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INTERNATIONAL FOOD SECURITY POLITICS

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Food insecurity has been causing increasing concern since 2008 when food crises led to regime changes in the Maghreb and the Middle East. Some Arab states that survived the sweep of change have been trying to adjust their political systems along the line of Western democracy, albeit with a little degree of success. Although concern for food security led to the formation of some global organizations such as the United Nations' Food and Agriculture Organization and the United Nations Children's Fund, there is a greater need to focus on food insecurity that may emanate from the population explosion projected to hit 10 bln by 2050. Worth noting is a ruse of food security based on the use of alternatives to fossil fuel and animal feeds. This implies that despite an increase in grain production, the world is contending with unavailability, unaffordability, and inaccessibility to the quantity and quality of food, especially in developing nations. This is despite promises that large-scale farming will neutralize food insecurity when it replaces subsistence farming, a system that focuses on agroecological food production rather than the recently imposed inorganic agriculture. In trying to capture the identified potential crisis, this paper relies on secondary sources of information and interrogates the problem through the employment of ecofeminism and agroecology paradigms with some elements of embedded liberalism. The paper concludes that organic farming is a *sine qua non* to food sovereignty in line with sustainable development goals.

Keywords: food security; food sovereignty; ecofeminism; agroecology; large scale farming; organic farming.

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МЕЖДУНАРОДНАЯ ПОЛИТИКА В ОБЛАСТИ ПРОДОВОЛЬСТВЕННОЙ БЕЗОПАСНОСТИ

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Проблемы продовольственной безопасности вызывают серьезную обеспокоенность с 2008 г. Тогда продовольственный кризис привел к смене режима в Магрибе и на Ближнем Востоке. Некоторые арабские государства, пережившие период преобразований, предпринимают попытки (хотя и с небольшим успехом) привести свои политические системы в соответствие со стандартами западных демократий. Несмотря на то что забота о продовольственной безопасности стала поводом для создания некоторых глобальных организаций, таких как Продовольственная и сельскохозяйственная организация Объединенных Наций и Детский фонд Организации Объединенных Наций, все чаще возникает потребность сосредоточить внимание на проблеме отсутствия продовольственной безопасности. Последняя может возникнуть ввиду ожидаемого к 2050 г. демографического взрыва, когда, предположительно, численность населения планеты достигнет 10 млрд человек. Следует иметь в виду, что темой продовольственной безопасности могут манипулировать в вопросе использования альтернативных ископаемому топливу источников энергии, а также животноводческих кормов. Это означает, что, несмотря на рост производства зерна, мир сталкивается с отсутствием, недоступностью и невозможностью получить необходимое количество качественных продуктов питания, особенно в развивающихся странах. Так происходит вопреки планам о том, что крупное сельскохозяйственное производство нейтрализует проблему продовольственной небезопасности при вытеснении системы натурального сельского хозяйства. Последнее основывается на агроэкологическом производстве продуктов питания, а не на недавно внедренном неорганическом культивировании. В исследовании выявляется и рассматривается ситуация потенциального кризиса. В работе используются вторичные источники информации, проблемы изучаются с применением парадигм экофеминизма и агроэкологии с некоторыми элементами либерализма. Делается вывод о том, что ведение органического сельского хозяйства является непременным условием продовольственного суверенитета в соответствии с целями устойчивого развития.

Ключевые слова: продовольственная безопасность; продовольственный суверенитет; экофеминизм; агроэкология; крупное сельскохозяйственное производство; органическое сельское хозяйство.

Introduction

Global use of food security as a tool is not a new development in international politics; the world has been contending with this for a long time. It started with the use of availability and non-availability of food either as a weapon to either starve some groups or state through blockades in war times, or as a carrot to allow others to have access to it for a political, strategic, diplomatic or economic reason [1; 2]. The formation of United Nations' Food and Agriculture Organization (FAO) attests to a need to have access to the quantity and quality food at all times. To ensure this, and in line with chapter 8 of the UN charter, a room has been created for the formation of regional organizations to address specific issues that will support political stability and create a conducive atmosphere for food production globally.

Globalization as a concept in international politics is not new in the field of international relations. It started to evolve from the 5th century during the Greek city-state system and the Chu dynasty. This was when people of different cultures, backgrounds, and colors started to interact through trade. Development in technology has eventually led to the promotion of globalization. From the time of the absolute advantage to the time of endowment international trade theories, which led to a specialization in the production of goods and services, this further perpetuate the food security policy. Considering a projection that by 2050, the world population will be around 10 bln, there is a need to increase food production both quantitatively and qualitatively. To achieve this, there is a need to consider the 21st century food and nutrition security (FNS) in the form of food affordability, food accessibility and fair distribution of the same as against the present asymmetrical availability.

Two broad schools of thought came up regarding the issue of food availability, accessibility, affordability, and quality. While some think that at present, there is a production of enough food to feed the world, another school believes that there is a need for a paradigm shift in the production of food through a technological development approach that can meet demand by 2050. The first school attributes climate change to anthropogenic cause, which brings about a need to arrest climate variability with alternatives to fossil fuel; grain and sugar, for instance, that are meant for human consumption go to biofuel and thereby cause unavailability. Globally, 65 % of irrigated farmland is meant for cereal production, mostly for animal feeds and biofuel, while the remaining 35 % is for fodder and pastures,

fibre, beverage, oil, sugar, pulses, fruits, vegetables, and roots crops[1]. To increase food, animal feeds, and alternative to fuel, there is a need to embark on large-scale farming, even though it works to the advantage of multinational corporations and, to a little extent, the profit margin of farmers [3–7]. An increase in the standard of living (SOL) contributes to the need for large-scale farming. In developed states and the Middle East, an increase in urbanization and affluence promotes new tastes and demand for more animal protein. The supply of this is augmented through land grabbing from Asia, Africa, and Latin America. Scramble for land and water by Arabs, Europeans, and Americans, through total buy-out or lease, to produce food and export the same to their home states commenced in the guise of globalization. Multinational corporations (MNCs), private individuals, and governments, using sovereign wealth funds (SWFs), started to exploit weak government and institutions through land acquisition [8–10].

To actualize privatization of land for food, feed, and bio-fuel, many international regimes such as the defunct General agreement on tariffs and trade (GATT), World Trade Organization (WTO), World Intellectual Property Organization (WIPO), and European Union, among others, were formed in furtherance of the neoliberal global economic system. With the collapse of communism in Eastern Europe, many states from the former Union of Soviet Socialist Republics turned to the west for economic development by adopting the western form of politico-economic development. With the opening of the rest to the liberal economic system, land that used to be for rent has turned into a commodity, subject to the forces of demand and supply; one can buy and dispose of land at will. By this, dispossession of land through government and traditional rulers has been entrenched in many liberal democratic constitutions to create enabling environment for exploitation.

The food crisis of 2008 brought about a total change such as land ownership and politics of food production [11]. This was when the scramble for land and water, which was concretized by the Western idea of globalization, became a permanent phenomenon. At the same time, the introduction of the Green revolution (GR) that failed in many parts of developing states was later forcefully implemented globally (Latin America could be said to be a continent that was forced to embark on genetically modified food and animal production as it has been in place in North America. For more information on this see [12–15]). GR brought about P. Howards (2021) seminal book "Concentration, and power in the food system: who controls what we eat?" The book, like the work of R. Walters (2011), focuses on how seeds, seedlings, fertilizers, tractors, pesticides, and herbicides or roundup are concentrated in the hand of a few oligopolistic and monopolistic MNCs with negative implications on consumers and farmers [16]. The financial support that MNCs' home states are receiving from these global giants transferred the rule of the world to them as observed by D. Korten [17].

The focus of this paper is to examine the crises of food politics at the global level and how it compromises the quality of food available to consumers. In trying to do this, the paper recommends organic farming in the form of an agroecological approach to food production. Theories employed, except for agroecology, as discussed below are ecofeminism and embedded liberal theories. In some cases, attributes of social constructivism will be employed as environmental factors that bring about the futility of one-size-fits-all neoliberal theory. The reason behind this is to give a critique of the destructive technology of large-scale farming that compromises the basis of food security: availability, accessibility, affordability, and quality. In doing this, women's roles in food sovereignty will receive an academic discussion.

Materials and methods (theoretical framework)

In social sciences, there is hardly a theory or model that captures all human behaviors. This paper, therefore, intends to examine two theories: agroecology and ecofeminism. As indicated above, there are going to be some elements of embedded liberal theory for an academic understanding of the problem at hand.

The agroecological paradigm is a theory of sustainable means of food production and an agricultural system that has been in practice for a very long time. It is a theory that gained popularity through the works of M. A. Altieri and C. I. Nicholls [18], I. M. Li [19] and recently subscribed to by the FAO, International Fund for Agricultural Development (IFAD), UNICEF, World Food Program (WFP), and WHO[2]. This is an approach to food politics that relates plants, animals, humans and the environment together in a sustainable way. The approach is a combination of pure science and social science because of its bottom-up approach. Some scholars see it rather as a social movement than as a theory; but for this study, it is contextualized as a theory [20]. Its efficiency in resource allocation is among its pluses for food security, and by extension, food sovereignty; it is also a means of maintaining a balanced ecosystem. It addresses the threat of unsustainable large-scale monocropping to biodiversity [21; 22]. The theory identifies biodiversity as an agent of a healthy environment, production of organic food, and by implication a means of arresting hidden hunger that is prevalent in the world [23].

Agroecology theory promotes social justice, equity, and improvement of rural livelihood because it fosters

[1]Aquastat [Electronic resource]. URL: http://www.fao.org/3/i4203e/i4203e.pdf (date of access: 26.02.2021).
[2]The state of food security and nutrition in the world 2020 [Electronic resource]. URL: http://www.fao.org/documents/card/en/c/ca9692en (date of access: 26.02.2021).

family farming, which requires little inputs, and produces food for healthy people and leaves no room for exploitative profits to the MNCs. It is a *sine qua non* for good management of natural resources and human development. The approach is a means of empowering the youths who would have been roaming the streets, looking for inexistent white-collar jobs. Agroecology, the main focus of this paper, also addresses the plight of indigenous peoples who are always the most affected by large-scale farming, which the neoliberal economic system proffers as a solution to feeding people sustainably and uplifting the world.

Deforestation, the main characteristic of large scale farming, always displaces indigenous peoples as happened in the Amazon in Southern America, the Congo Basin in Africa, and Maori in New Zealand. This is in addition to the plights of peoples who at the same time were contending with the negative impacts of climate change, eviction, and killing [24; 25]. According to FAO (nd), the adoption of agroecology in FNS demonstrates some intrinsic advantages embedded in it[3]. These are regeneration, diversity, synergies, efficiency, recycling, co-creation, knowledge sharing, human and social values, culture and food traditions, responsible governance, and circular and solidarity economy. This approach is opposed to the secretive aspect of intellectual property rights (IPRs) that corners the globe's resources for the pocket of a few in line with the tenets of the WIPO[4].

Like agroecology theory, ecofeminism has to do with readjustment or adjustment of injustice against women and girls in any society. It is gender, race, and class-based theory that focuses on men's exploitation of women and the environment. This theory is necessary, based on historical development relating to culture, economic system (liberalism), and social stratification. On this, some scholars are of the view that the theory could be divided into four but later collapsed social and socialist perspectives to one [26] broad part viz: liberal ecofeminism calls for a paradigm shift regarding the existing arrangement where the masculine system consumes feminism. It calls for an adjustment in law and regulations regarding women and the environment. From a feminist perspective, liberal feminism calls for equal relationship and treatment of men and women in the workplace, and access to resources based on competition at work without gender consideration. This is in line with ecofeminism. The second variant of ecofeminism is cultural ecofeminism that calls for a reassessment of the patriarchy system because of the relationship between women and nature. Culturally, the theory avers that women are biologically close to the environment from pregnancy to childbearing [27–29]. The position of this variant is to maintain a sustainable environment that brings about development. The third type is a social and socialist perspective of ecofeminism. It is an approach that calls for social justice in line with the works of J. Rawls [30] and C. Hughes [31].

Pollution of the environment by men is tantamount to the pollution of women due to their relationship with earth or nature. GHGEs considered to be a rapacious ambition of men to amass wealth at all cost without considering its environmental negativities and its impacts on the sustainability of the earth is well documented by R. Tong and T. F. Botts [32]. In the appreciation of women's contribution to food security through food sovereignty, mentioned authors observed that they "concerned about unpolluted air, clean water, organically fertile soil, and lush plants" [32, p. 256]. This observation is in tandem with M. Nestle's position that women are more into the agroecological approach to food production so as to preserve biodiversity and ensuring sustainable development [33]. The theory is based on the sustainability of the environment on the one hand and on the other, a need to address destructive technology as promoted by capitalists in food systems as observed by E. Holt-Giménez [22]. In an attempt to ensure sustainable development as captured by sustainable development goals (SGDs), the roles of women in food production and agricultural systems cannot be overemphasized as they are the food basket in many societies, even in a developed economy where technology has taken over the roles of human beings. According to C. Gillian's theory, women are perceived as caretakers and helpmates; this brings about their sustainability roles in the form of seed preservation and the large heart to share their farm inputs with neighbors within their community [34].

As alluded to above, there is a need to examine some attributes of social constructivism and embedded liberal theories. The two have some attributes in common. They call for a need to be environmentally conscious when applying a theory to a certain situation. While the embedded liberal theory is of the view that it is a fact that liberal and neoliberal theories are here to stay due to globalization that cannot be halted, at the same time, it has to be culturally, economically, and politically compatible with the situation or state demands [5–37]. What the two theories focus on is the need to embark on an approach that is most suited to the environment and ensures sustainable development as against the capitalistic copy-and-paste approach that large-scale farming of monocropping advocates. Its peculiarity is the basis of unity in diversity; a notion on which social reality is based [38; 39]. The next section of this paper will address the concept of globalization and its discontents while focusing on FNS.

[3]Agroecology knowledge hub [Electronic resource]. URL: http://www.fao.org/agroecology (date of access: 26.02.2021).
[4]*Nirwan P.* Trade secrets: the hidden IP right [Electronic resource]. URL: https://www.wipo.int/wipo_magazine/en/2017/06/article_0006.html (date of access: 26.02.2021).

Result and discussion

Globalization of land and food security in the 21st century. Globalization comes with some myriads of challenges as discussed by some scholars of development studies, political science, international relations, law, and sociology, among others [40–45]. The area of convergence of these scholars is that they broadly classify globalization into political, economic, and cultural compartments. These are the areas on which this paper will center its argument.

Politically, it has been imposed on the rest that the best practice is democratization in line with the Western notion of the "unipolar moment", "the end of history" and Americanization of the globe. Economically, it calls for capitalism through a liberal theoretical path; it is also what some describe as the Washington consensus (WC) arrangement where the impacts of MNCs and international financial institutions (IFIs) dictate economic arrangements of its member and non-member states. These institutions imposed privatization and commercialization of factors of productions. The imposition of deregulation, tax reform in favor of the rich, free flow of foreign direct investment (FDI), competitive exchange rate, and many more have been institutionalized globally [46–49]. The arrangement perpetuates hunger, poverty, maldevelopment, and the global gap [26; 50].

Culturally, globalization advocates uniformity of culture; an approach that is the leitmotif of political instability in the form of "the clash of civilization", "the geopolitics of emotion" and promotion of MNCs profit through Halal food production (Halal food, permissible or lawful food by Muslims, is more than the food taken, rather it involves politics, power, and ethics which brings about new regimes of food production, packaging, trade, regulation, and consumption. This is an opportunity that MNCs have exploited to promote their economic ambition to the satisfaction of shareholders and executive directors. For more information on this, see an edited book by [51–53]). This notion is well captured by the works of I. Wallerstein's *World systems theory* (1974, 1980,1989) as cited from A. Giddens and P. W. Sutton [42, p. 16], that capitalist system operates at a transnational level, constituting a world system with a core of relatively rich countries, a periphery of the poorest societies, and a semi-periphery squeezed in between. This aptly captures international politics of food production, distribution, and consumption through land grab, deforestation, and large-scale farming as discussed below.

Land grab. As tangentially discussed above, the land grab is one of the fallouts of large-scale food production. Concretized by the introduction of global production of goods and services and the free movement of factors of production, except for certain categories of labor, an entrepreneur has right in line with the neo-liberal approach to the global economy, to move to where other factors of production are relatively cheap. This is in the form of FDI. Land that was considered to be an asset meant for rent is being relegated to a commodity that can be bought and sold as long as there are willing sellers and willing buyers at a point in time. From this perspective, government and traditional leaders in most of the host states are in the business of selling land to private individuals, foreign governments, and MNCs, as well as to local investors. The state is the credible unit of analysis and the only entity constitutionally allowed to use force in an unstable geographical location against its population and to sometimes connive with MNCs to dispossess its subjects of their land. This is in the guise of development for the commonwealth of a nation. Right to development as proclaimed through the Vienna declaration of the 1993 World conference on human rights was, expectedly, blocked by developed states, led by the US [54, p. 202]. Land grabbing by the MNCs, private individuals and SWFs managers that are moving to where arable forest lands are available for the production of food for their home states is ongoing and unabated. Developing states that ought to specialize in inputs provision such as agricultural products for the developed economy are gradually forfeiting the roles. The precise figure of the rate at which land and water grabbing are taking place globally is difficult to estimate because many of these deals are shrouded in secrecy [55]. This brings about conflicting figures. For instance, between 2005 and 2009, the International Food Policy Research Institute declared that 20 mln hectares of land changed hands. World bank figure declared 45 mln hectares between 2007 and 2008; while Oxfam says between 2000 and 2011, land grab was 227 mln[5]. Land grab borders on the eviction of peoples from their communities and this are mostly felt by the indigenous peoples. In Indonesia for instance, a series of conflicts were recorded between communities and MNCs because the latter embarked on palm oil, pulpwood, and logging businesses. Some of the companies in land grab adventure are the US's Cargill commodity giant, UK-based Unilever, and UK-Dutch oil major, Shell[6]. As of 2017, states that were mostly accused of unabated land grabbing are the US, Canada, China, Japan, Italy, Norway, Korea, Germany, Denmark, and the UK in descending order [56]. Indigenous peoples

[5]The global land grab. A primer [Electronic resource]. URL: https://www.tni.org/files/download/landgrabbingprimer-feb2013.pdf (date of access: 26.02.2021).

[6]*Jong H. N.* "Hungry" palm oil, pulpwood firms behind Indonesia land-grab spike: report [Electronic resource]. URL: https://news.mongabay.com/2021/02/palm-oil-pulpwood-firms-behind-indonesia-land-grab-agrarian-conflict-spike-report/ (date of access: 26.02.2021).

are the most affected due to their anti-Western development idea and (or) lack of representation in government. The mostly experiencing states are Tanzania, Kenya, Cameroon, Botswana, India, Myanmar, Colombia, Chile, and Russia, among others. Their indigenous peoples, despite relevant international laws that protect their heritage and culture, are on daily basis facing eviction. Not only that their land is disposed of, but rivers and groundwater that support their existence are also either polluted or overused for irrigation [6; 57]. Therefore, the basic rights such as the right to food, right to water, land right, and the basic tenets of right to free, prior, and informed consent (PIC) have been vitiated despite relevant rights such as the United Nations declaration on the rights of indigenous peoples, the International Labor Organization (ILO) convention No 169, the International convention on civil and political rights, the International covenant on economic, social and cultural rights, the International convention on the elimination of all forms of racial discrimination and the Convention on biological diversity (CBD). At the regional and sub-regional levels, many international organizations' declarations such as the African charter on the rights and welfare of the child, Comprehensive Africa agriculture development program, ECOWAS agricultural policy, Inter-American Commission on Human Rights, Permanent Interstates Committee for Drought Control in the Sahel and many more are hardly observed. These organizations focus on FNS, but it is instructive to note that many of these organizations' global declarations, conventions, and covenants such as CBD and its attributes, PIC, geographical indications (GIs), and access, sharing, and beneficiation (ASB) are hardly observed by MNCs and their home states, especially the Western states that are daily exploiting the resources of indigenous peoples and sometimes evict them from their ancestral land and gods. Deforestation is the main impact of local and foreign companies who operate in developing areas with little or no regard for the basic principle of CBD and indigenous biological resources as discussed below.

Deforestation. Deforestation is one of the common outcomes of large-scale farming. MNCs and private companies that embark on farming in many developing areas aver that unused land, sometimes classified as *terra nullius* are up for grab from indigenous peoples and smallholder farmers, with or without compensation. This has been the practice in the rainforest of the world under the guise of globalization. This is not far from human right abuses that developing states have perennially been facing. In Chile, for instance, the Mapuche, Aimara, Rapa Nui, Atacamenoew, and Coya tribes were subjected to series of humiliations such as forceful *assimilado* policy despite their willingness to retain their culture, food processing, production, and religion. Their sources of income were taken away from them through the privatization of land and water [57]. Forest resources of every part of the globe have been privatized and appropriated, without any concrete national law on the flora and fauna [58]. Some of the instruments regarding the preservation of forest against over-exploitation for sustainable development and preservation of the indigenous peoples are, among others, the United Nations framework convention on climate change, CBD, the United Nations convention on combat desertification in those countries experiencing serious drought and/or desertification. Other relevant multilateral conventions are Ramsar convention on wetlands, World heritage convention, Convention on international trade in endangered species, Ozone layer convention, and Indigenous and tribal peoples convention. Unfortunately, all these conventions are not binding on its members. Besides this, any nation can withdraw its membership if its "national interest" is not served. Despite the reality of climate change and its negative impacts on food security, attempts to preserve the forest for carbon sequestration are on daily basis frustrated through unsustainable FNS approaches of the multinationals and private individuals' large-scale farming as discussed extensively above.

Large scale farming and food security. The *sine qua non* to food security is not the acreage of land devoted to farming. The 21st century farming approach has indicated that a large amount of food produced on farms is not meant for the consumption of host communities. With factory farming, it is estimated that currently, 70 % of global freshwater goes to agriculture and it is estimated that by 2050, 15 % more will be needed. The following is how, in descending order, regions consume water for food production: South Asia, Middle East, and North Africa, sub-Saharan Africa, Latin America, and the Caribbean, East Asia and Pacific, Europe, and Central Asia[7]. Through the virtual water approach, a large portion of these foods is exported to other states. The water footprint is a source of concern for developing areas because of its impacts on the local consumers who benefit almost nothing from their water resources. Both virtual water and water footprint amount to the globalization of water [59]. Irrigation system in food production is a common attribute of commercial farming.

The need to feed a population of 10 bln by 2050, as projected by demographers, requires an improved method of food production. There is also the need for political stability to prevent the type of food crisis that brought about regime changes in many parts of the Maghreb in 2008. In an attempt to ensure this, large-scale production of food was mooted as an alternative to family farming. In a bid to increase the quantity of food production, many variables should be taken into consideration. Tractors, fertilizer, herbicides, and pes-

[7] *Khokhar T.* Chart: globally, 70 % of freashwater is used for agriculture [Electronic resource]. URL: https://blogs.worldbank.org/opendata/chart-globally-70-freshwater-used-agriculture (date of access: 26.02.2021).

ticides that, in the long run, serve as agents of unsustainable FNS are needed. Tractors are needed to clear forests, irrespective of their ecological impacts, fertilizer is needed as an enhancer in the monocropping system, and herbicides and pesticides are needed to control pests and weeds, a practice that eventually puts many herbal plants and edible insects into extinction.

Another impact of deforestation is caused by the introduction of dubious afforestation, which Western private companies rely on to turn developing states forests into national parks and game reserves. This is put on the table through reducing emissions from deforestation and forest degradation, an approach, which when religiously followed, will bring about a reduction of emission from deforestation and of forest degradation. It is also an agent of conservation, sustainable management of forest, and enhancement of forest carbon stocks[8]. The need for this is to address about 15 % GHGEs that come from deforestation. There is a need for more land since it is a fixed asset that cannot be expanded except through land reclamation from oceans, seas, riverbeds, and lake beds[9].

Almost every state is into the business of large-scale farming either as a host state or home state to agribusiness companies of various types. In September 2019, the Belarusian chief of presidential affairs V. Sheiman in a bid to achieve food security for his state, visited Zimbabwe to negotiate for trade, investment, and agricultural collaborations. Part of the deal was to embark on wheat, soya beans, dairy, beef, poultry, and horticulture farming for local consumption and export to Minsk[10]. In this deal, 10 000 hectares of land was allocated to Minsks farmers in Kantemba village at Mbire district of Mashonaland that borders Mozambique and Zambia[11]. Two years earlier, in 2017, Chinese dairy farm, DRex Food Group signed a deal with the Belarus government where 45 000 hectares of land were taken away from Tolochin and Senno districts to make way for the Chinese company's food production. The Chinese company aims at exporting its products in line with Beijing's Road and Belt initiative[12]. Not only China has an interest in Belarus' fertile land for food production for export to home states. Qatar, and United Arab Emirate (UAE) are also interested in food production in the country with a special focus on sheep breeding. UAE specifically aims at outright buying land in Belarus for the production of grain for Emirati consumption[13].

The essence of the above paragraph is to prove that globalization of land is here to stay as long as the majority of the states of the world are members of the WTO, an organization that is promoting ultra-capitalism, where the neoliberal system of economy is important for the benefits of a few developed states in the international system. The neoliberal economy's key objectives are deregulation and privatization through the worldwide free movement of factors of production, except labor[14] [62]. With the politics of patenting through intellectual property rights, it is not only that plants, animals, and nature have been privatized, other international regimes such as Multilateral Investment Guarantee Agency (MIGA), trade-related investment measures (TRIMs), trade-related aspects of intellectual property rights (TRIPS) are also part of international regimes that support the concentration of food systems in a few MNCs. TRIMs and TRIPs have received protection from the Berne and Paris conventions since 1886 and 1896 respectively but came to the fore in the negotiations that led to the Marrakesh agreement in 1995 [12; 63–65]. Although there was a move to protect the indigenous peoples and protected areas through CBD, its art. 8j and 10c, there is a call for state parties to get involved in the protection and development of the indigenous peoples by promoting their indigenous knowledge systems on biodiversity and giving them access to it through PIC, ASB, and GIs. This has however remained a mirage and challenge to large-scale farming.

Challenges of large scale farming. From available records [4; 6; 7; 11–14; 66; 67], large scale farming is a source of misery, underdevelopment, poverty, political instability, health challenges, and a veritable

[8]What is REDD? [Electronic resource]. URL: https://www.forestcarbonpartnership.org/what-redd (date of access: 26.02.2021).

[9]This notion is being disputed by some scientists due to the reclamation of land from the sea. Many littoral states that share a border with international water such as ocean and sea have started to sand fill some mangrove areas and send water away to pave room for more land. China, the USA, the Netherland, South Africa, New Zealand, Qatar, and Monaco among others are a good example of this practice. For more information on this, see [60; 61].

[10]*Chingono N*. Food-insecure Zimbabwe turns to Belarus to revive agric sector [Electronic resource]. URL: https://www.farmlandgrab.org/post/view/29514-food-insecure-zimbabwe-turns-to-belarus-to-revive-agric-sector (date of access: 26.02.2021).

[11]*Kahari M.-K*. Belarus slowly taking over part of Zimbabwe under Mnangagwa? [Electronic resource]. URL: https://www.farmlandgrab.org/post/view/29514-food-insecure-zimbabwe-turns-to-belarus-to-revive-agric-sector (date of access: 26.02.2021).

[12]Chinese company to invest massively in new dairy farms in Vitebsk oblast [Electronic resource]. URL: https://eng.belta.by/economics/view/chinese-company-to-invest-massively-in-new-dairy-farms-in-vitebsk-oblast-103684-2017/ (date of access: 26.02.2021).

[13]UAE invited to invest in Belarus agricultural companies [Electronic resource]. URL: https://www.farmlandgrab.org/post/view/24358-uae-invited-to-invest-in-belarusian-agricultural-companies (date of access: 00.00.0000) ; Gulf Times. Qatar is eying food investment in Belarus [Electronic resource]. URL: https://www.farmlandgrab.org/post/view/9274-qatar-is-eyeing-food-investment-in-belarus (date of access: 26.02.2021).

[14]Labor has remained a contentious issue when it comes to the free movement of factors of production. It is only highly skilled laborers that may be allowed to move through MNCs. South Africa, for example, has been experiencing what could be termed as Afrophobia attacks on black non-South Africans due to the unemployment crisis in the country. For more information on this, see *Amusan L.*, *Mchunu S*. An assessment of xenophobic/afrophobic attacks in South Africa (2008–2015): whither Batho Pele and Ubuntu principles? // South African Review of Sociology. 2018. Vol. 48. No 4. P. 1–18.

source of profit for a few amid abject poverty. For this sub-section, there is a need to examine the likely negative impacts of factory farming and the international politics involved in it. From the time of GATT to WTO, developed states, particularly the US, has continued to protect their local farmers through grandfathering and dirty investments. This grandfathering approach to food security is a direct means of discouraging farmers in developing areas. With dumping strategy and questionable humanitarian assistance to Africa, Asia, Latin America, and Eastern Europe, there is a clear indication of oligopolistic and monopolistic attempts in favor of MNCs in agribusiness. Foreign aid as a foreign raid is being noted by several students of development as a negative aspect of globalization [68; 69].

An attempt to discourage small-scale farmers from food production brought about GR, which was introduced in the 1970s. GR only recorded some appreciable success in Latin America, though with tears, but failed in Africa. Its failure in Africa was because a proper background check on their land tenure system was not conducted. The system was re-introduced through SAP that was imposed on debt peonage states through WC as discussed above. The implication of this is, among others, a need to rely on the use of fertilizer as a means of increasing food production; reliance on terminator GM seeds and seedlings that cannot be preserved for another planting season, especially by women [4; 12]. The approach also breeds monocropping that wipes off more than 75 % of wild vegetables, fruits, and many other plants that are considered to be organic and full of health benefits [66]. Chemical fertilizer without precision agriculture technology, which has been introduced to many host states, adds to stream, river, ocean, and underground water pollution, with negative implications on sustainable development. Yara, the main producer, and supplier of fertilizer globally aim at satisfying its shareholders and executive directors while the farmers, their stakeholders or consumers, are struggling to break even in an era of runaway inflation that has seriously affected the price of fertilizer. According to Yara 2019 annual report[15], the multinational fertilizer company accepts responsibility for air and water pollution through transportation, mining of phosphate, mostly from North Africa, and these serve as an agent of nutrient losses through denitrification, volatilization or leaching, and as the causes of GHGEs and eutrophication of waterways.

Close to this is the application of pesticides, and herbicides as opined by Lymbery and Oakshoot that scientific agriculture has led us to a point where many times more energy goes into a field in the form of fuel, heavy machinery, pesticides, and chemical fertilizers than is harvested from it [66, p. 238].

The application of antibiotics and injection of hormones for animal fattening is another challenge to the final consumers. As long as antibiotics are over-the-counter drugs, the issue of quality in food security will remain a mirage. Also of note is the politics behind labelling. Multinational retailing companies are of the view that if labelling is forced on them, the cost of food production will increase and be transferred to the consumers [12; 70; 71]. The politics behind this is to deny consumers the knowledge of what they consume. Any attempt to change government policy on food politics needs to get business to change, and then the politicians will follow in this era of silent take-over by global capitalism and the death of democracy [72, p. 157]. Any convention that does not promote the profit ambition of MNCs, especially of America's, can hardly see the light the day. For instance, the Rotterdam Convention on the PIC for certain hazardous chemicals and pesticides in international trade that entered into force in February 2004 was not ratified by the US. The same fate befell CBD and its supplementary Cartagena protocol on biosafety. Any hazardous chemicals banned in Europe and America usually find a market in Africa and other developing areas. Carbofuran that was banned in Canada, Europe, and the US, was available for purchase over-the-counter in Africa; granules of this chemical killed millions of birds and other insects that fed on it. The same led to the death of many lions in East Africa[16]. It is known globally that MNCs are good at food fraud, and are a prime agent of health challenges for consumers. Food fraud "is a collective term used to encompass the deliberate and intentional substitution, addition, tampering, or misrepresentation of food, food ingredients, or food packaging; or false or misleading statements made about a product, for economic gain" [73, p. 158].

How the use of farm inputs constitutes health challenges such as cancer, obesity, malnutrition or hidden hunger, tuberculosis, skin and respiratory allergenic is being documented in America and the European Union. Also of concern is the allergic reaction such as diarrhoea, nausea, asthma, muscular and cellular swelling, and dysfunction within minutes of consumption of GM food usually caused by antibiotic resistance, allergenicity, and toxicity [6]. The introduction of golden rice, a source of vitamin A, came with some fears that it could exacerbate malnutrition as consumers in developing areas may not have enough fat and protein to absolve beta-carotene. It is also proved to be a source of birth defects [12, p. 270]. StarLink corn, which was

[15]Crop Mutrition Company for the future [Electronic resource]. URL: https://www.yara.com/siteassets/investors/057-reports-and-presentations/annual-reports/2019/yara-annual-report-2019-web.pdf/ (date of access: 26.02.2021).

[16]Insecticide killing Kenya lions [Electronic resource]. URL: https://www.saef.co.za/enviro-mainmenu-28/human-mainmenu-39/35-killing-kenya-lions (date of access: 26.02.2021).

meant for industrial inputs and animal feeds as approved by the US Environmental Protection Agency, contains biopesticide, a source of an allergic reaction to humans, found its way into Taco bell restaurant in Mexico[17]. This amounts to an aspect of food fraud discussed above. Air, water, and soil pollution are germane factors in factory farming. According to the power arrogated to GM companies such as Bayer, DowDuPont, and Corteva, they have their separate police that serves as informants to biotechnologists, though very many of their seeds are described as terminator seeds because they cannot be replanted nor store and share among peasant farmers. Any farmer found keeping seeds or sharing the same with other farmers may be arrested for violating patent law and jailed for it [12, p. 273]. Contamination of organic seed and seedlings by GM seeds can negatively affect flora, fauna, soil, and water tables [7, p. 38]. The extinction of wildlife is another problem associated with large-scale farming. Bees, butterflies, and birds, which are major pollination agents and promoters of organic food through natural pollination are facing extinction. Some edible insects that are high in protein and fat are also facing extinction due to the use of pesticides; also, some insects that add nutrients to the soil through aeration have nearly gone into extinction [74; 75].

Conclusion

As discussed under the theoretical framework, there is a need for the promotion of organic farming with family farming as a point of departure. It is noted in this paper that the so much hyped influence of factory farming as an agent of food security for feeding the world has turned out to be a ruse. This is because much of the produced food have turned to cash crops since, after all, they are for industrial inputs and alternatives to biofuel. In some cases, foreign companies that invest in farming turn out to be producing only for their home states. Close to 50 % of the produced foods eventually end up in homes and restaurants' waste bin. Factory farming is tantamount to monocropping, with implication on job opportunities for women, who as agents of food sovereignty through their small farms, would be, by corrupt means, muzzled out by large scale farmers with or without compensation.

The indigenous peoples who are the agents of the balanced ecosystem through their sustainable economic system also face eviction and are in some cases killed, as was the case in Southern Africa where the Khoi and Sans were sent out of South Africa. Promotion of relevant international agreements, supranational in nature, which will protect the indigenous peoples, their sources of income, and management of their resources is needed. Climate change, which is deleterious to humanity, caused by anthropogenic activities especially through the unsustainable farming system and the use of hazardous chemicals as discussed above, has to receive global attention. The promotion of organic farming through empowering small scale farmers, especially with an emphasis on women, and the application of the latest technology such as precision agriculture will save humanity from self-immolation. The power of MNCs as discussed is another area that is worth looking into. As long as they dictate to governments and various international organisations what to do regarding food security, the possibility of hidden hunger will remain unresolved. The politics of agricultural subsidy and dumping of food in the guise of humanitarian assistance as America did during the Marshall Aid Plan, is to discourage food sovereignty in many parts of the world. Transfer of appropriate technology as against food aids needs serious consideration.

There should be a land tenure system that considers land ownership, and individuals and foreign states that are interested in farming should support such a move to increase organic food production against chemically or organic food production through questionable biotechnology. Doing this will address series of diseases such as cancer, diabetes, respiratory ailment and obesity. Although this paper realises the reality of the complex interdependent system imposed on the globe through the neoliberal system, at the same time, there is a need to adhere to the basic principles of international trade that calls for specialisation. Hence biopiracy that is common under WTO and IPRs should be holistically addressed in the form of PIC, ASB and GIs. With this, women that have been seen as mere tools for men's success will be uplifted to the limelight where their natural roles as organic food producer due to their basic characteristics as caregivers, as custodian of nature and as agents of sustainable development may be well protected. This is because, as documented by some scholars, some GM seeds, after continuous planting, make some insect develop resistance to pesticides. Therefore, one can safely conclude that large-scale farming is huge-scale famine.

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THE POLITICAL TRANSFORMATIONS IN THE CONTEXT OF COVID-19

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Like the fall of the Berlin wall in 1989 and the global economic crisis in 2008, COVID-19 is viewed to be a turning point in the international system. Just as the coronavirus altered the habits of many societies, claimed the lives of thousands, disrupted markets, revealed the efficiency or lack thereof of governments, it may drive into permanent transformations in the world's political system. The aim of this article is to reveal whether COVID-19 will reshape the current world order. The article focuses on the impact of COVID-19 on international relations. The opinions of various authors, politicians, and journalists on the effects of coronavirus on the world order are described. A reasonable conclusion is drawn about the state of the USA and China and the emergence of a new world order.

Keywords: COVID-19; world order; America; China; post-coronavirus era.

ПОЛИТИЧЕСКИЕ ТРАНСФОРМАЦИИ В КОНТЕКСТЕ COVID-19

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Подобно падению Берлинской стены в 1989 г. и глобальному экономическому кризису в 2008 г., COVID-19 рассматривается как поворотный момент в системе международных отношений. Коронавирус изменил привычки многих обществ, унес жизни тысяч людей, изменил рынки, показал эффективность или отсутствие таковой у правительств. Все перечисленные выше факторы могут привести к постоянным преобразованиям в мировой политической системе. Цель статьи – рассмотреть вопрос о возможности COVID-19 изменить нынешний мировой порядок. Исследование посвящено влиянию COVID-19 на международные отношения. Описаны мнения различных авторов, политиков и журналистов о воздействии коронавируса на мировой порядок. Обоснованно делается вывод о положении США и Китая и возникновении нового мирового порядка.

Ключевые слова: COVID-19; мировой порядок; Америка; Китай; посткоронавирусная эра.

A lot of being said about what is going to transform forever on account of COVID-19. The workplaces will be different, the retail shopping will change, the way college students study may never be the same again, whether we will never go back to the way that things were before, and more importantly, how coronavirus might reshape geopolitics. In the midst of that, the question begs who is going to be the number one in the arena of great power competition, as some opinions point to the rise of China. Actually, there is an argument that the coronavirus crisis is opening the door for China to move up while the US is to move down. Based

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upon that, the aim of this article is to reveal whether COVID-19 will reshape the current world order.

In view of myriad contradictory studies on the ramifications of this pandemic for the global order, as well as for a lucid grasp of the problem in question, the article will be split into two discrete sections. The first one is going to accentuate on analysts who confirm that the post-coronavirus era would serve some countries' interests, particularly China and Europe, as America's dominance in the post-pandemic world will descend if it did not revisit its own policy. In respect to the second section, it should be noted that though it will mostly revolve around the researchers who believe that the results of COVID-19 will not significantly transform the nature of the world order, and therefore the world leadership will stay behind the United States, a number of thinkers within this section maintain that the pandemic will intensify the current rivalry between Europe, China and America. As a result, neither China nor the EU will not be able to upturn the world order. Also, particularly interesting are the Arabs and Chinese writers whose opinions are vehement opponents of the Chinese political system.

Accordingly, in the first section, changing the world order is mirrored in H. Kissinger's article "The coronavirus pandemic will forever alter the world order". The author explains that the reality is that the world will never be the same after the coronavirus. And while the assault on human health will hopefully be temporary, as he puts it, the political and economic upheaval it has unleashed could last for generations. H. Kissinger's gaze into the future also includes a global collaborative vision and program to overcome the virus. In this regard, he underscores that the historic challenge for leaders is to manage the crisis while building the future otherwise failure could set the world on fire. But to avoid such a dire scenario, the previous American advisor urges the USA to draw lessons from the development of the Marshall plan and the Manhattan project. As such, the US is obliged to undertake a major effort in three domains: first, shore up global resilience to infectious disease; second, strive to heal the wounds to the world economy; third, safeguard the principles of the liberal world order. Mentioned article also peers into power and legitimacy. In this relation H. Kissinger writes, the world's democracies need to defend and sustain their Enlightenment values. For that end, he advocates for a critical balance in any international system between two critical ingredients which are power and legitimacy. In his opinion, a global retreat from balancing power with legitimacy will cause the social contract to disintegrate both domestically and internationally[1].

In the point of international cooperation in the post-epidemic era, N. Tocci, an Italian political scientist and international relations expert, concentrates mostly on the position of Europe in her search "How coronavirus will upturn the global order". She holds an opinion that the EU's role is in the post-COVID-19 world is very crucial because it is Europe's responsibility to make multilateralism great again. From N. Tocci's point of view, with Beijing presenting the most prominent challenge to Washington and trying to present itself as a model to follow, the international order is going from unipolar to multipolar. However, the EU's burgeoning success in rising to the challenge may undermine Beijing's efforts to present itself as a model. As per the article, the virus has exploded across the planet just as the hegemony that the United States enjoyed as the world's only superpower has come to an undeniable end. In that event, today, it is not a question of agreeing or disagreeing with the US, but rather of not seeing it on the global map[2].

That holds true in the work of the American diplomat R. Haass "The pandemic will accelerate history rather than reshape it". R. Haass concedes that one of the contours of the current crisis is the conspicuous absence of US leadership. Even before COVID-19 reared up, there was already a sharp decline in the attractiveness of the American model due to the constant political stalemate, gun violence, mismanagement that led to the 2008 global financial crisis and the coronavirus epidemic. In addition to it, the fatigue correlated with two long wars in Afghanistan and Iraq, and growing domestic issues, Washington is not bent on playing a leading international role. Alongside the slow and inconsistent response of the federal government to the pandemic has reinforced the already widespread belief that the United States has gone astray. Still, R. Haass is convinced that nor China neither anyone else, has the desire or ability to fill the void that the United States has created. To the diplomat's mind, what will change out of the pandemic is not the fact of the disorder, but its degree. On that note, R. Haass elates, a more appropriate precedent for consideration may not be the post-World War II period, but the post-World War I period as an era of declining American influence and growing international turmoil[3].

It is worth mentioning that among the Western writers, K. M. Campbell (CEO in the Asia Group and former diplomat) and R. Doshi (the director of the Brookings China Strategy Initiative and a fellow in Brookings foreign policy) appear to be sure about reordering the global system by virtue of PRC's performance and US incompetence during this epidemic. Describing the

[1] *Kissinger H. A*. The coronavirus pandemic will forever alter the world order [Electronic resource]. URL: https://www.wsj.com/articles/the-coronavirus-pandemic-will-forever-alter-the-world-order-11585953005 (date of access: 12.10.2020).

