented in three figures.

### 3 African trade with selected partners

During the period covered in our data, between 1995 and 2023, the total GDP of Africa more than quadrupled.<sup>23</sup> Still, African GDP is less than 3% of global GDP. During this period of significant economic growth, exports from Africa grew even more. The value of African exports in 2023 was more than five times the value of African exports in 1995.

With the changes in the values of exports came the changes in shares of different import partners of African countries. As we can see in Figure 1, the shares of different groups among importers changed significantly during this period. Unsurprisingly the share of LDCs was small, less than 5%, owing to the low share of these countries in the world economy. However, the share of LDCs grew and in 2023 surpassed 8%. A similar pattern can be seen in intra-regional exports, as there is a significant overlap between these groups (31 out of 45 LDCs are in Africa). The share of intra-regional exports grew from 12% in 1995 to almost 16% in 2023. The share of Africa peaked in 2015 at 19%. Another interesting pattern in the data is the declining share of OECD countries and European Union countries. Similarly to the case of LDCs and Africa, there is an overlap between these two groups (22 out of 38 member states of the OECD are also members of the European Union). The share of OECD countries as destinations for African exports was the highest at 74% in 2001, in 2023 it dropped to just 48%. The share of the European Union fell by almost ten percentage points between 1995 and 2023 and now stands at less than 32%. The biggest increase in the share of the export market was recorded by BRICS countries, from less than 6% in 1995 to 20% in 2023, owing mainly to the significant increase of China.

**Figure 1: Changes in shares of groups of importers from Africa**



Source: UNCTAD (2024): Merchandise trade matrix, annual. [online]. In: UNCTADstat, 21. 10. 2024. [Cited 20. 11. 2024.] Available online: <https://unctadstat.unctad.org/datacentre/dataviewer/US.TradeMatrix>.

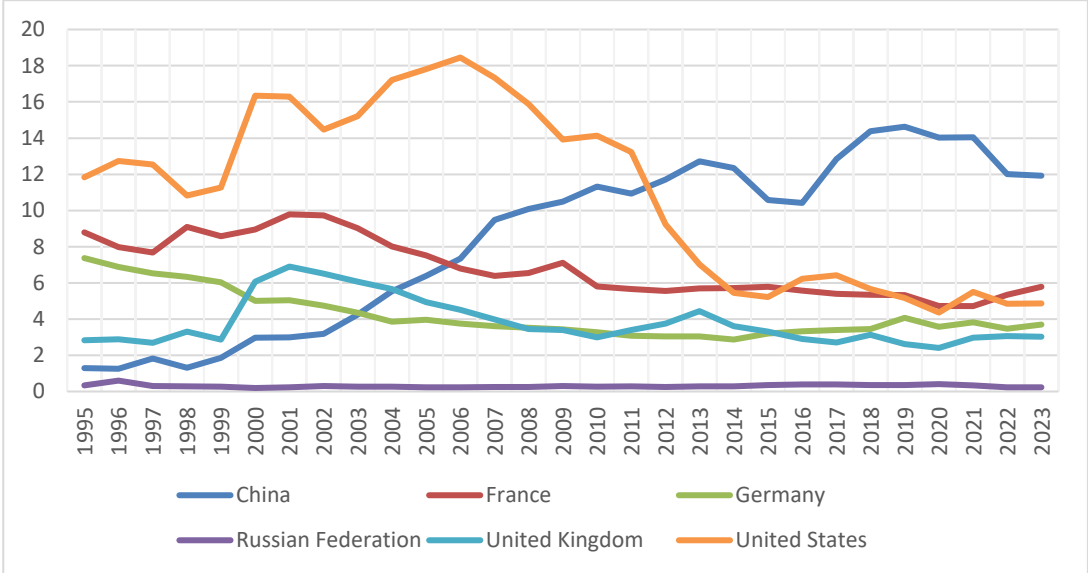
<sup>23</sup> IMF (2024): GDP, current prices.

The growth of Chinese share in African exports is shown in Figure 2. Among the six countries included in the figure, China held the fifth place in 1995. In 2023 China surpasses the other markets and is the most important market for African exports if we do not report the European Union as one partner. Chinese share grew from less than 1.3% in 1995 to almost 12% in 2023. Before the global COVID-19 pandemic, it was even higher, over 14%.