[2] *Tocci N*. How coronavirus will upturn the global order [Electronic resource]. URL: https://www.politico.eu/article/coronavirus-upturns-global-order-china-united-states/ (date of access: 15.10.2020).

[3] *Haass R*. The pandemic will accelerate history rather than reshape it [Electronic resource]. URL: https://www.foreignaffairs.com/articles/united-states/2020-04-07/pandemic-will-accelerate-history-rather-reshape-it (date of access: 17.10.2020).

American behavior during the COVID-19 crisis, they make clear that the status of the US as a global leader over the past 70 years has been built not only on wealth and influence but also on the internal governance system, i. e. the provision of socially significant goods, the ability and desire to spearhead and coordinate the global efforts to mitigate the crises. The epidemic disaster tested all three elements of American supremacy, however, its response fell short of these elements. By way of contrast, they give a vivid account of how China conducted an active diplomatic campaign to bring together dozens of countries and hundreds of decision-makers via videoconference to share information about the pandemic and China's personal experience in fighting the disease. Furthermore, while no European state responded to Italy's request for urgent medical equipment and protective equipment, Beijing publicly pledged to send ventilators, masks, respirators, protective suits and medical tests to Italy, Iraq, and Serbia. It is important to indicate that China's help to some European countries was a staunch blow to the EU. In this context, the Serbian president called the talk of European solidarity "fairy tales" and stated that only the Chinese government could help the Serbs. In the article titled "China strives for world leadership against the backdrops of errors of the USA", K. M. Campbell and K. Doshi compare the current crisis with the Suez crisis in 1956, which marked the end of the United Kingdom's dominance in the global scene. They stress that if the United States does not rise to fight a new challenge, the coronavirus plague could be a repeat of the Suez crisis. From their perspectives, China's main asset in its pursuit of global leadership during the coronavirus pandemic is the American outright inconsistency and its focus on domestic politics. However, China's ultimate success will be equally dependent on what is transpiring in Washington and Beijing. That said, the USA could still turn the tide in the current crisis if it acted as a leader, who is supposed to deal with the problem at home, to provide the world with socially significant goods, and to coordinate global efforts. In doing so, it will be a step towards restoring faith in America's continued leadership[4].

While the Western authors deal with the problem cautiously, the majority of Eastern analysts insist that the coronacrisis will reshape the world order in the interests of the Eastern countries, especially the People's Republic of China. A striking example is the Arab journalist A. al-Bari Atwan who in the article "Forget the "Coronavirus": two events confirm China's early leadership", notes that the World War II paved the way for the rise of the American power, and the "global corona war" has laid the foundations for the new superpower i. e. China. A. al-Bari Atwan draws his conclusion based on China's amazing excellence in managing the coronavirus crisis and exporting medical equipment to more than 98 countries free of charge, regardless of color, gender, race, and religion. From his perspective, China will come up with an advanced weapons system that will put an end to the presence of American aircraft carriers. On top of that, the renminbi, the official currency of China, will be the first currency in all financial and international dealings in the short term[5].

In the context of the upcoming influence of the East, the journalist K. al-Jabri sees that this cataclysm will also accelerate the shift of power from West to East, as South Korea and Singapore responded better than Washington or other European capitals. Regarding China, he voices that after its early mistakes, it reacted well, while in Europe and America the response was slow and haphazard. Consequently, the perception of what called Western brand aura, which was able to overcome any crisis, ended. K. al-Jabri assumes that this plague will reshape the structure of international power over time[6]. On the status of the East in the post-corona world, the Iranian professor M. Sanai underlines that multilateralism will undoubtedly gain momentum in world politics and countries will move away from US-oriented globalization as well. What is more, due to the American and the European incoherent policy on combating COVID-19 infection, the East will occupy a special place in the international arena. As a result, countries such as China, Russia, India, and Iran will have more leeway in international affairs[7].

That perception on multilateralism is underpinned by some Chinese professors. An example of that, Gu Xuewu, the Chinese professor, in his interview with the German journalist R. Ebbighausen, says that we already live in a multipolar world. Many political scientists agree that the short phase of American hegemony following the collapse of the Soviet Union no longer exists. Professor adds that some key elements of the "Chinese order" can still be identified. China wants a world order that is politically multipolar, functionally multilateral, and ideologically pluralistic[8].

It is also should be noted that the Chinese policy makers have been outlining about the perspective of the international order even before COVID-19. A para-

[4]*Campbell K. M.*, *Doshi R*. China strives for world leadership against the backdrops of errors of USA [Electronic resource]. URL: https://globalaffairs.ru/articles/koronavirus-pereformatiruet-globalnyj-poryadok/ (date of access: 25.10.2020).

[5]*al-Bari Atwan A*. Forget the "Coronavirus": two events confirm China's early leadership [Electronic resource]. URL: https://shaamtimes.net/231995/ (date of access: 27.10.2020).

[6]*al-Jabri K*. Our world as we know will change forever. What awaits the global system after the corona pandemic? [Electronic resource]. URL: https://arabicpost.me/تالیلحت/2020/04/15/ي-اذام-دبألل-رّيغتيس-مفرعن-يذلا-انملاع/ (date of access: 01.11.2020).

[7]*Sanai M*. World order after coronavirus: nothing will change [Electronic resource]. URL: https://ru.valdaiclub.com/a/highlights/mirovoy-poryadok-posle-koronavirusa/ (date of access: 05.11.2020).

[8]*Ebbighausen R*. What is China's world order for the 21st century? [Electronic resource]. URL: https://www.dw.com/en/what-is-chinas-world-order-for-the-21st-century/a-54368354 (date of access: 10.11.2020).

digm example of that is a speech of Xi Jinping, the general secretary of the Chinese Communist Party (CCP) at the World economic forum in Davos in 2017. He was quoted as saying: "Rejected isolationism positioned China as a supporter of multilateralism. The international community should adhere to multilateralism to uphold the authority and efficacy of multilateral institutions. We should honor promises and abide by rules. One should not select or bend rules as he sees fit"[9].

It is important to note that the Russian researchers somewhat share the same Arabs' views when it comes to diminishing US superiority. The journalist P. Akopov, in his article "In order to survive, America must become China", believes that America cannot contain China and the East will also prevail over the West. According to him, it is still unclear who will take the lead, be Asia, Eurasia, or the Pacific region, but what seems to be certain is that the Atlantic time is running out. On the other hand, with a view to maintaining its global leadership, P. Akopov proposes that the United States ought to become like China, that is, Washington should not fight with everyone and everything, put its own laws above the international ones, bomb or impose sanctions and not dictate rules of behavior either[10].

Moving on to the second section, we will notice quite the opposite respecting the American role in international relations. On the relations between America and China after COVID-19, N. Chomsky, the American linguist and historian, makes clear that the US is, by far, the most powerful country in the world. It is the only one able to impose sanctions that others must obey. For its part, he records, China has had enormous growth, though it is still a very poor country and has huge internal problems – demographic and ecological issues that are entirely unknown to the West. N. Chomsky, on the other hand, who is renowned for his criticism of American politics and neoliberalism, confirms that neoliberalism's goal, in the aftermath of the pandemic, is to ensure that there will be harsher autocratic measures that favor the wealthy and the corporate sector. From his point of view, because democracy is deemed a danger, the neoliberal state needs to crush resistance by all means possible, including violence[11]. The very idea, of how mighty Washington is, is endorsed by J. S. Nye Jr., the American political scientist, who is dismissive of the claims that the pandemic changes everything. According to the author, the balance of hard and soft power favoring the United States will not be changed by the pandemic and it is still much too early to predict a geopolitical turning point that would fundamentally alter the power relationship between the United States and China. At the same time, the American politician admits that there will be changes, but one should be wary of assuming that big causes have big effects. He refers to the fact that the 1918–1919 flu pandemic killed more people than World War I, yet the lasting global changes that unfolded over the next two decades were a consequence of the war, not the disease[12].

The geopolitical implications of COVID-19 for the international order are also addressed in the article of J. Grunstein, the editor-in-chief of World Politics Review. J. Grunstein observes that absent a sea change in government responses at the multilateral level, the pandemic is unlikely to transform the international order so much as reinforce the current trends of strategic competition among the United States, Europe, and China. He views the abdication of global leadership and America's unwillingness to lead a globally coordinated response to this crisis should come as no surprise under D. Trump's administration. Speaking of Europe, he looks dubious about the EU's ability to project its leadership in Europe or globally. Additionally, the long-term consequences of the European Union's failure to lead a unified response to the cataclysm, manifested in the rise of Eurosceptic extremist parties or the fraying of European solidarity, will proceed to influence the EU's role. As for China, though it used a series of high-profile humanitarian aid packages to European and African countries to lay claim to a role usually occupied by the US, however, nothing about Beijing's handling of the pandemic suggests that those countries will be eager to line up behind Chinese leadership of a new global order in its aftermath. Based on that, the initial predictions that China would emerge from the pandemic atop a realigned global order are looking premature, he accentuates[13].

Whether COVID-19 will mark a geopolitical reordering that would leave China as the victor, the British professors, M. Green and E. Medeiros have second thoughts about the fact that Beijing's gambit will succeed in turning a pandemic into a major step in China's rise. Undoubtedly, its initial propaganda offensive was stunningly, but, it now appears clumsy and unlikely to work, in part, due to its efforts to suppress information and silence many of the doctors who first warned of the emergence of a dangerous new virus, lack of transparency and substandard of Chinese-made testing kits and protective equipment. Besides, Beijing, in their view, faces internal and external challenges that stem from its choices about economic and politi-

[9]Full text of Xi Jinping keynote at the World economic forum [Electronic resource]. URL: https://america.cgtn.com/2017/01/17/full-text-of-xi-jinping-keynote-at-the-world-economic-forum (date of access: 27.11.2020).

[10]*Akopov P.* In order to survive, America must become China [Electronic resource]. URL: https://ria.ru/20200425/1570540394.html (date of access: 10.11.2020).

[11]The future of the world after coronavirus. An interview with Noam Chomsky [Electronic resource]. URL: https://fondazionenenni.blog/2020/05/23/the-future-of-the-world-after-coronavirus-an-interview-with-noam-chomsky/ (date of access: 15.11.2020).

[12]*Nye J. S. Jr.* No, the coronavirus will not change the global order [Electronic resource]. URL: https://foreignpolicy.com/2020/04/16/coronavirus-pandemic-china-united-states-power-competition/ (date of access: 15.11.2020).

[13]*Grunstein J.* Why the coronavirus pandemic won't lead to a new world order [Electronic resource]. URL: https://www.worldpoliticsreview.com/insights/28646/why-the-coronavirus-pandemic-won-t-lead-to-a-new-world-order (date of access: 18.11.2020).

cal governance at home and global governance abroad. Given all that, the 21st century is hardly certain to be "the Chinese century". About the USA, M. Green and E. Medeiros shed light on a catastrophic failure of the US political and diplomatic leadership in the current crisis that could cost the United States dearly in lives and international influence. However, they stick to the idea that as deeply flawed as Washington's response to the pandemic has been so far, the US power rests on an enduring combination of material capabilities and political legitimacy. In conclusion, they believe that the United States can use the pandemic as an opportunity to remind the world of what American leadership looks like. It implies that the USA must learn from the experiences of Germany, South Korea, Taiwan, and others in pandemic management; embrace practical and meaningful cooperation with China and engage with global organizations, such as the World Health Organization, to help them reform[14]. By the same token on the Chinese and American approach to COVID-19, the Chinese-American political scientist, Minxin Pei, in his article "COVID-19 is finishing off the Sino-American relationship", affirms that after news of its botched initial response in Wuhan got out, the Chinese Communist Party went into damage-control mode. As soon as new infections began to decline, the government launched an aggressive diplomatic effort and propaganda blitz to repair its image. It has sent medical supplies and personnel to hard-hit countries like Iran, Italy, and the Philippines. Pinning the blame on the USA, Minxin Pei contends that the West gave China plenty of ammunition. US president D. Trump, in particular, has overseen a truly inept crisis response, characterized by finger-pointing, constant contradictions and outright lies. In Minxin Pei's opinion, the COVID-19 crisis is bound to reshape geopolitics and its outbreak may have sounded the death knell for the Sino-American relationship. Consequently, the pandemic may well lock the US and China into a vicious cycle of escalation, leading directly to full-blown conflict[15].

As the author mentioned above that most of the Eastern intellectuals are inclined to buy the assumption that COVID-19 will help Beijing to emerge as the new global leader, it seems a few of them do not have the same say. For example, the Arab journalist S. Kulaib sees that most Arabs exaggerate everything, needless to say when it comes to the post-corona world. Since the trade, technology exchange, as well as common economic interests are more important than introversion, isolationism, and nationalities, neither the West is on the verge of collapse, nor does that break-up serve the interests of China and Russia. The West may weaken and retreat, but to collapse, it is overstated, he affirms[16].

Another pertinent view is echoed by the Egyptian political analyst and poet A.-R. Youssef. Admittedly, China succeeded in defeating the pandemic by using various means, including its security services that monitor everything. A.-R. Youssef, however, counts China's success as a threat to freedom-seekers in the world who are deeply afraid of the future. For this reason, he urges them to join hands to protect the planet from disease far more dangerous than COVID-19, called the "tyranny virus". Worse, in his words, there is an unbridled desire among the ruling elites and politicians in most countries (even democratic ones) to capitalize on the pandemic as an excuse to surveil their citizens and control their activities under the pretext of protecting public health[17].

In like manner, K. Fouad, the political researcher, regards China as the worst authoritarian model in comparison with all the authoritarian regimes. It suffices only to indicate that it has a system that monitors its citizens in a way that goes beyond what is featured in the novels and literature depicting the dictatorial rulers. The other thing is that China's model considerably deviates from human morals and values. That is not because of the current practices related to the corona pandemic, but the bloody history of China. Therefore, without looking at its history, ideas, and perception of others, it seems difficult to forecast Beijing's intentions despite its peaceful behavior during the current crisis, he stresses[18]. It is noteworthy that criticism of China's political system was also reflected in some studies of Chinese politicians. Minxin Pei, in his article "Coronavirus is a disease of Chinese autocracy", holds CCP's leadership responsible for the coronavirus outbreak. He claims that when China's leaders finally declare victory against the current outbreak, they will undoubtedly credit the CCP's leadership. But, from his perspective, the truth is just the opposite: the party is again responsible for this calamity[19].

Particularly interesting is the professor A. Obaidat's article "Why will America not be defeated soon by China or others?". As he puts it, no country can become

[14] *Green M., Medeiros E. S.* The pandemic won't make China the world's leader [Electronic resource]. URL: https://www.foreignaffairs.com/articles/united-states/2020-04-15/pandemic-wont-make-china-worlds-leader (date of access: 25.11.2020).

[15] *Minxin Pei*. COVID-19 is finishing off the Sino-American relationship [Electronic resource]. URL: https://www.aspistrategist.org.au/covid-19-is-finishing-off-the-sino-american-relationship/ (date of access: 26.11.2020).

[16] *Kulaib S*. Gentlemen, take a moment to explain the post-corona world. Neither the West will collapse, nor do China and Russia want it to collapse [Electronic resource]. URL: https://ida2at.org/news/2020/04/11/6872/يف-ةداس-اي-ال-يلي-ق-اول-همت-ب-بي-لك-ي-ماس-ب-تك-ا-ال-انوروك-دعب-ام-ملاع-حرش (date of access: 01.12.2020).

[17] *Youssef A.-R*. Coronavirus: the world fights against freedom and tyranny [Electronic resource]. URL: https://www.aljazeera.net/news/politics/2020/4/13/ةيرح-دادبتسا-راشتنا-انوروك-سوريف (date of access: 05.12.2020).

[18] *Fouad K*. Industry and trade are not enough. How will China become a pole in the global system? [Electronic resource]. URL: https://arabicpost.net/ةفاقث/2020/04/14/ا-حبصتس-فيكي-نايفاكت-ال-قراجتلا-و-ةعانصلا (date of access: 15.12.2020).

[19] *Minxin Pei*. Coronavirus is a disease of Chinese autocracy [Electronic resource]. URL: https://www.aspistrategist.org.au/coronavirus-is-a-disease-of-chinese-autocracy/ (date of access: 26.11.2020).

a polar superpower simply by wielding two or three merits. Brazil and Australia, in the words of A. Obaidat, are rich in raw animal and plant resources as well as minerals, yet they are not superpowers. China is the world's major manufacturing center, but still, it is not a polar state. Denmark, Sweden, and Norway are among the most democratic and just countries, however, they are not great powers. Although Japan and Germany are some of the brightest countries in the field of science and education, they are not polar countries. India is one of the most populated countries, still, it is not considered a powerful nation. Russia, with its formidable army, is not a polar state. A. Obaidat's study peers into the fact that even the countries that have the aforementioned characteristics, such as France and Britain, are not polar countries either. On this score, he points out, only the USA is the world's polar superpower because it has control over eight worldwide networks. These are raw materials, advanced industries, media, science, population, arts, armaments, and finance. On China's rise, A. Obaidat highlights that it is natural and in sync with America's decline. Notwithstanding that, he deems that China will replace America as soon as it gains access to those eight worldwide networks monitored by its rival. In this way, confrontation with the US means to stand up to the entire world system. China, Russia, and Turkey are conscious of this[20].

Analyzing the two sections, we can draw the following: in the first one, H. Kissinger, K. M. Campbell and R. Doshi believe that though, America's missteps respecting the fast reaction to COVID-19, the USA can still retain its global leadership. R. Haass and N. Tocci consider that America's decline is out of the question. Referring to China, N. Tocci sees that country is trying to present itself as a model to follow, but its efforts can be undercut by the EU's role, which is very crucial to make multilateralism great again. R. Haass thinks that China cannot replace the global American role. Meanwhile, K. M. Campbell and R. Doshi seem to be certain about China's surge. In this section, the Eastern writers alongside the Chinese concur with the fact that COVID-19 will reshape the global order in favor of the East, in particular China.

About the authors mentioned in the second group, N. Chomsky and J. S. Nye Jr. state that the USA is by far the world's global leader. J. Grunstein assumes that the pandemic will not alter the international order, rather it will reinforce the competition among the United States, Europe, and China. M. Green and E. Medeiros make clear that the United States can take advantage of the pandemic to return its global leadership. Regarding China, N. Chomsky, J. Grunstein as well as M. Green, and E. Medeiros do not count that COVID-19 constitutes a major step in China's rise. Particularly interesting is the prediction of Minxin Pei, the Chinese professor, who assumes COVID-19 as the death knell for Chinese-American relations. It is important to note that unlike the Arab scholars in the first section, a few of them, including some Chinese political scientists, are vociferous critics of China and its political system in the second one.

It is noteworthy that, despite the fact the article is primarily dedicated to analyzing two opinions on the impacts of COVID-19 on the global order, however, we can see that some Western scholars, in two sections, agree on the same issues. For example, H. Kissinger, K. M. Campbell, and R. Doshi as well as M. Green and E. Medeiros, say though America's missteps regarding the quick response to COVID-19, the USA still has an opportunity to preserve its global management if American policy makers take actions to handle the problems at home and abroad. While China's initial success, both inside and beyond, does not signify that it will occupy the US-led role due to countless challenges that have plagued China, according to R. Haass, N. Tocci, N. Chomsky as well as M. Green and E. Medeiros. Also, we can observe two contradicting views on Europe, such as N. Tocci's study pays heed to the EU's role in the post coronavirus world, meanwhile, J. Grunstein presumes quite the opposite.

In conclusion, it is needed hard to speculate what kind of world order will arise from COVID-19. What appears, however, to be certain is that COVID-19 has taken a toll on the world's political system that would reshape the global order in time. Nevertheless, to say that these changes will allow China to replace the American global role, in the near long, is overstated. In parallel, the rise of the RPC, for the last decades, is definitely out of question, and it will endeavor to push its dream to be a superpower counting on its grandiose economic heft and weaving close lathers with Russia, Iran, and Europe as well as with many other countries in Asia-Pacific and Africa. But, before laying claim on such a role, Beijing must handle a great deal of domestic issues, which abound, namely: democracy, human rights, transparency, disparity between regions, Taiwan, protests in Hong Kong, Tibet, and Xinjiang. Moreover, China should also bridge differences with its neighbors over many concerns such as the South China Sea, disputes over borders with the adjacent countries, China's debt-trap diplomacy and water resources. Speaking internationally, the RPC has to deal with sensitive issues to scatter fears over the claimed accusations when it comes to the Chinese espionage and the source of COVID-19, not to mention climate issues and contamination. The same goes for the USA, which has been taking pains to preserve its global hegemony. In spite of the fact that the US is in far more favorable position, compared to the PRC or any country, it has been afflicted with domestic and foreign policy issues.

[20] *Obaidat A.* Why will America not be defeated soon neither by China nor other country? [Electronic resource]. URL: www.aljazeera.net/blogs/blogs/2020/4/12/الكيرم-أهاوس-الو-نيصلا-فلخت-نل-اذامل (date of access: 20.12.2020).

Revealing examples of these defects are the coronavirus pandemic, the deepening socio-economic crisis, the political polarization and the tensions with Iran, China, and even with its allies. Yet, Washington can still tide over the unfavorable situation in its favor, as it has the characteristics that permit it to keep its preeminence. It will, however, mainly hinge on the newly elected president J. Biden and its ability to repair damages, domestically and abroad, done by the previous American administrations. Having said that, the author would argue that China or America will be able to overcome the domestic and foreign policy crises to the extent that their model will gain awed acclaim, and therefore neither of them could reign supreme. Nevertheless, the author acknowledges that COVID-19 has more or less tipped the balance towards China, meanwhile, put America's unparalleled power and unmatched appeal at stake. Such a state of the world, that is, a change in the balance of power, will push the rivalry, between the rising power and the descending great power represented by China and the USA respectively, to take on an extreme dimension, impelling the two countries to pursue military build-up and forge alignments against each other. Given that, from the author's standpoint, the new world order that will come out of COVID-19 is chaotic. With any miscalculation, the scene could spiral out of control, that is to say from ongoing proxy wars into all-out confrontation. As for Russia and the European Union in the new world order, the author would add that neither Russia nor the EU could pass off as a world leader. With reference to Russia, despite the fact that it is a superpower militarily, but economically Moscow is considered a developing country. However, Russia's rapprochement with China could give it more weight in the international arena. Speaking of the EU, even though, it is great enough militarily and economically, but Brussels' political dependence on Washington makes it inferior to the latter.

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AFRICAN DIMENSION OF FOREIGN POLICY OF THE REPUBLIC OF BELARUS (1992–2020)

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The presented publication is devoted to the analysis of the formation and implementation of the African dimension of Belarusian foreign policy. The main objective of this policy was to strengthen the Belarusian economic presence in the states of the continent. In terms of limited financial opportunities, official Minsk identified four large countries in Africa as "reference points" in which embassies were opened, exchange of delegations was more intensive, a regulatory framework for cooperation was formed, and trade and economic relations developed. Despite a number of constraining factors such as complex logistics, geographic remoteness, etc., Belarus has significant potential to increase exports to Africa. The priority of the foreign policy of the Belarusian state remains the development of relations with the countries of the African continent, including through strengthening ties with the integration associations of Africa, using the EAEU format and platform.

Keywords: Belarus; Africa; Egypt; African Union; diplomatic relations; economic diplomacy; Belarusian-African cooperation; foreign trade.

АФРИКАНСКИЙ ВЕКТОР ВО ВНЕШНЕЙ ПОЛИТИКЕ РЕСПУБЛИКИ БЕЛАРУСЬ (1992–2020)

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Анализируются формирование и реализация африканского вектора во внешней политике Беларуси, главная задача которой – усиление белорусского экономического присутствия в государствах континента. В условиях ограниченных финансовых возможностей официальный Минск определил в Африке в качестве опорных точек четыре крупные страны, в них были открыты посольства. Обмен официальными визитами, формирование нормативно-правовой базы сотрудничества, развитие торгово-экономических отношений с этими государствами были более интенсивными. Несмотря на ряд сдерживающих факторов (сложная логистика, географическая удаленность и др.), Беларусь

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имеет значительный потенциал к наращиванию экспорта в Африку. Приоритетом внешней политики белорусского государства остается развитие отношений со странами африканского континента, в том числе посредством укрепления связей с интеграционными объединениями Африки в рамках ЕАЭС.

Ключевые слова: Беларусь; Африка; Египет; Африканский союз; дипломатические отношения; экономическая дипломатия; белорусско-африканское сотрудничество; внешняя торговля.

Introduction

According to many domestic experts, the African region is one of the most underestimated in the hierarchy of the "far arc" of Belarusian foreign policy, primarily in terms of the economic potential of Minsk. Analysis of the state of affairs in this area allows us to conclude that new, possibly more non-standard measures are needed to expand the presence of Belarus on the African continent[1].

A balanced pragmatic approach to Africa with a rapidly growing population will allow Belarus to more effectively use and implement the "three-thirds" concept, which implies the sale of a third of the exported Belarusian products in the markets of the countries of the global South, including the African continent.

Despite the existing prospects, no noticeable research interest of the problems of Belarusian-African relations has yet been observed. This is largely due to the widespread opinion that there are no stable states on the continent that could become mutually beneficial partners of Belarus in the long term.

The topic of Africa seems not to be widely reflected in the studies of Belarusian authors, which can also be explained by the lack of traditions of scientific analysis of the African mentality, other important aspects of the life of African countries and peoples. It should be noted that both domestic and foreign analysts are more interested in Belarusian-African military-technical cooperation.

At the same time, it is already possible to name a number of authors whose research materials constituted the "African dossier" of the Belarusian expertise. Basically, these publications are devoted to historical topics. One of the pioneers of the African theme back in the BSSR period was professor S. D. Voitovich, whose scientific work has not lost its significance even now [1]. Among modern authors who wrote about Africa to one extent or another, one can name professors of the faculty of international relations of the Belarusian State University U. E. Snapkouski [2; 3] and S. F. Svilas [4]. Special attention in the studies of these scientists was paid to the activities of the BSSR in the UN in the 1970–1980s when representatives of the republic promoted anti-colonial agenda, supported the African peoples in their aspiration for independence [2]. The experience of Belarus in training national personnel for African countries, which began on a large scale in the mid-1960s, was reflected, to a certain extent, in the scientific literature. Teaching young people had a certain impact on the positive image of Belarus on the African continent (A. V. Sharapo, I. I. Savchenko [5]).

The authors of this article have publications on the theme of Africa of the period of independence of Belarus [6; 7].

In this article, there are links to the annual reports of the Ministry of Foreign Affairs of the Republic of Belarus (2018, 2019), where the African dimension of the foreign policy is introduced[2]. As for official legislation, Belarusian fundamental documents set a general framework for multi-vector foreign policy, which includes the African region, but these several documents have almost no specific information about the role of Africa in Belarusian foreign policy.

A new stage in the foreign policy of Belarus, including relations with African countries, began with the process of international recognition of the independence of our state after the collapse of the Soviet Union (December 1991). In the first years, African states were not considered by the official Minsk as promising partners due to the relative underdevelopment of relations and the lack of significant contacts. African countries did not demonstrate any serious interest in Belarus either. Contacts were mainly limited to the establishment of diplomatic relations, other formal procedures of interaction within the framework of coordinating actions in the UN. However, Belarus became a member of the Non-Aligned Movement in 1998 in order to build relations with developing countries, including African ones. Also, the first attempts of economic cooperation with the countries of the African region took place in the 1990s but were limited mostly to weapon exports.

[1]Priority areas of foreign policy of the Republic of Belarus [Electronic resource]. URL: http://www.mfa.gov.by/foreign_policy/priorities/ (date of access: 28.05.2020).

[2]Обзор итогов внешней политики Республики Беларусь и деятельности Министерства иностранных дел в 2018 году [Электронный ресурс]. URL: http://www.mfa.gov.by/publication/reports/b7fe6b330b96c9b7.html (дата обращения: 29.03.2020) ; Обзор итогов внешней политики Республики Беларусь и деятельности Министерства иностранных дел в 2019 году [Электронный ресурс]. URL: https://www.mfa.gov.by/publication/reports/d850d69242f0c67a.html (дата обращения: 10.04.2020).

Political cooperation

In the context of a shortage of necessary resources, the main task of the Belarusian foreign ministry in Africa was the selection of the so-called "reference points". This choice was supported by the establishment of an official diplomatic presence of Belarus in the selected states. According to the authors of this publication, when deciding on the location of embassies in some African states, a range of factors were taken into account such as historical ties (contacts during the Soviet period, earlier establishment of diplomatic relations), more convenient transport communications, complementary nature of economies and great opportunities for Belarusian exports, relative political and economic stability of partner states.

Today, Belarusian embassies on the continent operate in relatively developed countries, where the governing bodies of regional integration associations are located, as well as African offices of international organizations. The territories of these African countries make it easier technically to enter the markets of neighboring countries, to expand Belarusian exports.

Exchanges of visits were more frequent and the legislative base was formed more intensively with the countries, named reference points. These events were designed to create conditions for the growth of mutual trade. The process of choosing priority states for cooperation developed unevenly; the countries that did not meet the expectations were replaced by other states.

As of today, there are four Belarusian embassies in Africa. With some assumptions, they can be called the centers of the active presence of Belarus, conditionally covering the north-south, west-east of the African continent. It should be emphasized that the embassies in Africa make up a small share in the structure of the diplomatic missions of Belarus abroad. According to the Ministry of Foreign Affairs of the Republic of Belarus, today there are 68 Belarusian diplomatic missions abroad, including 57 embassies, 2 permanent missions, 8 general consulates, and 1 consulate[3].

The first position in the foreign policy priorities of Minsk is occupied by the Arab Republic of Egypt. Egypt became the first African country to establish diplomatic relations with the Republic of Belarus. This happened on 1 February 1992 [6]. In 1997, an embassy was opened in Cairo, which became *the first* diplomatic mission of Belarus in Africa.

In the period of 2013–2018 the only Belarusian embassy in East Africa was located in the Federal Democratic Republic of Ethiopia (diplomatic relations have existed since May 1994)[4]. The opening of the diplomatic mission was due, among other things, to the location of the headquarters of the African Union in the capital of this country, Addis Ababa. However, in 2018, the Belarusian embassy was moved from Ethiopia to the Republic of Kenya (diplomatic relations were established on 17 November 1993), which could be explained by the more convenient geographic location of Kenya for making contacts with other countries in the region.

In West Africa, the Federal Republic of Nigeria was selected as the priority partner state. Belarus established diplomatic relations with this African country on 3 August 1992. In South Africa, the Republic of South Africa became the reference point of the Republic of Belarus (diplomatic relations have existed since 4 March 1993).

Table 1

Belarusian embassies in Africa

State	Embassy opening date	Concurrent accreditation
Arab Republic of Egypt	August 1997	Sudan, Algeria
Republic of South Africa	January 2000	Angola, Zimbabwe, Mozambique, Namibia
Federal Republic of Nigeria	5 December 2011	Ghana, Cote d'Ivoire, Cameroon
Republic of Kenya	2018	Ethiopia, Tanzania, Uganda

Source: data of the embassies of the Republic of Belarus in African countries[5].

Research reveals that the process of identifying the main partner states in Africa was rather complicated. For instance, the expectation of the active development of cooperation through the African Union, as well as with Ethiopia, was not fully justified. After the opening of the Belarusian embassy in Addis Ababa in 2013 and

[3]Foreign policy of the Republic of Belarus [Electronic resource]. URL: http://www.mfa.gov.by/foreign_policy/ (date of access: 31.12.2019).

[4]Беларусь закрывает посольство в Эфиопии и открывает в Кении [Электронный ресурс]. URL: https://www.belnovosti.by/politika/belarus-zakryvaet-posolstvo-v-efiopii-no-otkryvaet-v-kenii (дата обращения: 21.12.2019).

[5]Embassy of the Republic of Belarus in the Arab Republic of Egypt [Electronic resource]. URL: http://egypt.mfa.gov.by/en/embassy (date of access: 09.09.2019) ; Embassy of the Republic of Belarus in the Republic of Kenya [Electronic resource]. URL: http://kenya.mfa.gov.by/en/bilateral_relations/ (date of access: 01.05.2019) ; Embassy of the Republic of Belarus in the Federal Republic of Nigeria [Electronic resource]. URL: http://nigeria.mfa.gov.by/en/ (date of access: 16.09.2019) ; Embassy of the Republic of Belarus in the Republic of South Africa [Electronic resource]. URL: http://rsa.mfa.gov.by/en/embassy/ (date of access: 06.08.2020).

the visit of deputy foreign minister of the Republic of Belarus V. Rybakov (October 2014) to Ethiopia, there was a noticeable increase in the Belarusian-Ethiopian trade turnover. Thus, in 2015, it more than tripled (to 12.5 mln US dollars) compared to 2014 (3.7 mln US dollars). However, in 2016, trade with Ethiopia decreased to the level of 2014 (4 mln US dollars)[6] and subsequently did not show positive dynamics.

The small number of Belarusian missions and embassy staff was a serious limitation for the Belarusian diplomatic presence in Africa. The number of the embassy staff was clearly insufficient in terms of the size of the countries and regions covered, the specifics of work in Africa, as well as the list of tasks assigned to the embassies to increase Belarusian exports. For instance, the total population of 4 African states (Nigeria, Ghana, Cameroon, Cote d'Ivoire) was about 275 mln people, while the Belarusian embassy in Nigeria, working with these countries, had only 4 diplomats on staff (including ambassador)[7].

A similar situation was observed in the Republic of South Africa. The Embassy of Belarus consisted of 5 employees (including the ambassador), and the total population of South Africa and 4 countries of accreditation exceeded 135 mln people. In addition, this embassy oversaw cooperation with almost all major countries that belonged to the subregion of South Africa[8].

It is worth mentioning that "great powers" such as the Russian Federation and the French Republic were represented at the embassy level in 40 and 45 African countries, respectively. Over the past few years, the Russian Federation has become an increasingly active player on the African continent, constantly expanding its political and military presence [8]. At this stage, Russia is seriously competing with China and Western countries for influence in Africa. As for the Russian diplomatic missions, most of them "inherited" from the USSR and have been functioning in Africa since the middle of the 20th century.

France was a major colonial power on the African continent in the 19th–20th centuries, which traditionally influenced the policy of African states, especially their former colonies. This explains the creation of an extensive network of French diplomatic missions in Africa[9].

Belarus is not able to maintain such broad embassy networks as France or Russia due to the lack of resources. However, the activities of other states in Africa such as Poland and Ukraine can be more relevant.

In addition to Egypt, South Africa, Nigeria, Kenya, the embassies of these two Belarusian neighbors are located in other states such as Senegal and Ethiopia. Also, Poland and Ukraine have a fairly wide representation in the countries of North Africa. Currently, the embassies of Poland and Ukraine are functioning in Morocco, Algeria, Tunisia. Poland is also represented at the embassy level in Angola and Tanzania. In general, the experience of Poland and Ukraine can be useful in planning the further advancement of Belarus in Africa.

Since 2010, Belarus has opened two new diplomatic missions in this region. In addition to the opening of missions, the process of establishing diplomatic relations with countries that in previous decades were out of sight of Belarusian diplomacy continued. The Republic of Belarus established diplomatic relations with the Democratic Republic of the Congo (2010), the Republic of Niger and the Central African Republic (2012), the Republic of South Sudan and the Republic of Djibouti (2013). In general, as of 2020, Minsk had diplomatic relations with 48 out of 54 African states[10].

In turn, foreign missions of three African states operate in the capital of Belarus: the embassies of the State of Libya (opened on 1 April 2001), the Republic of Sudan, as well as a branch of the South African Embassy (operating since 2008)[11]. The Libyan embassy in Belarus is headed by the Charge d'Affaires, and the department of the South African embassy is headed by the head of the department of the embassy. As for the Sudanese embassy, there is the ambassador extraordinary and plenipotentiary in Belarus. It should be noted that the embassies of Nigeria, Egypt, Kenya (key partners of Belarus in Africa) are concurrently accredited in Minsk.

It needs to mention that most of the diplomatic missions of African states are accredited in Belarus concurrently from the Russian Federation (Moscow). These are the embassies of Algeria, Angola, Benin, Burundi, Gabon, Ghana, Guinea, Egypt, Zambia, Zimbabwe, Tanzania, Kenya, Cote d'Ivoire, Mauritania, Madagascar, Mali, Morocco, Namibia, Nigeria, Eritrea, Ethiopia, Equatorial Guinea. The exception is the embassy of Burkina Faso, accredited concurrently in the Republic of Belarus, located in Berlin[12].

The institution of honorary consuls is widely used to establish bilateral contacts. The interests of the Re-

[6]Embassy of the Republic of Belarus in the Republic of Kenya [Electronic resource]. URL: http://kenya.mfa.gov.by/en/bilateral_relations/ (date of access: 01.05.2019).

[7]Embassy of the Republic of Belarus in the Federal Republic of Nigeria [Electronic resource]. URL: http://nigeria.mfa.gov.by/en/ (date of access: 16.09.2019).

[8]Embassy of the Republic of Belarus in the Republic of South Africa [Electronic resource]. URL: http://rsa.mfa.gov.by/en/embassy/ (date of access: 06.08.2020).

[9]Ambassades de France en Afrique [Ressource électronique]. URL: https://lannuaire.service-public.fr/ambassades/afrique (date de la demande: 18.04.2020).

[10]Belarus and countries of Africa and Middle East [Electronic resource]. URL: https://mfa.gov.by/countries_regions/africa_middle_east/ (date of access: 18.04.2020).

[11]Diplomatic reference book [Electronic resource]. URL: http://mfa.gov.by/upload/20.02.02_handbook.pdf (date of access: 11.11.2019).

[12]Embassies accredited in the Republic of Belarus concurrently [Electronic resource]. URL: http://cnp.by/ref-foreign_embassies.html (date of access: 15.10.2020).

public of Belarus were defended by honorary consuls in Ghana, Cameroon, Namibia, Morocco, Nigeria and Sudan[13]. In the Republic of Belarus, the honorary consuls of the Republic of South Africa, the Republic of the Congo, and Zimbabwe carried out their activities[14].

The intensity of exchanges of official representatives within the framework of working and official visits is generally measured as one of the most important countable criteria for assessing the activity of interstate political contacts. Generally, during such visits, promising and mutually beneficial agreements were discussed and concluded. Thus, out of 15 countries studied by the authors, the Arab Republic of Egypt stood out in terms of the rate and level of visits. In a short time, three visits were made to this country only at the highest level (June 1998, January 2017, February 2020) [15].

While visiting Egypt in January 2017, president of Belarus A. Lukashenko held direct negotiations with president of Egypt A. F. al-Sisi in Cairo. It was stated that Belarus supports Egypt's desire to create a free trade zone with the EAEU. Another important topic of the talks between the leaders of the two countries was cooperation in the international arena, where Belarus and Egypt share the same views on most issues of the international agenda[16]. According to Belarusian experts in the field of international relations, in particular R. Turarbekova, A. Lukashenko's visit to Egypt and Sudan in 2017 "fits into the global trend of the revival of interest in Africa" [9].

In June 2019, the president of Egypt paid a return visit to Belarus, during which a package of documents on bilateral cooperation was signed and a roadmap for the development of relations for the next few years was adopted[17].

It can be concluded that the personal relations between the leaders of the two countries became one of the factors that stimulated the development of bilateral relations. This can also be seen in economic indicators. For example, the trade turnover between Belarus and Egypt increased from 57.8 to 108.7 mln US dollars between 2016 and 2018, and Belarusian exports to this country almost doubled over 2 years (from 43.35 to 83.04 mln US dollars)[18]. Then, the trade with Egypt reached 145.4 mln US dollars in 2019, which formed about a quarter of the total Belarusian turnover with the countries of the continent[19].

The intensification of the Belarusian-Egyptian contacts had a positive impact on other spheres of interaction, including the development of cultural ties. For example, days of culture of the two countries were held. In 2017, Egypt was first presented at the international festival "Slavianski Bazar in Vitebsk". In July 2019, the Belarusian-Egyptian week of friendship and sports was held, during which teams of boxers and wrestlers from Egypt visited Belarus to conduct training camps and participate in competitions[20].

In addition to meetings at the highest level, Egypt was visited by the deputy Prime Minister of the Republic of Belarus (1996), Minister of foreign affairs (1998, 1999, 2006, 2009), Minister of industry (2017, 2019), Minister of agriculture and food (2017), Minister of natural resources and environmental protection (2017), Minister of antimonopoly regulation and trade (2003, 2016, 2018), Minister of communications and informatization (2018), Minister of culture (2004, 2008), Minister of internal affairs (2006), chairman of the State Committee for Science and Technology (2000), deputy chairman of the State Committee for Military Problems (2015, 2018, 2019) and other Belarusian officials[21].

Many Egyptian officials paid visits to Belarus: Minister of foreign affairs (2017), Minister of trade and industry (2014, 2017), Minister of transport (2017), Minister of state for defense industry (2017), deputy Minister of foreign affairs (1997, 2005, 2009), Governor of the Governorate of South Sinai (2016), Governor of Wadi El Gedid Governorate (2018), Chairman of the Planning and Budgeting Commission of the People's Assembly (2002), first deputy Minister of foreign trade (1999, 2003), deputy Minister of communications and information technology (2018), President of the Egyptian Academy of Scientific Research and Technology (2004, 2017), etc.[22]

On 14–17 November 2018, the visit of the Chairman of the Egyptian parliament was organized to Belarus.

In addition to official and working visits, the foreign ministries of Belarus and Egypt practiced regular political consultations at the level of deputy foreign ministers (five rounds were held).

[13]Belarus and countries of Africa and Middle East [Electronic resource]. URL: https://mfa.gov.by/countries_regions/africa_middle_east (date of access: 17.10.2020).

[14]Diplomatic reference book [Electronic resource]. URL: http://mfa.gov.by/upload/20.02.02_handbook.pdf (date of access: 11.11.2019).

[15]Embassy of the Republic of Belarus in the Arab Republic of Egypt [Electronic resource]. URL: http://egypt.mfa.gov.by/en/embassy/ (date of access: 09.09.2019).

[16]Переговоры с президентом Египта Абдель Фаттахом аль-Сиси [Электронный ресурс]. URL: http://president.gov.by/ru/news_ru/view/ofitsialnyj-vizit-v-arabskuju-respubliku-egipet-15375/ (дата обращения: 12.12.2019).

[17]Embassy of the Republic of Belarus in the Arab Republic of Egypt [Electronic resource]. URL: http://egypt.mfa.gov.by/en/embassy/ (date of access: 09.09.2019).

[18]Ibid.

[19]Сможет ли Африка заменить Белоруссии Россию [Электронный ресурс]. URL: https://eadaily.com/ru/news/2020/02/22/smozhet-li-afrika-zametit-belorussii-rossiyu (дата обращения: 09.05.2020).

[20]Embassy of the Republic of Belarus in the Arab Republic of Egypt [Electronic resource]. URL: http://egypt.mfa.gov.by/en/embassy/ (date of access: 09.09.2019).

[21]Ibid.

[22]Ibid.

Consultations of the Belarusian foreign ministry with its partners were also held in Ethiopia (October 2014), in Algeria (April 2015). In April 2016, the first round of the Belarusian-Ghanaian consultations took place in Accra (Ghana) between the ministries of foreign affairs. In August 2018, the second round of the Belarusian-Ghanaian consultations between the ministries of foreign affairs was organized in Minsk[23]. Political consultations were not limited to this list of countries.

The creation of intergovernmental commissions for trade and economic cooperation has become a traditional form of interaction between Belarus and foreign states, including African ones. In November 2000, there was a decision to establish a Belarusian-Libyan Joint Commission on Economic, Trade and Scientific-Technical Cooperation between the Governments of Belarus and Libya. Its first meeting took place in 2002, the second – in 2004, and the third – in 2009 [7].

Similar commissions began to operate with Egypt (November 2018), South Africa (March 2018), as well as with other countries[24].

Experts noted that exchanges of high-level visits with African states as a whole were organized even more often than with countries of the collective West. Not only the meetings of the leaders of Belarus and Egypt were organized, but also high-level visits were held between Belarus and Libya (2000, 2008) [7]. In 2000, the President of the Republic of Uganda J. Museveni visited the Republic of Belarus[25]. We should also mention the visits to Minsk of the President of the Republic of Sudan O. al-Bashir (August 2004, December 2018)[26], the President of the Republic of Zimbabwe E. Mnangagwa (January 2019).

Belarus intensively exchanged visits with other countries of the African continent. In July – August 2013, the first State Minister of foreign affairs of the Federal Republic of Nigeria V. Onvuliri paid a visit to Belarus. Meetings were held with the head of the Belarusian foreign ministry V. Makei and his deputy V. Rybakov. What is more, V. Onvuliri attended large industrial enterprises of Belarus (holding "Minsk Tractor Works"(MTW), OJSC "MAZ"), as well as the Belarusian State University.

In September 2014, the return visit to Nigeria of the Minister of foreign affairs of the Republic of Belarus V. Makei took place. The Belarusian delegation included representatives of a number of enterprises, including MAZ and MTW. During the meeting of V. Makei with the President of the Federal Republic of Nigeria G. Jonathan, the issues of enhancing bilateral ties in the political, trade-economic, military-technical and other fields were discussed[27].

In April 2016, the second round of Belarusian-Nigerian political consultations was held in Abuja with the participation of deputy foreign minister of Belarus V. Rybakov[28].

A regular dialogue is maintained between the foreign ministries of Belarus and the Republic of South Africa. The foreign ministers of Belarus visited this country in 2000, 2006, 2014[29].

The Minister of international relations and cooperation of South Africa N. Dlamini-Zuma paid a visit to Belarus in 2007 and in 2008. It should be added that in 2007 she was awarded the title of Honorary professor of the BSU. In September 2013, the Minister of international relations and cooperation of South Africa M. Nkoana-Mashabane had an official visit to Belarus[30].

In 2006, Belarus was visited by the Chairman of the South African National Assembly B. Mbete, in 2007 – the Chairman of the South African National Council of Provinces M. Mahlangu.

Our country was also visited by the king of the province of KwaZulu-Natal (1999), chief of Staff of the President of South Africa and Minister of arts, science and technology (2002), Minister of state enterprises (2006), Minister of mineral resources and energy (2007)[31].

Attempts to establish cooperation between the regions of the two states should also be taken into consideration. As part of the development of regional cooperation in 2015–2016, there was an exchange of visits between the Minsk region and the Free State province, and a memorandum on regional cooperation was signed[32].

Major economic events were often planned as part of the visits of high-ranking officials. Thus, during a visit to the Federal Democratic Republic of Ethiopia

[23]Embassy of the Republic of Belarus in the Arab Republic of Egypt [Electronic resource]. URL: http://egypt.mfa.gov.by/en/embassy/ (date of access: 09.09.2019) ; Embassy of the Republic of Belarus in the Federal Republic of Nigeria [Electronic resource]. URL: http://nigeria.mfa.gov.by/en/ (date of access: 16.09.2019).

[24]Embassy of the Republic of Belarus in the Arab Republic of Egypt [Electronic resource]. URL: http://egypt.mfa.gov.by/en/embassy/ (date of access: 09.09.2019) ; Embassy of the Republic of Belarus in the Republic of South Africa [Electronic resource]. URL: http://rsa.mfa.gov.by/en/embassy/ (date of access: 06.08.2020).

[25]Embassy of the Republic of Belarus in the Republic of Kenya [Electronic resource]. URL: http://kenya.mfa.gov.by/en/bilateral_relations/ (date of access: 01.05.2019).

[26]Президент Судана Омар аль-Башир прибыл с визитом в Беларусь [Электронный ресурс]. URL: https://ont.by/news/prezident-sudana-omar-al-bashir-pribyl-s-vizitom-v-belarus (дата доступа: 01.02.2020).

[27]Embassy of the Republic of Belarus in the Federal Republic of Nigeria [Electronic resource]. URL: http://nigeria.mfa.gov.by/en/ (date of access: 16.09.2019).

[28]Ibid.

[29]Embassy of the Republic of Belarus in the Republic of South Africa [Electronic resource]. URL: http://rsa.mfa.gov.by/en/embassy/ (date of access: 16.09.2019).

[30]Ibid.

[31]Ibid.

[32]Ibid.

(13–15 October 2014), deputy foreign minister of Belarus V. Rybakov, not only the first round of consultations between the foreign ministries of the two countries was organized, but also a business forum was held at the site of the Ethiopian Chamber of Commerce and Industry[33].

The Algerian People's Democratic Republic was visited by the Minister of defense (2002, 2005), the Minister of foreign affairs (2003), the Minister of industry (2018), a delegation of the Ministry of Agriculture and Food of the Republic of Belarus (2009)[34].

In 2003 the Minister of industry of Algeria visited Belarus. On 19–21 February 2018, for the first time in the history of bilateral relations, the foreign minister of Algeria visited our country.

The exchange of direct visits at the highest and high levels was complemented by bilateral meetings within the framework of international events. Although this mechanism of political dialogue was less costly, on the other hand, it was largely formal in nature, represented a short-term exchange of "diplomatic courtesies", served to create a "picture" of foreign policy activity, rather than for real agreements.

The annual sessions of the UN General Assembly have become a popular platform for meetings of high-level representatives. In September 2000, at the UN millennium summit, a meeting was organized between the president of Belarus and the president of Algeria. Also, in September 2015, at the 70th session of the UN General Assembly, A. Lukashenko met in New York with his Egyptian counterpart A. F. al-Sisi.

The Minister of foreign affairs of the Republic of Belarus and his colleagues also frequently used international platforms for working meetings. For example, the foreign ministers of Belarus and Angola met within the framework of the UN General Assembly in 2016[35], in September 2019, on the sidelines of this forum, a meeting was held between the foreign ministers of Belarus and Sudan[36].

With the aim of expanding its presence in the countries of the "far arc", including on the African continent, Minsk made a "non-standard foreign policy decision" to join the Non-Aligned Movement in 1998, which caused a surprise among its European partners.

At the Summit of the Non-Aligned Movement in September 2006, which took place in Havana, the Belarusian president met with his counterpart from Kenya U. Kenyatta[37]. The second meeting of the leaders of Belarus and Kenya was also organized in May 2017 at the international platform at the international forum "One Belt, One Road" (Beijing, China).

Participation in the activities of the Non-Aligned Movement gave a good reason for bilateral meetings of the official representatives of the partner countries. Thus, during the jubilee ministerial meeting of the Non-Aligned Movement in Belgrade, dedicated to the 50th anniversary of the organization, in September 2011, a meeting of the Minister of foreign affairs of the Republic of Belarus S. Martynov and Minister of state for foreign affairs of the Federal Republic of Nigeria V. Onvuliri. Deputy Minister of foreign affairs of the Republic of Belarus S. Aleinik met with Nigerian foreign minister V. Onvuliri within the framework of another summit of the Non-Aligned Movement in Sharm-el-Sheikh (May 2012)[38].

The Munich international conference on security issues, traditionally held annually in February, was rich in the meetings of the Belarusian foreign minister with the heads of the foreign affairs agencies of African countries. On the margins of the conference, in particular, the head of the foreign ministry of Belarus met with colleagues from Egypt (2015, 2017, 2018)[39], Kenya (2015)[40]. In February 2016, the foreign ministers of Belarus (V. Makei) and Ghana (H. Tette) held a meeting in Munich[41].

The Belarusian foreign ministry has repeatedly made attempts to interact with regional structures in Africa. Among the most important events in the Belarusian-Pan-African relations, one can single out the official visit to Belarus of the African Union delegation headed by the Chairman of the African Union Commission N. Dlamini-Zuma (21–24 April 2016)[42].

[33]Embassy of the Republic of Belarus in the Republic of Kenya [Electronic resource]. URL: http://kenya.mfa.gov.by/en/bilateral_relations/ (date of access: 01.05.2020).

[34]Embassy of the Republic of Belarus in the Arab Republic of Egypt [Electronic resource]. URL: http://egypt.mfa.gov.by/en/embassy/ (date of access: 09.09.2019).

[35]Embassy of the Republic of Belarus in the Republic of South Africa [Electronic resource]. URL: http://rsa.mfa.gov.by/en/embassy/ (date of access: 06.08.2020).

[36]Обзор итогов внешней политики Республики Беларусь и деятельности Министерства иностранных дел в 2019 году [Электронный ресурс]. URL: https://www.mfa.gov.by/publication/reports/d850d69242f0c67a.html (дата обращения: 10.04.2020).

[37]Embassy of the Republic of Belarus in the Republic of Kenya [Electronic resource]. URL: http://kenya.mfa.gov.by/en/bilateral_relations/ (date of access: 01.05.2020).

[38]Embassy of the Republic of Belarus in the Federal Republic of Nigeria [Electronic resource]. URL: http://nigeria.mfa.gov.by/en/ (date of access: 16.09.2019).

[39]Embassy of the Republic of Belarus in the Arab Republic of Egypt [Electronic resource]. URL: http://egypt.mfa.gov.by/en/embassy/ (date of access: 09.09.2019).

[40]Embassy of the Republic of Belarus in the Republic of Kenya [Electronic resource]. URL: http://kenya.mfa.gov.by/en/bilateral_relations/ (date of access: 01.05.2020).

[41]Embassy of the Republic of Belarus in the Federal Republic of Nigeria [Electronic resource]. URL: http://nigeria.mfa.gov.by/en/ (date of access: 16.09.2019).

[42]The President of the African Union Commission visits Belarus [Electronic resource]. URL: http://mfa.gov.by/en/press/news_mfa/a1c0cf699da83a40.html (date of access: 03.04.2020).

During the visit, the representatives of the African Union noted that Belarusian export goods may be in great demand in African countries. An agreement was reached to intensify cooperation in the fields of agriculture, industry, education, health protection, as well as in the field of joint fight against cross-border crime. They also discussed the initiative on the exchange of technological information for better realization of the potential of Belarusian exports in the African region and the creation of new forms of economic cooperation and the presence of Belarus in Africa.

As a result of the visit, a Memorandum of understanding was signed between the Ministry of Foreign Affairs of the Republic of Belarus and the African Union Commission, which envisaged the creation of a mechanism for political consultations as a basis for further expansion of comprehensive cooperation.

However, it is necessary to note that the chairman of the African Union Commission did not have meetings with the president and prime minister of Belarus, and the visit itself was not widely covered in the Belarusian official media, which, according to the authors of the work, was a signal of the fact that Minsk did not count on the real content of cooperation with the African Union, there was a certain disappointment in relation to prospects of cooperation with Africa.

During the aforementioned visit to Belarus (April 2016) of the African Union delegation headed by the Chairman of the African Union Commission N. Dlamini-Zuma, the interest of the representatives of African states in the development of cooperation in education and science was indicated. In order to study the prospects for cooperation, the delegation of the African Union visited the Belarusian State University, where they met with representatives of the academic circles of Belarus, in particular, with the dean of the faculty of international relations V. Shadursky. However, no concrete actions followed in this direction either.

As for the events with the participation of official representatives of Belarus and representatives of African trade and economic circles and business communities, we can mention the meeting of the president of the Republic of Belarus A. Lukashenko with the president of the Bank for Trade and Development of Eastern and Southern Africa A. Tadesse in April 2014.

Belarus continued to count on using the Memorandum of understanding between the Eurasian Economic Commission (EEC) and the African Union Commission (AUC) in the field of economic cooperation, signed on 24 October 2019, to expand cooperation[43].

As this study illustrates, the organization of visits, especially at the highest level, demanded serious financial expenditures, preparation and elaboration of possible areas of cooperation.

However, the official visits did not always meet the expectations for the active development of cooperation with African partners. For example, we can say that Belarus' plans on the development of dynamic cooperation with Mozambique did not come true. To be more specific, there were active political contacts at various levels with this state in 2013–2014. However, Belarusian exports to Mozambique, since 2014, have not exceeded 1.8 mln US dollars, and imports have been very insignificant[44].

As already noted, bilateral relations depended on many factors, primarily the unstable and unpredictable internal political situation in some African countries. For instance, the active development of dialogue with Libya in the 2000s, good personal and partnership relations of the leadership was interrupted by the overthrow of the leader of this country M. Gaddafi in 2011[45]. Political turbulence in this African country soon led to the closure (December 2014) of the Belarusian embassy in Tripoli, which opened in early 2001.

A similar situation has developed in relations with the Republic of Sudan, where, as indicated earlier, the head of the Belarusian state paid a visit in 2017, and president of the Sudan O. al-Bashir, paid a return visit to Belarus in December 2018[46]. However, the dismissal of O. al-Bashir from office in April 2019 led to a temporary suspension of the implementation of a series of joint projects and required Minsk to establish relations with the new leadership of Sudan.

It is important to state that most of the official events (visits, meetings at the highest and high levels) were usually timed to coincide with the signing or, as a rule, end with the adoption of final documents: memorandums, declarations, agreements, contracts, etc.

Expansion of the legal framework of relations between the Republic of Belarus and its African partners was indicated as a promising mission of Belarusian diplomacy. The legal framework of Belarus – Egypt bilateral relations is the most developed. It currently consists of 50 international treaties, including the Agreement on the basics of relations and cooperation, the Agreement on economic and scientific and technical cooperation, the Trade agreement, the Agreement on assistance to implementation and mutual protection of investments, avoidance of double taxation, cooperation in science, culture, technology, as well as the Agreement on co-

[43]The EEC and the African Union Commission signed a Memorandum of understanding [Electronic resource]. URL: http://www.eurasiancommission.org/ru/nae/news/Pages/24-10-2019-5.aspx (date of access: 16.02.2020).

[44]Embassy of the Republic of Belarus in the Republic of South Africa [Electronic resource]. URL: http://rsa.mfa.gov.by/en/embassy/ (date of access: 06.08.2020).

[45]У Беларуси и Ливии единство подходов к формированию справедливого многополярного мира [Электронный ресурс]. URL: http://president.gov.by/ru/news_ru/view/u-belarusi-i-livii-edinstvo-podxodov-k-formirovaniju-spravedlivogo-mnogopoljarnogo-mira-2874/ (дата обращения: 24.06.2020).

[46]Президент Судана Омар аль-Башир прибыл с визитом в Беларусь [Электронный ресурс]. URL: https://ont.by/news/prezident-sudana-omar-al-bashir-pribyl-s-vizitom-v-belarus (дата обращения: 01.02.2020).

operation in combating crime and on mutual legal assistance in criminal matters, the Agreement on cooperation and mutual assistance in customs matters[47].

The legal framework of relations with the Republic of South Africa includes intergovernmental agreements on trade and economic cooperation, on scientific and technical cooperation, on military-technical cooperation, on the avoidance of double taxation, as well as on visa-free travel on diplomatic and service passports, on cooperation in the field of culture and art. There is an Agreement on the establishment of the Committee for Trade and Economic Cooperation. Draft agreements on mutual legal assistance in criminal cases have been agreed and initialed[48].

Today, the legal framework of relations between the Republic of Belarus and African states is still at the stage of formation. At the same time, the pace of its development in relation to the African region lags behind the indicators characterizing the intensity of the formation of the regulatory and legal foundation with other regions of the world. For example, in 2019, our country signed 88 bilateral international treaties: with the CIS states (29), the states of Asia (25), Europe (14), Africa (6), North America (5), and South America (1)[49].

However, it can be said that the agreements concluded were not fulfilled in many respects. Partners were offered a standard set of actions, very often without country-specific considerations. The negotiations were mostly not conducted by specific executors of potential joint projects, but led by ministries and departments that do not know the specific details of the planned cooperation.

Economic and humanitarian cooperation

As already noted, the expansion of political and diplomatic contacts between Belarus and African countries had the main objective of *creating favorable conditions for increasing the volume of Belarusian exports*. More precisely, Belarus primarily focused on supplies of the production of a large machine-building complex to Africa.

Since the 2010s, the African region has started being considered as one of the most important areas of the "far arc" of Belarusian diplomacy, which was confirmed by ambitious plans to increase trade with this region[50].

The first Belarusian-African forum "Belarus and Africa: new horizons" (6–7 June 2017) was a notable event, which attracted a serious interest of representatives of African states. The event was attended by officials and representatives of business communities from over 20 African countries: heads of ministries, large companies and banks, businessmen. The delegation of partners was headed by the president of Afreximbank, Dr. B. Orama[51].

According to some parameters, the "three-thirds" Belarus export strategy was completed. As an example, we can cite foreign trade statistics in 2018, when our country approached the achievement of the goal of export diversification: the share of the EAEU in total exports was 41.2 %, the EU – 30.2 %, other countries – 28.6 %[52].

In the first half of 2019, the EAEU dimension dominated in the structure of Belarusian exports (including Russia – 40.3 % of all Belarusian exports), the share of exports to the EU dropped to 27.1 %. The rest of the export share fell on the countries of the "far arc", including African[53].

The economic hardships that the African region countries experience is a serious obstacle. One of the most problematic issues is the financial support of Belarusian exports – many African states are not able to pay for Belarusian products with "cash", despite the availability of significant raw materials.

From the practical results of this forum, one can single out the signing of the Framework agreement between the Development Bank of the Republic of Belarus and the African Export-Import Bank on 150 mln US dollars for the purchase of Belarusian commodities by African companies[54].

At the end of 2016, Belarusian exports amounted to 442 mln US dollars, or 0.05 % of total world exports to Africa, and exports of African countries to Belarus –

[47]Embassy of the Republic of Belarus in the Arab Republic of Egypt [Electronic resource]. URL: http://egypt.mfa.gov.by/en/embassy/ (date of access: 09.09.2019).

[48]Embassy of the Republic of Belarus in the Republic of South Africa [Electronic resource]. URL: http://rsa.mfa.gov.by/en/embassy/ (date of access: 06.08.2020).

[49]Обзор итогов внешней политики Республики Беларусь и деятельности Министерства иностранных дел в 2019 году [Электронный ресурс]. URL: https://www.mfa.gov.by/publication/reports/d850d69242f0c67a.html (дата обращения: 10.04.2020).

[50]Беларусь и страны Африки планируют нарастить товарооборот до $3 млрд к 2020 году [Электронный ресурс]. URL: http://www.belta.by/economics/view/belarus-i-strany-afriki-planirujut-narastit-tovarooborot-do-3-mlrd-k-2020-godu-251226-2017/ (дата обращения: 29.10.2019).

[51]Ibid.

[52]Обзор итогов внешней политики Республики Беларусь и деятельности Министерства иностранных дел в 2018 году [Электронный ресурс]. URL: http://www.mfa.gov.by/publication/reports/b7fe6b330b96c9b7.html (дата обращения: 29.03.2020).

[53]Foreign trade of Belarus in the first half of the year [Electronic resource]. URL: http://mfa.gov.by/export/ (date of access: 06.07.2020).

[54]Minsk hosted the first Belarusian-African forum [Electronic resource]. URL: https://export.by/news/the-first-belarusian-african-forum-was-held-in-minsk (date of access: 10.10.2019).

152 mln US dollars[55]. Despite such indicators, an ambitious goal was set – to bring the trade turnover between Belarus and African states to 3 bln US dollars by 2020. From the point of view of a range of experts, this is a complicated task, since the amount of 2–3 bln US dollars of Belarusian-African trade can be cumulatively collected over the past 10 years[56].

To make the presence of Belarus in African markets more efficient, the Belarusian side tried to move from a simple export of goods and services to more advanced forms of cooperation: the opening of representative offices of Belarusian companies and the creation of joint ventures.

An advantage of the development of economic cooperation was that the Belarusian interest coincided with the interest of the economies of most African countries due to the complementarity of the economies.

However, long-term investments in the economies of African countries were associated with significant risks due to the unstable political and socio-economic situation on the continent.

Despite all the obstacles, the Republic of Belarus is working on cooperation with African states in various sectors.

For example, assembly facilities of Belarusian tractors and trucks have been operating in North African countries for several years. There was a work on the creation of a joint manufacturing plant for "MAZ" (Belarusian enterprise that produces trucks) equipment with Algeria in 2019 [9]. Similar projects are being worked out in other countries: Nigeria, Ghana, South Africa, Zimbabwe, Ethiopia, Djibouti, Sudan[57].

In Nigeria, the process of creation of service stations and stores for spare parts has been launched by holding "MTW" (a Belarusian enterprise that produces tractors). It should be mentioned that in some regions of this West African country, Belarusian tractors have been operating since the 1980s. As a result, Belarusian products have been known in Africa since the USSR. At present, the Republic of Belarus seeks to create an assembly facility for Belarusian tractor equipment in Nigeria, which in the future will cover not only this African country but also a number of others – Ghana, Senegal, Cote d'Ivoire, Cameroon, Mali[58].

The first Belarusian mining dump truck (BELAZ) arrived in South Africa back in 1991. The supply of heavy-duty BELAZ dump trucks to the African continent has intensified since 2010. In 2013 Belarus exported 17 BELAZ mining dump trucks to South Africa, which are actively used in the mining industry of this country. Also, at the beginning of 2016, 3 dump trucks BELAZ-75139 were delivered to the Republic of Angola, and specialists and operators of the SATOSA diamond mining enterprise were trained by specialists from OJSC "BELAZ"[59] (Belarusian enterprise that produces mining dump trucks).

Currently, the commodity distribution network of Belarusian enterprises in the Republic of South Africa includes representative offices of OJSC "MAZ" and holding "MTW", the trading house of OJSC "Belshina" (Belarusian enterprise that produces tires), a dealer (certified service center) OJSC "BELAZ"[60].

In general, the export geography of OJSC "BELAZ" includes 12 African states[61]. The successful promotion of the Belarusian BELAZ dump trucks can be explained by their robust design, which makes it possible to operate even in the most difficult conditions, high reliability and efficiency of equipment, as well as low fuel consumption, compared to the analogues of manufacturers from other countries[62].

In March 2016, a representative office of OJSC "MAZ" was opened in Egypt. In 2018–2019, a series of joint projects in the field of mechanical engineering and scientific and technical cooperation were actively implemented on the territory of this North African country[63].

In East Africa, agreements were signed with Kenya (2019) on the construction of a reinforced concrete plant and a fish farm[64].

African states were also interested in other sectors of the economy, including the experience of Belarus in

[55]Minsk hosted the first Belarusian-African forum [Electronic resource]. URL: https://export.by/news/the-first-belarusian-african-forum-was-held-in-minsk (date of access: 10.10.2019).

[56]Сможет ли Африка заменить Белоруссии Россию? [Электронный ресурс]. URL: https://eadaily.com/ru/news/2020/02/22/smozhet-li-afrika-zametit-belorussii-rossiyu (дата обращения: 22.01.2020).

[57]Minsk hosted the first Belarusian-African forum [Electronic resource]. URL: https://export.by/news/the-first-belarusian-african-forum-was-held-in-minsk (date of access: 10.10.2019).

[58]Embassy of the Republic of Belarus in the Federal Republic of Nigeria [Electronic resource]. URL: http://nigeria.mfa.gov.by/en/ (date of access: 16.09.2019).

[59]Белорусская техника и продукты питания впервые представлены в Судане [Электронный ресурс]. URL: https://www.belinterexpo.by/about/news/belorusskaya-tekhnika-i-produkty-pitaniya-vpervye-predstavleny-v-sudane/ (дата обращения: 05.07.2020).

[60]Embassy of the Republic of Belarus in the Republic of South Africa [Electronic resource]. URL: http://rsa.mfa.gov.by/en/embassy/ (date of access: 06.08.2020).

[61]Белорусская техника и продукты питания впервые представлены в Судане [Электронный ресурс]. URL: https://www.belinterexpo.by/about/news/belorusskaya-tekhnika-i-produkty-pitaniya-vpervye-predstavleny-v-sudane/ (дата обращения: 05.07.2020).

[62]Карьерные самосвалы БелАЗ набирают популярность в ЮАР [Электронный ресурс]. URL: https://www.abw.by/novosti/commercial/159471 (дата обращения: 11.04.2020).

[63]Обзор итогов внешней политики Республики Беларусь и деятельности Министерства иностранных дел в 2019 году [Электронный ресурс]. URL: https://www.mfa.gov.by/publication/reports/d850d69242f0c67a.html (дата обращения: 10.04.2020).

[64]Ibid.

the field of agriculture, as well as the import of Belarusian weapons systems.

The dynamics of Belarus' foreign trade with African states is the most objective indicator of the effectiveness of the "economic diplomacy" strategy and demonstrates a set of patterns in the area of economic cooperation.

In general, it should be noted that statistics on trade and economic cooperation between Belarus and partner states in Africa are presented on the websites of the National Statistical Committee of Belarus (Belstat), as well as on the websites of Belarusian embassies in African countries.

Attention should be paid to the fact that the websites of the Belarusian embassies have more detailed information on trade and economic cooperation between Belarus and African countries for 2014–2019 than for earlier periods.

Relevant information on the trade and economic cooperation of the Republic of Belarus and its "reference points" in Africa is contained in tables 2–5.

Table 2

Dynamics of trade between the Republic of Belarus and the Arab Republic of Egypt in 2014–2020, mln US dollars

Year	Commodity turnover	Export	Import	Balance
2014	156.45	134.10	22.35	131.68
2015	186.34	98.01	88.32	9.69
2016	57.80	43.35	14.45	28.90
2017	97.46	76.12	21.34	54.78
2018	108.70	83.04	25.03	58.10
2019	142.37	116.46	25.88	90.60
January – November 2020	68.78	51.02	17.76	33.25

Source: data of the Embassy of the Republic of Belarus in the Arab Republic of Egypt[65].

Table 3

Dynamics of trade between the Republic of Belarus and the Federal Republic of Nigeria in 2014–2020, mln US dollars

Year	Commodity turnover	Export	Import	Balance
2014	27.40	20.90	6.50	14.40
2015	33.70	30.50	3.20	27.30
2016	19.30	10.10	9.20	0.90
2017	27.00	22.00	5.00	17.00
2018	38.80	31.00	7.80	23.20
2019	11.80	9.50	2.30	7.20
January – November 2020	6.18	4.17	2.01	2.16

Source: data of the Embassy of the Republic of Belarus in the Federal Republic of Nigeria[66].

Table 4

Dynamics of trade between the Republic of Belarus and the Republic of Kenya in 2014–2020, mln US dollars

Year	Commodity turnover	Export	Import	Balance
2014	17.00	13.80	3.20	10.60
2015	14.00	3.30	10.80	–7.50
2016	18.20	1.90	16.30	–14.40
2017	35.20	1.60	33.60	–32.00

[65]Embassy of the Republic of Belarus in the Arab Republic of Egypt [Electronic resource]. URL: http://egypt.mfa.gov.by/ru/embassy/ (date of access: 16.09.2019).

[66]Embassy of the Republic of Belarus in the Federal Republic of Nigeria [Electronic resource]. URL: http://nigeria.mfa.gov.by/en/ (date of access: 16.09.2019).

Ending table 4

Year	Commodity turnover	Export	Import	Balance
2018	49.40	3.10	46.30	–43.20
2019	42.90	3.80	39.10	–35.30
January – November 2020	38.07	5.49	32.58	–27.09

Source: data of the Embassy of the Republic of Belarus in the Republic of Kenya[67].

Table 5

Dynamics of trade between the Republic of Belarus and the Republic of South Africa in 2014–2020, mln US dollars

Year	Commodity turnover	Export	Import	Balance
2014	57.97	40.60	17.36	23.24
2015	129.77	7.02	122.74	–115.71
2016	9.63	3.28	6.35	–3.07
2017	16.76	9.25	7.50	1.74
2018	24.90	17.17	7.73	9.44
2019	26.79	14.51	12.27	2.24
January – November 2020	24.54	17.34	7.19	10.14

Source: data of the Embassy of the Republic of Belarus in the Republic of South Africa[68].

As follows from the statistics presented, the trade turnover with African countries had an *intermittent nature*. The increase in exports to Africa is unstable, uneven, inconsistent, and is associated with the signing of major contracts (often with the participation of the highest officials of states).

Secondly, the trade turnover was unbalanced. Most African states experienced insignificant imports to the Republic of Belarus with relatively high exports to these countries, which did not suit African partners. In addition to the data presented in the tables, trade with Angola can be taken as an example of such a situation. Belarusian exports to this African country in 2016–2018 amounted to 162.96 mln US dollars in the absence of information on imports[69]. On the other hand, in the case of, for example, Kenya, a negative foreign trade balance has been observed over the past several years[70].

To highlight the most sustainable and stable trading partners in the region, it is important to analyze the quantitative indicators of Belarusian exports to various African states in recent years. These indicators are reflected in figure.

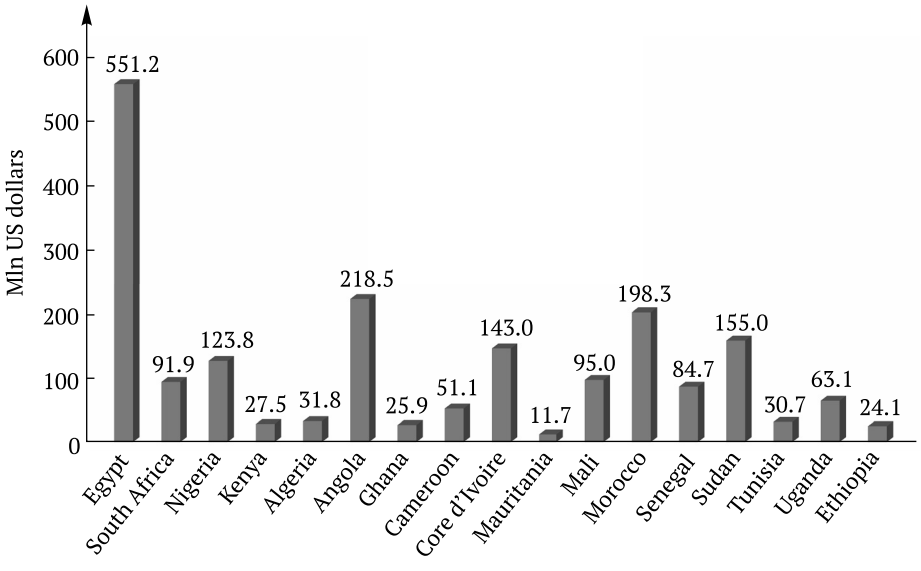
The figure shows 17 states – major trade partners of the Republic of Belarus on the continent. Less significant trading partners such as Mozambique, Libya, Tanzania and others are not represented. Exports to some countries, such as Zimbabwe, were quite volatile. For example, in January – November 2020, it amounted to more than 21.5 mln US dollars, which is 84 times more than in the corresponding period in 2019.

Obviously, the most significant partner in terms of Belarusian exports remains the Arab Republic of Egypt. Out of 1927.3 mln US dollars – the total amount of Belarusian exports to most African countries over 6 years (2014–2019), 551.2 mln US dollars or 28.5 % were exports to Egypt. Possible insignificant distortions in the general statistics for the period under review (2014–2019) do not affect the overall statistics of Belarusian exports to African states.

It should also be noted that the Belarusian export figures to certain African countries such as Angola, Morocco, Sudan, Cote d'Ivoire exceed those in South Africa, Nigeria, Kenya – the countries where the embassies of the Republic of Belarus are located. On the other hand, this situation can be explained by the implementation of a number of large contracts in various spheres (mainly in the military) in some African states during the analyzed period.

In general, there is a positive, albeit relatively unstable, dynamics of foreign trade of the Republic of Belarus with African states. Moreover, there is a tendency to an increase in the number of partner states to which Belarusian products are actively sold.

[67]Embassy of the Republic of Belarus in the Republic of Kenya [Electronic resource]. URL: http://kenya.mfa.gov.by/en/bilateral_relations/ (date of access: 01.05.2020).
[68]Embassy of the Republic of Belarus in the Republic of South Africa [Electronic resource]. URL: http://rsa.mfa.gov.by/en/embassy/ (date of access: 06.08.2020).
[69]Ibid.
[70]Embassy of the Republic of Belarus in the Republic of Kenya [Electronic resource]. URL: http://kenya.mfa.gov.by/en/bilateral_relations/ (date of access: 01.05.2020).



Export of the Republic of Belarus
to certain African states 2014–2019
Source: data of Belstat[71]

The Republic of Belarus has developed military-technical cooperation with African partners since 1990s. As a result military production became an important part of Belarusian exports to Africa. This is clearly visible from the example of Belarusian exports to certain developing states and regions, in particular, to Africa. It should be stated that after the collapse of the USSR in 1992, a certain surplus number of weapons remained on the territory of Belarus, which formed the basis of exports in the 1990s – 2000s to Africa and other regions of the world. Subsequently, Belarus began to export its own samples in the military sphere.

A similar situation was typical for our neighboring states in the post-Soviet space – Ukraine and Russia. Belarus had a certain degree of cooperation and competition with these countries in the supply of weapons systems to Africa.

As for the Russian Federation, it pursues in Africa not only economic but also geopolitical goals, through economic support of different African states, the export of weapons systems, the development of military-technical cooperation and sending of its military advisers[72]. In recent years, Russia has accounted for 35 % of all arms exports to Africa, which makes it the leader in this indicator [10]. However, some Western analysts explain the effectiveness of Russian military exports (as well as Belarusian ones) by the absence of any "moral and ethical" preconditions and requirements for their partners on the continent [10]. These requirements are democratic political regimes, respect for human rights and others.

It is noteworthy, that the export of military goods is a significant component of all Belarusian exports to the African continent. It is estimated that over the last 8 years Belarus has received about 500 mln US dollars in income from arms exports to Africa[73].

If we analyze the geography of Belarusian military exports to the African region, starting in 1992, we can say that initially the export was directed mainly to the Arab states of North Africa (as well as to the Middle East). In the late 1990s – early 2000s the Republic of Belarus has expanded the geography of arms exports, covering almost all regions of Africa.

Among other areas of military cooperation, one can single out consultations between representatives of the military departments of Belarus and African states, taking place in various formats. Also, Belarusian military personnel had limited participation in international peacekeeping missions in Africa[74].

It can even be assumed that there is potential for further expansion of military-technical cooperation.

Another promising area of Belarusian-African cooperation is education. Ever since the time of the BSSR, hundreds of students from African states of "socialist orientation" have studied in our country in higher education institutions, mainly in technical and medical specialties.

[71]Внешняя торговля [Электронный ресурс]. URL: https://www.belstat.gov.by/ofitsialnaya-statistika/realny-sector-ekonomiki/vneshnyaya-torgovlya/ (дата обращения: 06.08.2020).

[72]Russian journalists killed in Central African Republic [Electronic resource]. URL: https://p.dw.com/p/32PPa (date of access: 09.05.2020).

[73]Сможет ли Африка заменить Белоруссии Россию [Electronic resource]. URL: https://eadaily.com/ru/news/2020/02/22/smozhet-li-afrika-zametit-belorussii-rossiyu (дата обращения: 09.05.2020).

[74]*Синюк Е.* Куда направляются белорусские миротворцы [Электронный ресурс]. URL: https://news.tut.by/politics/257910.html (дата обращения: 14.03.2020).

Despite the collapse of the USSR, contacts in the field of education have been preserved and further developed at the present stage. Currently, African countries' citizens study at Belarusian universities and often choose humanitarian specialties. For example, at the Belarusian State University, most scholars from Africa study at the faculty of international relations and the Institute of business. There are also African students at the Minsk State Linguistic University.

If we take quantitative indicators, it can be noted that in the 2015/2016 academic year 547 Nigerian students studied at the universities of Belarus, and in 2017/2018 there were 600 students[75]. Moreover, the first students from this West African country appeared in Belarus in 1965[76]. Also, there were trained more than 130 Egyptian specialists with higher education and 29 candidates of sciences in Belarusian universities in 1991–2019[77].

Conclusion

Thus, the cooperation between Belarus and African states acquired real contours in the researched period. A specific system of bilateral and multilateral interaction in the political and economic domains has been formed. Contacts at the highest and high levels were developed, which were often carried out within the framework of international organizations such as the UN and the Non-Aligned Movement, etc. However, these meetings were of an irregular nature, their effectiveness in most cases depended not only on the existing similar positions and good personal relations between the leaders of the countries but most importantly on real opportunities for cooperation.

Belarus and its African partners set the objective of expanding the legal framework of relations, marking its importance. For example, it can be noted that citizens of some African states have the opportunity, under certain conditions, to use visa-free entry to the Republic of Belarus through the Minsk National Airport. Insufficient analysis by the Belarusian side of the specific situation in African countries remained a serious problem. It should be improved with consistent adoption of *country* cooperation strategies (programs) based on a comprehensive study. The absence of such programs and documents led to the fact that optimistic declarations made after official visits, widely voiced in the state media, did not lead to real results.

In the area of economic cooperation, it should be pointed out that Minsk is striving for various forms of cooperation with African partners. Cooperation was mutually beneficial, which can be explained by the complementary nature of economies. At the same time, African states were also interested in developing relations with Belarus through the EAEU, which is also beneficial to our country.

Belarus can also use the platform and format of the EAEU to create and expand the legal framework with large integration entities in Africa, such as the Southern African Development Community (SADC), dominated by South Africa, and the Economic Community of West African Countries (ECOWAS), where Nigeria plays a key role, and others. This will allow Belarusian exporters to gain access to the markets of a large number of countries on the continent.

Summing up the *overall results*, it is necessary to note that Belarusian exports to Africa were unstable, intermittent, and the task of increasing the Belarusian-African trade turnover to 3 bln US dollars by 2020 was not fulfilled. The key problem in this area was the financial provision of Belarusian exports. In order to solve these issues, the Belarusian side needs to elaborate flexible payment schemes, as well as use the principle of barter services.

Belarus paid little attention to the involvement of small and medium-sized businesses in cooperation with African partners. These businesses can work not only alone, but also more successfully as part of associations, consortia, etc. It is common knowledge that small enterprises can normally demonstrate greater flexibility in providing in-demand services and supplying scarce commodities to foreign markets. However, during official visits, holding large exhibitions and fairs, foreign partners were offered primarily interaction with large machine-building enterprises. Without denying this practice, it is necessary to significantly expand the range of participants in foreign trade events.

Military-technical cooperation has traditionally been a successful domain of interaction between Belarus and African countries. The geography of Belarusian military exports to Africa included 12 states of the continent, in the 2010s multimillion-dollar contracts were implemented with various partners.

Cooperation in the field of education, science, culture has developed since the BSSR period. Nowadays, students from several African states (mainly from Egypt and Nigeria) are studying in the higher educa-

[75]Беларусь – Нигерия: перспективы взаимодействия в сфере образования [Электронный ресурс]. URL: https://edu.gov.by/news/belarus--nigeriya-perspektivy-vzaimodeystviya-v-sfere-obrazovaniya/ (дата обращения: 08.02.2020).

[76]Embassy of the Republic of Belarus in the Federal Republic of Nigeria [Electronic resource]. URL: http://nigeria.mfa.gov.by/en/ (date of access: 16.09.2019).

[77]Embassy of the Republic of Belarus in the Arab Republic of Egypt [Electronic resource]. URL: http://egypt.mfa.gov.by/en/embassy/ (date of access: 09.09.2019).

tional institutions of our country. A dialogue is maintained between the Belarusian-African scientific communities (mainly with Egypt).

The constraining factors are the remoteness of the territory of Belarus from the African continent, the complexity of logistics, the high level of corruption in African states, and the difference in mentalities.

However, the presence of the aforementioned and other challenges does not reduce the prospects of the African dimension in Belarusian foreign policy.

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FOREIGN POLICY OF THE REPUBLIC OF BELARUS: MILESTONES AND PRIORITIES

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The article dwells on the main stages and evolution of the priorities of the foreign policy of the Republic of Belarus in 1990/91–2020. The author analyses the milestones of the foreign policy activity of the Belarusian state, reveals the evolution of the priorities (thematic and geographical direction areas) of its foreign policy over the years of independence. The author shows the fundamental changes in the international situation and foreign policy of Belarus that have taken place in recent years.

Keywords: Republic of Belarus; foreign policy; diplomacy; stages of foreign policy activity; priorities of foreign policy.

ВНЕШНЯЯ ПОЛИТИКА РЕСПУБЛИКИ БЕЛАРУСЬ: ЭТАПЫ И ПРИОРИТЕТЫ

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Рассматриваются основные этапы и эволюция приоритетов внешней политики Республики Беларусь в 1990/91–2020 гг. Дается характеристика этапов формирования и развития внешнеполитической деятельности белорусского государства, раскрывается эволюция приоритетов (первоочередных тематических и географических направлений) его внешней политики за годы независимости. Показаны фундаментальные изменения в международном положении и внешней политике Беларуси, которые произошли в последние годы.

Ключевые слова: Республика Беларусь; внешняя политика; дипломатия; этапы внешнеполитической деятельности; приоритеты внешней политики.

Introduction

The 30th anniversary of the existence of independent Belarus, which is celebrated in 2021, is a good occasion to sum up the country's development over the past years, to evaluate what its people and leadership have done both in the field of domestic and foreign policy. Throughout numerous research both in domestic and foreign schools a cardinal move was undertaking, important for familiarising the international expert community with our vision of the achievements and omissions in this area of the new state's policy, committed itself to the transition to independence after the collapse of the USSR. Other Belarusian and foreign experts have similar experience in the summarising the results, and some of them have published in-

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teresting and comprehensive works on the formation and development of Belarusian foreign policy during the years of independence [1–7].

The aim of this article is to present the main stages and priorities of the foreign policy of the Republic of Belarus in 1990/91–2020. The research objectives were, firstly, to provide both brief and informative description of the stages of the formation and development of the Belarusian state's foreign policy (relatively short time periods), and, secondly, to reveal the evolution of the priorities (thematic and geographical fields) of its foreign policy. Based on his previous publications in this field [8–9], the author would like to show the fundamental changes in the international situation and foreign policy of Belarus that started in recent years.