Figure 2 also captures another striking development, the decline of the share of the USA among African export destinations. The US market was the most important destination for African exports in the nineties and during the first decade of the 21<sup>st</sup> century. However in 2012, shortly after the global financial crisis, China surpassed the USA in the position of the most important destination for African exports. In 2023, the USA fell to third place, behind France, with less than a 5% share.

Among countries that colonized Africa in the 19<sup>th</sup> and 20<sup>th</sup> century, only the United Kingdom increased its share as an export destination for African goods, however only slightly, from 2.8% to 3%. Both France and Germany recorded significant decreases. In 1995 France was the second most important destination for exports from Africa and achieved this position again in 2023, however, its share fell from 8.8% to 5.8%. Germany's share fell from 7.4% in 1995 to 3.7% in 2023.

**Figure 2: Changes in shares of importers from Africa**

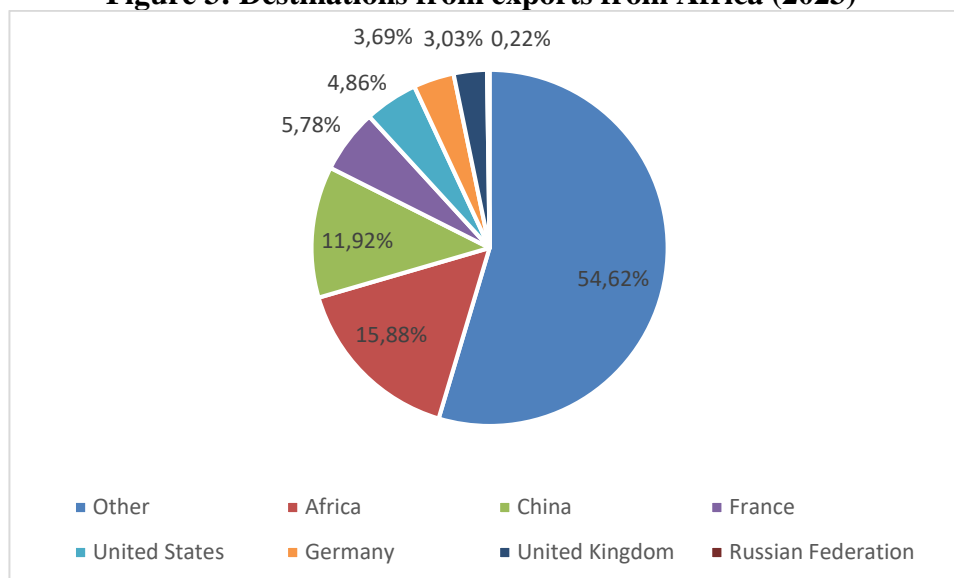


Source: UNCTAD (2024): Merchandise trade matrix, annual. [online].  
 In: UNCTADstat, 21. 10. 2024. [Cited 20. 11. 2024.] Available online:  
<https://unctadstat.unctad.org/datacentre/dataviewer/US.TradeMatrix>.

Our study of trade partners of Africa also includes the Russian Federation, as it is increasingly important in many African countries through political influence and military cooperation. These deepening relations are not yet mirrored in trade data. The share of the Russian Federation as an export destination for goods from Africa peaked in 1996 at 0.6%. In 2023 only 0.22% of African exports were destined to the Russian market. Russian share even declined since 2005 which we described in the first chapter as a year when Russia renewed its interest in African matters.



**Figure 3: Destinations from exports from Africa (2023)**



Source: UNCTAD (2024): Merchandise trade matrix, annual. [online].  
In: UNCTADstat, 21. 10. 2024. [Cited 20. 11. 2024.] Available online:  
<https://unctadstat.unctad.org/datacentre/dataviewer/US.TradeMatrix>.

Figure 3 shows the shares of the most important export destinations for African exports of goods. African countries also export goods to Slovakia, and while the Slovak share among importers is minuscule, it is growing. In 1995 only 0.03% of African exports went to Slovakia, while in 2023 this share grew to close to 0.1%. During this period, the value of exports from Africa to Slovakia grew from 34 653 USD to 576 125 USD, which is more than 16 times more.