Regarding the research objectives, it should be noted that these changes are reflected in the fact that, first, we consider 2020 to be the beginning of a new phase in the history of Belarus' foreign policy and, secondly, the turbulence in the country and the reaction of the international community, especially the West, caused a reformatting of the foreign policy priorities of official Minsk. This is reflected in the fact that the Western vector, which includes relations with the European Union, the USA, the collective West in general which is heavily dependent on multilateral diplomacy, has been experiencing difficulties. The negative results of the exacerbation of relations with Western states are already visible, and it will take more than one year to "modernise" them. As for the second research task, we will try to outline the new configuration of foreign policy priorities.

On the main stages of Belarusian foreign policy

The issues of periodization in historical science and the science of international relations, although the latter has not yet developed in Belarus as an independent branch of scientific knowledge, are of great methodological importance. According to the Belarusian historian G. Saganovich, determination of historical periods is the highest stage of generalization in which "the highest form of a synthetic approach to history, so the most precise division of the historical process has always been an important task of classical historiography" [10, p. 4]. Historical periodisation is a form of quantitative and qualitative designation of historical development. The fundamental basis of any periodization is the criteria, the choice of which is determined both by the scientific qualification, and by the outlook of the researcher. As is well known, the idealization and absolutization of socio-economic criteria is limited and discredited the heuristic possibilities of Marxist formational periodization [11, p. 9–10]. The most common typological form of periodization is linear, which supposes dividing history into stages of equal scale and depth, each of which grows out of the previous one. The hierarchical form is expressed in the subordination of individual phenomena and stages of development, integral to a more general and complex process. Based on the above-mentioned methodological approaches to periodization, the author uses linear and hierarchical typological forms of periodization of this historical process in dividing the 30-year history of the foreign policy of the Republic of Belarus into shorter time periods.

Overall, the history of Belarus during the period of independence can be divided into two stages, depending on the type of political regime ruling the country. The first stage covers a short time period from 25 August 1991, when the independence of the Republic of Belarus was legally proclaimed, to 20 July 1994, when A. Lukashenko was elected as head of state in the first presidential election. It was the time of the existence of the parliamentary republic, when the country was led by the Supreme Council of the 12th convocation, convened in May 1990. It's legal powers came to an ended on 9 January 1996, when the Supreme Council of the 13th convocation commenced its work. During more than 5 years this Supreme Council, was chaired by three persons: N. Dementey (18 May 1990 – 25 August 1991), S. Shushkevich (9 September 1991 – 26 January 1994) and M. Grib (28 January 1994– 10 January 1996). S. Shushkevich, who became the head of the parliament and formally the head of state after the declaration of independence and served in office for 29 months, is the most personified representative of the parliamentary republic.

The second stage in the history of the Republic of Belarus began on 20 July 1994 with the inauguration of the president of the state A. Lukashenko and continues to this day. This is the 27-year period of a presidential republic or presidential rule. Due to the relatively long period of A. Lukashenko's power, there is a tendency in the Belarusian, especially official, and partly foreign, popular and even scientific literature to equate his presidency with the entire existence of the Republic of Belarus. Such statements, if keeping in mind the proposed periodisation, seem incorrect.

In accordance with the above-mentioned periodization of the history of the Republic of Belarus, the history of its foreign policy is also divided into two stages: the foreign policy of the parliamentary republic and the foreign policy of the presidential republic. Given its short-term nature and organic integrity, the parliamentary period is not divided into shorter time periods. The main content of this incomplete three-year period of time is the process of international recognition of the Republic of Belarus, its entry into the international arena as an independent state, and the expansion of Belarus activity in the international arena given its new state and political status. The absolute priority of this period was the concentration of efforts

on the development of relations with the CIS countries, primarily with Russia, and with the developed countries of the West. Belarus' contribution to the strengthening of international security in connection with its voluntary renunciation of its nuclear status and accession to other international agreements in the field of disarmament was extremely important and generally recognized [3, p. 30–34, 177; 4, p. 47; 5, s. 10–11; 7, s. 29–58].

The 27-year presidential period in the foreign policy history of the sovereign Belarus needs further temporal division, which we divide into four stages. *The first covers 1994–1999*. This is a five-year period (piatiletka) of an "active integration policy" with Russia. The stage begins with the coming to power of president A. Lukashenko, who proclaimed integration with Russia as one of the key elements of his election program, and ends with two major events: the signing of the Belarusian-Russian treaty on the creation of the Union State on 8 December 1999 and an even more important event that occurred on 31 December 1999, the change of the president of the Russian Federation, which meant the end of the previous integration policy pursued by president B. Yeltsin.

These years are also a time of strengthening the Eastern vector of the Belarusian state's foreign policy through the creation of closer integration associations with the Russian Federation and other CIS countries, while curtailing political dialogue with Western countries (at their initiative) and expanding cooperation with the countries of Asia, Africa and Latin America. During this period the Republic of Belarus disposed of nuclear weapons, compensating for its absence by expanding military and military-technical ties with Russia. At the same time, it became closer to the countries of the Non-Aligned Movement, and in 1998 became a full-fledged member of this association. The new political realities required the definition of new foreign policy principles and priorities, which were done by adopting a multi-vector policy as the foreign policy strategy of the Belarusian state [3, p. 177–178; 5, p. 99–164].

The second stage of the Belarusian president's foreign policy activity covers 2000–2014, and it can be conditionally called the time of conducting a "multi-vector policy". The term "multi-vector policy" was first mentioned in A. Lukashenko's speech at the First all-Belarusian congress on 19 October 1996, who said: "Taking into account our geopolitical situation, only a multi-vector, balanced foreign policy can be effective"[1] [12, p. 82]. Later on, the term "multi-vector policy" was interpreted in the speeches of the Belarusian president and other leading figures, and after them in the works of Belarusian and Polish researchers (A. Tikhomirov, E. Mironovich, R. Czachor) as one of the key principles of Belarusian foreign policy [3, p. 35–36, 178; 5, s. 165–172; 7, s. 147–151]. The author is more inclined to consider the multi-vector policy as a foreign policy strategy of official Minsk in 2000–2020 including the second and third stages of the foreign policy of the first president of the Republic of Belarus.

The second stage ended with the beginning of the Russian-Ukrainian conflict in 2014, which marked the opening of a new period in the history of European and even more broadly international relations after the end of the Cold War. In the following years, the sovereign status of Belarus was consolidated and a multi-vector foreign policy began to be persued, with understanding a unilateral foreign policy orientation does not correspond to the geopolitical situation and national interests of Belarus. The country has acquired the features of a geopolitical entity capable of independently determining and implementing its foreign policy. The characteristic features of Belarus' foreign policy during this period were balancing between the European and Eurasian political, economic and military space, the desire to create a "belt of neighborhood" in Europe, and active cooperation aimed at building relations of "strategic partnership" with the countries of the "world South" [13, p. 40–41].

From 2014 to August 2020, the third stage of the foreign policy activity of the first president of the Republic of Belarus continued, which is naturally difficult to define briefly and meaningfully based on the recent traces of historical events and processes. The author calls it a time of flexible, balanced and independent foreign policy. At the third stage, the multivector policy, understood as the desire to weaken excessive dependence on the Eastern vector (the Russian Federation), began to acquire more real and adequate features and come closer to its real meaning of this word, understood as a balanced development of relations with all geographical vectors of the state's foreign policy. The process of gaining national and international identity of Belarus was underway. The search for the country's own face on the international arena stretched and went very slowly, taking into account three decades of independent existence. The international team of authors of the book "Belarus at the crossroads", edited by two well-known US political scientists R. Legvold and S. Garnett, wrote about the country's search for an international identity back in 1998 [14].

In his speeches and articles, foreign minister V. Makei repeatedly addressed the issue of strengthening the national and international identity of Belarus and the need to conduct foreign policy in accordance with the national interests of the state. In an interview with "The Washington Post" (2015), he said that the Belarusian identity has not yet been fully formed and that in the past, Belarusians have lived in the shadow of large nations for too long, bearing in mind the common and not always the most rosy history with Poland and Russia. As a nation, Belarus is in search of

its identity and "sooner or later, Belarus will find its place, a worthy place in the European family, and will always be a source and donor of stability for all partners, and not a source of any conflicts"[2]. In a speech to the staff, teachers and students of the Belarusian State University on 24 December 2019 V. Makei emphasized the priorities of the modern foreign policy of Belarus, identified the principle of multi-vector nature and the diversification of foreign policy and foreign economic relations as vital conditions for the development of Belarus[3]. In the development of relations with Russia, the need to reduce Belarusian trade and economic dependence and defend national and state interests in the process of integration and union building was emphasized[4].

The third stage of Belarus foreign policy activity under the rule of the president A. Lukashenko differs from the previous one by its more consistent and successful multi-vector policy course. Whereas during the second stage the official Minsk had to go through two crisis vis-à-vis the West (2004–2006 and 2010–2012), then third 6 years stage characterized as the most successful period in the history of the presidential republic foreign policy. Western sanctions were lifted, Belarus offered a venue to discuss the settlement the of conflict in the Eastern Ukraine, hosted a set of important international forums (the Normandy Four summit, annual session of the OSCE Parliamentary Assembly), skillfully balancing between Moscow and Brussels, built up the engagement with China and other key players and regions of "far arc", implementing an active economic diplomacy.

In August 2020, relations between official Minsk and neighboring states (Poland, Lithuania, Latvia, Ukraine) and the collective West as a whole, became strained. Russia sided with the president of Belarus, providing political, diplomatic, economic and informational support [15; 16]. The events in and around Belarus have become an important international issue and are reflected on the agenda of international organizations (EU, OSCE, UN). The Belarusian leadership denounced these attempts of "external interference aimed at undermining the state order". This is how V. Makei expressed himself in his speech at the 75th session of the UN General Assembly on 26 September 2020[5].

Experts of the Minsk Dialogue Council on Foreign Relations believe that the situation in Belarus has affected the country's achievements in the international arena and would have consequences for regional security[6]. In order to remedy the situation, scholars suggest resuming the political dialogue between Minsk and the West. In the Belarusian-Russian relations, Moscow and Minsk need to come to correct and adequate understanding of the two foreign policy concepts of Belarus – multi-vector and integration ones, which requires a better understanding between experts and officials[7].

It can be assumed that the events of 2020 would lead to a change in the foreign policy strategy of Minsk.

The periodization of the history of the foreign policy of president A. Lukashenko uses a linear principle when one stage is chronologically replaced by the other. To study the development of relations between Belarus and the West, it is advisable to apply the linear and hierarchical principles, as the latter reflects subordination, i. e. subjection of a part to the whole.

Through the prism of Belarus-West relations, the history of the foreign policy of independent Belarus can be divided into two stages: *the first (1991–1996)*, characterized by the progressive and ascending development of relations with Western states; *the second, which began after the constitutional referendum of 24 November 1996*, which was not recognized by Western states and international organizations (OSCE, Council of Europe, European Union), is characterized by the lack of normal and stable relations with the Western community [17]. At this stage, which continues with ups and downs at the present time, the collective West (the EU member states, the United States, Canada, Japan and other countries close to them in terms of foreign policy orientation) conducts a policy towards Belarus, called "critical dialogue", selective engagement and other expressions meaning various kinds of restrictions, sanctions and pressure measures. Minsk's relations with the West after November 1996 had cyclical character with aggravation periods in 1996–2001, 2004–2006, and 2010–2012. Regular crises were associated with the reaction of the West to do-

[2]Стенограмма интервью министра иностранных дел Республики Беларусь Владимира Макея газете "The Washington Post" (19 мая 2015 г., Минск) [Электронный ресурс]. URL: http://mfa.gov.by/press/news_mfa/f68c86282662364f.html (дата обращения: 10.01.2021).

[3]О встрече министра иностранных дел Беларуси В. Макея с профессорско-преподавательским составом и студентами Белорусского государственного университета 24 декабря 2019 г. [Электронный ресурс]. URL: https://mfa.gov.by/press/news_mfa/ad69cc0356b8c1fe.html (дата обращения: 10.01.2021).

[4]According to author's record of the V. Makei's speech.

[5]Выступление министра иностранных дел Республики Беларусь В. Макея на общей дискуссии 75-й сессии ГА ООН 26 сентября 2020 г. [Электронный ресурс]. URL: https://www.mfa.gov.by/press/statements/a5deed18005a9ef9.html (дата обращения: 10.01.2021).

[6]Белорусский кризис: контуры неопределенности в региональной безопасности [Электронный ресурс]. URL: https://minskdialogue.by/Uploads/Files/research/non-papers/pdf/ФМД2020_Рабочий%20документ.pdf (дата обращения: 10.01.2021).

[7]Ibid.

mestic political events in the country (constitutional referendums and presidential elections), which were not recognized as legitimate and fair [3, p. 129–149; 7, 166–180, 208–214; 17].

Concluding the issue of periodization, we note that the allocation of the stages of the parliamentary and presidential republics in accordance with the foreign policy content of the four stages in the development of Belarusian foreign policy allows us to draw a more meaningful picture of the country's foreign policy history during the period of independence. This generalization would help to better understand the peculiarities of the formation of the foreign policy of the Belarusian state.

Evolution of foreign policy priorities

Foreign minister P. Kravchenko first outlined Belarus' foreign policy priorities in detail in his address to the 46th session of the UN General Assembly on 26 September 1991. They were formulated in the form of the following eight provisions:

1) Belarus' achievement of real independence and sovereignty;

2) cooperation with other republics of the USSR and creation of a single economic space and a new union of sovereign states;

3) mobilization of international support in solving the Chernobyl problem;

4) making Belarus a nuclear-free zone and a neutral state;

5) incluzion of the Republic of Belarus in the pan-European process;

6) creation conditions for the establishment of a market economy in the republic;

7) ensuring environmental safety;

8) ensuring free interaction of cultures.

It was stated from the rostrum of the UN, that the basis of the state's foreign policy was the vital interests of the Belarusian people [18, p. 276–285]. P. Kravchenko's speach can be considered the first conceptual statement of the goals, objectives and priorities of the foreign policy of the Republic of Belarus at the stage of gaining independence. The minister himself later called his speech as the first foreign policy doctrine of independent Belarus [19].

During the years of the parliamentary republic (1991–1994), Minsk's foreign policy priorities were aimed at achieving a nuclear-free and neutral status of Belarus and "returning to Europe". During the first two years of his rule, president A. Lukashenko repeatedly spoke in favor of a balanced and pragmatic approach to the conduct of foreign policy. After the constitutional and political crisis of 1996, two opposing, but at the same time interrelated and mutually dependent vectors developed in foreign policy: integration with Russia and confrontation with the West [3, p. 34–35; 7, p. 68–82].

In the late 1990s, seeking to balance the Russian vector, the Belarusian president proclaimed a course for a multi-vector foreign policy. This was reflected in the activization of relations with the countries of Asia, Africa and Latin America and in the country's entering to the Non-Aligned Movement. In December 2000, foreign minister M. Khvostov named six foreign policy priorities for that year:

1) developing relations with Russia within the framework of building a Union State;

2) ensuring Belarusian interests in the Euro-Asian Economic Community;

3) targeted work in the CIS;

4) strengthening the "belt of good neighborliness" around Belarus;

5) restoration and developing relations with the EU and other European institutions;

6) restoration of trust in relations with the United States [9, p. 21].

It can be said that these priorities were relevant not only for 2001, but for the entire first decade of the new century. A number of them, especially in the Western direction, remain on the agenda of Belarusian foreign policy and diplomacy today.

Between 2014 and early 2020 there was a certain revival in relations with the West, but neither Minsk nor the Western capitals counted on a serious improvement, since this would have required a significant change in the internal policy of president A. Lukashenko, which seemed unlikely, including to the author. This was confirmed by the events that took place in and around Belarus after the 2020 presidential election.

At the beginning of 2020, according to the Ministry of Foreign Affairs of the Republic of Belarus, the priority directions of the foreign policy of the Republic of Belarus focused on a number of the most important and promising vectors:

1) first and foremost, naturally, were the neighboring states, primarily, the Russian Federation, where strategic cooperation was built on the basis of the Treaty on the creation of the Union State. Belarus has taken an active and constructive stance in the uniting entities in the post-Soviet space (the EAEU, the CIS and the CSTO);

2) the European Union, based on trade, economic and investment cooperation, as well as its member countries;

3) despite the difficult relations with the United States of America, Belarus has consistently advocated the normalization of dialogue and the development of relations with this large and influential country in the world today;

4) comprehensive strategic partnership relations with the People's Republic of China are highlighted as a separate priority;

5) it was noted that cooperation with the countries of "far arc" of the Belarusian foreign policy (Asia, Afri-

ca and Latin America) are reaching a qualitatively new level;

6) multilateral diplomacy is an important area of Belarusian foreign policy.

As a donor of regional security, Belarus strives to contribute to solving global problems, countering modern challenges and threats, traditionally actively participates in the activities of the UN and other international organizations, generates approaches and initiatives that offer an agenda that unites all members of the international community, promotes dialogue and overcoming dividing lines[8].

The priorities of the foreign policy of the Republic of Belarus have changed significantly over the years of independence, which was quite natural for a young European state. They have undergone a natural evolution from 8 directions in 1991 to 6 in 2020. In general, the priorities of the foreign policy adequately reflected the national interests and especially the foreign economic needs of the Belarusian state, its desire to develop balanced relations with the main actors in the international arena. Being a tightly integrated part of the Soviet national economic complex and subsequently integrated into the international system after the collapse of the USSR, Belarus was forced to focus more than other former Soviet republics on relations with post-Soviet states, especially and primarily with Russia. These reasons explain the priority development of Minsk relations with Russia, the countries of the EAEU, the CIS and the CSTO. In addition to economic, cultural and humanitarian considerations, geopolitical and military-strategic calculations were of great importance for Belarus and its main foreign policy partners in the East and West. They pointed to Minsk's strong dependence on Moscow including but not limited to security matters and the inclusion of Belarus in the sphere of vital interests of Russia. On the other hand, as the director of the Institute of Europe of the Russian Academy of Sciences A. Gromyko points out that Russia also depended on Belarus in terms of geopolitics and military strategy, since Belarus remained virtually the only ally of Russia in the Western direction [15, p. 4].

The Belarusian establishment, both during the parliamentary republic and during the presidency of A. Lukashenko, could not ignore the role of the Western foreign policy vector, represented by Poland, the Baltic states, and other more distant EU and NATO states. This was also due to the "frontline" location of Belarus, its deep economic, cultural and civilizational ties with the West. After the breakthrough to Europe in the first half of the 1990s, relations with the Western world froze for a quarter of a century, interrupted only by short periods of warming. In the policy of Minsk, the Western vector was characterized by economic pragmatism, which prevailed over a full-blooded political and diplomatic dialogue. The domination of the integration policy with Moscow and the strained relations with the West led to the search for a third way in Belarusian foreign policy and diplomacy.

This path was found and was called a multi-vector foreign policy. In the 2010s, the concept of multi-vector nature was supplemented by the foreign economic thesis on the balanced development of foreign trade ("three-thirds"). This meant a strategic course for the balanced development of economic relations between the three main partners of Belarus – Russia, the EU and the countries of the "far arc" (Asia, Africa and Latin America). However, visible progress in this direction was not achieved due to the complexity of the issue, as well as unfavorable changes in world politics and the economy (the Russian-Ukrainian conflict, sanctions wars, trade protectionism, the coronovirus pandemic). In 2019, Russia and the EAEU countries counted for over 50 % in Belarusian foreign trade, the EU for about 23 and the "far arc" for 27 %[9].

The political situation in the country in August 2020 highlighted the political and socio-economic system of Belarus over-dependence on Russia. The Belarusian president could count on V. Putin's support in his efforts to overcome the situation, which could not but increase Minsk's dependence on Moscow.

Conclusion

The 30-year experience of independent existence shows that the Republic of Belarus, like other post-Soviet states, remains its difficult, contradictory process of formation as a new independent European state. The process of formation of the Belarusian foreign policy following on as well. The country has made a significant and recognized contribution to the strengthening of international and European security and to the disarmament, becoming the first state in the world to voluntarily renounce nuclear weapons. The country stepped forward in a good-neighborly relations building with the surrounding countries, integration ties with post-Soviet countries are developing, and strategic partnership with some large and influential states (Russia and China). The Republic of Belarus has secured the status of a sovereign state. Its foreign policy, focused on protecting security and ensuring freedom of action on the world stage, has become more pragmatic, and the activities of the Belarusian diplomacy made significant advances.

[8]Priorities of the foreign policy of the Republic of Belarus [Electronic resource]. URL: http://mfa.gov.by/foreign_policy/priorities/ce125a07988a666c.html (date of access: 15.01.2021).

[9]Calculated from general information: directions, tasks, results for the current period source [Electronic resource]. URL: https://mfa.gov.by/en/export/foreign_trade (date of access: 10.01.2021).

Along with the achievements, the shortcomings and omissions of the Belarusian foreign policy were identified, especially from the second half of the 1990s.

Opportunities of a multi-vector foreign policy have not been fully implemented. The CIS countries (primarily Russia) remained the main focus of its foreign policy, and the countries of the European Union remained on the other hand the main foreign policy areas. However, the political dialogue with the EU and the United States has been rather limited economical. Among the countries of the "world South", the Belarusian side was able to significantly expand contacts only with China. Often, the absence of problems in relations with these countries at the political level was not supported by a significant increase in economic cooperation.

The imperative remains the formation of the national and international identity of Belarus as a self-sufficient European state, as well as the weakening and in the future overcoming of harmful historical and political traditions that condemn Belarus to a dependent existence on its stronger neighbors. Such a path suggests the development and implementation of a real multi-vector strategy and the achievement of an optimal balance in foreign policy through the harmonious development of the Eastern and Western vectors.

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ENERGY FACTOR IN ITALY'S POLICY IN THE MEDITERRANEAN AND IN THE MIDDLE EAST

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The article examines Italy's attempts to implement a number of tasks of its energy strategy through foreign policy tools in the traditionally important for this country the Mediterranean and the Middle East region. It has been predicted that the importance of this region (including the South Caucasus) for Italian geopolitical interests in the coming years will increase even more because of the taken governmental course to diminish coal consumption, as well as the need to diversify the channels of natural gas supply to the country, taking into account the reduction in gas production by the Netherlands and interruptions in gas supplies from Russia.

Keywords: Italy; Italian foreign policy; Mediterranean; energy; Transadriatic gas pipeline; Eastern Mediterranean gas pipeline; Poseidon; Libya; "Iranian dossier"; South Caucasus.

ЭНЕРГЕТИЧЕСКИЙ ФАКТОР В ПОЛИТИКЕ ИТАЛИИ В СРЕДИЗЕМНОМОРЬЕ И НА СРЕДНЕМ ВОСТОКЕ

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Рассматриваются попытки Италии реализовать ряд задач своей энергетической стратегии посредством инструментария внешней политики в традиционно значимом для нее регионе Средиземноморья и Среднего Востока. Прогнозируется, что значение данного региона (включая Закавказье) для итальянских геополитических интересов в ближайшие годы возрастет в связи с курсом на отказ от каменного угля как источника энергии, а также необходимостью диверсификации каналов поставок природного газа в страну с учетом сокращения добычи газа Нидерландами и перебоев с поставками газа из России.

Ключевые слова: Италия; внешняя политика Италии; Средиземноморье; энергетика; Трансадриатический газопровод; Восточно-средиземноморский трубопровод; Посейдон; Ливия; "иранское досье"; Закавказье.

Introduction

Globalization associated with deepening of the economic interdependence of the countries, of course not excluding the fuel and energy sector, gives additional weight to such factors within international relations as energy security, search for stable and reliable channels of energy supplies and building of strategic cooperation in the mentioned fields (where purely economic interaction often predetermines interests in other dimensions of cooperation, even those of military sector). In this context, the example of Italy is very relevant and interesting for analysis.

The aim of the present article is to examine Italy's attempts to implement a number of tasks of its energy strategy through foreign policy tools in the tradi-

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tionally important for this country Mediterranean and Middle East region[1]. 2017–2020 are chosen to be the chronological frames of the present work: from the adoption of the National energy strategy of Italy[2] to a significant slowdown of diplomatic activity of the 2nd government of G. Conte (the so-called Conte-2) due to the COVID-19 pandemic in the spring of 2020.

Some researchers have already examined the economic aspect (including the energy sector) of Italy's relations with the countries of the mentioned region regarding more distant periods: in particular, this was done by A. Farrar-Wellman in the article "Italy – Iran foreign relations" [1], by M. Colombo in the article "Italy – Egypt. Risks and opportunities of strategic partnership" [2], by L. Ruggiero in the report "Renewable energy sources and the European-Mediterranean partnership after the "Arab spring"" [3], by M. Villa in the essay "In for the long haul: Italy's energy interests in Northern Africa" [4].

Certain aspects of the research subject relatively to the period which corresponds to the chronological framework of the present article have been analyzed by Italian energy experts G. Zapponini, G. Mancini, A. Belotto and L. Vita, some of whose research results are cited below by the author.

When writing the work, the author has also used data from the open media sources in Italian and in English – first of all, such as the newspapers La Repubblica, Il Sole Ventiquattro Ore, as well as RAI News Channel, the Reuters News Agency, AGI, and besides, the websites of Bloomberg, Corriere Quotidiano, Intercept and some others.

As a valuable help to the research, I should mention the information released at the official websites of the Ministry of economic development of Italy, of the Italian small and medium enterprises confederation "Confartigianato", as well as references and analytical materials from the current archive of the Embassy of the Republic of Belarus to Italian Republic, which usually summarize the information obtained from the open sources (mainly the media of the host country).

Parameters of the fuel and energy balance and the hydrocarbon logistics of Italy as a prerequisite for developing a strategy for regional energy interaction

Due to obvious geographical reasons, Italy is a country which, first, is exclusively dependent on external energy sources, and second, has got one of the highest energy cost rates in Europe.

In recent years, the balance of energy consumption in Italy is as follows: about 75 % is accounted for hydrocarbons (35 % for oil, 32 % for natural gas, 8 % for coal), 19 % – for renewable sources, 6 % – for imported electricity. At the same time, Italy imports 94 % of consumed oil and 70 % of natural gas. 76 % of the gross energy consumption in Italy comes from imports[3].

At the end of 2019, the main exporters of crude *oil* to Italy were Iraq (19.3 %), Azerbaijan (16.8 %), Russia (14.1 %), Libya (12.2 %), Saudi Arabia (8.1 %), Kazakhstan (7.5 %), Nigeria (6.5 %), Angola (2.4 %), USA (2.1 %) and Egypt (1.9 %). Thus, over 58 % of imported oil comes from the countries of the Mediterranean and the Middle East, and in 2018 this share was even higher due to supplies from Iran, Kuwait and Mauritania, which were later discontinued [5].

Italy is one of the largest importers of natural *gas* in Europe (about 70 bln m^3 annually)[4]. Its main gas suppliers are Russia (39.5 %), Algeria (28 %), Qatar (10 %), Libya (6.7 %), Norway (4 %) and the Netherlands (about 2 %). Thus, the Mediterranean and Middle East region provides over 44 % of Italian gas imports [6].

Foreign dimension of Italy energy strategy nowadays

In November 2017, the Italian Council of Ministers, after a lengthy analytical work and discussions within ministries, scientific centers and industrial agencies, adopted the key document called "National energy strategy" (hereinafter – the Strategy)[5], in which an attempt was made to identify main forecasts and vectors of development of the country's energy sector until 2030.

The tasks formulated by the Strategy appear to be vectors of foreign policy and foreign economic tactics of both official Rome and Italian business (primarily public, but indirectly also private) in the researched region.

Thus, by 2030, it is planned to bring the share of renewable energy sources to 28 % in the fuel and energy balance of Italy. To ensure energy security, the task is to manage the variability of flows and peak demand for gas by means of diversification of sources and supply routes, taking into account the complicated geopolitical situation in the countries from which it is imported, as well as the growing integration of European markets[6].

[1]Italian researchers often refer South Caucasus area to the named region as well.
[2]Strategia Energetica Nazionale [Electronic resource]. URL: https://www.mise.gov.it/images/stories/documenti/Testo-integrale-SEN-2017.pdf (date of access: 18.06.2020).
[3]Ibid.
[4]Ibid.
[5]Ibid.
[6] Ibid.

Worldwide, natural gas consumption is expected to grow by 1.5 % by 2030 (due to a reduction in oil and coal consumption); the global liquefied natural gas (LNG) market will become increasingly liquid with a doubling of trade by 2040 and a possible decline in prices[7].

As a political task, it is specified the ambition of abandoning the use of coal for electricity production in Italy before 2025[8].

Since 2018, the reorganization of the Italian electricity market system has been launched with a goal to create the most profitable channels for the supply of natural gas, also by imposing new schemes of cooperation with foreign states. This considers the forecast that gas will continue to play a key role in the country's energy balance, in parallel with the increase in the share of renewable sources, but at the same time, it is necessary to deal with a more predictable and flexible market.

For this, it is necessary to significantly diversify procurement by optimizing the use of existing and the development of new elements of connecting infrastructure, as well as improving the flexibility of sources, upgrading the routes safety limits, coordinating national emergency plans and including the measures of solidarity with other EU countries[9].

Nowadays, Italy imports over 60 mln tons of crude oil per year[10]. The Strategy notes that the demand for petroleum products gradually decreased in 2005–2015 due to the transformation of a number of oil refineries into biorefineries and storage facilities. The goal by 2030 is to reduce the consumption of petroleum products by 13.5 mln tons of oil equivalent compared to 2015[11].

The increase of productions at large refineries in the Middle East and Central Asia (often located near production sites) makes large volumes of medium distillates available in the Mediterranean at very competitive prices, which causes an increase in imports from these regions while displacing European petroleum products[12].

It is also taken into account that oil markets remain extremely volatile and, as a rule, sensitive to geopolitical tensions in the Middle East, also due to constant confrontation between Saudi Arabia and Iran (the latter fully returned to the market in 2016, but then was again removed from it by the US sanctions in 2019) amid the seen recovery of the US crude oil exports.

Having analyzed the moments of concern arising from the interruption of oil supplies by traditional Italian exporting countries due to past arrests or restrictions on oil imports from Libya (previously this country had been the first crude oil supplier to Italy, with more than 20 % of total imports) and Iran, the Strategy states that the Italian crude oil import system has proved to be flexible enough to respond even to sudden interruptions in imports from different countries. This suggests that in terms of crude oil imports in the near and medium terms, there would be no serious threats to the national energy security[13].

Oil and petroleum products, although being subject to a progressive decrease in demand by 2030 (an expected decrease in gross consumption between 2015 and 2030 by is about 12 mln standard tons), will still continue to play a fundamental role as a source of energy in Italy in the coming decades[14].

A balanced approach that takes into account environmental goals, competitiveness and security factors is even of more drastic need when considering the changing international context which requires an energy strategy that is resilient to geopolitical changes and allows Italy to improve its own competitiveness at the international level, as well as to keep going along the path of gradual decarbonisation[15].

The issues of safety and sustainability of the gas supply system will also remain a priority for Italy in the coming years. To this end, Rome is being actively involved in the EU's evaluation of the construction of new gas pipelines, which would make it possible to be connected to new sources, as well as to reduce the share of Russian gas imports – one of the instruments of the implementation of the above-mentioned goals is the introduction of the Southern gas corridor in order to import Azerbaijan gas through the Transadriatic pipeline (TAP), as well as through the Eastern-Mediterranean gas pipeline (EastMed) – Poseidon project[16].

As for LNG, this type of import can be increased in case of emergency, albeit with limited residual capacity. Moreover, it is recognized that it is important to search for alternative channels of LNG supplies to Italy and not only from Qatar as at present. Algeria, Egypt, as well as Mozambique, the USA, Angola and Trinidad and Tobago are named as alternative countries-suppliers of LNG[17].

[7]Strategia Energetica Nazionale [Electronic resource]. URL: https://www.mise.gov.it/images/stories/documenti/Testo-integrale-SEN-2017.pdf (date of access: 18.06.2020).
[8]Ibid.
[9]Ibid.
[10]Ibid.
[11]Ibid.
[12]Ibid.
[13]Ibid.
[14]Ibid.
[15]Ibid.
[16]Ibid.
[17]Ibid.

The Strategy also notes some positive elements that are expected to help in improving the general security of energy supplies for Italy:

• opening of the Southern corridor in 2020, for the flow of Azerbaijani gas along a route completely independent of the current supply routes to Italy;

• discovery by Eni Company of the important gas field Zohr on the Egyptian shelf, where production began in 2017. Soon, gas production at Zohr reached 2.7 bln m^3 per year – this volume is able to cover Egypt's gas demand for the next decades, leaving some limited but still sufficient potential to export LNG to other Mediterranean countries;

• development of gas fields in the Eastern Mediterranean (Levant basin), which can be carried out through the joint use of Egypt transport and export infrastructure, with potentially new connections with two liquefaction terminals in Damietta and Idku (total capacity of about 18 bln m^3 per year) within the framework of the EastMed project. This project, which has demonstrated its economic viability, can become a reliable and independent way to develop these gas sources to ensure further diversification of imports[18];

• the beginning of the development of the Turkish Stream project in combination with the IT Governance Instituted – Poseidon project, which would allow diversifying the routes of Russian gas supplies to Italy, balancing the possible doubling of the Nord Stream route and allowing the European system to improve the reliability of supplies, as well as to support the development of the Italian hub[19].

Italy natural gas import routes of relevance in the region

At the end of 2018, the main routes for the delivery of "blue gold" to Italy were the Transaustrian gas pipeline (30.3 bln m^3 of import), the Transmed gas pipeline which leads from Algeria through Tunisia and then through the Mediterranean to Sicily (18.8 bln m^3), the Greenstream gas pipeline from Libya (4.6 bln m^3), and the Transitgas pipeline from the North through Switzerland (7.2 bln m^3) [6].

The total volume of natural gas imported by Italy in 2018 from *Algeria* was estimated by the Ministry of economic development at 17.1 bln m^3, i. e. 9.5 % lower than in 2017. This is despite the fact that in 2010 Algeria sold almost 26 bln m^3 to Italy, being in those years the number one supplier and bypassing even Russia [7].

Qatar accounts for over 9 % of Italian gas imports[20]. This explains the stable foreign policy line of almost all Italian governments to support active cooperation with Doha, despite the latter's muddy reputation as a sponsor of Islamic terrorism. In addition to the gas industry, billions of dollars in contracts are being implemented between Italian and Qatari businesses in other industries, although it is the import of "blue gold" (more specifically, liquefied methane) to be a strategic axis of Italy– Qatar bilateral dialogue. Qatar Terminal Company owns 22 % of the shares in the Adriatic Terminal for LPG Transshipment in the province of Rovigo [8], 49 % of shares in the Italian airline Meridiana Fly. Qatari capital in Italy also runs a number of hotel chains, the Valentino fashion house and 2.3 thsd hectares of beaches on the Emerald Coast [6].

"*Iranian* dossier" remains a problematic factor for the energy sector of Italy's economy. The US-initiated sanctions against Iran practically put an end to the possibility of Italy's unhampered import of crude oil from this country, although in 2018 Iranian supplies provided 12.3 % of Italian oil purchases abroad[21]. Italy de facto was the first country to take advantage of the period of lifting the sanctions, acting as a priority economic partner of Iran. In April 2019, when Washington unveiled a plan to impose a full embargo on oil purchases in Iran, Italy had to replace the Iranian oil with that from Iraq. Herewith, the price of a barrel of Brent oil in that month reached a six-month high of 74.3 US dollars, which put an additional burden on the economy of Italy[22].

Italian experts, including those of Confindustria industrial confederation, called the blocking of the passage of oil tankers through the Strait of Hormuz an extremely dangerous scenario for Italy: in case of paralysis of this crucial for Italy's logistics "hub", the country would hypothetically lose up to 27 % of its oil imports [5].

This context gives ground to consider the "Iranian dossier" as an important indirect factor in the active rapprochement between Rome and Beijing in 2019, symbolically expressed in the visit of President of the People's Republic of China Xi Jinping to Italy on 21–24 March of the same year. The visit resulted in the signing of an extensive series of agreements on cross-sectoral cooperation with a particular focus on transport and logistics[23]. Thus, the government

[18]Strategia Energetica Nazionale [Electronic resource]. URL: https://www.mise.gov.it/images/stories/documenti/Testo-integrale-SEN-2017.pdf (date of access: 18.06.2020).

[19]Ibid.

[20]Ibid.

[21]Studi – da Iraq e Libia il 31.4 % dell'import di petrolio. Con +20 $/barile petrolio il PIL cala di 7,1 miliardi € (-0,4 punti) [Electronic resource]. URL: https://www.confartigianato.it/2020/01/studi-da-iraq-e-libia-il-314-dellimport-di-petrolio-con-20-barile-petrolio-il-pil-cala-di-71-miliardi-e-04-punti/ (date of access: 18.06.2020).

[22]USA, stop a import petrolio Iran per Italia e altri sette paesi. Prezzi ai massimi da 6 mesi [Electronic resource]. URL: https://www.repubblica.it/economia/2019/04/22/news/trump_iran_esenzioni_petrolio_italia-224627010/ (date of access: 18.06.2020).

[23]Data from the analytical report by the Embassy of the Republic of Belarus in the Italian Republic addressed to the Ministry of Foreign Affairs of the Republic of Belarus, dated 22.03.2019 No. 01-16/253.

of G. Conte apparently sought to compensate for the "energy hunger" of the Italian economy with profitable infrastructure projects with China.

The importance of *Libya* as a gas supplier and as a whole strategically important partner of Italy is a subject of a particular article.

Ambitious projects of Italy gas infrastructures: EastMed – Poseidon and TAP

The agreement on the construction of the EastMed was signed on 2 January 2020, in Athens by the leaders of Greece, Cyprus and Israel. In addition to the three countries mentioned, the gas pipeline, according to the plan, should pass from Greece by Poseidon branch through the Adriatic Sea to Italy and further North [9]. The Italian concern Eni, to which the Italian government has delegated the relevant powers, intends to invest in the construction of Poseidon [10]. This project, which is currently still under development, is designed to provide Italy with an opportunity to import up to 20 bln m^3 of gas annually starting approximately from 2025 (approximately the same volume of supplies is planned through the second branch of TurkStream)[24].

The National energy strategy specifies as follows: "In case of a complete and longstanding suspension of imports from our main suppliers (for example, a blockage or a major accident of the gas pipelines that deliver Russian gas to Italy via Ukraine, Slovakia and Austria), it would be extremely difficult to compensate this loss to the energy balance of Italy. At the same time, it should be taken into account that other European countries are also likely to find themselves in a similar situation (more than 30 % of European demand is met by Russia). In this regard, the alternative import channels are of great demand, such as Algeria (both via the gas pipeline across the sea or through the territory of Spain), Libya (taking into account, however, its unstable state), Norway, the Netherlands and Azerbaijan". It is said about Azerbaijan that the latter "is intended to become the new leading supplier of gas to Italy, thereby increasing the level of energy security of the country". By means of TAP, Italy is expecting to be able to import an additional minimum of 8.8 bln m^3 annually within a period of at least 25 years[25].

The TAP is the final element of the Southern gas corridor, which would allow natural gas to be transported from the Caspian Sea to Western Europe, bypassing Russia. According to the project, TAP will connect the terminals in the Italian region of Apulia with Albania via the Adriatic Sea.

The multilateral agreement on the construction of TAP was signed by the Italian government of E. Letta (Democratic party) in 2013. However, its practical implementation on the territory of Italy has not been started due to the negative reaction of the regions in which the construction plan should go (including the protests of municipalities, environmental and other public entities).

From June 2018 to August 2019, the government of the "yellow-green" coalition (the right-wing nationalist league and the centrist-populist 5 Star Movement) was in power in Italy, at first declaring a program of an anti-globalist and Eurosceptic nature. So, after taking office, the then Minister of environmental protection of Italy, S. Costa, called the TAP project "meaningless" arguing that it was subject to revision in reference to the global trend of falling natural gas prices [11].

In this context, there were fears in European political circles that Italy would withdraw from the project of TAP.

In August 2018, during the talks with Italy president S. Mattarella in Baku, the leader of Azerbaijan I. Aliyev expressed his concern about the delay in the construction work by the Italian side, calling on Rome to give a clear answer about its readiness to participate in the implementation of the project, whether to pay a penalty for withdrawing from it (according to lawyers, the amount of penalties that could be imposed on Italy, in this case, is from 40 to 70 bln euro)[26].

Notwithstanding the initial statements of the "yellow-green" government and minister S. Costa, in particular, the growing demand for blue fuel in Italy continued. In addition, external threats to energy security have significantly increased in 2019, both in terms of the escalation of the situation in Libya as in the context of the US' new punitive measures against Iran. This ground inevitably prompted the Italian side to resume practical steps towards joining itself to the route of the Southern gas transport corridor, which would provide large-scale gas supplies from Azerbaijan. An additional impetus to the decision was given by the plans of the Netherlands to wind down its gas production site in Groeningen by 2030. An alternative option, in theory, could be the TurkStream, lobbied by Russia, but it would mean no less environmental and financial costs than in the case of the TAP. Switching to the import of liquefied gas would be too expensive for Italy. The Transcaspian route of delivery of the gas attracted Rome by the promise of using it for the import of the "blue gold" not only from Azerbaijan but

[24]Strategia Energetica Nazionale [Electronic resource]. URL: https://www.mise.gov.it/images/stories/documenti/Testo-integrale-SEN-2017.pdf (date of access: 18.06.2020).
[25]Ibid.
[26]Data of the analytical report by the Embassy of the Republic of Belarus in the Italian Republic addressed to the Ministry of Foreign Affairs of the Republic of Belarus, dated 16.08.2018 No. 02-04/579.

also from Iran – a country that Italy has been traditionally including into the field of its geopolitical interest.

All this prompted Italian authorities to confirm thereafter, despite the initial skepticism – the readiness to implement the Transadriatic corridor project. The Conte-2 cabinet that came to power in September 2019 formed with a coalition of the 5-Star Movement and center-left parties, finally confirmed Italy's engagement in this project.

On 20 February 2020, president of Azerbaijan I. Aliyev has paid a state visit to Italy. The parties agreed to strengthen the strategic partnership between the two countries, focusing not only on energy but also on political, cultural and humanitarian cooperation. Agreements were confirmed on the construction of the Italian section of the Transatlantic gas pipeline, which I. Aliyev called "a symbol of cooperation between the seven states"[27].

Italy's diplomatic efforts in the Mediterranean region in 2018–2020 (Conte-1 and Conte-2 governments)

Italy's obvious energy interests in the Mediterranean region predetermine its fundamental meaning to diplomatic activity towards potential gas and oil donor countries.