## Conclusion

This paper has provided an analysis of Africa's evolving international relations and trade patterns from 1995 to 2023. By examining the geopolitical and historical context, alongside quantitative trade data, it has shown the complex and shifting relationships between African countries and key global players, including former colonial powers and emerging economic powers. The study has revealed several important trends in African trade, with significant changes in export destinations, trade partners, and the geopolitical influence of various actors.

One of the most striking trends identified in this paper is the growing significance of China as a primary trade partner for Africa. Since the early 2000s, China has increasingly become the largest market for African exports, surpassing traditional powers like the United States, France, Germany and the United Kingdom. This shift can be attributed to China's economic engagement with Africa, focusing on infrastructure development, investment, and trade under a framework of non-interference and mutual benefit. By offering an alternative to the colonial-era economic model, China has positioned itself as a preferred partner for many African leaders, though criticisms remain regarding the long-term impact of such trade practices, including concerns about debt sustainability and the limited diversification of African economies.

At the same time, the paper highlights the relative decline in Africa's trade with Western countries, particularly the United States, France, Germany and the United Kingdom. The data shows that the share of African exports to the European Union has decreased substantially over the period, despite the historical ties between these regions. Similarly, the United States, once the most important destination for African exports, lost its position in favour of China. However, some traditional trade patterns persist, with former colonial powers like France and the United Kingdom still holding a significant role.

The paper also reveals an interesting shift within Africa itself, as intra-regional trade has shown a gradual increase over the period covered in our analysis. While intra-regional trade remains relatively low compared to other regions globally, the African Union claims that the African Continental Free Trade Agreement will increase economic integration across the continent. In addition to these regional dynamics, the paper highlights the role of Russia in Africa's trade and geopolitical landscape. Despite a growing political and military presence, Russia's share of African exports remains limited, and its influence in trade terms has not matched its increased involvement in military cooperation and political alliances. Russian companies, particularly in the energy and mining sectors, have secured contracts across the continent, but these deals have not yet translated into a significant increase in overall trade volumes. The paper also describes the developments in African exports to Slovakia, which has seen a gradual increase in trade relations with Africa, albeit from a very small base.

This paper provides a comprehensive look at the transformation of Africa's international trade relations over the past three decades. It demonstrates the increasing diversification of trade partners, the growing influence of China, the relative decline of Western powers, and the potential of intra-African trade through initiatives like the AfCFTA.

The paper is part of a project mapping the changes in African foreign trade. After papers studying intra-regional trade in Africa and changes among trade partners with the political and historical background of these changes, further research will follow. In the future, our research will focus on changes in the structure of products in African foreign trade and the question of whether African countries successfully diversify their exports or continue to depend on primary produce exports.

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# STATE SOVEREIGNTY IN THE CONTEXT OF GLOBALIZATION

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**Abstract:** In the context of globalisation, the traditional understanding of state sovereignty is undergoing significant changes. The increasing economic, political, and cultural interconnectedness is compelling states to adapt their approaches to sovereignty. The traditional concept of sovereignty is being redefined due to the growing influence of international organisations and transnational corporations. This article analyses the positive and negative impacts of globalisation on state sovereignty and explores the evolving role and functions of states in the international arena. It concludes that a state's success depends on its ability to adapt to new conditions, mitigate negative effects, and capitalise on emerging opportunities. The optimal strategy lies in striking a balance between active participation in global processes and the preservation of sovereignty.

**Key words:** state, sovereignty, independence, globalization

**JEL:** F50, F59, H79

## Introduction

The role and significance of the state as a socio-political institution, along with the concept of state sovereignty, remain among the most relevant and debated topics today. The issue of sovereignty has become particularly pressing in the modern world, where the processes of globalisation continue to accelerate. The fundamental shifts occurring in global politics and economics are profoundly altering traditional perspectives on the role of the state and the importance of state sovereignty. While globalisation has created opportunities for enhanced interaction and cooperation, it has inevitably impacted the political and legal spheres, areas traditionally within the exclusive jurisdiction of nation-states. This article aims to examine the effects of globalisation on state sovereignty and explore how states are adapting to these new realities.

The positive and negative aspects of globalisation's impact on state sovereignty represent a crucial area of analysis, enabling conclusions to be drawn about the broader consequences of this phenomenon. In this article, analysis serves as one of the key methodological approaches. Through the examination of foundational works in international relations and political science, as well as their analytical interpretation using induction and deduction, the main contemporary trends are identified. The article does not aim to provide an exhaustive overview of the ongoing debate on sovereignty in international relations but seeks to highlight key trends and implications within this context.

## 1 The concept of sovereignty and its revision

Sovereignty is a fundamental political and legal concept that has been explored and developed by philosophers, political scientists, and jurists over several centuries. Questions regarding the concept, legal nature, essence, significance, and necessity of sovereignty have long been, and continue to be, central to discussions in international law and international relations.

The classical theory of sovereignty originated during the formation of nation-states in Europe (16th–18th centuries) and was articulated by thinkers such as Jean Bodin, Thomas Hobbes, and Hugo Grotius. This theory is grounded in the idea of the absolute

and indivisible power of the state within its territory. Jean Bodin (1530–1596), one of the pioneers of the concept of sovereignty, defined it as "absolute and perpetual power" within the state. Sovereignty was viewed as an inalienable attribute of the state, embodying its authority to enact laws, maintain order, and govern society without external interference. Sovereignty was also regarded as indivisible, meaning that supreme power could only reside in one entity—whether it be a monarch or a parliament. Any division of this power was seen as a threat to the stability and security of the state. While Bodin described the ruler's power as absolute and comprehensive, he acknowledged that this power was ultimately subordinate to divine laws and the laws of nature, which he argued all sovereigns must obey.<sup>1</sup> According to the classical theory of sovereignty, a well-organised and independent state requires the existence of an entity or political institution whose power is absolute, indivisible, and final.

Over time, the classical theory of sovereignty faced criticism for its excessive focus on absolute power. With the rise of liberal ideas and the expansion of democracy, the concept of sovereignty underwent significant transformation, giving rise to the ideas of the separation of powers and popular sovereignty. The idea of the separation of powers was initially developed by John Locke and later elaborated by Charles Louis de Montesquieu in his seminal work *On the Spirit of Laws* (1748). Montesquieu argued that the separation of powers was essential to ensuring freedom and preventing despotism. This concept has since become a cornerstone of democratic governance, serving as a mechanism to safeguard human rights, uphold the rule of law, and promote effective governance.

Sovereignty has gradually evolved into a fundamental characteristic of the state, signifying its supreme authority within its territory and its independence in the international arena. It encompasses a state's ability to independently enact and enforce laws, govern its internal affairs, shape its foreign policy, and protect its borders. Sovereignty is traditionally divided into two dimensions:

- Internal sovereignty: The state's right to manage its internal affairs, including legislative, executive, and judicial functions;
- External sovereignty: The state's independence in international relations, including the right to form alliances, negotiate treaties, and resist external interference.

Oskar Krejčí argues that a state's sovereign power to control its internal and external affairs without external interference means that only the state holds the exclusive right to take a person's life and to declare war. Additionally, the state possesses the privileged authority to regulate the movement of people, money, goods, and information across its borders. It determines who qualifies as a citizen and establishes the legal framework governing individuals within its territory. Furthermore, the state decides which treaties to sign and with whom alliances will be formed.<sup>2</sup>

In international relations, national sovereignty implies an order in which each state independently formulates and conducts its foreign policy while respecting the right of other states to do the same (the principle of sovereign equality of states). The principle of external sovereignty is a cornerstone of international law and is enshrined in the UN Charter, which affirms the equal rights and sovereign equality of all states. „The concept of equality of nations is linked to sovereignty concepts because sovereignty has fostered the idea that there is no higher power than the nation-state, so its "sovereignty" negates the idea that there is a higher power, whether foreign or international (unless consented to by the nation-state).“<sup>3</sup>

After the Second World War, international relations began to emphasize the idea that state sovereignty must coexist with international law and obligations. As a result,

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<sup>1</sup> SILINA, E. V.: Jean Bodin`s theory of sovereignty as a political and philosophical justification of the concept of nation-states, pp. 100-102.

<sup>2</sup> KREJČÍ, O. (2010): International politics, p. 241.