Thus, the President of the Council of Ministers of Italy, G. Conte during his time in the office paid two visits to *Algeria* (in November 2018 and January 2020). As a result of the 2018 visit, an agreement was reached to extend the contract for the supply of gas by Edison Company for another 8 year period – until 2027 (the previous contract expired in the autumn of 2019; the minimum guarantee for the supply of the blue fuel was fixed at the level of 1 bln m^3 annually – earlier, in the period of 2008–2019, the contractual volume was 2 bln m^3). Similar contracts with Algeria were extended by the largest Italian hydrocarbon concerns Eni (until 2027, with the condition of deliveries of 9–10 bln m^3 per year) and Enel (3 bln m^3 annually until 2030, instead of the previous 7 bln m^3 per year) [7]. The visit also resulted in the agreement between Rome and Algiers on close cooperation in migrants' traffic regulating[28]. During the 2020 visit, the head of the Italian government also tried to convince the Algerian leadership (so far – to no avail) to abandon the implementation of the concept of an "exclusive economic zone", announced in 2018 by Algeria on the maritime territory within 180 miles from the Algerian coast [12].

In September 2018, vice Prime Minister and Interior minister of Italy M. Salvini met with the leader of *Tunisia* B. Essebsi, stating that the success of Italy's cooperation with Tunisia (including on security issues and the fight against illegal migration) is designed to "awaken the European Union"[29].

On 4 July 2019, Eni signed a new agreement with the Tunisian Ministry of industry on the transit of natural gas of Algerian origin through Tunisian territory. With this agreement, Eni, by means of its subsidiary Transtunisian Pipeline Company, committed to operate the pipeline until 2029, providing the necessary investment to upgrade the infrastructure and using the exclusive right to the entire transit. The agreement embodies the agreements reached in May 2018. The agreement with the company Sonatrach regarding the purchase of gas and transportation via the Sicilian route and completed the formation of a contract package that ensures the import of Algerian gas to Italy for the coming years[30].

The Transtunisian gas pipeline, built in the early 1980s and subsequently reconstructed in several stages, consists of two lines about 370 km long (from the Algeria – Tunisia border in the Oued – Safsaf area to Cape Bon) and five compressor stations. Its capacity is about 34 bln m^3 per year. This route will continue to play a key role in the energy supply of both Tunisia and Italy, contributing to the diversification of sources of supply to the Italy market[31].

According to Italian analysts, the agreement between Eni and Tunisia is another confirmation of the long-term commitment of the concern and the Italian authorities behind it to strengthen its position in the North African countries not only in the exploration and production of hydrocarbons but also in the management of transport infrastructure and in the segments of sales of petroleum products, chemicals and energy production from renewable sources.

In addition to Algerian gas, the pipeline has also been filled with Tunisian fuel since 2020, due to the start in February 2020 of the natural gas production in Navara field (which is in the Southern part of Tunisia) [13].

[27]Data of the analytical report by the Embassy of the Republic of Belarus in the Italian Republic addressed to the Ministry of Foreign Affairs of the Republic of Belarus, dated 17.03.2020 No. 02-04/276.

[28]Conte: con Algeria sforzo per migliorare su rimpatri [Electronic resource]. URL: http://www.rainews.it/dl/rainews/media/Conte-con-Algeria-sforzo-per-migliorare-su-rimpatri-b9506ead-e521-4872-8999-701a39e1203a.html (date of access: 18.06.2020).

[29] Data of the analytical report by the Embassy of the Republic of Belarus in the Italian Republic addressed to the Ministry of Foreign Affairs of the Republic of Belarus, dated 16.10.2018 No. 02-04/718.

[30]Eni estende al 2029 l'accordo con la Tunisia sul trasporto del gas naturale algerino [Electronic resource]. URL: https://www.agi.it/economia/energia/eni_gas_naturale_tunisia-5760556/news/2019-07-04/ (date of access: 18.06.2020).

[31]Ibid.

Conclusion

1. In the coming decades, despite a deliberate strategy of the reduction of the dependence on hydrocarbons, Italy's economy will continue to be tied to the imports of oil and natural gas from abroad. Moreover, the gas share in the volume of imports will gradually push back that of the oil.

2. Key importance of the Mediterranean and Middle East region (including the South Caucasus) for Italy's geopolitical ambitions will increase even more in the coming years due to the policy of abandoning coal as an energy source, as well as the need to diversify the natural gas supply channels to the country, taking into account the reduction in gas production by the Netherlands and the interruptions in gas supplies from Russia (because of the Ukrainian factor).

3. The increasing geopolitical risks associated with Italy energy security factor – both in terms of the escalation of the situation in Libya as in the context of US punitive measures against Iran – prompted Rome to resume practical steps towards joining itself to the route of the Southern gas transport corridor which would provide large-scale gas supplies from Azerbaijan. This was also facilitated by the strict terms of previously signed contracts, the refusal of which would have threatened Italy with unaffordable multi-billion-dollar fines.

4. The Transadriatic gas pipeline project is a landmark element of Italy's intensified efforts over the past decade to diversify its sources of natural gas supplies, on the one hand, diminishing the dependence from the traditional dominator in this sector (who is Russia) and thus following the consolidated line of the EU, and on the other hand, offsetting the risky share of conflict-ridden Libya. The fact that Azerbaijani gas will flow directly to Italy and then to other EU countries, is intended to increase the transit importance of Italy for the pan-European energy market and, as a result, to provide additional leverage for profitable bargaining on energy prices, which are currently among the highest in Italy among all EU members. At the same time, TurkStream project is also not discounted by Italy.

5. Almost all energy supply projects have active political support and counter-economic interests. Embedding of the leading Italian energy companies Eni and Enel into the production and transportation projects, as well as the counter-lobbying of Italy's exports and investment projects in the supplier countries, is obviously aimed on compensating of significant energy costs.

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EUROPE: AN ATTRACTIVE REGION FOR CHINESE INVESTMENT

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China's reform and opening-up policy has led to its economic integration with the community of international partners. China has tended to invest in developing countries rich in natural resources through infrastructure projects and others in exchange for access to natural resources and new markets. This development policy has proven successful due to the large Chinese economic expansion towards many regions and the establishment of economic partnerships. After China's accession to the World Trade Organization, it opened more to developed countries, especially Europe. China aimed to reach a large and developed international market and to cooperate with the Europeans in order to develop the telecommunications and industry sectors and take advantage of modern European technologies. The strategic importance of this partnership increases with the launch of the Belt and road initiative, as Europe has a geostrategic position along the initiative. This paper discusses the issue of Chinese direct foreign investment toward Europe, analyzes the Sino-European economic cooperation, and points out the motives of both parties to move forward with this partnership.

Keywords: foreign direct investment; Sino-European relations; economic cooperation; Chinese expansion; win-win situation.

ЕВРОПА: ПРИВЛЕКАТЕЛЬНЫЙ РЕГИОН ДЛЯ КИТАЙСКИХ ИНВЕСТИЦИЙ

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Политика реформ и открытости Китая привела к интеграции страны в мировое экономическое сообщество. Китай предпочитает инвестировать в инфраструктурные и другие проекты развивающихся стран, богатых природными ресурсами, в обмен на доступ к последним, а также к новым рынкам. Такая политика развития оказалась успешной благодаря значительному экономическому присутствию Китая во многих регионах и установлению экономических партнерских отношений. После вступления во Всемирную торговую организацию Китай стал более открытым для развитых стран, особенно для Европы. Государство стремилось выйти на международный рынок и сотрудничать с европейцами для развития телекоммуникационного и промышленного секторов и использования преимуществ современных западных технологий. Значение этого партнерства возрастает с запуском инициативы «Один пояс, один путь», так как Европа в ней занимает геостратегическое положение. В исследовании рассматривается вопрос о прямых иностранных инвестициях Китая в Европу, анализируется китайско-европейское экономическое сотрудничество и перечисляются мотивы обеих сторон продвигать партнерство.

Ключевые слова: прямые иностранные инвестиции; китайско-европейские отношения; экономическое сотрудничество; китайская экспансия; беспроигрышная ситуация.

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Introduction

China has achieved an economic miracle and turned into an unstoppable cross-border economic power. The reform and opening-up policy has strengthened China's international economic and political role. According to the data of the Chinese Ministry of Commerce (MOFCOM) and Rhodium Group, China is a huge investment partner for Europe. The country puts huge sums in the foreign direct investment (FDI) toward Europe, despite some ups and downs affected by the international economic situation, but Europe remains an important economic partner for China. These investments are expected to increase with the introduction of the Belt and road initiative (BRI). According to the statistics of Rhodium Group in the figure below, Chinese foreign investment towards Europe reached its peak in 2016 with a rate of 37.3 bln US dollars. Chinese FDI towards Europe declined sharply between 2017 and 2019. In 2019, Chinese investments recorded 11.7 bln US dollars, equivalent to the Chinese investment for 2012. The Chinese FDI has shrunk in most regions of the world since 2016, so this phenomenon is not limited to Europe.

Statistics indicate that Northern Europe has become an economic priority for the Chinese; in 2019 the Chinese FDI towards Northern Europe overtook those of the traditional European partners (Germany, France, and the UK). The Chinese have recently established huge joint cooperation with European governments, universities, factories and research centers, with the aim of developing bilateral relations and increasing exchanges in the coming years. Economic partnerships vis-à-vis Europe may not be the same as China's partnerships with other regions; China invests according to European conditions previously agreed upon, but COVID-19 has turned Chinese investment into a necessity for Europeans due to the international economic recession and the weak purchasing power of the people [1, p. 114].

MOFCOM statistics indicate that Chinese investment for 2020 in the BRI countries increased by 25 % over 2019, an increase equivalent to 14.11 bln US dollars. The Chinese administration relies heavily on the BRI in terms of increasing the level of FDI and the Chinese economic expansion in regions of the world, including Europe[1]. China is changing its production pattern; it has turned into a competitor to the West by producing modern and innovative technologies such as 5G (it was not expected that 5G would be launched from the East). 15 years ago, China was associated with inexpensive, medium-quality, and non-heavy commodities, as the West dominated the market for heavy and innovative goods [2]. The economic crisis has made the Chinese administration search for new markets and has set up advanced projects for economic progress such as the BRI and "Made in China 2025" [3, p. 25].

This paper focuses on Chinese investments in the European Union. China has always aimed to reach the European market through trade agreements and solid partnerships. Recently, in the coronavirus pandemic, it was found that China has many true friends on the European continent, such as Italy, Serbia, and others. The large Chinese foreign direct investment in Europe is still very recent, but it is in an accelerated development as it possesses capital and has plans and projects in place to invest in Europe. Thus, the great economic role of China in Europe cannot be overlooked, and it seems that France and Germany (the pillars of the European Union) are heading towards partnership with China, so there is no other choice. This is evident in the statements of both E. Macron and A. Merkel [4, p. 435]. Some European countries are concerned about the increasing economic role of China in the European continent, but they are concluding agreements and partnerships, as China has become an economic giant.

There are many books and research on Chinese FDI, a small part of which relates to Chinese investments in Europe, and most of them were published at least ten years ago. The Chinese economic policy towards Europe has made great progress recently. This paper indicates that China does not follow a unified economic policy towards the European Union, as the Chinese administration has set a special policy towards each European country separately. China is a smart investor, has professional economists, and relies on economic indicators before establishing a partnership with any European country. Thus, Chinese investments vary from one European country to another. Surprisingly, some European countries are setting up facilities in order to attract Chinese investors, as there is indirect competition within the European Union to attract Chinese investors [5]. The paper provides an idea of whether China adopts an economic policy towards the European Union based on geography (for example Eastern and Western Europe) or whether there is a special policy towards each country. This paper also explains China's motivations for investing in Europe.

This paper answers the following question: "Why does China so desire an economic partnership with European countries, and what are the consequences of this partnership?" The paper builds on the following assumptions: China deals with every European country separately and has not developed a unified economic policy. China is interested in partnering with European countries for various reasons. In the context of the research, the following questions will be answered:

[1]China's investment and cooperation with BRI countries from January to October 2020 [Electronic resource]. URL: http://english.mofcom.gov.cn/article/statistic/foreigntradecooperation/202012/20201203021849.shtml (date of access: 11.01.2021).

• What is the level of the Sino-European economic relationship?
• Why is China so interested in investing in Europe?
• Why do some European countries want to partner with China?

This paper explains the development of the Chinese economy and the economic relationship with the European Union as well as addresses Chinese investment opportunities in Europe, provides an overview of China's economic policy towards some European countries and provides results for this research.

This paper is based on critical and qualitative analysis, in addition to a comparison of multiple sources and opinions regarding the main topic. Hence, the paper is rich in information and does not depend on a specific opinion. This paper relies on primary sources such as books related to the research topic and official reviews, in addition to articles and opinions of specialists and websites. Therefore, for the sake of the paper's credibility and impartiality, the researcher relied on various references that include most opinions. The paper cannot be considered biased towards China or Europe.

Development of Chinese FDI

China has gone through several stages of FDI, the most prominent of which is the reform and opening-up policy established by Deng Xiaoping, which moved China to an advanced stage of overseas investment. The economic policy and political conditions have a direct link with the Chinese FDI plan. China did not suddenly become a major investor in Europe and the rest of the world, but rather came in sequential stages. China used to adopt a closed-door policy and international isolation. China's policy changed radically in 1978 when Deng Xiaoping launched a policy of reform and opening up [6, p. 14]. This new and modern policy has made China progress rapidly and becomes a partner to many countries and economic blocks, and it has become an active member of the international community after years of isolation. The main aim was to make China open to the international community. The Chinese economic approach was modified from socialism to a special model with Chinese characteristics, which also contributed to achieving great economic growth [7, p. 119].

This new policy has increased Chinese direct foreign investment as well as increased foreign investment in China. The Chinese administration has given more focus to the industrial sector, taking advantage of cheap labor, population density, availability of modern technology, and natural resources. Consequently, China turned into the factory of the world, and the government succeeded to a large extent in economic recovery. On the other hand, the Chinese government has set facilities and incentives for foreigners to come and invest in China, and it has succeeded in attracting foreign capital into China [8, p. 14]. For example, four special economic zones were established in 1979 in order to attract foreign investment with favorable economic conditions for foreigners. Foreign investment in China continues to increase, as is the rate of Sino-European partnerships. In the 1990s, Deng Xiaoping oversaw the opening of more special economic zones [9, p. 327]. The Chinese administration pursued an advanced policy of international openness by joining the World Trade Organization in 2000. In parallel, China lowered barriers to foreign investment, which attracted more foreign investors. Further economic reforms were announced through the 10th five year plan (FYP). Thus, despite the non-democratic Chinese political system, it was able to achieve an economic miracle that is impossible for any other country to achieve, due to its geographical, population, and economic conditions.

The rational Chinese economic policy and the great economic openness of China have made the country second in terms of foreign investment. At the beginning of the 2000s, that is, a few years after adopting the reform and opening-up policy, China achieved more than double economic progress[2]. This indicates the determination of the Chinese administration to govern and act, and it is likely to achieve most of the goals set for the BRI. In 2016, China recorded 133 bln US dollars in FDI towards it. Consequently, FDI in China has been increasing continuously, since the policy of reform and opening up to the beginning of the new century and up to the present Chinese era. FDI in China has led to the entry of foreign financing, new partnerships with industrialized and developed countries, and China's acquisition of technical expertise. The Chinese political and economic stability and the increase in FDI led to its acquisition of more foreign currencies [10, p. 38]. China has also become a technological giant, which made it acquire the 5G technology.

The policy of reform and opening-up has led to massive investment for the Chinese abroad, which has contributed to a great Chinese economic expansion [11]. Through this economic policy, the Chinese government wants political openness to the world and more partnerships. It has succeeded to a large extent; the most positive results were the influx of foreign companies to invest in China [12, p. 115]. Therefore, many economists consider the policy of reform and openness to be the pillar in the progress of Sino-European economic relations. Reform and opening-up continue and cannot be limited to a specific period. As a result, China has achieved tremendous profits and increased its investment rates abroad and partnerships with countries and institutions. The Chinese administration has planned an advanced stage of international openness by joining the World Trade Organization in 2001. The Chinese

[2]Investment statistic and trends [Electronic resource]. URL: http://unctad.org/fdistatistics (date of access: 09.01.2021).

administration has taken economic measures that have facilitated Chinese investment abroad and attracted foreign investors to the country. Chinese goods are in every corner of the world, and China has more international markets, in addition to its acquisition of advanced technology, which made it an economic powerhouse difficult to stop. Chinese FDI is concentrated in developing regions such as Africa, but China's investment in developed regions such as Europe is constantly increasing. Chinese FDI towards Europe declined sharply between 2017 and 2019. In 2019, Chinese investments recorded 11.7 bln US dollars, equivalent to the Chinese investment for 2012 (fig. 1). The Chinese FDI has shrunk in most regions of the world since 2016, so this phenomenon is not limited to Europe. Figure 2 shows that Chinese FDI decline is a general phenomenon and does not concern Europe in particular. The Chinese FDI reached its maximum in 2016 both globally and in Europe.

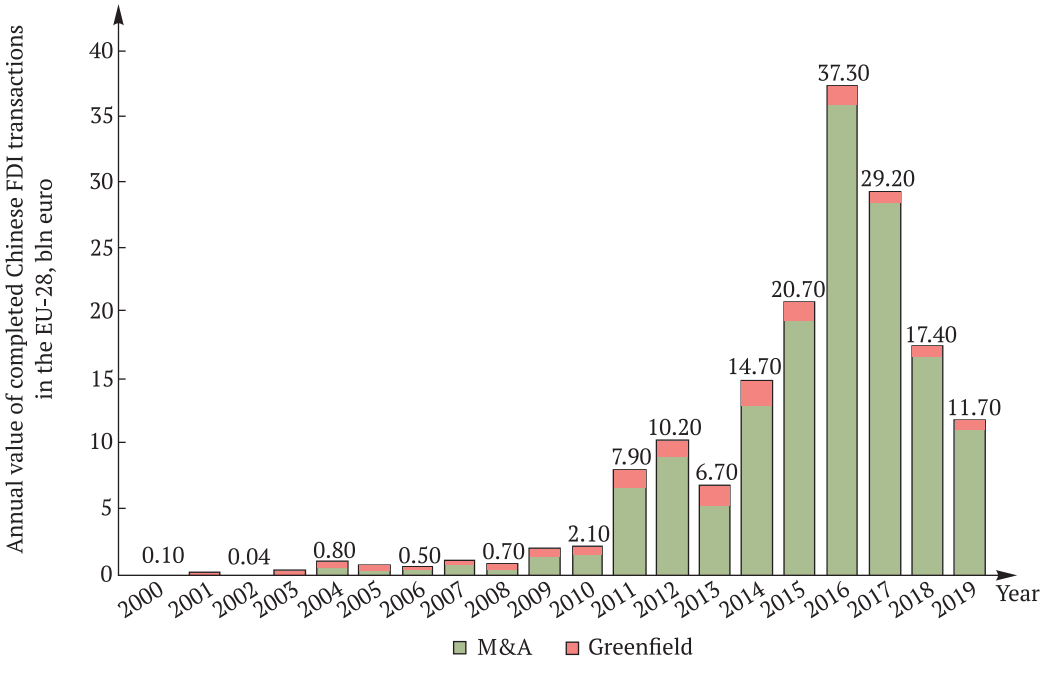

Fig. 1. Chinese FDI towards Europe from 2000 to 2019 (data of Rhodium Group)

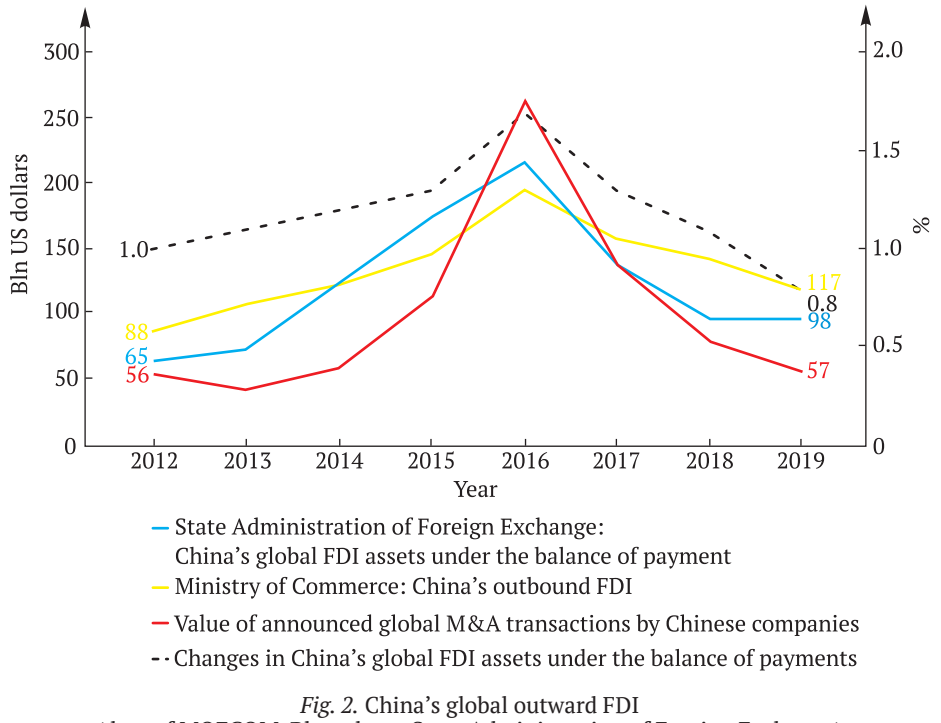

Fig. 2. China's global outward FDI
(data of MOFCOM, Bloomberg, State Administration of Foreign Exchange)

The Chinese economy is highly dependent on exports and foreign markets. The global economic crisis has slowed down Chinese economic growth. This prompted the Chinese government to launch the 12th five year plan for 2011–2015; this plan is complementary to the 10th FYP, for 2001–2005 known as industrial restructuring or making an adjustment in economic structures, the 11th FYP, for 2006–2010, and 12th FYP, for 2011–2015 came as a follow-up to 10th FYP. The Chinese government aimed to give impetus to the Chinese economy, create more jobs and create more international markets. The government has set aside a high budget for information technology to make China a strong competitor to developed countries [13, p. 41]. The Chinese government has facilitated foreign direct investment as well as created more markets in many regions of the world. China has turned Europe into an important market for it, especially after the economic crisis. Xi Jinping ascended to the presidency in China in March 2013, economic growth and more economic balance were his priority. China has also become more interested in outward direct investment, particularly in developed regions such as Europe[3].

In 2013, Chinese President Xi Jinping announced the BRI, an ambitious initiative that would make China the heart of the international economy and an important economic center in Eurasia. This huge initiative opens many international markets and enables China to gain easy access to energy resources to meet its growing needs. China is also building a large and well-developed infrastructure that connects it directly with the member states [14, p. 57]. The Chinese government has allocated a large budget for this initiative, together with some countries and organizations. This initiative calls for sustainable development, win-win, shared destiny, etc. This initiative opens the way for China to reach the most important geographical areas and obtain natural resources, and thus more profits. The Xi Jinping's administration has also drawn up the 13th FYP to encourage Chinese investment abroad (2016–2020). It also aims at more economic openness and sustainable development [15, p. 7]. In parallel with the BRI, the Chinese administration announced "Made in China 2025", which aims to achieve more economic growth [16, p. 88]. In 2015, China ranked second, after the United States, in terms of foreign direct investment[4].

Official Chinese statistics indicate that more than half of China's foreign direct investment goes toward Asia. However, it is noticeable that Chinese investment towards Europe is increasing rapidly, which means that Sino-European relations are in a great development with a promising future. Most of the Chinese investments abroad are focused on infrastructure projects and some financial and business projects. In the past 20 years, China has invested heavily in energy, but recently Chinese foreign direct investment has diversified and encompasses all fields, especially with the announcement of the BRI in 2013. The Chinese administration attaches great importance to the information technology sector, which will be the basis of China's tremendous progress. For example, the highest wages in China are for those in charge of the information technology sector.

Analysis of Chinese FDI toward the European Union

Chinese FDI has increased dramatically in the European Union, so China intends to increase its partnership with European countries, in addition to the fact that most of these countries are members of the BRI. The great Chinese economic opening up to European countries came in batches. However, with China's accession to the World Trade Organization, investments in Europe increased. So, with the beginning of the 21st century, China pursued an economic policy more open to European countries. According to official Chinese statistics, direct Chinese investment in Europe increased from 0.3 in 2003 to 4.5 bln euro in 2009, which is a qualitative leap in Chinese investment. The economic crisis has had a negative impact on Chinese investments in Europe due to the monetary instability in the world. However, the situation has improved after the financial crisis.

China has not been greatly affected by the financial crisis due to its own economic system and network of trade relations somewhat separate from the Western system. This made some European countries open the doors wide for Chinese investors and provide facilities to attract more investments that may alleviate the severity of the economic crisis. According to Rhodium Group, the economic crisis had a positive impact on Chinese investments in Europe, as it rose between 2009 and 2010 from 0.6 to 2.3 bln euro. Since that period, Europe has become a major and important economic partner of China, as it has become difficult to disentangle Sino-European links. Sino-European economic relations have moved to a more advanced stage with the arrival of Xi Jinping to the presidency. President laid out a lot of economic plans and announced some initiatives such as the BRI and "Made in China 2025". Europe has

[3]Reaching new heights: an update on Chinese investment into Europe [Electronic resource]. URL: https://www.bakermckenzie.com/-/media/files/insight/publications/2016/03/reaching-new-heights/ar_emea_reachingnewheights_mar16.pdf?la=en (date of access: 09.01.2021).

[4]World investment report [Electronic resource]. URL: https://unctad.org/webflyer/world-investment-report-2017 (date of access: 10.01.2021).

been at the center of Chinese economic plans. China intends to open up more to the European Union countries and aims to increase economic exchanges.

The European Union is a leader in information technology and has a huge commercial market, which increases China's willingness to partner with it [17, p. 26]. In 2012, a year before the launch of the BRI, China announced the establishment of the 16+1 platform that brings together China and the countries of Central and Eastern Europe. This platform aims to facilitate cooperation between China and these countries in terms of infrastructure projects, economic and service exchanges, etc[5]. The Chinese direct investment in the European Union exceeds all foreign direct investment in China, which indicates the strength of the Sino-European economic relations. These investments are constantly increasing, for example, the value of Chinese investments in Europe increased by 80 % between 2015 and 2016. In 2017, China ranked second on the list of foreign investments in Europe.

China invests in most of the European Union countries, but its largest investments are concentrated in Germany, France, and the United Kingdom. But in 2019, Northern Europe topped the Chinese FDI. According to the statistics in fig. 3, the Chinese FDI towards Europe has changed drastically, rising significantly towards Northern Europe compared to its significant decline in the UK. This economic phenomenon may have an explanation for political and international shifts, especially the new policy pursued by the UK after the Brexit.

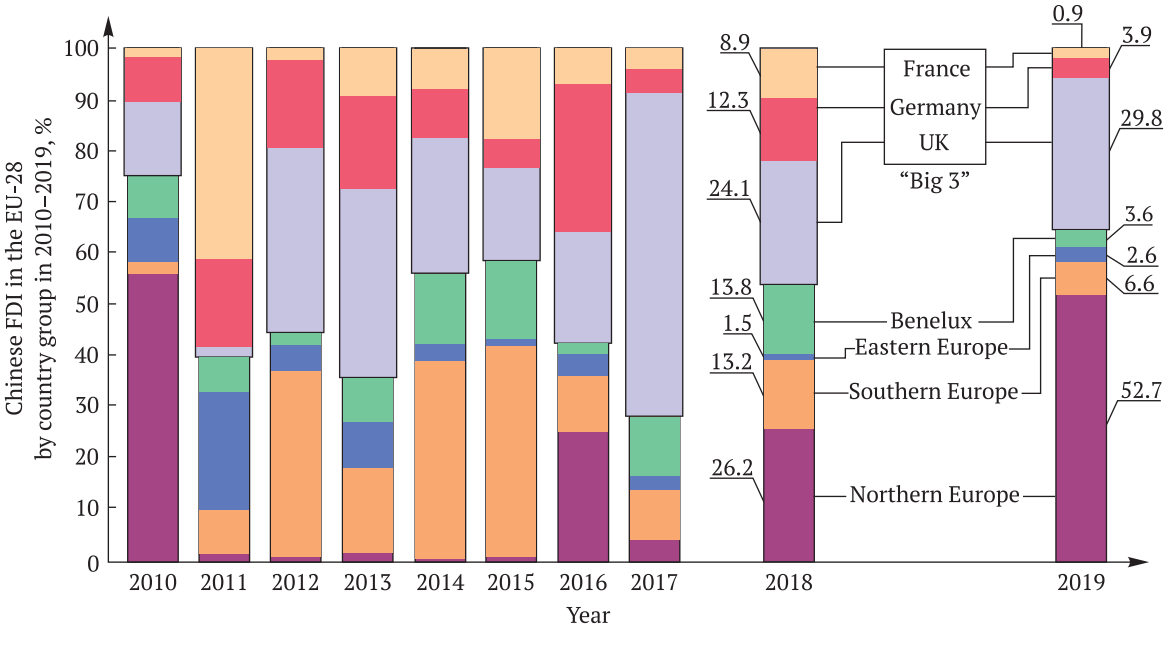

Fig. 3. Northern Europe: the most important attraction of Chinese FDI for 2019 (data of Rhodium group)

China is interested in partnering with these countries, as they possess high technologies and highly rated laboratories. It is well known that France and Germany form the solid pillars of the European Union, so China's partnership with these countries goes to the benefit of Sino-European relations. The volume of Chinese investment in European countries varies every year, but in general, Chinese investment is not limited to these three countries, but rather goes beyond other countries that have huge economic partnerships with China, such as Denmark, Portugal, Italy, the Netherlands, etc. For example, the first four European economic partners of China for the year 2014 were as follows: the United Kingdom, Germany, Denmark, and France. In 2015, Italy became the first European partner of China after the Pirelli deal, which was estimated at 7 bln euro. In 2016, Germany was the first economic partner, so China does not have a preferred European economic partner, but rather has interests with all European countries.

Since 2017, Chinese investments have been concentrated in Southern European countries such as Italy and Greece, as they were suffering from stifling economic crises, so it was an irreplaceable opportunity for China to invest in these economically devastated areas. The investments were concentrated in infrastructure projects, taking into account the issue of the strategic geographic location of Southern European coun-

[5]Bulgarian Chinese chamber of commerce and industry: the Chinese investments in Bulgaria will increase [Electronic resource]. URL: http://www.bulgariachina.com/en/news/view/14.the-chineseinvestments-in-bulgaria-will-increase.html (date of access: 16.01.2021).

tries and their important role in the BRI. The strategic economic partnership with Southern European countries will make China an advanced position in the rest of European countries. China's investment in Northern Europe was nil in the past, but it is developing, for example, the Volvo deal with Sweden in 2010. China's investments in Eastern Europe are not large compared to those in Western and Southern Europe, but many reports indicate a promising future for Chinese relations with Eastern Europe, especially with the launch of the BRI. Most of the Sino-European partnerships are centered on advanced technology and research [18, p. 632]. Chinese investment in Europe includes the sectors of energy, finance, industry, services, and others.

Noting that Chinese investment in Europe is carried out by official Chinese companies and private companies, the Chinese private sector is an important investor in Europe. China has the second-largest economy and therefore European countries are attracting Chinese investments for more economic partnerships, especially after the financial crisis. Chinese goods are popular in the European market because of the reasonable price and good quality compared to the high prices of national goods. China has become a partner or owner of the finest European companies such as Pirelli in Italy and Volvo in Sweden, among others. Consequently, it became difficult to disengage European links with China, despite some US recommendations not to establish more economic partnerships. Chinese investment in Europe creates jobs and economic growth, in addition to advanced infrastructure under the supervision of Chinese companies. Infrastructure projects have increased after the launch of the BRI [19, p. 22]. China provides capital for research, training, and more investment, which serves European interests. It also creates a partnership in the technology sector, which leads to more innovations.

Suddenly, the Chinese FDI in Europe declined. Some economic reports suggest that the trade war launched by US president D. Trump between the US and China has exhausted the Chinese economy and weakened its high capabilities. The D. Trump administration obstructed the Transatlantic Trade and Investment Partnership (TTIP), which confused the European economy and restricted its development. The European arena is divided between supporters of promoting investments with China and others calling for Chinese investments to be screened, but publicly, European countries still woo China as it is a huge trading partner [20, p. 27]. Some European governments such as Finland and Austria have expressed this policy as "protectionist", while the vast majority of governments have not made a public comment. Some European countries, such as Greece and Albania, are open to economic cooperation with China without major obstacles, while the majority of Western European countries are still wary of the absolute economic openness to China with full facilities. The Chinese are investing massively in European markets, while European investments in the Chinese market are still small compared to the huge Chinese investments. The imbalance in investments between the two sides pushes the Europeans to reconsider this partnership [21, p. 29].

According to the Mercator Institute for China Studies (Merics), European investments in the Chinese market in 2016 amounted to 8 bln US dollars, equivalent to a quarter of Chinese investments in the European market[6]. Despite China's open-door policy, the Chinese administration is still placing restrictions on foreign investment in the Chinese market such as investment in fisheries, media, communications, financial services, transport, electricity, and construction. This situation prompted some Europeans to demand the signing of a Common agreement on investment between the EU and China.

However, the majority of Chinese investments in Europe are owned by official institutions, which may be considered a disincentive for Europeans. Dealing with Chinese state companies is not easy, and the controls will be more stringent than private ones. Therefore, this may be an obstacle to the development of Chinese investments, and these companies may formulate plans without referring to European partners, which makes the possibility of failure greater. Also, some European Union countries expressed their concern about the increasing Chinese investment, especially by state-owned companies, which makes China possesses infrastructure as well as important elements of the European economy under the control of the Chinese. The Europeans also express their concern that the economic partnership will develop into a political alliance that may change the entire policy of Europe, in addition to technological cooperation that may result in the leakage of European technology to China. Ironically, investment in Europe is open to the Chinese, but in China, Europeans still face some obstacles. Chinese investment may lead to changes in the nature of the European economy, as the Chinese way is different from the European.

Great Chinese economic openness to Europe

China is opening up to Europe in order to fill the gaps in its domestic market by importing some unavailable commodities, in addition to acquiring skills related to modern technology. Europe has turned to China because of the low-wage labor and the availability of raw materials and favorable working conditions

[6]EU – China: FDI working towards more reciprocity in investment relations [Electronic resource]. https://www.merics.org/en/papers-on-china/chinese-fdi-in-europe (date of access: 28.12.2020).

that may not be found in Europe [22, p. 28]. However, in recent times, China has begun to open up greatly and expand towards Europe, the Middle East, Africa, and other regions due to its possession of capital, a huge labor mass, and a unified administrative system that facilitated its expansion. At the beginning of the 21st century, China adopted a policy of expansion in order to reach more foreign markets, sell its goods, and be a strong investor abroad. The West has coveted Chinese natural and human resources, but China follows the same strategy in many regions, such as Africa, as it obtains natural resources at low prices in exchange for development projects and benefits from cheap human resources. The BRI increases China's economic power and increases its control over energy sources and international markets [23, p. 39].

The huge markets in Europe made China look forward to cementing the partnership with these countries. Europe has the second-largest international market, so it is necessary for the Chinese administration to partner with Europe and has an active presence in its markets. Europe has broad economic links with Africa, Latin America, and the Middle East, just as China does. Therefore, the Sino-European partnership will increase foreign direct investment according to the rules of peaceful cooperation and openness. It can also be concluded that a large part of the success of the BRI is linked to good Sino-European economic relations. The new economic strategy attaches more importance to Chinese foreign direct investment in the United States and Europe. Therefore, China has become a major partner in the European economy through joint ventures and Chinese private businesses. Chinese assets make it an international economic competitor and increase its economic gains.

The Sino-European partnership makes China able to develop its production capabilities and increase its efficiency and innovation. This partnership will facilitate China's access to other markets that are not easy to enter without cooperation with the Europeans. Also, this partnership may create a new business pattern for both Europeans and Chinese.

Europe has a long history of establishing domestic and international economic projects [24, p. 721]. The mandate system has given some European countries experience in dealing with third world countries, in terms of managing the internal affairs of those societies.

Chinese desire to invest in European countries

The Chinese administration found that Europe is a good economic partner, and this partnership brings a lot of money to the Chinese treasury. On the other hand, it seems that the Europeans are open to economic partnership with the Chinese, especially after the financial crisis that made Europe need strong economic partners. The security and political stability and the existence of modern laws are all attractive elements for Chinese investors. The Chinese are looking for more companies with the Europeans that may outpace the economy. Despite the existence of the European political alliance with the United States, Europe has not taken the same measures as the United States towards China specifically with regard to the trade war. The Chinese see Europe as an investment haven. Some other developed countries, such as the United States, place many obstacles on Chinese investments. The European economic system attracts Chinese investments; this is coupled with a European desire to increase Chinese investments [25, p. 116]. A European survey in 2013 showed that the vast majority of Chinese investors in Europe intend to increase their investments. The Europeans create an attractive environment for Chinese investments. The European Union benefits greatly through more job opportunities, the introduction of foreign currencies, and research investment in cooperation with the Chinese.

In this paragraph, I will shed light on Chinese investments in some European countries and the motives for investing in them. The United Kingdom has been the first destination for Chinese FDI for many years in Europe. This indicates the impossibility of decoupling economic ties between China and the United Kingdom, despite political differences in alliances and systems of government. China has become an important economic investor in the European Union at the beginning of the 21st century, parallel to its accession to the World Trade Organization. The United Kingdom is developed in terms of research and technology, in addition to being a member of the Security Council and possessing one of the most powerful armies and a wide network of political alliances. Therefore, the Chinese administration benefits greatly in partnership with the United Kingdom, as the benefit to China exceeds the economic gain. The UK's important international market is attracting Chinese investors [26, p. 79]. The active Chinese partnership with the United Kingdom opens the door wide for the Chinese to further economic cooperation with other European countries. China makes the United Kingdom a regional headquarters for most of its companies operating in Europe. The United Kingdom is also a regional headquarters for many European companies. London, for example, is an international center for information technology. The Chinese administration is very interested in developing this sector and raising it. Huawei is based in the United Kingdom as a regional headquarters [27, p. 113].

Germany is the second-largest European economic partner to China. In 2016, for example, Germany was the first economic destination for Chinese direct foreign investment. China seeks to take advantage of German technological development and industrial

companies to develop Chinese quality. Between 2000 and 2014, the majority of Chinese direct investments in Germany went to the industrial sector, specifically cars; in addition to research cooperation and partnership with the aim of developing the quality of Chinese services [28, p. 119]. Chinese investments in France are constantly increasing, as many Chinese commercial offices are located in France, for example, ZTE's factory. Chinese foreign direct investment in France contributes to the development of Sino-European economic relations. Chinese companies tend to increase their investments in the Netherlands and Belgium with a view to acquire modern technologies and expand the market [29, p. 31]. The Netherlands is a European tax haven for the Chinese, as for Belgium; there is continuous chemical cooperation with the Chinese [30, p. 26]. Luxembourg is also a favorite European destination for the Chinese for tax reasons. Ireland is another destination for the Chinese due to low taxes and attractive measures for Chinese investment[7]. China establishes a partnership with Austria because of its distinguished geographical location on the European continent and the much technological and industrial progress that Chinese institutions benefit from.

Chinese investment in Northern Europe is somewhat low due to high taxes and exorbitant wages, but Chinese investments there have not stopped and they are constantly increasing. The most prominent Chinese investment there is in modern technology and the telecommunications sector. Chinese investment is increasing in some countries of the aforementioned region after the announcement of the BRI, for example, China has increased its investment in port Klaipeda. Chinese investments in Southern Europe are increasing tremendously, especially after the financial crisis and great facilities for Chinese investors. Chinese companies establish many partnerships and take charge of projects such as infrastructure and joint investment. China's investments in Greece are concentrated in infrastructure and communications. Greece constitutes a key area of the BRI through Euro-Mediterranean communication, and China has become a key partner in the Piraeus seaport. China invests in Spain, as it has a huge European market and has extensive relations with Latin America.

Chinese investments in Portugal have increased dramatically in recent years, for example China has become a major partner in Energias de Portugal. China is investing heavily in infrastructure in Portugal. The partnership with Portugal also enables China to reach other markets in Latin America and Africa [31]. The country invests massively in Italy. China has become a basic partner for many of the major Italian companies, in addition to the huge development and infrastructure projects that China is implementing, for example, Huawei has its headquarters in Milan. The country is seeking to make Italy an economic base in Southern Europe. The strategic partnership between China and Italy is becoming more and more important after the launch of the BRI [32, p. 737]. Italy is also a huge market for Chinese goods. The financial crisis and the BRI have caused Chinese investment to increase dramatically in Eastern Europe [33, p. 41]. China is investing in Eastern Europe mainly because of the strategic geographic location along the BRI and being a gateway to Western Europe. Eastern Europe has become a strategic economic region for China. For example, China has moved the Lenovo headquarters from the United Kingdom to Slovakia, in addition to the fact that labor is cheaper [34].

Conclusion

The reform and opening-up policy has made China make great economic progress. This policy made China open to developing countries through foreign direct investments such as Africa and Asia, but since China joined the World Trade Organization, it increased its investments in Europe. The main goal of China is to reach new markets and forge more international partnerships. Consequently, China sought to be an international market and the world's factory, to meet the requirements of the people, not just the Chinese internal market. In recent years, the country has increased its investments in Europe intending to obtain advanced technology and developing the industrial sector in cooperation with European partners. European countries seem open to partnership with China because of the financial crisis and the economic benefits that this partnership may bring. Chinese investment in Europe increased further after the announcement of the BRI, through infrastructure projects, communications, and people-to-people contact. The value of foreign direct investment from China in Europe is greater than all foreign direct investment in the country. Most of the Chinese investments towards Europe are concentrated in the United Kingdom, Germany, France, and Italy, among others. China invests in all sectors such as infrastructure, industry, services, and technology.

China invests in most European regions; despite the variation in the volume of investment between one region and another and the motives behind the investment, but the investment is generally concentrated in Western and Southern Europe. China obtains natural resources from developing countries such as Africa and the Middle East, about 44 % of China's oil imports are from the Middle East [35, p. 56], and 26 % of its total

[7]China outbound investment Ireland: your connection to Europe [Electronic resource]. URL: https://www2.deloitte.com/content/dam/Deloitte/ie/Documents/Tax/2012_china_outbound_investment_deloitte_ireland.pdf (date of access: 09.01.2021).

oil imports are from Africa [36, p. 27], so China cannot move forward as an effective international economic power without strategic partnership with the Middle East and Africa. As for China's economic entry into Europe, it is for the economic expansion and access to expertise and modern technologies. The European continent also has a fundamental role in the BRI, so China seeks to have distinguished relations with European countries. China also wants to be an innovative country, so the partnership with Europe is essential in this field. It is necessary to point out that China's strategy towards Europe is not the same. China follows a different economic strategy towards every European country, as the paper indicates. Thus, the ultimate goal of China in Europe is to achieve economic profit. China always aspires to transform its relationship with European countries into a strategic partnership, and the Chinese administration places great hopes on the BRI in strengthening Sino-European trade relations.