<sup>3</sup> JACKSON, J. H. (2010): Sovereignty-modern: a new approach to an outdated concept, p. 782.

the independence of the modern state is exercised within the framework of universally recognized principles and norms of international law. This can be interpreted to mean that a sovereign state is free to act according to its will, provided its actions do not conflict with generally recognized principles and norms. These principles establish the boundaries of what is permissible and serve the interests of all actors in international relations. This is a key factor in the existence of an organized community of states, which can be compared to domestic law to some extent.<sup>4</sup> On the one hand, this revision of sovereignty is seen as an encroachment on the natural rights of independent states, which leads to resistance. However, such legal organization cannot truly be considered a restriction of freedom. On the contrary, progressively developed and democratically adjusted legal regulatory mechanisms and principles serve, to a certain extent, as a guarantee of freedom of expression within the community.

Attention should also be given to the growing trend in recent decades that is blurring the concept of sovereignty. This trend is the increasing use of the "right of the strong" in the practice of international relations. The abuse of power in resolving international conflicts has led to systematic violations of the sovereignty of individual states and the coercive restriction of their sovereignty, implemented outside the legal framework. This raises doubts about the effectiveness of resolving international conflicts based on adherence to the fundamental international legal principle of non-interference in the internal affairs of sovereign states. The rejection of the systemic role of law in international relations leads to greater chaos in international political life and destabilizes the global situation.

There are enough examples of political destabilisation of countries and regions as a result of the intervention of external actors:

- The civil war in Syria, one of the causes of which (along with the Arab Spring protests, the authoritarian rule of Bashar al-Assad, and ethnic and religious divisions) was the intervention of external players - Russia, the USA, Turkey, Iran, and Israel;<sup>5</sup>
- Russia's intervention in the Ukrainian conflict (beginning with the 2014 annexation of Crimea, support for armed formations in the Donetsk and Luhansk regions, and culminating in the full-scale military invasion of 2022) has led to the escalation of the conflict, the imposition of economic sanctions, a global economic and energy crisis, increased confrontation between major states, the weakening of arms control, and a decrease in the effectiveness of diplomacy;<sup>6</sup>
- The situation in Afghanistan, where the prolonged U.S. military presence from 2001 to 2021, along with financial assistance to the government, Pakistan's support for the Taliban through the provision of shelters and logistics, and diplomatic engagement with the new Taliban government by Iran, China, and Russia, has led to the Taliban's return to power, a humanitarian crisis, an escalating terrorist threat, and a security crisis.<sup>7</sup>

These examples demonstrate that the intervention of external actors can both contribute to the resolution of crises and exacerbate internal conflicts, violating sovereignty and worsening socio-economic problems. When analysing the international situation and key global crises, one might ask: Is the modern world on the brink of a large-scale geopolitical crisis similar to the one resolved by the Peace of Westphalia in 1648? The growing confrontation between Russia and NATO provides some evidence of this, as does the increasing likelihood of a direct clash between these powers. Many countries are moving towards militarisation, with rising military budgets, and the polarisation of the world between the West and a bloc including

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<sup>4</sup> KLIMENKO, B. (1999): Sovereignty of the rule of law, p. 20.

<sup>5</sup> HELLER, S. (2016): External intervention in the Syrian civil war, pp. 129-142.

<sup>6</sup> SIPRI (2023): SIPRI Yearbook 2023, Summary in Ukrainian, p. 1.

<sup>7</sup> GENERAL ASSEMBLY SECURITY COUNCIL (2024): The situation in Afghanistan and its implications for international peace and security. Report of the Secretary-General.

Russia, China, and other authoritarian regimes is intensifying. The crisis in Ukraine remains one of the major threats to global stability, impacting the economy, security, and politics worldwide.<sup>8</sup> This crisis has also highlighted the fragility of sovereignty, which is regarded as the most important legal attribute of statehood. Sovereignty characterizes the state primarily as a distinct subject of political relations, a key component of the political system of society, and, to a large extent, defines the state as the main subject of international law.

The laws of the balance of power and the structure of the global political system facilitate the ability of stronger states to promote their interests at the expense of weaker ones, as there is no actor capable of effectively opposing them. In this context, the sovereignty of weaker states is limited by the will of more powerful actors.<sup>9</sup> Taking advantage of the situation of temporary geopolitical dominance, some actors in international relations attempt to limit the sovereignty of weaker states through both legal and non-legal means.