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THE PHENOMENON OF AGENCIFICATION IN THE ADMINISTRATION OF THE EUROPEAN UNION

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The article offers an analysis of the process known as agencification that has led the EU to rely on numerous agencies in order to fulfill its administrative tasks. The focus lies on the status of these agencies within the EU legal system, the way in which they are established, their internal organization and financing, the decision-making procedures, as well as their operation. Furthermore, a classification of the agencies is carried out by using specific categories. It also explains the challenges that agencies face in their daily activities. It explains their relationship with the EU institutions, especially with regard to the democratic control and the control of legality that the latter exercise.

Keywords: integration process; law of regional economic integration; supranational administration; European agencies; European Union; European Economic Area; Area of Freedom, Security and Justice.

ФЕНОМЕН АГЕНТСТВОФИКАЦИИ В УПРАВЛЕНИИ ЕВРОПЕЙСКОГО СОЮЗА

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Анализируется процесс, известный как агентствофикация, приводящий к тому, что Европейский союз при выполнении административных задач опирается на многочисленные агентства. Основное внимание уделяется статусу этих агентств в правовой системе ЕС, способу их создания, их внутренней организации и финансированию, процедурам принятия решений, а также их деятельности. Кроме того, предлагается классификация агентств по опре-

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деленным критериям, анализируются проблемы, с которыми агентства сталкиваются в своей повседневной деятельности. Объясняется их взаимодействие с институтами ЕС, особенно в отношении осуществляемых последними демократического контроля и контроля законности.

Ключевые слова: процесс интеграции; право региональной экономической интеграции; наднациональное регулирование; европейские агентства; Европейский союз; Европейская экономическая зона; Пространство свободы, безопасности и правосудия.

Introduction

The purpose of this article is to explain the so-called agencification in the European administration, a phenomenon that plays an increasingly important role in the activity of the European Union. In fact, there are currently around 30 decentralized agencies, each performing different functions and often replacing the institutions themselves. This diversity entails the risk of chaotic and uncoordinated development, capable of adversely affecting the EU legal order. In order to establish common criteria for the establishment of such agencies, the European institutions adopted in 2012 the so-called common approach, which introduces a number of common principles, thus making it possible to make agencification a more coherent, effective, and accountable process.

The features of any European agency will then be presented, with a view to enabling the reader to better understand the challenges that the EU has had to face in the course of the evolution of its administrative structure.

Agencies within the EU institutional structure

Names of agencies. It should be noted at the outset that the name of an agency as such does not say much about its legal status. Agencies can be called *agencies*, *offices*, *foundations*, *authorities*, etc. without any immediate inference of their precise functions or their situation in the institutional structure of the EU. Rather, it is necessary to analyze its internal rules in detail in order to obtain more information. The aim of this work is to demonstrate that it is possible to describe the main features of agencies despite their great diversity.

The list of agencies mentioned in the article see in appendix.

Legal status. The treaties establishing the EU refer to "institutions, agencies and other bodies", from which it can be inferred that there are significant differences between these categories. Art. 13 of the Treaty on European Union (TEU) contains an exhaustive list of the institutions of this integration system, including the European Parliament (hereinafter – Parliament), the European Council (hereinafter – Council), the European Commission (hereinafter – Commision), and the Court of Justice of the EU (CJEU), to mention only those most important for the purposes of this article. It is worth mentioning that the treaties do not include any similar list of agencies. In fact, apart from certain exceptions limited to EUROPOL, EUROJUST, EDA, and the European Public Prosecutor's Office (EPPO)[1], the treaties do not mention them at all. It is, therefore, feasible to conclude that there is no limit on the number of agencies that can be set up so that the EU can make use of this power whenever it deems it necessary. As regards the modalities of their establishment, it should be noted that, unlike the institutions, agencies are not based on the founding treaties themselves, but on legal acts derived from EU law, namely regulations, which determine the objectives and competencies of each agency. As defined in art. 288(3) of the Treaty on the functioning of the EU (TFEU), a regulation "has general application, is binding in its entirety and directly applicable in all member states". In other words, agencies are created once their founding regulations enter into force in the EU legal order, without the need for any transposition by the member states. The latter will have to apply the regulation as such, in full recognition of the agency created, which is particularly important for cooperation between the agency and the member states. In addition, while the institutions are established by the founding treaties, i. e. legal instruments of public international law concluded by the member states, agencies are established only by the EU legislator in the framework of a regular legislative procedure. This has the advantage of making it easier to change the powers and other characteristics of an agency, without having to resort to the lengthy and politically risky procedure for amending the founding treaties, which requires the approval of the member states in accordance with their constitutional requirements, which may require the agreement to be submitted to a referendum.

Legal personality and capacity. It is important to highlight the fact that agencies have legal personality. They also enjoy in each of the member states the most extensive legal capacity accorded by national law to legal persons. These features enable agencies to act

[1]EPPO (art. 86 of the Treaty on the functioning of the EU); EUROPOL (art. 85, 86 and 88 of the Treaty on the functioning of the EU); EUROJUST (art. 88 of the Treaty on the functioning of the EU); EDA (art. 42 (3) and 45 of the TEU).

alone, i. e. independently of the EU, in the international legal order and to conclude administrative arrangements with institutions, in addition to other EU agencies, member states, third countries, and international organizations. The exercise of such legal personality is, however, limited to what is strictly necessary to enable the agencies to fulfill the tasks assigned by the EU legislator. The scope of such limitations can generally be inferred from the provisions of the founding regulation, which will specify the procedures to be followed, as well as the institutions from which authorization will be required in order to conclude an agreement with the above-mentioned entities. Administrative arrangements will normally be subject to prior authorization by the Commission, which ensures that the agencies do not exceed their powers, while it will be sufficient to inform Parliament once the agreement has been concluded. The requirement of prior authorization implies that the Commission is also entitled to demand amendments to the draft administrative agreement, which it considers necessary. The Commission will therefore be able to impose on the agencies in a certain way their vision of how the agencies should fulfill their tasks.

The role of the agencies in European public procurement. Legal capacity is essential for public procurement. The founding regulations specify that the agency may acquire or dispose of movable and immovable property, which implies concluding contracts for the sale of goods and the acquisition of services. Like the EU institutions, agencies need goods and services to fulfill their tasks. Such contracts may provide for the purchase of mere office supplies or even highly technical equipment. The services purchased may be related to simple aspects such as cleaning up infrastructure or foreseeing activities inherent to their functions, such as the surveillance of the external borders of the Schengen area and transporting illegal immigrants to their country of origin by means of a previously hired private aircraft. Since agencies are part of the EU, they are obliged to apply the public procurement rules set out in the financial regulations[2]. In order to take account of the particular status of agencies, specific rules (laid down in the 'framework financial regulations') apply[3] and are incorporated into the financial regulations of the respective agencies. Agencies may conclude contracts with institutions, other agencies, and economic operators established in the EU or third countries. In certain cases, inter-agency cooperation is expressly provided for in the founding regulations in order to ensure the unity and coherence of the EU legal order, such as cooperation with the CDT and the Publications office, entities entrusted with specific tasks.

In this context, it is important to mention that, when the EU exercises exclusively the competencies of its states in the area of international trade in goods and services[4], the World Trade Organization (WTO) agreements provide that the EU is a full member, together with its 27 member states. It must therefore comply with the obligations arising from those agreements. Given the fact that they are not explicitly listed in the Government procurement agreement (GPA)[5] as public authorities subject to the provisions of this Convention, agencies themselves are not obliged to comply with WTO rules on government procurement, unlike certain EU institutions, such as the Council, the Commission, and the European external action service. This means that agencies have a greater margin of discretion in the area of public procurement as regards acquisition from third countries.

Administrative autonomy. Agencies enjoy administrative autonomy in the sense that they can freely decide on their staff and internal organization in order to respond adequately to their respective needs, obviously provided that compliance with the existing legal framework is ensured. They may recruit and dismiss staff in accordance with the provisions of the Staff regulations of officials and the conditions of employment of other servants (CEOS) of the EU, which apply to officials and temporary (contract) agents respectively[6]. While the institutions employ officials and temporary (contract) staff, the second category of staff in the agencies pre-

[2]Regulation (EU, Euratom) No. 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the union, amending Regulation (EU) No. 1296/2013, Regulation (EU) No. 1301/2013, Regulation (EU) No. 1303/2013, Regulation (EU) No. 1304/2013, Regulation (EU) No. 1309/2013, Regulation (EU) No. 1316/2013, Regulation (EU) No. 223/2014, Regulation (EU) No. 283/2014, and decision 541/2014/EU and repealing Regulation (EU, Euratom) No. 966/2012.

[3]Commission delegated Regulation (EU) No. 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom treaty and referred to in art. 70 of Regulation (EU, Euratom) No. 2018/1046 of the European Parliament and of the Council.

[4]The EU's exclusive competence for external trade in goods and services derives from art. 2(1) of the TFEU in combination with art. 3(1)(e) of the TFEU.

[5]The GPA is a plurilateral agreement within the framework of the WTO, meaning that not all WTO members are parties. The fundamental aim of the GPA is to mutually open government procurement markets among its parties. The GPA 1994 was signed in Marrakesh on 15 April 1994 – at the same time as the agreement establishing the WTO – and entered into force on 1 January 1996. Not long after the implementation of the GPA 1994, the GPA parties initiated the renegotiation. It was concluded in December 2011 and the outcome of the negotiations was formally adopted in March 2012. On 4 April 2012, the GPA 2012 came into force for all those parties to the GPA 1994 that had ratified the GPA 2012, while allowing other parties to the GPA 1994 to continue completing their domestic ratification procedures. The last of those other parties, Switzerland, on 2 December 2020 deposited its instrument of acceptance of the GPA 2012. The GPA 2012 entered into force for Switzerland on 1 January 2021. On the same date, the GPA 2012 replaced the GPA 1994.

[6]Regulation No. 31 (EEC) 11 (EAEC) laying down the Staff regulations of officials and the conditions of employment of other servants of the European Economic Community and the European Atomic Energy Community.

dominates. While officials are appointed by an administrative act, staff members conclude employment contracts with the agency. The duration of such contracts may vary from agency to agency, ranging from 3 years (renewable), as in FRONTEX, to 9 years (non-renewable), as is the case in EUROPOL.

The settlement of labor disputes between EU agencies and their staff falls, in principle, within the jurisdiction of the CJUE pursuant to art. 270 of the TFEU. Within the CJEU as an institution, the competence to deal with labor matters is conferred upon the General Court of the EU (GC). Its jurisdiction is exclusive, hereby ruling out that national courts may deal with those matters. Consequently, any national court would have to dismiss as inadmissible any request to deal with a case brought before it by an EU "official" or a "temporary agent". The EU shows here similarities with other international organizations such as the United Nations that, due to the autonomy and the immunity they traditionally enjoy by virtue of public international law, have their own jurisdictions in labor matters (or have special arrangements with specific international jurisdictions, as is the case of the EFTA Surveillance Authority with the Administrative Tribunal of the International Labor Organization). As already indicated, the principles mentioned above apply unconditionally to EU "officials" and "temporary agents". However, they do not apply to "contract agents", whose contracts are not entirely governed by the EU Staff regulations and CEOS but rather predominantly by national law. Those contracts usually lay down the applicable civil (labor) national law. Consequently, labor disputes related to these contracts fall generally within the competence of national courts.

Having administrative autonomy also means that agencies can set their own specific objectives and take the necessary measures to achieve them, obviously within the limits set by the founding regulation and the political priorities identified by the main EU institutions in this area, i. e. the European Council, the Council of Ministers and the Commission [1, p. 559]. These institutions set out the political priorities to be subsequently implemented by the agencies through an action plan.

The agencies also have a certain financial autonomy and can decide which projects the funds shall be allocated to. Each agency adopts its own internal financial regulation, which reflects the provisions of the financial regulation applicable to the institutions and requires compliance with EU financial principles[7]. It should be noted in this context that the funding of agencies comes to a large extent from the EU budget, contributions from the member states and associated states participating in the activities of these agencies, as well as services provided. Where third countries participate in the activities of the agencies, they shall be obliged to contribute to the budget of the respective agency, in accordance with the provisions contained in the founding regulations and association agreements with the EU. As will be explained below, Parliament adopts the EU's multiannual budget, which includes the resources to be allocated to the respective agencies. This power gives Parliament considerable power, making it a guarantor of democratic control over the agencies' activities.

A new form of European administration. *The concept of administration.* From a legal perspective, the concept of "administration" means the application and enforcement of EU law by competent authorities. The application involves both a *de facto* activity and the adoption of implementing rules or legal acts [2, p. 87]. It differs from the legislative activities attributed to both the Parliament and the Council and the judicial role assigned to the CJEU. The EU follows in some way the model of the division of powers known at the state level without copying it completely. In the course of its history, the EU has developed various types of administration, making "agencification" a new form, which, as will be seen below, has raised questions as to its compatibility with the founding treaties. Before setting out what this new type of administration consists of, it is useful to briefly describe its more traditional forms.

Traditional forms of administration. One of the traditional forms of administration is the direct application of EU law by the institutions themselves. The role of the Commission as an executive body *par excellence* must be emphasized in this context. Another form of administration consists of its indirect application by the member states, which are called upon to determine the necessary bodies and procedures (procedural autonomy)[8], imposing as the sole condition that enforcement is effective (principle of efficiency) and that the rights granted to individuals are not treated less favorably than the rights guaranteed by national law (principle of equivalence)[9]. Art. 291(1) of the TFEU, according to which "member states shall adopt all measures of national law necessary to implement legally binding EU acts" is based on the premise that this is the standard form of administration [3, p. 523]. EU law generally leaves member states freedom to apply

[7]These are the principles of unity, budgetary accuracy, annuality, equilibrium, unit of account, universality, specification, sound financial management and transparency.

[8]Art. 19(1) of the TEU refers to the procedural autonomy of the member states. However, it refers to a specific area related to "remedies necessary to ensure effective judicial protection in the fields covered by EU law". It is therefore not so relevant in the purely administrative context at issue in this article.

[9]See: judgment of the CJEU of 4 October 2018 in case C-571/16, Nikolay Kantarev v Balgarska Narodna Banka. EU:C:2018:807. Para 124, 125 ; judgement of the CJEU of 8 March 2017 in case C-14/16, Euro Park Service v Ministre des Finances et des comptes publics. EU:C:2017:177. Para 36.

substantive and procedural administrative law, as long as it does not regulate this matter. Within this category of indirect application, it is possible to identify the constellation in which EU law does not give the member states any discretion, requiring its application as such by the national authorities. According to another constellation, EU law confers a margin of discretion on the national authorities, merely determining the objectives to be achieved, as well as certain useful criteria to be taken into account, so that the member states are called upon to adopt their own rules in order to ensure its application at the national level.

Administration through agencies. Administration through agencies, not foreseen at the time of the creation of the EU, is clearly different from the more traditional forms described in the previous paragraph, in that it provides for the creation of joint institutional structures, allowing for the joint participation of supranational and national entities [4, p. 221]. The agencies are supranational entities that, however, require the cooperation of the member states in order to make their actions effective. Member states are represented in the agencies by the members of the management board, who have the right to vote and participate in the preparation of decisions, as well as in the control of the activity of the respective agency. Member states thus become part of the administration in so far as they are called upon to implement the decisions taken by the agency at their national level. The member states, therefore, play a decisive role in the preparation, adoption, and implementation of administrative measures, which has the advantage of ensuring that this form of administration is accepted. This in turn has the consequence of ensuring the effective implementation of EU law at the national level. Through their representation on the board, member states become aware of their responsibility (accountability) in the decision-making process at the supranational level. The need for a dialogue with representatives of other member states and institutions reminds them that there are different realities that need to be taken into account. In some way, member states gain access to the supranational perspective, forcing them to abandon national egoism. It should be noted in this context that the possibility of having an exchange with colleagues from the other member states on essentially technical aspects has the advantage of "depoliticizing" many potentially sensitive issues, which the EU had already achieved at the beginning of the European integration process by assigning tasks to the Commission as a supranational entity.

The agencies thus form an intermediate form of administration between the purely supranational and decentralized ones. As member states are responsible for implementing EU law, often assisted by the agency, the management board can itself verify compliance with this obligation and record this in a regular report of activities. By informing member states of the progress in implementing EU law at the national level, they can put political pressure on those who show compliance deficits, which has the effect of alleviating the work of the Commission, which generally has the role of "a guardian of the treaties" in the EU legal order. Breaches of law by the member states can thus be prevented, making it unnecessary for the Commission to initiate infringement proceedings against them. In addition to the management board, the agency is supported by national experts who can meet at the agency's headquarters and discuss current problems. This representation of the member states allows them to infer that the agency "belongs" to them, which, however, should not lead to the erroneous conclusion that the barrier between the supranational level and the national level ceases to exist. This form of administration aims to achieve greater involvement of member states in decision-making at the supranational level.

Classification of agencies. When talking about "administration" by agencies, it is essential to take account of the type of functions they perform. The variety of functions allows them to be classified more precisely. In order to avoid misunderstandings, it is worth pointing out beforehand that this article deals only with so-called "decentralized agencies", but not with "executive agencies". The second category of agencies comprises administrative entities incorporated in the internal structure of the Commission, without legal personality, which have been entrusted with the task of implementing certain Commission programs. The first category of agencies includes administrative entities having legal capacity, as mentioned above, the functions of which differ from those normally performed by the Commission.

With regard to the tasks generally assigned to agencies, a distinction can be made between the collection and dissemination of information, technical assistance, the regulation of a given area, supervision or control, and the implementation of operations[10].While certain agencies fulfill their role by assisting the Commission and the member states or by producing soft law documents, allowing member states to apply EU law more efficiently, others can directly influence the internal market by making decisions that affect the legal position of economic operators. Some agencies are also responsible for sending staff to the member states or even to third countries, in order to implement European legislation. Some agencies provide services to others, thereby strengthening the cooperation network.

It is also, in principle, possible to classify agencies according to their respective area of competence, the

[10]There are several possible types of classification. See in this regard the report of the Parliament's Constitutional Affairs Committee of 30 January 2019 on the implementation of the legal provisions and the Joint statement ensuring parliamentary scrutiny over decentralized agencies.

pillar in which they were established (Community or intergovernmental, depending on the division that existed before the entry into force of the Lisbon treaty), by the period of creation, size, the circle of beneficiaries of the agency's services, the origin of its resources and funding, the type of administrative board, etc. These classification criteria are less widely used, being the "type of function" exercised by the respective agencies (see the various "tasks" listed above) the most common criterion.

The concept of "administrative law" in the EU legal order. A brief parenthesis should be made in order to explain the concept of "administrative law" in the EU legal order. As in national legal systems, this concept deals with substantive and procedural administrative law. Under "substantive" law, there is a general understanding of the set of rules that articulate EU policies, be it at the supranational or national level, while "procedural" law regulates the way in which EU institutions, member states and individuals interact.

EU administrative law is as old as the integration process itself. Regardless of whether it concerns the rules on aid to agriculture, the provisions relating to the customs union, the authorization of mergers between undertakings, the registration of trademarks, etc., the administrative law of the EU is now omnipresent. The EU was born as a highly bureaucratic organization with a view to fostering cooperation between the member states. As the EU is increasingly assuming competencies previously exercised by the member states, it is clear that the national administrative law is being replaced by a new supranational administrative law of its own. This new supranational administrative law is built on the legal traditions of the member states, incorporating general principles as important as the principle of proportionality and the principle of legal certainty, which in turn knows various expressions, such as legitimate expectations and the prohibition of retroactivity [5, p. 9]. These are supplemented by other essential principles of administrative law, such as the obligation to state reasons for decisions taken by the EU institutions and to grant access to the file.

These principles were often codified in administrative law itself, which could constitute a single regulation. However, it was the CJEU, which, firstly, required that they be taken into account even if they were not expressly codified and, secondly, developed other principles that the legislator had not initially envisaged. The CJEU has therefore played a major role in the development of supranational administrative law. Many of these principles created by case law were subsequently incorporated into the EU administrative codes. More importantly, some of these principles have even been codified in the Charter of fundamental rights[11] (if not already found in the founding treaties themselves[12]), which has the status of primary law in the EU legal order[13]. It should be borne in mind that this does not prevent the CJEU from further developing principles of administrative law. On the contrary, the CJEU has the power to interpret the principles already recognized in the Charter of fundamental rights and to make them evolve, while at the same time creating new principles[14]. The CJEU's competence to develop EU law through its case law has been recognized even by the constitutional courts of the member states[15], leaving aside specific cases of opposition by national courts (see [6]).

The term "codes" should be used in the plural, as there is no single EU administrative code to date. The applicable administrative law may vary considerably depending on the subject matter. Although there are often general principles, which, as the term itself states, are of "general" (or "universal") application, they may find a different expression, depending on the requirements of administration. For example, the obligation to state reasons may depend on the administrative context and the interest, which an individual may have in knowing the reasons for the adoption of a particular administrative decision affecting him[16].

[11]See: art. 41 of this charter, which refers to the principle of good administration, according to which everyone has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the EU. This right includes in particular: the right of every person to be heard, before any individual measure which would affect him or her adversely is taken; the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy; the obligation of the administration to give reasons for its decisions. In addition, everyone has the right to compensation by the EU for damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the member states. Finally, any person may contact the EU institutions in one of the languages of the treaties and must receive an answer in the same language.

[12]See: art. 5 of the TEU, which refers to the principles of subsidiarity and proportionality, as well as art. 296 of the TFEU on the obligation to state reasons for legal acts adopted by the EU institutions. Furthermore, art. 298(1) of the TFEU states that "in the performance of their tasks, the institutions, bodies, offices and agencies of the EU shall rely on an open, efficient and independent European administration".

[13]See: judgment of the CJEU of 19 January 2010 in case C-555/07, Seda Kücükdeveci v Swedex GmbH & Co KG. EU:C:2010:21. Para 22.

[14]This is mainly due to the fact that art. 6 of the TEU distinguishes between the rights, freedoms and principles set out in the Charter of fundamental rights of the EU, on the one hand, and the general principles of EU law, on the other, which are influenced by the interpretation given to the European convention for the protection of human rights and fundamental freedoms.

[15]See: judgment of the German Federal Constitutional Court of 6 July 2010 in case 2 BvR 2661/06, DE:BVerfG:2010:rs2010-0706.2bvr266106. Para 62.

[16]See: judgment of 15 November 2012 in case C-539/10 P and case C-550/10 P, Stichting Al-Aqsa v Council of the European Union and Kingdom of the Netherlands v Stichting Al-Aqsa. EU:C:2012:711. Para 139 ; judgment of 11 July 2013 in case C-444/11 P, Team Relocations and others v Commission (not published). EU:C:2013:464. Para 120 ; judgment of 28 March 2017 in case C-72/15, PJSC Rosneft Oil Company v Her Majesty's Treasury and others. EU:C:2017:236. Para 122.

Such a decision may also be subject to a less strict legal review in the light of the principle of proportionality, depending on the discretion enjoyed by the administration. Furthermore, considerations of public security may require a nuanced application of these principles[17] (see, to this effect [7, p. 1099, 1103]). The time limits for submitting an application or lodging an appeal may be shorter than for other cases, depending on the interest of the administration in creating legal certainty. Certain remedies may provide for a full review of legality or be limited to preventing arbitrary decisions[18].These considerations prevent the creation of a single administrative code.

Furthermore, it is important to bear in mind in this context that EU administrative law includes not only general principles with legal force, breach of which may lead to the unlawfulness (or even nullity) of the administrative decision, apart from a right to compensation for the prejudice suffered by the person concerned, but also other principles whose observance is merely recommended in order to ensure "good administration". There are certain requirements for "good administration" which, if not fulfilled, do not necessarily lead to the unlawfulness of an administrative decision. Failure to comply with those requirements is simply an instance of maladministration, which must be avoided. The distinction between these requirements and legal defects is not always easy, especially as certain legal defects may be remedied by the administration itself because they are not considered to be so serious. This is generally the case for certain formal errors, which do not affect the substance of the administrative decision. However, it is important to be able to differentiate between different cases, as this depends on the competence of the EU bodies responsible for enforcing legality. Thus, while the CJEU is solely responsible for examining defects in the law, the European Ombudsman (EO) also deals with cases of maladministration, in accordance with art. 228 of the TFEU[19]. Its competence is therefore much broader, regardless of the very specific instruments that the latter has at its disposal, which essentially consist in the possibility to publicly denounce instances of maladministration and to ask the authorities to remedy them.

Despite the difficulty in creating a single EU administrative code, there have already been some attempts to at least codify procedures. It is worth mentioning the Parliament's resolution of 15 January 2013 recommending to the Commission the creation of an EU Law on administrative procedure[20]. For its part, the Court of Auditors in its opinion No. 1/2015 called for the same idea[21]. On 13 January 2016, a proposal for a regulation on administrative procedure for the EU was published, after being adopted by the Parliament's Committee on Legal Affairs the previous week.

The codification of EU administrative law has important consequences, as it has the effect of complementing or even replacing national administrative law. This means that national authorities will have to apply autonomous concepts in accordance with the requirements of the EU legal order. Where the EU legislator does not provide for specific administrative procedures, substantive law must be applied in accordance with the procedures known under national administrative law while respecting the procedural autonomy of the member states referred to above. However, should the EU legislator decide to regulate itself the procedures to be followed when applying substantive administrative law, this will obviously have as a consequence that the said procedural autonomy will be diminished.

Institutional openness. The EU is very concerned about the integrity of its legal order, and the CJEU has on many occasions stressed the need to preserve its unity, coherence, and primacy[22]. While it is true that the European integration process has evolved to the point of accepting "multiple speed integration", allowing member states to join the various integration projects offered by the EU (e. g.: the monetary union, the Area of Freedom, Security, and Justice, the establishment of the Unified Patent Court (UPC) through the "enhanced cooperation" mechanism under art. 329 of the TFEU[23], the security and defense cooperation in the

[17]See: judgment of 15 February 2016 in case C-601/15 PPU, J. N. v Staatssecretaris van Veiligheidlen Justitie. EU:C:2016:84. Para 53. See, to this effect: *Van Drooghenbroeck S.*, *Rizcallah C.* Charte des droits fondamentaux de l'Union européenne – commentaire article par article. Brussels, 2018. P. 1099, 1103.

[18]See: opinion of Advocate General Pikamäe of 9 September 2020 in joint case C-225/19 and case C-226/19, R.N.N.S. and K.A. v Minister van Buitenlandse Zaken. EU:C:2020:679. Para 99.

[19]The EO and the Commission have separately developed codes of good administrative conduct, which have no legally binding force. However, they have some authority in the administrative practice of the European institutions and other entities in so far as they incorporate principles recognized by the case law of the CJEU, the founding treaties of the EU, as well as the Charter of fundamental rights.

[20]European Parliament resolution of 15 January 2013 with recommendations to the Commission on a Law of administrative procedure of the European Union.

[21]Opinion No. 1/2015 of the Court of Auditors of the EU on a proposal for a regulation of the European Parliament and of the Council amending regulation (EU, Euratom) No. 966/2012 on the financial rules applicable to the general budget of the union (2015/C 52/01).

[22]Opinion 2/13 of the CJEU of 18 December 2014 on EU accession to the European convention on human rights. Para164 et seq.

[23]The UPC is not incorporated into the CJEU, but constitutes a separate jurisdiction, created on the initiative of most member states (Poland, Spain and Italy were opposed at an inception) and some third states on the basis of an international agreement. Despite its origin in international law, the UPC will have to apply the substantive patent law created by the EU through two regulations. Patents issued will have a dual effect, in the sense that they are supranational and national in nature (in all participating states). The seat of the UPC will be located in Paris, with sections in London and Munich, and regional and local divisions (see [8, p. 89]).

framework of the so-called permanent structured cooperation provided for in art. 42(6) and 46 of the TFEU (see for further details [9, p. 1075], etc.) where they consider it appropriate, it is clear that certain limits to such flexibility have been established. As recently seen during the negotiations between the EU and the UK related to the withdrawal of the latter and the conclusion of a partnership agreement that still needs to be defined in contractual terms, the EU is opposed to any kind of segmentation of the internal market (on the Brexit process, see [10, p. 64]). The EU, therefore, rejects the UK's proposal to remain in the internal market after becoming the third country, whilst totally excluding or at least significantly limiting the free movement of workers.

With the exception of this particular case, the EU has on certain occasions accepted, that third countries voluntarily join the integration process without having to join the EU and obtain full membership status. This is the case for internal market integration with certain member states of the European Free Trade Association (EFTA)[24], achieved through the conclusion of the Agreement on the European Economic Area (EEA). This agreement allows for an extension of the EU internal market freedoms to these states (see on the EEA [11]). Another example illustrating the openness of the European integration process is the participation of EFTA states in the Schengen legal acquis, i. e. the set of rules allowing the free movement of persons exempted from border controls in the geographical area made up by the participating states[25]. This participation is possible thanks to the agreements concluded between the EU and the respective EFTA states.

Due to the high degree of integration in the above areas and taking into account the need to ensure uniformity in the application of EU law, it is necessary to provide for a very close institutional cooperation. It is precisely in this context that the administrative aspect becomes essential. It is important to stress that the manner in which the EFTA states have joined the internal market and the Schengen area is quite different. While in the first case, rather complex parallel institutions have been set up within EFTA (the so-called two-pillar structure), thus ensuring formal autonomy, in the second case, the EFTA states have joined the EU individually on the basis of bilateral agreements providing only for basic institutionality, in the form of joint committees. The participation of the EFTA states in both projects raised some problems, due to the fact that the phenomenon of agencification exists in both areas. Because several agencies operate in the field of the internal market and the Schengen area, the way in which the EFTA states can participate in the work of these agencies had to be established. Otherwise, it would have been very difficult to ensure that the decisions taken within the agencies would be implemented in those states. It would also have been difficult to resolve the sensitive problem of the democratic legitimacy and the validity of EU law in the legal systems of the EFTA states. In addition, it would have been a waste of resources not to benefit from the technical expertise of experts from these countries. It should be borne in mind that art. 100 of the EEA agreement itself requires the participation of those states in the phase preceding the legislative procedure, which is influenced by the opinions of experts (decision sharing). This form of participation is perfectly compatible with the EU treaties as it does not mix up the status of a member state and that of an associated state. It should be recalled that under EU law, the status of associated state is generally granted fewer privileges compared to the status of "member state", as the first status mentioned does not provide for any participation in the EU legislative process within the Council. Instead, the associated states must accept legislative acts adopted by the EU legislator and, if provided for in the association agreements, transpose them into their national legal order[26]. It is obvious that the autonomy of the EU legal order is not undermined by a simple "technocratic" participation in the good functioning of the EEA. The founding regulations of certain agencies provide for the participation of EFTA states as voting members (in matters concerning them) in the management board, while in other agencies at least one observer status is provided for [12, p. 136].

Institutional openness in agencies is not limited to third countries but extends even to international organizations. Since the agencies constitute genuine centers of technical competence [13, p. 589], it would be inconceivable to disregard the support of international organizations and non-governmental organizations operating in the same field. The founding regulations of the various agencies take account of this by providing for the participation of specialized entities within the consultative bodies of the respective agencies, which allows for a useful exchange of ideas. In certain cases, international organizations are even represented in the management board, but without having the right to vote. The participation of international organizations, of which the EU itself is not a member (but its member states) – such as the UN Refugee Agency (UNHCR) in EASO's management board and FRONTEX's consultative forum – is a remarkable fact demonstrating the EU's commitment to the international community.

The consequences of Brexit. *Possible future participation of the United Kingdom in the activities of EU*

[24]EFTA member states are Iceland, Norway, Liechtenstein and Switzerland. The first three are part of the European Economic Area.

[25]All EFTA member states are part of the Schengen area.

[26]However, this does not preclude ad hoc adaptations to EU legislative acts in the framework of the Joint Committee (the Association's decision-making body) in order to take into account the needs of the associated state.

agencies. The institutional openness of EU agencies is likely to be put to the test in the aftermath of Brexit. On 31 January 2020 at midnight, the United Kingdom ceased being an EU member state. As a consequence thereof, it has become a third country, irrespective of the fact that the Withdrawal agreement[27] provided that some of its obligations derived from EU law would continue to be in force throughout the year 2020. This means that the United Kingdom is no longer entitled to participate in the activities of EU agencies unless otherwise provided. Having said this, it is worth noting that by the time of publication of this article, the EU and the United Kingdom have concluded and declared provisionally applicable a so-called Trade and cooperation agreement[28] (an association agreement from the perspective of EU law). It certainly does not compensate for the loss of EU membership, as it is less ambitious in scope, which means that the United Kingdom will not be required to seek participation in all EU agencies.

This is certainly true for the EPPO, as this agency safeguards the financial interests of the EU (although it cannot be ruled out that the EPPO might have to address British authorities on a bilateral basis in certain circumstances). Other examples of agencies that might not be relevant for the United Kingdom are those entrusted with specific aspects of the internal market. The reason is that the said association agreement explicitly recognizes the autonomy of both parties in regulatory matters. This was a specific request from the United Kingdom that the EU has agreed with. In other terms, the United Kingdom is now allowed to adopt its own rules, in particular in the area of labor and environmental protection, without having to participate in the EU norm-setting process (either within a regulatory EU agency or in the framework of EU legislative procedures). This is a significant difference to the association with the EFTA or EEA states already explained above.

Nevertheless, both parties will have to assess carefully whether the implementation of the said association agreement makes it mandatory or at least desirable for the United Kingdom to join a specific agency. For that purpose, the United Kingdom would certainly have to conclude administrative arrangements with individual agencies, obviously with the approval of the EU. The future cooperation between the EU and the United Kingdom would be strictly bilateral in nature, similar to the type of relations with other third countries. EUROPOL provides a classic example of bilateral cooperation with third countries (involving countries such as Albania, Australia, Colombia, Georgia, etc.), made possible by numerous agreements. At this stage, it is too early to say with certainty how this cooperation might evolve, given that the said association agreement has been concluded not long ago and various aspects still require closer scrutiny and further implementation through specific bilateral agreements. From that perspective, Brexit must still be considered an unfinished process.

Employment of British nationals in EU agencies. For British staff working at EU agencies, the new third country status of the United Kingdom entails certain disadvantages with regard to their colleagues. They are more likely to be treated differently, as the principle of geographical balance might require agencies to privilege EU nationals when it comes to filling positions. It cannot be ruled out that British staff might be gradually replaced by the latter in the long term. However, it is worth pointing out that according to the Staff regulations and CEOS, agencies may actually keep British staff if this course of action is "in the interest of the service" (*dans l'intérêt du service*), in other words, if they are "indispensable" for the functioning of the agency. This is a strict requirement every agency, due to the autonomy that agencies enjoy in staff matters, will have to assess whether it is met in the respective case. This derogation has already been applied by analogy in other cases, in which the recruitment of the third-country nationals was deemed necessary by the EU institutions in order to benefit from the experience and expertise of highly qualified professionals. Against that background, the Staff regulations and CEOS already provide for adequate solutions in order to ensure a seamless transition to a post-Brexit era.

Inter-agency cooperation. Being part of the EU's institutional structure, it is consistent that agencies are called upon to cooperate in areas of common interest. The agencies' cooperation with the CDT and the Publications office in the area of public procurement, which is expressly provided for in the founding regulations, has already been mentioned above. Apart from this, agencies operating in a similar field or interested in a given category of services can cooperate and acquire them jointly (joint procurement). The EU financial regulations provide for such cooperation in order to reap the benefits it brings, i. e. saving financial resources and benefiting from synergy effects. This type of cooperation generally requires that two or more agencies agree on the services or goods to be procured (e. g. the purchase of aerial surveillance services between FRONTEX, EFCA, and EMSA), the modalities of inter-party cooperation (internal allocation of resources or goods purchased according to the needs of each agency), as

[27]Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, signed on 24 January 2020. It entered into force on 31 January 2020 at midnight, when the United Kingdom left the European Union.

[28]Trade and cooperation agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.

well as the organization of the procurement procedure (publication of a call for tenders, evaluation of tenders, award of the contract).

Many agencies are meant to collaborate with each other because they operate in the same field. The EU legislator has often even provided for complementarity of tasks, making certain agencies natural allies. This is the case for agencies such as FRONTEX, EUROPOL, and EUROJUST, which are responsible for fighting crime in the so-called area of freedom, security and justice set out in art. 3(2) of the TEU. The eu-LISA agency could also be added to this list due to its IT support to the above-mentioned agencies operating in this area. Where the treaties do not provide for explicit cooperation, such cooperation is regulated in an abstract manner in the founding regulations by conferring the respective agencies the power to conclude administrative arrangements between them, in which the terms of cooperation are laid down in detail. The requirement to submit such administrative arrangements to the Commission for approval (and to inform Parliament thereof) ensures that the requirement of compatibility with EU rules is respected, as will be explained below.

Cooperation between agencies can also be achieved through an exchange of knowledge and experience in areas, which may cover issues as diverse as civil service matters, public procurement, litigation, as well as the creation of a European school for the children of civil servants in the host member state. Knowledge sharing can happen either directly between agencies or in a more institutionalized framework such as the EU agencies network, to which the Commission is also usually invited. As agencies face very similar challenges, it is understandable that such close cooperation has been developed. The younger agencies thus benefit from the experience gained by the older agencies. The meetings of the EU agencies network take place in different formats, according to the respective topics to be dealt with. Of particular interest is the network of lawyers, where topical legal issues are discussed. They are usually organized at the seat of the agency holding the rotating presidency.

Creation and legal basis

Method of creation. As stated at the outset, agencies are created through the adoption of founding regulations that set out the objectives and competencies of every agency, as well as the organizational structure and decision-making procedures. They also regulate fundamental aspects of EU law, such as legal personality and capacity, non-contractual liability, the power to conclude agreements, the seat of the agency, immunities, the application of financial and staff regulations, language arrangements, provisions on public access to documents and data protection. The use of the regulation as a legal instrument allows for a swift establishment as well as a flexible modification of the functioning of the agency, as the EU legislator may, if necessary, make a punctual amendment to the relevant provisions. This is how the legislator has repeatedly responded to crises, such as the migration crisis that led to an extension of competencies of the FRONTEX and EASO agencies [14, p. 150]. It also ensures immediate and uniform application by the member states, without the need for transposition into national law.

While it is true that, hypothetically, recourse could be had to other legal instruments referred to in art. 288 of the TFEU, such as a directive or a decision, it should be noted that only the regulation ensures that the constituent act has sufficient normative value to regulate matters as important as legal personality, as well as of a substantive and procedural nature, thus completely dispensing with a legislative complement at national level which could jeopardize legislative and administrative uniformity. These are the main reasons why the regulation is the primary legal instrument for setting up agencies. The establishment of EUROPOL confirms this since this agency was initially set up (in 1992) on the basis of an international agreement (which entered into force only in 1998), which was subsequently replaced by a framework decision and finally by a regulation. EUROPOL thus underwent a transformation from an intergovernmental to a supranational agency [15, p. 53]. EUROJUST experienced a similar evolution due to the fact that cooperation in criminal matters began to take place within a strictly intergovernmental framework. With the dissolution of the supranational and intergovernmental pillar structure (commonly known as the Greek temple structure) following the entry into force of the Lisbon treaty, criminal cooperation has been placed on a new legal foundation, which, however, retains certain particularities.

Although this article focuses on the establishment of agencies, it is also necessary to take into account the competence of the legislator to close them, following the same legislative procedure that led to their creation. It also has the power to amend founding regulations and to merge agencies. It should be noted that to date none of the agencies has been closed, merged, or significantly modified in their scope, except for the European agency for reconstruction, which was set up in 1999 and wound up in 2008. Over the past ten years, the Commission has twice proposed to merge agencies for reasons of coherence but did not obtain Parliament's agreement[29]. In 2007, the Commission's impact assessment accompanying the proposal for a European electronic communications market authority (which became BEREC office in 2009) suggested merging

[29]Future of EU agencies – reinforcing flexibility and cooperation : special report of the Court of Auditors. 2020. P. 22.

ENISA with the new authority, but the legislator chose instead to create a separate new body that would coexist with ENISA. CEPOL provides online and face-to-face training sessions for police officers and is closely linked to EUROPOL. In 2013, the Commission presented a legislative package, based on an impact assessment, proposing to merge EUROPOL and CEPOL for reasons of efficiency. However, Parliament rejected the proposal. This is why the agencification process seems to be moving forward rather than being reverted.

The headquarters agreement concluded with the host member state. In a certain way, European agencies reflect the idea of a federal and decentralized EU, due to the fact that they have their headquarters outside Brussels, Luxembourg and Strasbourg, informally referred to as EU capitals. To some extent, agencification in the EU is inspired by similar processes that have taken place in other parts of the world, especially in federally structured states such as the USA and Germany. The idea of decentralization responds to the need to create an institutional structure that is closer to the citizen. Agencification is thus a reaction to resentment towards Brussels, which is widely cultivated by certain groups of eurosceptics and nationalists. On the other hand, the idea of becoming the seat of an agency has become very popular among the member states, which even compete to be granted such status. This has been the case recently for EMA, which, after years in the UK, has had to look for another home state following Brexit. Several member states submitted proposals for cities that could provide suitable conditions for hosting this agency, with Amsterdam being eventually selected. The same was true for EBA, which was also based in London before Brexit and ultimately moved to Paris. There are various reasons for such a positive stance towards agencies, such as the reputation of being a host state, the expected benefits of public procurement and the employment of nationals of that member state, the hope of being able to influence in some way the policy of the agency, among others. The seat of an agency is determined by the common agreement of the member states within the Council. Recently, it was the Commission that has been proposing possible headquarters, based on applications previously submitted by the member states, which highlight the advantages of their respective cities, e. g. geographical location, connectivity, infrastructure, availability of buildings, quality of life, etc. All these criteria play an important role in the choice of the city where the seat is located.

Although the founding regulations (complemented by the provisions of the treaties) contain legal provisions allowing an agency to operate autonomously immediately after its creation by regulating essential aspects such as finance, immunities, employment, functions, etc, it is inevitable in practice to conclude headquarters agreements with the host member states[30]. Indeed, the founding regulations expressly require this. There are several aspects that need to be regulated in more detail in a headquarters agreement, such as relations with national authorities, the respect of the inviolability and the immunity of the agency (infrastructure, archives, telecommunications) and its staff, the availability of a multilingual school for staff children, the construction and availability of infrastructure, the protection of the agency's premises, exemptions of taxes and customs duties, access to the national health system, entry and stay permits, etc. All these aspects require negotiations between the agency and the host member state, which in some cases have even lasted for years. From a legal point of view, the host agreement is an instrument of public international law, which can be concluded by the agency itself because of its legal personality. At the same time, it cannot be denied that it is also part of the EU legal order, as it implements provisions of primary and secondary law. Although it is concluded and amended in accordance with the rules of public international law (and the constitutional law of the seat state), it is impossible to interpret its provisions without taking into account the objectives of EU law. It can therefore be concluded that the host agreement is a necessary complement to ensure the proper functioning of any agency. The existence of a headquarters agreement ensures legal certainty in the host state, as the national authorities are sometimes not fully aware of the prerogatives of the EU agency on their territory. The possibility of being able to consult a legal document drafted in the official language of that member state is an aspect of immeasurable value in administrative practice.

Conflict with the principles of conferral of powers and institutional balance. The existence of a large number of agencies suggests that their creation does not face obstacles that are difficult to overcome. This is precisely a major problem that needs to be discussed below. In so far as agencies are increasingly entrusted with powers, there is a risk that the EU institutions, which are expressly created by the founding treaties, may interpret this phenomenon as an implicit delegation of powers and, consequently, reject any liability for the infringement of the rights of individuals. Indeed, the possibility cannot be ruled out that the creation of agencies endowed with sovereign powers might blur the division of powers provided for in the treaties. Uncertainty as to the extent of the respective agencies' competencies may even lead to an agency unduly exceeding its power to act ("ultra vires" activity) ([1, p. 708]. The examples mentioned above suggest that the phenomenon of agencification could be incompatible with two core principles of EU law: conferral of powers and institutional balance.

[30]Report from the Commission to the European Parliament and the Council on the implementation of the Joint statement and Common approach on the location of the sites of decentralised agencies. COM (2019) 187 final. Brussels, 2019. P. 8.

The principle of conferral. The EU has only the competencies conferred by the treaties. In accordance with this principle, laid down in art. 5(2) of the TEU, the EU may act only within the limits of the competencies conferred by the member states in the treaties to attain the objectives set out therein. Competencies not attributed to the EU by the treaties remain with the member states. The Lisbon treaty clarifies the division of competencies between the EU and EU countries. These competencies are divided into three main categories: exclusive competence; shared competencies; and supporting competencies. In principle, by not providing for the possibility to set up agencies other than those explicitly mentioned in the treaties, it could be argued that only the institutions listed in art. 13 of the TEU can exercise the powers conferred on the EU.

On the other hand, it should be noted that there is no provision in the treaties expressly prohibiting the conferral of powers on other entities, be they agencies or bodies, especially if these powers are only specific and if this is done voluntarily. As will be explained below, the creation of agencies does not occur in a legal vacuum, but recourse is made each time to a legal basis in the treaties allowing the adoption of the corresponding founding regulation, following a legislative procedure for this purpose, which reflects as far as possible a consensus between the relevant institutions, i. e. the Council and the Parliament. Since the Commission is responsible for presenting legislative proposals, it has already happened that it and the Council, which is a co-legislator, have had divergent views on the choice of the appropriate legal basis. The fact that the Council has opted on certain occasions to amend the legislative proposal, by referring to a different legal basis, demonstrates how controversial this issue can be. Ideally, the treaties should be amended in order to introduce a specific legal basis for the creation of agencies. This would help to ensure legal certainty and avoid litigation before the CJEU. However, there is currently no indication of political will for reform.

The principle of institutional balance. According to art. 13(2) of the TEU, each EU institution is to act within the limits of the powers conferred on it by the treaties and in accordance with the procedures, conditions and objectives set out therein. This provision is the expression of the principle of institutional balance, characteristic of the institutional structure of the EU, which implies that each of the institutions must exercise its powers without encroaching on those of the others[31]. In view of this principle, it could be argued that, by taking on certain powers, agencies "usurp" the powers originally conferred on the institutions. In addition, it could be argued that by creating new entities other than the institutions, the democratic and legality control that the treaties impose on the institutions is avoided. Agencification would therefore be an attack on the sophisticated institutional balance established by the treaties.

However, this argument would ignore the fact that the agencies only have ad hoc powers, in highly specialized areas, without depriving the institutions of the possibility of exercising their original powers. In fact, agencies operate in a highly technical area, into which an institution would hardly venture, unless the treaties were amended. Thus, far from "usurping" powers, the agencies occupy new areas of competence on the basis of an express conferral, specified in the founding regulation. As regards the argument relating to the alleged lack of democratic control and legality referred to in the previous paragraph, it is important to mention that the agencies do not operate arbitrarily and without any control. On the contrary, as will be explained below, agencies are required to submit detailed reports of their activities to the main institutions as well as to the general public. There are also transparency obligations they must comply with, such as public access to documents. As regards the necessary review of legality, it must be borne in mind that the acts adopted by agencies having legal effects for individuals may be challenged by the latter before internal judicial bodies and the CJEU [1, p. 709]. It can therefore be rightly stated that the EU legislator has developed appropriate mechanisms to ensure that agencies do not avoid their democratic and legal accountability.

The principle of subsidiarity. Another principle that plays an important role in setting up agencies is the principle of subsidiarity, as laid down in art. 5(3) of the TEU and Protocol No. 2 on the application of the principles of subsidiarity and proportionality. In areas which do not fall within the exclusive competence of the EU, the principle of subsidiarity aims to protect the decision-making and policy capacity of member states and legitimizes EU action where the objectives of an action cannot be sufficiently achieved by the member states, but can rather be better achieved at EU level "by reason of the scale or effects of the proposed action". Thus, the purpose of including that principle in the EU treaties is to bring the exercise of powers closer to the citizen, in accordance with the principle of proximity laid down in art. 10(3) of the TEU. As EU law provides for various forms of administration, it would be possible to claim that the creation of an agency is an unnecessary act of centralization. Indeed, as explained above, EU law can be implemented in a decentralized manner by the member states, while the Commission and the CJEU are responsible for ensuring that member states comply with their obligations.

On the other hand, it could be put forward against this argument that agencification does not necessarily have the effect of centralizing administration. As

[31]See: judgment of the CJEU of 13 November 2015 in case C-73/14, Council v Commission. EU:C:2015:663. Para 61 ; judgment of 14 April 2015 in case C-409/13 Council v Commission. EU:C:2015:217. Para 64.

mentioned above, agencification does not deprive member states of the right to apply and enforce EU rules themselves at national level. The administration remains significantly in the hands of the member states, with agencies generally limited to coordination and performance assessment tasks in the achievement of the objectives set. It is precisely this task of coordination and evaluation that is one of the main reasons for the creation of agencies, since they have the technical expertise and impartiality necessary to verify that those objectives have been met. The creation of a supranational body ensures the efficiency of the administration, as it can put healthy pressure on member states to ensure compliance with their obligations. The founding regulations generally justify in detail how the legislature has taken account of the principle of subsidiarity. The aim behind such justification is to comply with the requirements of art. 8 of Protocol No. 2 to the TEU, according to which member states (on the initiative of their national parliaments) may bring an action for annulment of a given legislative act before the CJEU, alleging an alleged breach of the principle of subsidiarity. To date, the CJEU has been very cautious in its assessment of compliance with this principle.

The legal basis in the treaties. Since the first agencies were set up, the EU has made use of several legal bases that will be presented below. In fact, it is commonly referred to as "generations" of agencies, depending on the type of legal basis used for their establishment. Each legal basis has its own requirements and functions and is therefore not merely interchangeable. The choice of the appropriate legal basis is very important in EU law. In view of its status as a "Union of law", as repeatedly recalled by the CJEU[32] the choice of legal basis ensures that the EU legislator acts in accordance with the rule of law and respects the basic principles mentioned above, i. e. conferral, institutional balance, and subsidiarity. Consequently, if it did not comply with this requirement, the legislator would exceed its powers, risking the annulment of the ultra vires act by the CJEU as a sanction. This could occur in the context of an action for annulment (art. 263 of the TFEU), a reference for a preliminary ruling to verify the validity of a legal act (art. 267 of the TFEU), or an action for inapplicability (art. 277 of the TFEU) [1, p. 709]. In order to allow for an effective judicial review of the legislative activity, EU law provides that each legislative act must state the legal basis that has been applied and explain in its recitals the reasons, which led the legislator to adopt such an act.

The flexibility clause in art. 352 of the TFEU. The first legal basis used by the EU for the purpose of setting up agencies was the so-called flexibility clause in art. 352 of the TFEU[33]. This provision authorizes the EU to adopt an act necessary to achieve the objectives assigned by the treaties where the treaties have not provided the necessary powers to achieve those objectives. Art. 352 of the TFEU can serve as a legal basis only if the following conditions are met: the envisaged action is "necessary to achieve, within the framework of the policies defined by the treaties (with the exception of the common foreign and security policy), one of the EU's objectives"; nothing in the treaties provides for actions to achieve that "objective"; the planned action should not lead to the extension of EU competencies beyond what is provided for in the treaties.

This legal basis was widely used at the beginning of the integration process[34] and this practice was also considered compatible with EU law by the case law of the CJEU[35]. However, this practice has the drawback of encouraging an overly extensive use due to the somewhat ambiguous wording of the legal basis. It is not too difficult to find in the treaties an objective that would serve as a justification for setting up an agency. Perhaps this was not a real problem at an early stage. However, as the number of agencies increases, there is a risk of proliferation even undermining the role of the institutions. Furthermore, art. 352 of the TFEU is based on the "implied powers" theory, according to which it is assumed that an international organization must have the powers necessary to attain its objectives, even if its constituent agreement does not expressly confer such powers. While it is true that the "implied powers" theory originates in public international law[36], it must

[32]See: judgment of 26 June 2012 in case C-335/09 P, Republic of Poland v European Commision. EU:C:2012:385. Para 48 ; judgment of 29 June 2010 in case C-550/09, Criminal proceedings against E and F. EU:C:2010:382. Para 44. The CJEU has emphasized that the EU "is a Union based on the rule of law whose institutions are subject to review of the conformity of its acts, in particular with the treaty and with the general principles of law".

[33]It is equivalent to art. 308 of the Treaty establishing the European Community and ex art. 235 of the EEC.

[34]The evolution of the legal history of the Economic and Monetary Union and the use of art. 352 of the TFEU go hand in hand. Both the management of the first balance-of-payments support mechanisms and the establishment of the European Monetary Cooperation Fund (EMCF) and the European Monetary Unit were based on the flexibility clause. This provision could be applied in order to bring the Economic and Monetary Union to its following logical stage: a European Monetary Fund under the treaties, through the incorporation of the current European stability mechanism (ESM) into EU law. Thus, the integration of the ESM into the EU framework could be achieved through a regulation based on art. 352 of the TFEU. In order to ensure a smooth continuation of activities, member states would agree that the ESM capital is transferred to the European Monetary Fund through individual commitments or a simplified multilateral act.

[35]See: judgment of 27 November 2012 in case C-370/12, Thomas Pringle v Government of Ireland and others. EU:C:2012:756. There the CJEU did not explicitly rule out the possibility of establishing the ESM by using art. 352 of the TFEU as a legal basis. However, it did not need to comment the fact that it had been created on the basis of an international agreement originally outside the EU's founding treaties. It should be noted that the treaties were subsequently amended by a simplified procedure to provide for the creation of the ESM.

[36]See: Reparation for injuries suffered in the service of the UN : advisory opinion of the International Court of Justice of 11 April 1949. [1949] ICJ Rep 174. ICGJ 232 (ICJ 1949).

be pointed out that such a presumption is difficult to reconcile with the principle of conferral, which is inherent in EU law. Moreover, the idea of allowing the legislature to "fill up" on an ad hoc basis a legal vacuum left unintentionally in the treaties by means of an allocation of powers based on art. 352 of the TFEU reflects that principle in some way. We can thus conclude that, although the flexibility clause can, in principle, serve as a legal basis, it is not the most appropriate choice. This is perhaps the reason why this practice was abandoned over time, giving preference to other legal bases. The agencies established under art. 352 of the TFEU include Cedefop, EUROFOUND, ENISA, European Union Agency for Fundamental Rights, and CPVO.

The internal market harmonization clause in art. 114 of the TFEU. Another legal basis used for the purpose of setting up agencies was the internal market harmonization clause in art. 114 of the TFEU. That provision allows for the adoption of "measures for the approximation of the provisions laid down by law, regulation or administrative action in the member states which have as their object the establishment and functioning of the internal market" (other integration systems such as the Eurasian Economic Union and the Andean Community of Nations also provide for the harmonization of national legislation with a view to establishing an internal market (see [16, p. 268]). While it is true that this legal basis was very useful in its days, it poses a number of legal problems today because its application is limited to only one sector, the internal market. Although it was indispensable in the formation phase of the internal market, its relevance has now diminished after this objective was essentially achieved in 1993. This obviously does not rule out the possibility that art. 114 of the TFEU may continue to be used as a legal basis since the EU internal market continues to evolve in response to current requirements, for example by taking account of technological development and the need to protect consumers. However, in the absence of recourse to art. 114 of the TFEU, if the agency does not operate in the field of the internal market, the legislator will have to rely on art. 352 of the TFEU, which is a subsidiary legal basis. Another problem is the restriction to "measures for the approximation of the provisions laid down by law, regulation or administrative action in the member states". To what extent the establishment of an agency itself must constitute an approximation of provisions or whether it is sufficient that its creation constitutes a measure that "facilitates" or "contributes" to that objective is still a matter of controversy. The case law of the CJEU seems to favor a rather broad interpretation of the scope of art. 114 of the TFEU, in recognition of the discretionary power of the legislator, by requiring only that the activity of the agency contributes to the approximation of laws with a view to ensuring the functioning of the internal market. The agencies established under art. 114 of the TFEU include ECHA, ACER, EBA, ESMA, EMA, EIOPA, EUIPO, and ENISA.

Sectoral provisions of the TFEU. More recently, the legislator has been using as a legal basis those provisions in the treaties, which confer competencies on the EU in certain areas. Although these provisions do not expressly provide for the establishment of agencies, they authorize the EU to adopt "measures" to achieve specific objectives. The term "measure" is generally construed as meaning that the power conferred also allows the adoption of legislative acts, including regulations establishing agencies. As administrative entities, agencies are undoubtedly appropriate measures to address the problems encountered in the integration process. This practice can be considered established and endorsed by the case law of the CJEU. It is also the one which raises the least doubts as to its legality since it is the one which seeks most to satisfy the requirement of pursuing a legitimate objective, as well as the requirement to rely on a competence specifically provided for in the treaties. Indeed, the term "measure" is sufficiently broad to include the creation of agencies, particularly in the light of the wide discretion that the legislator enjoys in the choice of measures to achieve the objectives set out in the treaties. Agencies that were set up under sectoral provisions include EEA, ECDC, EASA, FRONTEX, EASO, and EFSA.

Organizational structure

Because an agency is an autonomous entity, it cannot rely on the Commission or another institution for the purpose of defining its policy. Moreover, the founding regulations generally state that the work programs of the agencies should be compatible with the priorities defined by the Commission or the EU in general. As a result, each agency has a body that defines its policy. In addition, that body will also be responsible for taking the necessary administrative measures, thus enabling the agency to function. The overall organizational structure of the agencies will be briefly explained in what follows, although it should be mentioned that important differences may exist from one agency to another, as a result of the somewhat uncoordinated proliferation that has taken place in recent decades. Indeed, it was not until the adoption of the so-called "Common approach"[37], in which the main EU institutions agreed on the common features that the new agencies should present, that a certain order in the agencification process was created. In principle, each

[37]Joint statement of the European Parliament, the Council of the EU and the European Commission on decentralised agencies [Electronic resource]. URL: https://europa.eu/european-union/sites/europaeu/files/docs/body/joint_statement_and_common_approach_2012_en.pdf (date of access: 10.01.2021).

agency has an organizational structure consisting of its management board and executive director. However, it may also provide for other bodies with consultative functions.

The management board. The organizational structure of the agencies provides for the creation of boards, which have two different types of functions: the definition of the agency's policy and the exercise of administrative functions. While in some agencies it is the same board that exercises these functions, others provide for a division of functions between two different types of boards. In order to take into account the role of the respective board, the most recently created founding regulations of agencies foresee that members will have to meet certain requirements, more specifically, they will need to have knowledge and experience in the field of activity of the agency. The names of such bodies may vary from one agency to another, even if the functions are similar. In order to facilitate understanding, the general term "management board" shall be used. According to the relevant provisions in the agencies' founding regulations or the rules of procedure of the boards, these bodies convene meetings of their members on a regular basis, at least once a year, or when a certain percentage of their members so request. The purpose of these meetings is to discuss aspects related to the agency's activity, in particular as regards the strategy to be pursued and to take the necessary decisions to ensure its functioning.

In general, each management board is composed of representatives of all member states. However, there are a few exceptions, where there is a representation of the Commission, the Council, and the Parliament respectively. The boards generally provide for representation of the Commission through at least one (up to six members) with voting rights. In some agencies, the Commission has only observer status. In any event, the Commission has tried in vain to extend its influence on administrative boards by requiring equal representation with the Council. Indeed, the Commission's presence in the management board is indispensable in order not to deprive the agency of its supranational character. A representation of only the member states would risk eliminating the distinction between the institutions of the EU and those of the member states. The agency could become an intergovernmental entity through national authorities, which is irreconcilable with the idea of EU supranationality. Taking into account the experience and technical expertise of the Commission, it is, therefore, necessary to require a commensurate representation of the Commission.

In some agencies, Parliament is also represented or can appoint scientific personalities. Apart from exceptions where they are only granted the observer status, these representatives are generally full members of the management board. The Commission's legislative proposals did not initially provide for a representation of Parliament. However, the latter amended them in order to ensure their presence in the agencies. On the one hand, this presence has the advantage of allowing Parliament to assume its role of democratic scrutiny of the agencies' activities. On the other hand, involving Parliament in the agencies' activities risks mixing up its influence over the agencies' activities with its democratic scrutiny. Parliament already has effective means of ensuring that the agencies comply with the applicable rules and are accountable for their actions. In the future, it would be preferable for the Parliament to simply insist on preserving its traditional means of control rather than directly influencing the activities of the agencies, which is rather a matter for the executive.

The management boards of certain agencies allow for the representation of entities other than the EU institutions and the member states. The participation of third countries and international organizations in management boards has already been discussed in the context of the openness of the agencification phenomenon. In addition, certain agencies provide for the representation of non-voting interest groups, which are appointed according to specific procedures.

In the common approach, the institutions agreed that the management boards would be composed of one representative per member state, two representatives of the Commission, one from the Parliament and, if appropriate, a limited number of interest groups. This agreement can be seen as a defeat for the Commission, who had insisted on a parity with the Council. It is, in turn, an important victory for the Parliament, which has a legitimate right to require representation on all boards of directors despite the aforementioned doubts about its specific role.

Executive director. The executive director is the most important body in the agency after the management board. Like the latter, the executive director does not have a harmonized name but is often referred to in the terminology introduced by the founding regulation. He represents the agency externally and is responsible for its day-to-day administration. Its role is also to assist the management board in the preparation of the agency's essential documents. In order to perform his or her duties, the executive director should ideally have sound knowledge of public administration, management, and even professional experience in the area in which the agency operates. However, it is interesting to draw attention to the fact that the founding regulations do not contain any specification as to the conditions which every candidate must satisfy in order to take up that post, so that, in practice, it is for the management board to choose the appropriate candidate.

The executive director is appointed by decision of the management board on the basis of a proposal from the Commission. Although this is the regular procedure in the vast majority of agencies and is also in line with the common approach, there are important exceptions, with some agencies providing for an appointment by

the Council, on the basis of a proposal from the management board, or a decision of the management board itself, on the basis of a list of candidates drawn up by a selection panel (or the Commission) and approved by the Council and the Parliament. It should be noted that, although only the founding regulations of CEPOL and EUROJUST explicitly mention the involvement of a selection panel, this is normally required by the EU civil service legislation. The differences in the appointment process that still exist from one agency to another are the result of an uncoordinated process in agencification, which results from the struggle between the institutions for obtaining control and are therefore not justified on objective grounds. The most consistent approach would be for the executive director to be appointed only by the management board, to which the executive director is normally accountable. While it is true that the Commission has a certain power to propose a number of candidates for the post of executive director, the fact remains that the Parliament has been able to extend its influence. In fact, the founding regulations of the agencies most recently created foresee that candidates should appear before the Parliament and answer questions, following a procedure similar to the appointment of members of the Commission[38].

Some of the most recently created agencies' founding regulations emphasize the independence of the executive director of the institutions in their management of the agency. Of course, this does not mean that the executive director is not accountable for his or her actions. On the contrary, as indicated above, the executive director is accountable to the management board and may therefore be dismissed by the latter on the grounds of a breach of his duties, in accordance with the procedure laid down in the respective founding regulation. The regulation of such a procedure may be detailed or leave a certain margin of discretion, thus varying from one agency to another.

Advisory bodies. Depending on its specific role, the institutional structure of the agency may include a number of advisory bodies, which will enjoy relative independence despite their formal membership in the agency. FRONTEX'S consultative bodies include the data protection officer, the consultative forum, and the human rights officer. The advisory bodies may be the forum for bringing together international organizations, invited to participate in the work of the agency if membership of the management board is not foreseen. Other agencies may provide for bodies composed of technical experts, specialized in the area in which the agency operates. Depending on their respective role, these advisory bodies may submit opinions, deal with requests from private individuals, as well as encourage the agency to act in a specific way.

Decision-making procedures and the adoption of other acts

The various bodies of the agency take decisions in their respective areas of competence. While the management board deals with strategic aspects, the executive director is responsible for the day-to-day operation of the agency, as well as for taking the measures necessary to ensure the implementation of the decisions of the management board where the founding regulation or the decisions of the management board themselves provide for such implementation. The management board may also delegate certain tasks of an administrative or implementation nature to the executive director. Decisions are taken in accordance with the respective procedures laid down in the founding regulations, governed in more detail by the rules of procedure, which the agency is responsible for adopting. While it is true that the executive director and the management board have different competencies, it cannot be doubted that there will always be a certain thematic overlap. However, it should be noted that there is a hierarchical relationship between the two types of decisions. In so far as it ensures the implementation of decisions of the management board and acts on the basis of a delegation of powers, the executive director merely acts in accordance with the terms of reference given by the management board. The hierarchy of norms must therefore be taken into account when examining the legality of a decision. This implies that the executive director's implementing and delegation decisions must comply with the instructions given in the decisions of the management board. The decisions of the agency must, in turn, comply without exception with the provisions of the founding regulation, as well as with all relevant EU legislation, i. e. applicable by the agency.

In addition to the decisions in the strict sense, agencies may adopt administrative acts with binding effects on the member states or individuals, with the possibility of varying terminology from one agency to another. The question of whether an administrative act adopted by the agency produces legal effects must be answered by an interpretation of the legal bases enabling the bodies of the agency to adopt those acts, account being taken of the objective to be achieved by

[38]This is a remarkable fact, as not all procedures for appointing senior EU leaders provide for a duty to appear before Parliament. It should be noted in this context that, under art. 255 of the TFEU, judges of the CJEU must appear only before "a panel composed of seven persons chosen from among former members of the CJEU and the GC, members of national supreme courts and lawyers of recognised competence, one of which shall be proposed by Parliament". The appointment is thus based solely on the knowledge and experience of a candidate. Therefore, unlike the procedure foreseen in the US for appointing the members of the Supreme Court, the appointment of judges of the CJEU is not subject to the vote of a parliamentary assembly. However, Parliament has requested at more than one opportunity that the procedure be changed in order to allow it to play a more important role.

that act. The answer is of the utmost importance since it makes it possible to determine whether an administrative act may be the subject of legal review, a matter which will be discussed below. Another important category of administrative acts adopted by agencies is the "soft law" mentioned above, which includes all kinds of manuals, circulars, guidelines, etc. whose role is essentially to give some guidance to national and supranational bodies on how to apply and interpret the EU rules correctly. While the interpretative monopoly of the law lies with the CJEU, it should be pointed out that agencies, like the Commission, have a high level of technical knowledge, so that the importance of these soft law instruments should not be underestimated. Indeed, those instruments often fill up the loopholes left by secondary legislation, as well as giving guidance to the administration as to how best to make use of the margin of discretion that the EU legislator may have conferred on it. Nowadays, the soft law instruments developed by both the Commission and the agencies must be regarded as indispensable in the EU administrative practice.

Control measures on agencies

General aspects. The proliferation of agencies in so many areas of EU competence raises doubts as to the feasibility of genuinely controlling their administrative activity. This concern is understandable when comparing administration through agencies with other types of administration mentioned above. When member states implement EU law, it will generally be up to the Commission and the CJEU to monitor compliance with their obligations. If EU law is applied by the Commission, institutions such as the CJEU, Parliament[39] and the Court of Auditors will normally have a duty to verify the correct implementation. For agencies, this is much more complicated. In the absence of any provision in the treaties which explicitly provides for the establishment of agencies, it is clear that there will be no provisions governing such important aspects as the control of their administrative activity. Aware of this problem, the legislator has had to introduce specific mechanisms to fill this gap in the EU legal order. The control mechanisms are of a variety of types and are applied by several institutions, as will be explained below. The aim is always the same, i. e. to ensure that agencies take responsibility for their actions by acting in a transparent manner and in accordance with the legal framework.

The requirements imposed by the chosen legal basis. The most elementary control mechanism is linked to the choice of the appropriate legal basis in order to create an agency. As stated at the outset, the legal basis determines the legislative procedure to be followed and thus the requirements to be met by the institutions involved in that procedure. If unanimity is required in the Council, as would be the case with the application of art. 352 of the TFEU as a legal basis, member states may object to the establishment of the respective agency. That is also the case if the adoption of the founding regulation requires a majority of votes among the member states meeting within the Council, as required by the legal basis of art. 114 of the TFEU. If the Parliament is a co-legislator in this process, it may also oppose or require legislative amendments that reflect its interests. Obviously, once the agency has been set up, this control is lost, unless the founding regulation requires subsequent amendments, so that the legislative process should be re-launched. Since this is not so often the case, the institutions involved will have to make wise use of their influence in the legislative process.

Preparation, negotiation and adoption of the budget. Another important control mechanism is the possibility to allocate financial means to agencies through the adoption of the EU budget. The Council provides for the means deemed necessary, while it is for the Parliament to adopt the budget. Both member states and Parliament can achieve the desired changes to the agency's activity by exerting political pressure. By virtue of its power of initiative, the Commission has the task to submit a budget proposal, suggesting to allocate financial resources to the activities it deems appropriate to achieve the objectives set.

The influence of the Commission on the activities of the agencies. Of all the EU institutions, it is the Commission that is likely to have the greatest influence on the activities of the agencies due to the fact that they are entrusted with an administrative activity. Moreover, while it is true that agencies are specialized entities, the Commission is the institution with policy development and implementation powers. It also has coordination, implementation, and management functions, in accordance with art. 17(1) of the TEU. To illustrate an example, although FRONTEX is the agency responsible for protecting the EU's external borders, it is the directorate-general for justice and home affairs that develops a policy in this area and, after approval by the Council, ensures that FRONTEX operates within the framework of this policy. As "guardian of the treaties", the Commission will intervene to ensure that the agency acts within its mandate and the respective EU policies. In addition, the Commission will be formally (or informally) consulted by the various services of the agency on aspects related to the legality of its activities, notwithstanding the institutional independence

[39]See: European parliamentary research service "EU agencies, common approach and peer review – implementation assessment".

enjoyed by the agency. The Commission seems to be aware of this relationship of "semi-subordination" when considering the agencies openly as their "satellites". The Commission will also normally require that its prerogatives be respected in certain areas, for example in the field of external relations. The Commission will therefore object to agencies acting independently when dealing with third countries. The development of administrative arrangements with these countries will generally require the authorization of the Commission before they can be concluded. In order to prevent an agency from trespassing its powers – or of the EU itself – at the international level, the Commission starts from the premise that administrative arrangements concluded between agencies and third states do not constitute treaties of public international law. It will also deny its legally binding effect, reducing it to mere "expressions of intent". However questionable this interpretation may be from a legal point of view, it makes much sense for the EU in political terms, since it avoids the risk of international liability towards third countries as the result of an uncoordinated activity by a large number of agencies.

Moreover, it should be noted that the influence that the Commission may exert on the internal decision-making process, that is to say in the management board, is not sufficient to be able to speak of a "control" of the agency's activity. As explained above, the Commission generally does not have more than a couple of representatives on that board, with its influence being reduced with each accession of new member states to the EU. Although the Commission endeavors to highlight its technical knowledge and experience in the field, this should not lead to the conclusion that this will be sufficient to make its opinion prevail over the views of the other members of the management board. Much less the Commission will be able to exert a decisive influence on the day-to-day work of the agencies by being able to propose or reject candidates for the post of the executive director. The position of the Commission within the management board remains that of a minority.

Public relations and public access to internal documents. Agencies do not operate in anonymity, even if the Commission often benefits publicly from the success of their activities. Some agencies enjoy a certain popularity, depending on the scope assigned to them. As a result, agencies are often called upon to answer questions raised by the press or members of Parliament regarding the legality and appropriateness of their actions. Agencies shall take responsibility for their actions, explaining directly or by means of press releases the reasons that led them to take certain decisions. In addition, agencies must provide public access to their documents in accordance with the EU rules, which are generally declared applicable by virtue of the founding regulations. This concerns, in particular, Regulation (EC) No. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to Parliament, Council and Commission[40] documents. Part of the administrative activity consists of processing requests for public access to internal documents, justifying the refusal of access, and, if necessary, defending this decision before the CJEU in the event that such a decision is challenged by an action for annulment[41]. These mechanisms ensure effective control of the activity of agencies by the public.

The responsibility of the executive director and the chairperson of the management board. The agency is also accountable through its executive director, who assumes political responsibility for the agency's actions towards institutions such as the Commission and Parliament. Those institutions may request that the executive director or the Chairperson of the management board appear and answer questions put to them. If Parliament requests their availability, this invitation will usually come from the committee responsible for the matter.

The obligation to submit a work program and an annual report. The main source of information enabling the institutions to exercise their power of scrutiny is the reports that agencies must submit on a regular basis, the work program and the annual report being the most important. The two reports are, in principle, sides of the same medal. While the work program explains the policy and objectives of the coming year, the annual report presents the activities of the previous year. With regard to the work program, it is normally the founding regulations that impose the obligation to submit it. However, the agencies recognise this obligation even if the founding regulations do not explicitly prescribe it. Obviously, the work program should be compatible with the EU policy in the respective field. The annual report enables the responsible institutions to verify whether the agency has achieved its objectives. Generally speaking, the founding regulations do not specify in much detail the requirements to be met by the reports in terms of content, thus giving the agencies a certain margin of discretion. In order to achieve a certain degree of harmonization, the common approach makes some suggestions, proposing that the Commission take the initiative and adopt measures to ensure consistency and comparability of these reports. In any event, the founding regulations determine the institutions to which such reports must be sent, including the Council, the Commission, the Parliament, the Court of Auditors, the Committee of the Regions, and the Economic and Social Committee.

[40]The regulation is published in Official Journal of the European Union Series: L. 31 May 2001. P. 43–48.

[41]See: judgment of the General Court of the 27 November 2019 in case T-31/18, Luisa Izuzquiza and Arne Semsrott v European Border and Coast Guard Agency. EU:T:2019:815 ; judgement of the CJEU of 22 January 2020 in case C-175/18 P, PTC Therapeutics International v European Medicines Agency. EU:C:2020:30.

The control of legality of the agencies' activities

The control measures set out in the previous section ensure first and foremost the democratic control over the agencies' activities and, to a lesser extent, the control of legality, i. e. a review of compatibility with EU law. As regards the second type of control, it should be noted that there are specific mechanisms to achieve this objective, which will be presented below.

Legal review by the boards of appeal. As stated above, it is possible to request the legal review of an administrative act, provided that it affects the legal position of a member state or of an individual. Aware of the need to provide effective legal protection and taking into account the highly technical knowledge of regulatory agencies, the EU legislator has chosen to provide such agencies with so-called boards of appeal (see concerning the boards of appeal [17]). Among the agencies having those boards of appeal are ECHA and EUIPO. The advantage of the boards of appeal lies in the possibility to harness the expertise of the agencies, while alleviating the workload of the EU judicial system. The boards of appeal have inspired the creation of judicial bodies such as the (late) Civil Service Tribunal and the UPC. It cannot be excluded that specialized chambers may be set up in the future in specific fields at the CJEU based on the experience gained in the agencies' practice.

Those boards of appeal allow for a legal review of decisions taken by the agencies themselves. The founding regulations provide for a number of mechanisms to ensure their impartiality and independence, such as requiring their members not to be officials of the agency itself and to be appointed on the basis of external competition, although the requirements and the procedures for their appointment may vary from one agency to another. The founding regulations or procedural rules provide that the members of the board of appeal shall be independent and not bound by instructions when taking their decisions and may not exercise other functions within the agency. The members of the board of appeal may not take part in any appeal proceedings if they have a personal interest in it or if they have acted or participated in the decision under appeal. In order to ensure these general prohibitions, the regulations provide for a system of abstention and recusal. Members of the chamber can normally be removed only due to serious misconduct, following the intervention of the bodies of the agency and upon a decision of the CJEU. The boards of appeal operate as courts incorporated in the agencies, but with a high degree of independence of the administrative bodies.

A common denominator is the requirement to bring together board members specialized in the respective technical field or in EU law, allowing quality decisions to be taken. Generally, the function of chairperson of the board of appeal is exercised by a lawyer specialized in EU law. The term of office of board members lasts several years, usually 5 years, thus enabling a continuous activity free from external interference. The number of members of a board of appeal may vary depending on the agency, with some 3 to 6 members with the respective alternate members.

The legal review carried out by the boards of appeal extends to decisions taken by the agency. The effect of the appeal may be to annul or to amend the respective decision. The board of appeal may also decide itself whether it has all the facts in order to do so or refer the case back to the administrative bodies in order to continue the necessary procedure, providing guidance that shall enable them to take the correct decision from a technical or legal point of view.

The rules governing the procedure before the boards of appeal are generally laid down in the founding regulations of each agency. However, for certain agencies, the procedural law is regulated in legal acts adopted by the Commission as a result of a delegation by the EU legislator. Agencies themselves may adopt administrative acts that further specify procedural law. In any event, procedural law is clearly inspired by the rules applicable to the CJEU, which creates a certain degree of judicial homogeneity.

Depending on the agency, the appeal may be optional or mandatory. The possibility of filing an action prior to bringing a case before a court in the strict sense is not new, as it is a widely known phenomenon at the level of national administrative law. The vast majority of member states provide for some form of administrative appeal before the same body or a higher body in charge of the legal review[42]. Such actions generally enable the administrative body to verify the legality of its own decisions, thus having an effect that could be described as "didactic", as well as being compatible with the principle of procedural economy[43]. Indeed, not all cases deserve to be dealt with by the EU judicial system. The administrative appeal has the advantages already identified, namely the benefit of technical expertise, as well as being the boards of appeal located geographically at the seat of the agency where the contested decision was taken. If an appeal is mandatory, this makes it a condition for the admissibility of any action before the CJEU. In other words, in the absence

[42]See: the comparative law analysis contained in the decision of the EFTA Surveillance Authority of 22 March 2017 (case No. 78421. Document No. 845549. Decision No. 061/17/COL), which contains an account of several national legal systems providing for an administrative review of legality (optional or mandatory) before being able to access the national courts. As is apparent from that decision, the coexistence of a variety of resource systems reflects the legal traditions in Europe.

[43]See: opinion of Advocate General Pikamäe of 22 January 2020 in case C-114/19 P, Commission v Di Bernardo. EU:C:2020:22. Para 93.

of an appeal to the agency before calling the CJEU, the action for annulment brought by the person concerned will be dismissed as inadmissible. Of course, this is not the case where the administrative appeal is merely optional. The GC shall have jurisdiction to rule on an appeal against the decision taken by the agency's board of appeal.

Legal review by the CJEU. The central mechanism for controlling the legality of the agencies' activities is the judicial system created by the treaties, in which the CJEU plays a leading role. As indicated in the previous paragraphs, the GC is generally responsible for examining the compatibility with EU law of decisions taken by the agencies. It should be noted, in order to avoid misunderstandings, that even if the treaties refer to the CJEU, this reference should be construed as a reference to the institution, the GC being generally the competent jurisdiction within the CJEU. This is the case for actions for annulment aimed at examining the legality of the acts of an agency, as will be explained below. However, it will be the CJEU as the higher court that will be solely responsible for examining actions for annulment directed against the founding regulations of agencies, as these are EU legislative acts. This type of procedure generally provides for the intervention of the Council and the Parliament as co-legislators, which will be invited to submit observations on the pleas of illegality raised by the applicant. Therefore, the name "CJEU" can be understood as a reference to the higher institution or jurisdiction, depending on the context.

Action for annulment. Among the legal remedies available, the action for annulment is the appropriate legal remedy to examine the legality of the acts of an agency[44], including the decisions of the boards of appeal. Art. 263(4) of the TFEU provides that "any natural or legal person may, under the conditions laid down in the first and second paragraphs, institute proceedings against an act addressed to that person or which is *of direct and individual concern to* them, and against a regulatory act which is of direct concern to them and does not entail implementing measures" (see [18, p. 62] on the action for annulment before the CJEU and other supranational court). This provision excludes, by definition, the *actio popularis*, ensuring that only those who are genuinely prejudiced by a decision taken by an agency may institute proceedings.

As stated in the second sentence of art. 263(1) of the TFEU, the CJEU "shall also review the legality of acts of *bodies, offices or agencies* of the union intended to produce legal effects vis-à-vis third parties" [19, p. 304]. As a rather broad notion, the reference to bodies, offices and agencies is understood to include agencies. That provision contrasts with the first sentence of that paragraph, in which "legislative acts, acts of the Council, the Commission and the European Central Bank, other than recommendations or opinions, and acts of the Parliament and of the European Council intended to produce legal effects vis-à-vis third parties" are referred to as acts open to challenge. In the absence of the second sentence, there would be a gap in the judicial protection of individuals, which would be incompatible with the image of a union of law which the CJEU has established in its case law. The possibility of bringing an action for annulment against "legislative acts" allows for a legal review of the agencies' founding regulations. On several occasions, member states have challenged these founding regulations, claiming that the EU legislator would have exceeded its powers by opting for the creation of an agency with certain competencies[45]. As mentioned above, these occasions allowed the CJEU to confirm the applicability of certain provisions as legal bases. This leads us to the grounds that may justify an action for annulment. Under art. 263(2) of the TFEU, the CJEU "shall have jurisdiction in actions brought by a member state, Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the treaties or of any rule of law relating to their application or misuse of powers".

It follows from art. 264 of the TFEU that "if the action is well founded, the Court of Justice shall declare the contested act null and void". However, the same provision states that the CJEU "shall, if it considers it necessary, indicate which of the effects of the act which it has declared void are to be regarded as definitive". In general, the GC may itself decide on the action for annulment or refer the case back to the agency so that it can rule on certain aspects, in particular of a technical nature. The second case is obvious since the GC will hardly be able to substitute the assessment made by the administration by its own considerations. Appeals before the CJEU shall not have a suspensory effect. However, the CJEU may, if it considers that circumstances so require, order the suspension of the execution of the contested act.

Non-contractual liability. As the founding regulations provide for the non-contractual liability of EU agencies for damage caused by illegal acts committed to third parties, the GC is competent to deal with such disputes pursuant to art. 340(2) of the TFEU. The existence of non-contractual liability of the EU is subject to three conditions: firstly, the unlawful conduct of the institution or a staff member; secondly, the existence of damage suffered by the appellant; and thirdly, a causal link between the conduct of the institution or staff member and that damage. Compensation for such

[44]See: judgment of 8 October 2008 in case T-411/06 P, Sogelma v European Agency for Reconstruction. EU:T:2008:419 ; judgment of 2 March 2010 in case T-70/07, Evropaïki Dynamiki v EMSA. EU:T:2010:55.

[45]See: judgment of 2 May 2006 in case C-436/03, Parliament v Council. EU:C:2006:277 ; judgement of 18 December 2007 in case C-77/05, United Kingdom v Council. EU:C:2007:803 ; judgement of 2 May 2010 in case C-217/04, United Kingdom v Parliament and Council. EU:C:2006:279.

damage shall be made in accordance with the "general principles common to the laws of the member states".

Contractual liability. Unlike in the case of non-contractual liability, referred to above, art. 340(1) of the TFEU provides that "EU contractual liability shall be governed by the law applicable to the contract in question". Therefore, where agencies conclude contracts with third parties, whether they are private or public operators, the cases that will give rise to the agency's liability, for example in the event of non-compliance with the obligations assumed, should be specified in those contracts.

Furthermore, from a procedural point of view, it should be mentioned that art. 274 of the TFEU provides that "without prejudice to the powers conferred on the CJEU by the treaties, disputes to which the EU is a party shall not, for that reason, be excluded from the jurisdiction of the national courts". This provision should be understood as meaning that it cannot be inferred from the mere fact that one of the parties to the contract is an EU agency that the CJEU has original jurisdiction to settle potential disputes. On the contrary, if not specifically provided for in contracts, jurisdiction will lie with the national courts. In the case of contracts concluded in the context of public procurement, such contracts shall generally provide for the jurisdiction of the courts of the state where the agency is located. It shall also stipulate that the law of that host state shall apply where the contract does not provide for specific provisions. As agencies are supranational entities and national law does not always provide for solutions to legal problems that may arise during the performance of the contract, it is not unusual to specify that "EU contract law" will fill any legal loopholes that may arise. The result can be described as a "mixed" contract law, composed of national law and the general principles common to the laws of the member states in matters relating to contracts.

It should be clarified that the contractual liability of an agency for any breach of contract obligations should be distinguished from the legality of the procurement procedure, which, as explained above, is carried out in accordance with the rules laid down in the EU Financial regulations (the provisions contained in the Financial regulations, applicable only to EU institutions and other entities, are very similar to the provisions of the EU public procurement directives that member states are obliged to apply. For a description of those directives, see [20, p. 150]). As it concerns the application of an EU regulation, participants in a public procurement procedure (to which the contract has been awarded or any other participant) claiming that the procedure is unlawful must submit a review procedure to the GC, whose jurisdiction is mandatory [21, p. 50].The remedies available may be an action for annulment or action for non-contractual liability, in accordance with the cited provisions.

Appeal. The CJEU has jurisdiction to hear appeals, which are limited to points of law and are directed against judgments and orders of the GC. The appeals do not have a suspensory effect. If the appeal is upheld, the CJEU shall quash the decision of the GC and itself rule on the dispute, or refer the case back to the GC, which shall be bound by the decision of the CJEU.

Accountability to the Commission. As indicated above, agencies are generally accountable to the Commission for the implementation of EU policies. Agencies usually consult the Commission on a wide range of questions that also include the legality of certain measures. The Commission is the natural contact point for queries on the application of EU administrative law, regardless of the autonomy of the agencies. There is also a liability towards the Commission where administrative law or founding regulations explicitly provide for this, for example in the context of procedures requiring cooperation between the agency and the Commission or the adoption of an act by the latter.

Legal review by other entities. There are also other entities that take on the role of a watchdog when it comes to legal review. Their role can be extended to all the activities of an agency or limited to a specific area. The EO has already been mentioned, whose role is to examine cases of illegality and maladministration. Opinions issued by the EO on matters brought to its attention are not legally binding but have some authority. The EO will include the outcome of its investigations in its report to Parliament, thus creating political pressure. Agencies shall generally take into account the assessment contained in such opinions and seek to remedy any instance of maladministration that has been detected[46].