It is important to note that such a trend may ultimately aim to promote and consolidate new interpretations of the concept of sovereignty in international practice. Moreover, it could lead to an increase in the number of precedents for interference in the affairs of sovereign states. Specialists in international relations and international law observe that human rights and the right of nations to self-determination are increasingly being contrasted with the international legal principles of sovereign equality and the inviolability of borders. Furthermore, there are accusations that some sovereign nation-states are fundamentally incapable of effective governance in a globalised world, which, in the current context, could provide a justification for violating international law.

As a result, we can conclude that the classical theory of sovereignty laid the foundation for understanding state power and its functions. However, under the influence of globalisation and the evolving positions of key actors in international relations, this theory has been significantly modified in modern conditions. Consequently, the observed erosion of the concept of sovereignty could ultimately lead to the dissolution of the state as we know and understand it today. In the long term, this threat to the concept of sovereignty in international relations may also increase political fragmentation and regionalisation, provoke the rise of nationalism, and contribute to global geopolitical instability.

## **2 The impact of globalisation on sovereignty**

Changes in the traditional understanding of concepts such as 'state' and 'sovereignty' are closely linked to the active unfolding of economic, political, and informational globalisation processes, as well as the restructuring of the world order based on principles of cooperation, interdependence, and mutual consideration of interests. In the modern world, globalisation impacts all spheres of society and state life, shaping new risks and transforming pre-existing challenges and threats to state sovereignty. The new conditions under which states operate impose new requirements on sovereignty, in some cases raising new issues, exacerbating existing contradictions, and giving rise to conflicts that could have negative consequences for the peaceful development of the state.

In analyzing the impact of globalisation on sovereignty, the authors highlight the interaction of several factors:

- The formation of a globally interconnected market for goods and services, as well as a new information space facilitated by fast and affordable means of communication;
- The emergence of new actors alongside states, including transnational corporations with integrated production and market systems, international organisations with the authority to compel national governments to act in accordance with agreed-upon rules, the growth

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<sup>8</sup> BOSWINKEL, L. – SIMÓN, L. (2024): *Shades of grim. Scenarios for Ukraine and global order*, pp. 33-34.

<sup>9</sup> UŠIAK, J. (2009): *Premeny suverenity európskych štátov v kontexte vybraných teórií medzinárodných vzťahov*, p. 50.

of non-governmental organisations, and the proliferation of regional groupings such as the European Union;

- The development of new rules and norms that govern economics and politics on a global scale, protect human rights, or regulate environmental issues internationally.<sup>10</sup>

Of course, these are only some of the factors that collectively contribute to the erosion of the classical doctrine of state sovereignty. Let us now focus on elaborating the key ones.

One of the most active agents of globalisation is transnational corporations and banks. This has led to the globalisation of the financial sector, which in turn has resulted in a sharp increase in the role of financial markets and their centralisation through the integration of money flows. The relationship between transnational corporations and states is constantly evolving, but it is clear that the traditional model, in which the state is the primary actor, is gradually giving way to a new model in which transnational corporations play a central role in international politics and economics.<sup>11</sup> Transnational corporations are becoming influential actors capable of shaping international norms, particularly in commercial and economic contexts. While this indicates an increase in the influence of transnational corporations, it does not automatically imply a weakening of state power. States adapt their strategies and leverage the influence of transnational corporations to achieve their own goals. The relationship between states and transnational corporations is not static; it is constantly evolving based on political, economic, and social conditions, and is characterised by a balance of interests. Therefore, the effective regulation of the interaction between transnational corporations and states requires a compromise that accommodates the interests of various participants in the international system.<sup>12</sup>

The process of globalisation is also linked to the loss of certain functions of the state in the international arena, as well as the emergence of numerous new actors - intergovernmental international organisations. These organisations assume functions delegated to them by individual states, which, in effect, limits the external sovereignty of those states. International organisations play a key role in shaping, maintaining, and managing globalisation processes. They provide a platform for states to cooperate, coordinate actions across various spheres, and address global challenges. These organisations develop norms and rules that govern the economic, social, and environmental aspects of globalisation. For instance, the World Trade Organization sets the rules for international trade, the International Labour Organization develops labour standards, and the World Health Organization coordinates global health efforts. International organisations are increasingly taking on global issues that were once the sole responsibility of states but now transcend national borders.

International organisations serve as a bridge between states, creating conditions for cooperation on a global scale. They help manage globalisation processes, minimise risks, and maximise benefits for participants.<sup>13</sup> However, critics argue that some international organisations are influenced by major powers, and their decisions may not adequately reflect the interests of developing countries. Moreover, the influence of international organisations can blur the boundaries of sovereignty, as globalisation weakens the role of states by transferring some of their powers to these organisations. This results in a legal system that resembles a network of interconnected centres rather than a hierarchical structure. Additionally, the pressures exerted by international organisations can limit a country's ability to make

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<sup>10</sup> MRAZ, S. (2017): State sovereignty and humanitarian intervention, p. 157.

<sup>11</sup> RAHIM, M. M. (2010): Who's who: Transnational corporations and nation states interface over the theoretical shift into their relationship, p. 195.

<sup>12</sup> RAHIM, M. M. (2010): Who's who: Transnational corporations and nation states interface over the theoretical shift into their relationship, p. 199.

<sup>13</sup> ATTINA, F. (1997): Globalization and crime. The emerging role of international institutions.



independent decisions. As a result, states may seek to circumvent such pressures when they are not in their best interests. In relation to international institutions, the weakening of sovereignty can be seen in several ways, such as the loss of exclusive control over the national legal system or the transfer of authority to international bodies to exercise judicial functions in areas previously within the exclusive competence of national states. However, this can also be viewed from another perspective: by transferring some of its powers to the supranational level in order to accomplish clearly defined tasks, a state is, in fact, exercising its sovereignty.

Globalisation, as a complex process, brings both positive and negative aspects for states. The positive benefits include economic advantages such as expanded markets and increased access to international trade, which stimulates investment and trade. Attracting investment leads to transnational corporations investing in developing countries, creating jobs, and stimulating infrastructure development. Another positive aspect is the advancement of technology, as globalisation facilitates the spread of new technologies and knowledge, which enhances productivity. Globalisation also helps countries coordinate their efforts to address global challenges, such as poverty reduction, with the inclusion of developing countries in the global economy improving the quality of life for many. Furthermore, globalisation gives people access to a variety of goods and services at competitive prices. Culturally, globalisation promotes understanding and tolerance among peoples through the exchange of ideas, traditions, and cultures. It accelerates scientific progress through cross-border research and increases access to education through the spread of online courses and international educational programmes.

The negative aspects of globalisation include economic consequences that contribute to widening gaps between countries, as poor nations often remain on the periphery of the world economy, struggling to access modern technologies and markets. Additionally, some economies become dependent on external actors and foreign investment, making them vulnerable to global crises. Global economic downturns (e.g., the world economic crisis of 2008–2013) affect all countries, particularly those deeply integrated into the world economy. Moreover, developing countries face the loss of talent and capital to more developed regions. Open borders also heighten security threats such as terrorism, cybercrime, and illegal migration, which can lead to conflicts at both national and local levels. To safeguard sovereignty, modern states must identify, analyse, and address the negative factors that weaken state sovereignty in a timely manner. To effectively counter these challenges, it is necessary to continuously improve the system of guarantees for state sovereignty. By modelling general conditions and implementing legal means to ensure state sovereignty, states can work to mitigate these negative factors.

## **Conclusion**

State sovereignty in modern conditions remains vital and retains its legal significance. Sovereignty is a necessary, inalienable attribute of the state; without it, a state would be transformed into a completely different entity. It is sovereignty that defines the state as the sole organ of power, supreme within its territory and independent in the international arena. In the context of globalisation, international organisations and transnational corporations have also become prominent actors on the international stage. Transnational corporations leverage their economic power to influence public policy. International and non-governmental organisations are addressing global challenges (e.g., climate change, healthcare) that were once the sole responsibility of states. As a result, the traditional understanding of sovereignty as the absolute power of the state is being redefined, driven by the increasing role of international organisations and transnational corporations. However, it is important to note that the state remains the key actor in ensuring stability, security, and coordinating social development.

Based on the above analysis, we can conclude that globalisation has brought both significant positive aspects and serious challenges for states. It not only alters the socio-economic and political landscape of the world but also transforms the very essence of sovereignty. This involves the formation of new approaches and centres of governance, as well as the emergence of new centres of economic power. The success of a state depends on its ability to adapt to these new conditions, minimise negative consequences, and capitalise on emerging opportunities. The optimal strategy may lie in striking a balance between participation in global processes and the preservation of national interests and values.

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