Mention should also be made of the European data protection supervisor (EDPS), which is an independent supervisory authority whose main objective is to ensure that the EU institutions and bodies respect the right to privacy and data protection when they process personal data and develop new policies. The EDPS is elected for a renewable term of five years. Regulation (EU) No. 2018/1725[47] lays down the tasks and powers of the EDPS as well as its institutional independence

[46]As Advocate General Trstenjak pointed out in her opinion (of 28 March 2007 in case C-331/05 P, Internationaler Hilfsfonds v Commission. EU:C:2007:191. Para 56, 57), the primary purpose of the EO in the performance of his duties is "to optimise the Community administration" and not to guarantee individual legal protection. The EO "shall seek a solution with the institution or body concerned in order to eliminate instances of maladministration and satisfy the complainant's claim, which makes the EO rather administrative".

[47]Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No. 45/2001 and decision 1247/2002/EC.

as a supervisory authority. It also lays down the rules for data protection in EU institutions. In practice, the tasks of the EDPS can be divided into three main functions: monitoring, advice and cooperation. As part of his advisory role, the EDPS advises the Commission, the Parliament, the Council, but also agencies on data protection matters in a number of policy areas. The intervention of the EDPS is generally provided for in the founding regulations, for example when it comes to concluding agreements between agencies on the exchange of personal data, as is the case between FRONTEX and EUROPOL.

The future of the agencification process

The past decades have shown that the agencification of the EU administration is an evolving process. However, some trends can already be observed which makes it possible to predict their future to a certain extent. First of all, the somewhat chaotic proliferation that occurred at an early stage was remedied by the common approach criteria, which provide a clearer framework for setting up agencies. The EU legislator should henceforth be able to use these tools to set a certain order in shaping its internal structure. Furthermore, litigation before the CJEU has enabled the legislator to identify the appropriate legal bases in view of the need to fulfill the administrative tasks lying ahead. The recent creation of ELA on 20 June 2019 shows that there is still a commitment to agencification as an appropriate method of administering the EU.

Obviously, the trend of agencies will be to increase in number, as the EU is being given more powers and the benefits of agencification are not called into question. It cannot be excluded that agencies may be closed or merged and even join the institutions once they lose their *raison d'être*. However, there does not seem to be a clear trend towards such a scenario. It rather appears that certain agencies could evolve to play a decisive role in certain areas, such as FRONTEX in the area of external border protection, which will be equipped with its own border and coast guards. Similarly, it cannot be ruled out that ECDC may become an even more important entity due to the pandemic and the need to support member states' action in the area of public health (on the evolution of public health policy in the EU, see [22]). Consequently, the agencies will remain, hereby decisively influencing the functioning of the EU.

As EU "satellites", the agencies are representatives of the supranational sphere in the territory of the member states. Geographical distance and decentralization are challenges that put at risk the coherence of the administrative action by the agencies. These challenges can only be overcome through the use of telecommunication means, modern technologies, the organization of continuous meetings and staff exchanges, etc. Work in an agency, therefore, requires some effort. The advantages are not obvious, but they respond to a political demand to ensure greater representativeness of the EU in the member states through administrative decentralization.

Conclusion

The phenomenon of agencification in the European administration has various facets. The agencies are far from operating in a legal vacuum. Instead, they are firmly anchored in the EU's institutional structure and subject to strict scrutiny of legality by various actors, including the Commission, the Parliament, the EO, and the CJEU. Agencification has ultimately succeeded in establishing itself as a new form of mixed administration, not initially provided for in the treaties, including the participation of the member states, hereby promoting the acceptance of EU law by the latter. In the future, it would be advisable to assess the synergy effects between the agencies in order to strengthen their cooperation. In the same vein, it should be envisaged to merge some of these agencies or even to dissolve those that have essentially achieved their objectives with a view to increase efficiency. The Commission should be tasked with such an in-depth assessment, enabling the EU legislator to decide as the last instance on the matter.

Appendix

List of agencies mentioned in the article

Name of the agency	Acronym	Headquarters	Year of foundation
Agency for the Cooperation of Energy Regulators	ACER	Ljubljana	2009
The Translation Center for the Bodies of the European Union	CDT	Luxembourg	1994
Center for the Development of Vocational Training	Cedefop	Salonika	1975
Agency for Law Enforcement Training	CEPOL	Budapest	2005

Ending appendix

Name of the agency	Acronym	Headquarters	Year of foundation
Community Plant Variety Office	CPVO	Angers	1994
Aviation Safety Agency	EASA	Cologne	2003
Asylum Support Office	EASO	Valletta	2011
European Banking Authority	EBA	Paris (formerly London)	2011
Center for Disease Prevention and Control	ECDC	Stockholm	2004
Chemicals Agency	ECHA	Helsinki	2007
Defense Agency	EDA	Brussels	–
Fisheries Control Agency	EFCA	Vigo	2005
Food Safety Authority	EFSA	Parma	2002
Insurance and Occupational Pensions Authority	EIOPA	Frankfurt am Main	2011
Labor Authority	ELA	Bratislava	2019
Medicines Agency	EMA	Amsterdam (formerly London)	1995
European Maritime Safety Agency	EMSA	Lisbon	2002
Agency for Cybersecurity	ENISA	Athens and Heraklion	2005
Prosecutor's Office	EPPO	Luxembourg	2020
Securities and Markets Authority	ESMA	Paris	2011
Foundation for the Improvement of Living and Working Conditions	EUROFOUND	Dublin	1975
Office for Intellectual Property	EUIPO	Alicante	1999
Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice	eu-LISA	Tallinn/Strasbourg/ Sankt Johann im Pangau	2012
Office of Justice	EUROJUST	The Hague	2002
Police Office	EUROPOL	The Hague	1999
Border and Coast Guard Agency	FRONTEX	Warsaw	2005
BEREC Office	Agency for Support to the Body of Regulators for Electronic Communications	Riga	2010

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THE (IL)LEGALITY OF UNILATERAL SANCTIONS IN LIGHT OF THE INADEQUACY OF HUMANITARIAN EXEMPTIONS

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This article argues that unilateral economic sanctions are unlawful because their design and implementation inherently result in violations of human rights that all states are obliged to respect, protect and fulfil under international law. In explaining this, it details the structural reasons why humanitarian exemptions are incapable of fully eliminating the problem. The article then considers the legality of imposing sanctions in the knowledge that human rights will be violated; whether such a violation must be intentional to constitute a breach of international law; and whether the principle of proportionality is relevant to a determination of the legality of the sanctions. In concluding that unilateral sanctions constitute an element of state conduct that has become increasingly widespread and frequent despite the damage they cause to human rights, the article presents three possible scenarios from which their legality might emerge: their entry into customary international law, which would imply an erosion of the obligations of states to respect and protect human rights; the development of a dedicated area of international law that encompasses sanctions to ensure that human rights are respected and protected when they are used; and the prospect for sanctions themselves to be reconceptualised and structured in a way that makes them benign with respect to human rights.

Keywords: unilateral sanctions; human rights; humanitarian exemptions; legality; effectiveness.

(НЕ)ПРАВОМЕРНОСТЬ ОДНОСТОРОННИХ САНКЦИЙ В СВЕТЕ НЕАДЕКВАТНОСТИ ГУМАНИТАРНЫХ ИЗЪЯТИЙ

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Обосновывается неправомерность односторонних экономических санкций, поскольку их разработка и применение неизбежно приводят к нарушениям основополагающих прав человека, обязанность соблюдать которые возлагается на все государства в соответствии с международным правом. Подробно описаны причины структурного порядка, по которым применение гуманитарных изъятий не может полностью устранить данную проблему. Также оценивается правомерность введения санкций в случаях, если известно, что права человека будут нарушены. Рассматривается вопрос о том, должно ли подобное нарушение прав быть преднамеренным, чтобы считаться несоблюдением международного права и актуален ли принцип соразмерности для определения законности санкций. В свете того, что односторонние санкции, несмотря на негативный гуманитарный эффект, становятся все более распространенным и частым явлением, дается оценка трех возможных сценариев обоснования правомерности подобных санкций: формирование обычной нормы международного права, которое повлечет неполное соблюдение обязательств государств по уважению и защите права человека; разработка специальной области международного права в сфере

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санкций для обеспечения соблюдения и защиты прав человека при их введении; переосмысление и реструктуризация, проведенные таким образом, чтобы смягчить их влияние на права человека.

Ключевые слова: односторонние санкции; права человека; гуманитарные изъятия; правомерность; эффективность.

Introduction

Questions about the legality of unilateral economic sanctions are focused on the argument that they are prohibited by international law unless they meet one of three conditions:

- they are authorized by the UN Security Council under powers granted to it by art. 39 and 41 of the UN Charter;
- they are permitted as countermeasures against the wrongful acts of another state [1, p. 71–72];
- they receive the consent of the sanctioned state, such as through its participation in a multilateral dispute settlement mechanism that authorizes sanctions[1] [2, p. 11].

This article asserts that the conditions must be seen as frameworks in which unilateral sanctions may lawfully exist, while the legality of the actual sanctions is a separate matter that must be judged on the basis of the lawfulness of their content and consequences. Considered in this sense, unilateral sanctions as currently designed and implemented are of doubtful legality: either they block the targeted states from complying with their legal obligations pertaining to human rights, or they directly breach human rights themselves.

For the most part, states that impose economic sanctions openly support human rights and do not engage in conduct that purposely subverts them. Indeed, a common reason for using sanctions is to put pressure on other states to improve their own human rights situations. The violations that arise from sanctions are undesired side-effects of their implementation, as evidenced by the fact that sanctioning states have developed three types of corrective action:

- the inclusion of humanitarian exemptions in comprehensive or sectoral economic sanctions;
- the use of targeted sanctions against specific individuals, companies and organizations;
- the provision of humanitarian aid to offset the sanctions' impact.

It is known today that none of these, either alone or in any combination, resolves the problem.

Addressing the harm to human rights arising from sanctions

Economic sanctions are a means of coercion that states and international organizations apply against countries to pressure them into changing their conduct, policies or political systems when diplomatic efforts do not yield the desired outcomes. From their earliest use by the ancient Greeks through most of the 20th century, sanctions entailed broad restrictions on trade with the targeted political entity [3, p. 9–11]. Since the end of the Great Patriotic War, and particularly in the last three decades, sanctions have been used with increasing frequency while being influenced by two major trends – the growth in cross-border financial transactions that have accompanied globalization, and the expansion of international legal norms pertaining to human rights. The first of these is commonly addressed by sanctions that impose financial constraints in addition to trade restrictions. The second has led to a body of international law that requires states to respect, protect and fulfill human rights at all times, including when they impose sanctions.

During the 1990s, when the UN Security Council made greater use of comprehensive economic sanctions to enforce its decisions, it became evident that these measures were routinely causing humanitarian problems by preventing the targeted countries from ensuring the human rights of their populations, with dire consequences. This was seen most dramatically in Iraq; an outside study commissioned by the United Nations described the UN sanctions against Iraq as creating a "humanitarian catastrophe", citing an alarming deterioration of the population's health and a disastrous increase in infant and child mortality [4, p. xx–xxi]. Other assessments of Security Council sanctions by various UN organs and agencies came to similar conclusions; a committee of the Economic and Social Council, for example, found that the sanctions "almost always have a dramatic impact" on rights enshrined in the International covenant on economic, social and cultural rights: "They often cause significant disruption in the distribution of food, pharmaceuticals and sanitation supplies, jeopardize the quality of food and the availability of clean drinking water, severely interfere with the functioning of basic health and education systems, and undermine the right to work"[2].

The Security Council responded by incorporating "humanitarian exemptions" into its sanctions to

[1]Understanding on rules and procedures governing the settlement of disputes : annex of the WTO agreement. 1994.
[2]General comment of the UN Economic and Social Council No. 8 on implementation of the Covenant on economic, social and cultural rights. 12 December 1997. Para 3. E/C.12/1997/8.

allow the continued flow of vital goods and services into the targeted countries, but it was apparent that these did not halt the negative impact on human rights[3], and the United Nations shifted toward using targeted sanctions in order to shield the broader populations of sanctioned countries from harm. This created a new problem, however, as the targeted sanctions directly breached the rights of listed individuals, a matter discussed later in this article. Meanwhile, the practice of applying comprehensive economic sanctions did not end, as individual states and regional groups of states began using them, in addition to using targeted sanctions, to pursue their foreign policy interests – often without or beyond the Security Council's authorization or the other conditions for sanctions to legally exist. The humanitarian exemptions contained in these "unilateral" (also called autonomous) sanctions have similarly been unable to fully respect or protect the human rights of the sanctioned countries' populations; even now, among the rights commonly violated are the rights to food and to health, and by extension the right to life[4]. In sum, "while human rights are so often invoked, sanctions have never succeeded in safeguarding human rights" [5].

The failure of humanitarian exemptions and the desire to keep sanctioning

As states have refined their sanctions regimes and humanitarian exemptions to address this dilemma, no solution has emerged. Sometimes states imposing sanctions provide humanitarian assistance to the countries they target with them, either independently of the sanctions or built into them to supplement the humanitarian exemptions, but this invariably fails to restore full respect or protection of human rights [6, p. 1]. This is because the sanctions and the assistance operate in two different spheres: "Even with a significant program of external humanitarian assistance… humanitarian exemptions cannot provide an adequate safety net to compensate for the large scale social and economic dislocation that trade sanctions cause. Humanitarian assistance does have an impact at micro-level but trade embargoes have an impact at macro-level. <…> Even streamlined and generous humanitarian assistance cannot compensate for such dramatic economic decline" [7, p. 27].

The inclusion of humanitarian exemptions represents a *de facto* recognition by states that their sanctions produce human rights violations – and the provision of additional humanitarian assistance is a *de facto* recognition that human rights are still harmed despite the exemptions. Even if humanitarian exemptions can reduce the scope and (or) severity of the breaches[5], the pervasive inability to fully eliminate violations makes it possible to conclude that damage to human rights is integral to the sanctioning practice. The fact that supplemental aid is of limited help highlights the intractable nature of the problem.

Numerous reasons have been put forth to explain why humanitarian exemptions do not succeed. These include complex and evolving rules of unilateral sanctions regimes, which create the risk of accidental violations and penalties that discourage humanitarian exports to sanctioned countries; lengthy and (or) costly processes for approving exports of exempted items to sanctioned countries, which impede humanitarian actors from responding to emergency situations; a reticence among banks to finance exports by humanitarian actors to sanctioned countries, or to allow them to transfer funds to sanctioned countries, due to perceptions that such transactions are risky in terms of the banks' exposure to secondary sanctions and (or) compliance with banking regulations; the vigorous and sometimes extraterritorial enforcement of sanctions regimes, including the imposition of secondary sanctions and large fines, which has led to widespread over-compliance with sanctions by suppliers, transporters and financiers that are unwilling to take advantage of humanitarian exemptions out of fear of technical violations; difficulties in providing due diligence assurances that humanitarian items arriving in a sanctioned country will not be diverted toward military uses, other unacceptable purposes or unauthorized recipients; the inability of the sanctioned country to fully benefit from items they obtain through humanitarian exemptions because of the impact of the sanctions on other goods and services, such as fuel for transporting them at their destination; and the restrictive nature of the exemptions[6] [7, p. 25; 8, p. 10; 9, p. 45].

[3]General comment of the UN Economic and Social Council No. 8 on implementation of the Covenant on economic, social and cultural rights. 12 December 1997. Para 4–5. E/C.12/1997/8.

[4]UN experts: sanctions proving deadly during COVID pandemic, humanitarian exemptions not working : press release of the Office of the High Commissioner for human rights of the 7 August 2020.

[5]High-level review of United Nations sanctions. UN sanctions: humanitarian aspects and emerging challenges [Electronic resource]. URL: http://www.hlr-unsanctions.org/HLR_WG3_report_final.19.1.15.pdf (date of access: 12.09.2020).

[6]*Douhan A*. Negative impact of unilateral coercive measures on the enjoyment of human rights in the coronavirus disease pandemic [Electronic resource]. URL: https://www.ohchr.org/Documents/Issues/UCM/A_75_209_AEV.docx (date of access: 15.10.2020) ; *Dyer G*, *Arnold M*, *Barker A*. Sanctions confusion leaves European banks wary of Iran business // Financial Times. 17 January 2016 ; *Sun M*. Evolving Venezuela sanctions pose problems for banks // Wall Street Journ. 25 February 2019 ; *Debarre A*. Safeguarding humanitarian action in sanctions regimes. International Peace Institute [Electronic resource]. URL: https://www.ipinst.org/wp-content/uploads/2019/06/1906_Sanctions-and-Humanitarian-Action.pdf (date of access: 20.09.2020).

While any one of these deterrents can be enough to dissuade humanitarian trade with sanctioned countries, what is striking is that many or most of these factors coexist as part of, or as a result of, the same unilateral sanctions regimes[7], compounding the difficulty of making humanitarian exemptions attractive to potential users.

Recent evidence that sanctioning states are aware that humanitarian exemptions do not facilitate as much trade as intended comes from the fact that the United States and the European Union tried to encourage greater use of them during the COVID-19 pandemic in 2020–2021; while neither altered their existing exemptions, both sought to make it easier for humanitarian actors to comply with the relevant rules. The US government issued a fact sheet that consolidated, for the first time, information that previously was not as readily accessible about exemptions, exceptions and authorizations for humanitarian assistance and trade under its economic sanctions regimes targeting Cuba, Iran, North Korea, Russia or Ukraine, Syria and Venezuela[8]. The European Commission began publishing detailed guidance on providing goods and services for humanitarian purposes in countries where the EU imposes sectoral and targeted sanctions[9]. Despite such efforts, reports from sanctioned countries showed that their ability to obtain supplies and services to fight COVID-19 was still being impeded by the sanctions[10].

The persistent incapacity of humanitarian exemptions and supplemental aid to eliminate the negative effect of sanctions on human rights is not unexpected. A report by the British House of Lords in 2007, for example, stated: "It is predictable that sanctions which inflict high economic costs on a country run by a ruthless government are likely to result in severe suffering among the general population even if there are humanitarian exemptions and relief programs"[11].

Despite the proliferation of unilateral economic sanctions today, it is amply documented that they are often unsuccessful in coercing targeted countries into making the changes desired [10; 11, p. 148; 12, p. 479]. This leaves the harm they cause to human rights as their only consistent achievement. With such serious flaws, the question naturally arises as to why sanctions remain in use.

It is frequently argued that sanctions avert armed conflict when diplomacy cannot resolve serious international disputes, and this is sometimes true[12] [13] despite "substantial evidence that the imposition of sanctions, rather than preventing war, can actually lead to war" [14, p. 130–131]. The aforementioned outside study done for the United Nations suggests that "some of the attraction may be explained by the reality that sanctions, despite appearing as an "alternative" to direct use of force, are always meant to convey "punishment" on the target for their behavior" [4, p. 78]. It has also been noted that a sanctioning country's leadership may benefit by imposing sanctions that generate political support from certain domestic constituents [15] or show that policy makers are "doing something about a given problem" [11, p. 171]. Sanctions may have a broader political objective in the targeted country than the goal that is publicly announced, and the objective may not be limited to the targeted country alone [16, p. 18–19]. Indeed, the political motive for using sanctions can be strong enough to outweigh the concern for human rights in the sanctioned state: "It appears that policy makers simply do not regard the suffering and death that will occur in the target state to be more important than the political utility of the enactment of sanctions" [11, p. 167].

A further motive for using sanctions is that a state which actually imposes them is more credible when it threatens sanctions [17, p. 22–23], and the anticipation of a negative humanitarian impact may be integral to how a prospective target country responds. The violation of human rights through the use of sanctions may thus have a certain perverse value in coercing an intended target of new sanctions to effectuate the desired change before any sanctions are imposed.

Whatever benefits may accrue from economic sanctions, the humanitarian problems created by their imposition would sometimes be tantamount to war crimes if they were to occur during armed conflict, due to the importance that the Geneva conventions and Additional protocols place on respecting and protecting the human rights of civilian populations. The corrective actions taken by sanctioning states indicate that they indeed take this problem seriously. Its intractability suggests that it originates at a more fundamental level, in the conceptualization of sanctions as a coercive mechanism.

[7] *Douhan A.* Negative impact of unilateral coercive measures on the enjoyment of human rights in the coronavirus disease pandemic [Electronic resource]. URL: https://www.ohchr.org/Documents/Issues/UCM/A_75_209_AEV.docx (date of access: 15.10.2020).

[8] Fact sheet: provision of humanitarian assistance and trade to combat COVID-19 [Electronic resource]. URL: https://home.treasury.gov/system/files/126/covid19_factsheet_20200416.pdf (date of access: 16.08.2020).

[9] Commission guidance note on the provision of humanitarian aid to fight the COVID-19 pandemic in certain environments subject to EU restrictive measures [Electronic resource]. URL: https://ec.europa.eu/info/files/guidance-note-provision-humanitarian-aid-fight-covid-19-pandemic-certain-environments-subject-eu-restrictive-measures_en (date of access: 28.10.2020).

[10] *Douhan A.* Negative impact of unilateral coercive measures on the enjoyment of human rights in the coronavirus disease pandemic [Electronic resource]. URL: https://www.ohchr.org/Documents/Issues/UCM/A_75_209_AEV.docx (date of access: 15.10.2020).

[11] House of Lords, Select Committee on Economic Affairs. The impact of economic sanctions. London : Stationery Office, 2007.

[12] Preventing violent conflict: Swedish policy for the 21st century : government communication. 2000/01:2. Stockholm : Ministry for Foreign Affairs, 2001. P. 28, 32.

Structural obstacles to the effectiveness of humanitarian exemptions

Sanctions cannot achieve their objectives and can be counterproductive for the sanctioning party if the pressure they generate is inadequate, poorly targeted or readily countered by alternative means to accomplish what the sanctions prohibit. An analysis of numerous sanctions regimes found "strong evidence that the economic impact of sanctions has generally been greater when they were more comprehensive in scope or severity[13]," and also that sanctions which strongly impeded the functioning of target countries' economies were more likely to succeed in their goals[14]. This can make comprehensive economic sanctions attractive to a sanctioning state, but the many variables that comprise the impact on a targeted country make it impossible to measure with precision the minimum threshold for creating an economic disruption of sufficient gravity to provoke the desired change. It is argued that without this knowledge, sanctions against a nation's economy or one or more vital economic sectors can surpass the degree of coercion that would make them successful, even if success proves elusive for other reasons. Indeed, the potential for ineffective sanctions to have economic and political repercussions in the sanctioning state can create a bias toward designing sanctions that are more extensive than necessary. The same bias may also arise from a desire for sanctions to be sufficiently disruptive to a targeted country that it cannot readily adjust to living under them.

Unsurprisingly, sanctions with the greatest economic impact are those that are most likely to harm the human rights of a sanctioned state's population[15] [18, p. 59]. Put another way, human rights are impacted the least by sanctions that are not comprehensive – and humanitarian exemptions make sanctions less comprehensive by removing goods and services from their coverage. Consequently, "there is not always strong political will to facilitate exemptions" [7, p. 5] because they affect the sanctions' success: "Humanitarian exemptions may be regarded as a form of sanctions "leakage" and thus serve to undermine the efficiency or effectiveness of the sanctions regime <…> The near unanimous claim that humanitarian exemptions do not contribute to undermining the effectiveness of sanctions regimes is questionable – and ultimately an empirical question" [19, p. 111].

Accordingly, sanctioning states set limits on humanitarian exemptions to preserve the coercive potential of their sanctions, although this invariably results in the exemptions being too narrow to fully respect human rights: "Exemptions policies use too restricted definitions of what is required for "humanitarian" purposes. Vaccines may be allowed but cold chain equipment or educational materials not. Certain medicines may be exempted but the water and sanitation infrastructure of the country is allowed to collapse, because pumps, spare parts, chlorine and generators are embargoed as supposedly non-humanitarian or potentially "dual-use" items" [7, p. 25].

The restricted scope of humanitarian exemptions can also limit the entities that can avail themselves of them. During the COVID-19 crisis, lawyers at the Canadian firm "McCarthy Tétrault" assessed the exemptions in most Canadian sanctions as "not well-suited for the current pandemic context", calling them "too narrowly defined". They noted that the exemptions were sometimes available only to certain categories of entities, with the result that most nongovernmental aid organizations (the exception was the Red Cross and Red Crescent Movement) could not take advantage of them[16].

In order to ensure that human rights are respected and protected, it would appear that the humanitarian exemptions; the procedures and enforcement processes associated with them; and their efficacy in the context of the sanctions' other restrictions must each be independently sufficient to prevent breaches, as the insufficiency of any one of these can compromise whatever respect or protection is afforded by the others. Moreover, the sufficiency of these factors must be sustained throughout the period when the sanctions are in effect, during which the targeted state's economic and social circumstances are evolving under the sanctions' influence – and the more effective the sanctions, the greater this evolution can be.

The obligations of states to respect, protect and fulfill human rights – which includes certain rights that are *jus cogens* – are firmly established in international law through a series of multilateral conventions, other international agreements and the UN Charter, as well as by the Universal declaration of human rights and also custom; these are often mutually reinforcing by

[13]Economic sanctions: agencies assess impacts on targets, and studies suggest several factors contribute to sactions' effectiveness [Electronic resource]. URL: https://www.gao.gov/assets/710/701891.pdf (date of access: 16.09.20).
[14]Ibid.
[15]Ibid. ; *Øygarden K. F.* The effect of sanctions on human rights: assessing the impact of economic sanctions on human rights violations in targeted countries. Oslo : Univ. of Oslo, 2017. P. 136.
[16]*Boscariol J. W.*, *Migitko O.*, *Koukio Y.* As global pandemic spreads, economic sanctions and humanitarian exemptions coming into focus for the business and NGO communities [Electronic resource]. URL: https://www.mccarthy.ca/en/insights/blogs/terms-trade/global-pandemic-spreads-economic-sanctions-and-humanitarian-exemptions-coming-focus-business-and-ngo-communities (date of access: 30.10.2020).

referring to the same rights. With regard to unilateral sanctions, some publicists claim that these obligations require states to not only refrain from taking actions that undermine human rights, but also "to ensure that impediments and obstacles to trade of humanitarian goods are effectively removed" [20, p. 314].

It has been proposed in the context of the UN Human Rights Council that mandatory assessments should be made of the humanitarian impact of planned sanctions and that the impact should be monitored once the sanctions are in force, to ensure that humanitarian exemptions can be effective[17]; to date, these have not progressed beyond proposals. However, continually monitoring the humanitarian impact throughout a sanctioned country's territory and adjusting the parameters of the humanitarian exemptions and their enforcement accordingly, in real time, during the entire period when the sanctions are in effect, would substantially complicate and heighten the cost of implementing the sanctions. Indeed, it would likely eviscerate many or most comprehensive or sectoral economic sanctions regimes to the point where their value to the sanctioning states as a means to influence other states is negated and the economic price is too high.

Humanitarian exemptions that are truly adequate to respect and protect human rights in a sanctioned country during the entire period of the sanctions thus appear impossible to design, implement and manage while preserving the sanctions' potential to be an effective means of coercion. UN Secretary-General Kofi Annan summarized the dilemma in 1998 when he stated that "humanitarian and human rights policy goals cannot easily be reconciled with those of a sanctions regime"[18].

The unlawfulness of sanctioning while knowing that human rights will be violated

States have demonstrated their awareness that humanitarian exemptions, even in conjunction with other corrective actions, do not fully avert or remedy the harm to human rights that sanctions bring about. Among other things, this led in 2014 to the Human Rights Council appointing a special rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights. In view of this awareness, it can be stated that imposing economic sanctions entails a conscious infringement of human rights in the targeted state. A sanctioning state may not know in advance which specific rights will be breached, the nature or severity of the consequences, or the number or identities of the victims, but this does not detract from its knowledge that at least some harm to human rights is inevitable.

To the extent that this may breach human rights law, some jurists argue that a conscious violation of human rights must also be an intentional violation to be a wrongful act in international law: "Senders of sanctions cannot be held responsible unless they intentionally seek to violate the rights in question or pursue policies that are so blatantly harmful to those rights that they fail to meet a minimum standard of compliance. The humanitarian exemptions that have been voted with sanctions in almost every case, and the supplemental humanitarian assistance programs funded by the "senders", as well as their public statements of concern for the plight of civilian populations, make it difficult to find willful intent on the senders' part" [21, p. 1511].

Another publicist contends that because the element of intent is included in the legal definitions of various human rights breaches (an example is torture, defined in the Convention against torture as "intentionally inflicted" severe pain or suffering[19]), this can be considered a general rule such that "violations of human rights require an intention to commit the violation. Unintended consequences are not human rights violations". She adds that "if knowledge of unintended consequences rose to the level of intention, sanctions would have to be eliminated as a tool of law enforcement" [22, p. 73].

It is submitted here that a violation of human rights which can be predicted with certainty as an outcome of state conduct may be an unwanted consequence but cannot be an unintended one if the state decides to proceed with that conduct while discarding the option to act otherwise. Moreover, as soon as sanctions produce evidence that human rights are being breached, a sanctioning state's choice to not immediately suspend or terminate the sanctions or their enforcement if it cannot fully rectify the situation by other means entails a willful intent to tolerate, from that point onward, the violation that its sanctions have provoked.

The notion that breaches of human rights require intent to be true violations of international law is dubious in any case. Art. 2 of the Draft articles on responsibility of states for internationally wrongful acts (DARS) defines a wrongful act as one that "(a) is attributable to the state under international law and (b) constitutes a breach of an international obligation of the state". The International Law Commission's commentary on

[17]Report of the special rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights [Electronic resource]. URL: https://undocs.org/en/A/HRC/39/54 (date of access: 04.10.2020).
[18]Annual report of the Secretary-General on the work of the organization: partnerships for a global community [Electronic resource]. URL: https://undocs.org/A/53/1 (date of access: 28.09.2020).
[19]Art. 1(1) of the Convention against torture and other cruel, inhuman or degrading treatment or punishment. 10 December 1984.

that article states: "In the absence of any specific requirement of a mental element in terms of the primary obligation, it is only the act of a state that matters, independently of any intention"[20].

An argument consistent with this notion has been made regarding unilateral sanctions specifically: "The intent of the party imposing unilateral sanctions is less important than the foreseeable consequences thereof. It is no excuse that the death of civilians was "unintended" or was merely "collateral damage". Such collateral damage is imputable to the state imposing the sanctions, which has thereby committed an internationally wrongful act, for which there is a state responsibility and the obligation to make reparations"[21].

The imposition of comprehensive or sectoral sanctions can also be deemed unlawful on grounds that they prevent a targeted state from being able to comply with its own obligations pertaining to human rights. This must be seen in the context of the targeted state's dependence on economic and financial interactions with other countries, without which the sanctions would have no coercive potential and consequently would not be used. Regardless of the targeted state's past record of compliance with its human rights obligations, the imposition of comprehensive or sectoral sanctions deprives it of external resources that can be necessary for full compliance from that point onward. The sanctioning state thus becomes complicit in subsequent compliance shortfalls that might not otherwise occur. Facilitating the targeted state's breach of its human rights obligations (given that a breach is defined as a wrongful act under art. 2 of DARS) arguably places the sanctioning state into the situation addressed by art. 16 of DARS: "A state which aids or assists another state in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if:

(a) that state does so with knowledge of the circumstances of the internationally wrongful act;

(b) the act would be internationally wrongful if committed by that state".

As for targeted sanctions, a state that imposes them against individuals directly violates human rights law as these sanctions have the specific purpose of denying the targeted individuals various rights that are enshrined in international conventions. In practice, these typically include the right to property and related transactions, freedom of movement and (or) the right to work, among others. Moreover, targeted sanctions are imposed without regard to the individuals' due process rights, including the right to a fair trial, the right to defend oneself and the right to be presumed innocent until proven guilty[22]. Indeed, the absence of due process is always the case when sanctions target individuals, as legal proceedings with their prescribed penalties would either remove the reason to penalize through sanctions (in findings of guilt) or show that individuals are wrongly targeted, rendering sanctions ineffective (in findings of innocence). Although humanitarian exemptions associated with targeted sanctions allow limited derogations, such as restoring certain rights of a listed individual when their exercise is necessary for a specified humanitarian purpose[23], the exemptions do not restore the individual's rights in full because restricting them is integral to the nature of these sanctions.

In addition to sanctions themselves, the enabling legislation at the national level can be deemed illegal in view of the knowledge that its implementation will cause human rights to be violated despite the presence of clauses that create humanitarian exemptions. It has been asserted that "(i)n the human rights context a state's international law obligation is … to avoid adoption and enforcement of laws that violate human rights norms" [23, p. 919]. This view was subsequently supported by the Inter-American Court of Human Rights in its advisory opinion on *international responsibility for the promulgation and enforcement of laws in violation of the convention (art. 1 and 2 of the American convention on human rights)*, in which it unanimously concluded:

"1. That the promulgation of a law in manifest conflict with the obligations assumed by a state upon ratifying or adhering to the convention is a violation of that treaty. Furthermore, if such a violation affects the protected rights and freedoms of specific individuals, it gives rise to international responsibility for the state in question.

2. That the enforcement by agents or officials of a state of a law that manifestly violates the convention gives rise to international responsibility for the state in question. If the enforcement of the law as such constitutes an international crime, it will also subject the agents or officials who execute that law to international responsibility"[24].

[20]Draft articles on responsibility of states for internationally wrongful acts, with commentaries // Yearb. Int. Law Comm. 2001. Vol. II. Part 2. P. 36. Para 10.

[21]*De Zayas A*. Unilateral sanctions and international law [Electronic resource]. URL: https://dezayasalfred.wordpress.com/2019/06/30/unilateral-sanctions-and-international-law/ (date of access: 01.10.2020).

[22]Mandate of the special rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights [Electronic resource]. URL: https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25541 (date of access: 04.11.2020).

[23]Commission guidance note on the provision of humanitarian aid to fight the COVID-19 pandemic in certain environments subject to EU restrictive measures [Electronic resource]. URL: https://ec.europa.eu/info/files/guidance-note-provision-humanitarian-aid-fight-covid-19-pandemic-certain-environments-subject-eu-restrictive-measures_en (date of access: 28.10.2020).

[24]Advisory opinion OC-14/94 of the Inter-American Court of Human Rights of 9 December 1994.

Sanctions and lawful infringements of human rights

Infringements on human rights are lawful under tightly restricted circumstances, so it bears examining whether unilateral sanctions that infringe on human rights are legal if their imposition is aligned with them. Specifically, certain rights may be legally derogated from in the case of an armed conflict or another national emergency that threatens a state, as long as such derogations cannot be avoided in addressing the emergency, are strictly limited in scope and duration to the necessities of doing so, and are proportional to the exigencies of the emergency.

The International covenant on civil and political rights (ICCPR) details the procedures and requirements under which the human rights obligations it elaborates may be derogated from in an emergency; it mandates that an emergency be formally declared and notified to the United Nations while also designating certain rights (rights to life, to freedom from torture, to freedom from slavery and several others) as non-derogable even in such situations[25]. Similarly, at a regional level, the European convention on human rights (ECHR) allows the rights it enshrines to be set aside in declared emergencies[26], with some exceptions[27].

Under the International covenant on economic, social and cultural rights (ICESCR), states are also allowed to lawfully infringe on human rights by limiting them "to promote the general welfare in a democratic society"[28], as long as such limits "respect the minimum core obligations" of the rights involved and are "proportionate to the aim pursued"[29].

The imposition of unilateral sanctions that violate human rights thus can be theoretically legal at times. However, state practice shows that while some sanctions are imposed on the basis of declared emergencies, such emergencies generally do not conform to the rules and constraints in the ICCPR that make it lawful for states to derogate from their human rights obligations[30]. Meanwhile, it is difficult to justify the harmful humanitarian impact of sanctions on grounds that it improves the welfare of society in line with the ICESCR's condition. Improving the welfare of society is, at best, an indirect and uncertain result of achieving the sanctions' aims, and is not known to have ever been a stated objective of sanctions; additionally, the absence of a direct link between unilateral sanctions and the condition of the sanctioning state's society impedes any determination of whether the harm to rights in the sanctioned state is proportionate to such a result.

Art. 4 of the ICCPR and art. 15 of the ECHR specify that whenever derogations occur, states must continue to comply with their other obligations under international law. This requirement is in harmony with the broader principle that an international agreement or an element thereof is limited to its text and does not extend to other texts [24, p. 627–628], from which it follows that an authorized exception to certain state obligations pertains only to the obligations specified, and that all other obligations throughout the realm of international law remain intact. Applying this to the conditions under which unilateral sanctions may legally exist, mentioned at the start of this article, states must continue adhering to all aspects of human rights law when imposing sanctions under these frameworks. Thus, when unilateral sanctions are authorized by the UN Security Council, imposed as countermeasures or applied with the sanctioned state's consent, they must be constructed in such a way as to not violate human rights. As this construction has not been achievable, including when humanitarian exemptions are taken into account, the legal space created by the frameworks for the existence of lawful sanctions is, in fact, of little practical value despite its potential.

Meanwhile, sanctions imposed in non-emergency situations and without the intent to improve the welfare of society, such as those used to pursue political objectives, would cause human rights to be violated gratuitously and their illegality may be established on that basis alone.

The problematic principle of proportionality

Given the role of humanitarian exemptions in the sanctioning process, it is appropriate to consider them in conjunction with the principle of proportionality to determine if the exemptions might mitigate the humanitarian harm from sanctions such in a way that the sanctions may be considered lawful – that is, whether

[25]Art. 4 of the International covenant on civil and political rights of 16 December 1966.
[26]Art. 15 of the Convention for the protection of human rights and fundamental freedoms of the 4 November 1950.
[27]Ibid. Protocol No. 7, Protocol No. 13.
[28]Art. 4 of the International covenant on civil and political rights of 16 December 1966.
[29]General comment of the UN Economic and Social Council No. 25 (2020) of 30 April 2020. Para 21. E/C.12/GC/25.
[30]Mandate of the special rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights [Electronic resource]. URL https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25879 (date of access: 28.02.2021).

the principle renders the residual human rights violations legally acceptable – if all other conditions of lawfulness are met.

Under the proportionality principle, human rights may be lawfully harmed only to the extent that cannot be avoided when a state's action resulting in the harm is appropriate and necessary and the harm is proportionate to the action's objective. The principle's relevance in the sphere of sanctions can be seen, for example, when sectoral or targeted sanctions are used in place of comprehensive economic sanctions in an effort to coerce a state to comply with an international obligation. Nonetheless, causing fewer human rights to be violated does not automatically render the sanctions legal.

A study on quantifying how sanctions have affected human rights notes that "the proportionality assessment rests on empirical parameters, because it requires a sanctioning state to assess the prospective economic, social, and political effect of the sanction" [25, p. 6]. However, the impossibility of setting exact parameters for sanctions that will ensure the respect and protection of human rights at all times during the sanctions' implementation while maintaining the sanctions' potential effectiveness applies equally to parameters that allow a margin of error which can be used to justify compliance with the proportionality principle. In this vein, it has been argued that "proportionality cannot be applied to the use of economic sanctions. In economic sanctions the balance between the damage to the civilian population and the advantage gained by the imposing state is impossible to evaluate, and hence the principle as such cannot be applied. Unlike military operations, any attempt to construct the exact damage caused by the use of economic sanctions, and even more so the specific gains it will achieve, is also impossible. All such attempts will inevitably be hypothetical and impossible to support" [26, p. 139].

Additionally, comprehensive and sectoral sanctions are not simple dynamic processes that operate over time: while their effectiveness and their impact on human rights evolve separately, each can simultaneously influence the evolution of the other throughout the period when the sanctions are in force. This complexity can cause any assessment of proportionality to be a momentary "snapshot" without lasting validity.

Yet assessing proportionality entails more than simply quantifying the magnitude or scope of the impact on human rights. It is broadly accepted that an action which harms human rights may only be considered proportional in a legal sense if it also meets the tests of adequacy, which requires a determination that the action is suitable for achieving the desired result, and necessity, which requires a determination that the action is either the only option or causes the least damage to human rights of any option in achieving that result [27, p. 179–180; 28, p. 135–136; 29, p. 630–634; 30, p. 8; 31, p. 30–32]. As unilateral sanctions tend to perform poorly relative to their stated objectives [11, p. 148], they would generally fail in terms of adequacy. They would also fail the necessity test in view of the options that are normally available but typically bypassed when unilateral sanctions are introduced; these include recourse to international arbitrators, judicial institutions or the UN Security Council, or to due process through national legal systems in the case of individuals.

As for targeted sanctions, the proportionality principle is problematic here, too, as the situations to which it applies are not analogous to the way these sanctions function. Taking into account the aforementioned ways in which states may derogate from their human rights obligations, the principle allows that harm to rights may legitimately occur as collateral damage in the pursuit of an objective, or in the face of conditions, that justify their lawful restriction. However, individuals targeted by sanctions are intentionally designated for the denial of human rights as opposed to being incidental victims: the denial of rights is the coercive act itself rather than a consequence of it.

Further clouding the matter are sanctions that affect the human rights of multiple persons in response to alleged violations of a single individual's human rights, as with the so-called "Magnitsky sanctions" first imposed by the United States under a 2012 law after it deemed the death of an imprisoned Russian tax attorney resulted from breaches of his human rights[31]. This places the violation of the rights of even one person – in this case, Sergei Magnitsky's right to health care and right to life – at the highest level with respect to any comparison that might be made when considering the notion, much less the principle, of proportionality.

Conclusion: scenarios for addressing the human rights problem in unilateral sanctions

The failure of humanitarian exemptions and any supplemental measures to respect and protect human rights in the course of sanctioning points toward the conclusion that imposing unilateral sanctions in virtually any circumstance constitutes an internationally wrongful act. At the same time, the rising use of sanctions as a means of coercion by an increasing number of states and regional groups for an expanding range of

[31]Sergei Magnitsky rule of law accountability act of 2012 (Sergei Magnitsky act) of 14 December 2012.

reasons[32] is evidence of a progressively greater acceptance of sanctions as an element of state conduct. Even countries with small economies and those that were previously targets of sanctions are now using them[33], and the speed at which sanctions are sometimes urged[34] and imposed[35] in response to events suggests a certain willingness to use them as a first choice rather than as a last resort among coercive options, despite their impact on human rights.

This raises the question of whether unilateral sanctions might one day be considered legal on grounds of becoming customary state practice, which would imply an acceptance that the obligations to fully respect, protect and fulfill human rights can tolerate a degree of erosion. As part of the development of customary international law, "previously unlawful conduct may, over time, become lawful" [32, p. 625], especially if the conduct has not been the subject of successful legal challenges or punishment. As unilateral sanctions fall into this category with respect to the resulting human rights violations, such a scenario cannot be ruled out. It may even be encouraged by the absence of legal responsibility assigned to the United Nations or its member states for human rights violations resulting from the Security Council's sanctions [33].

Countering this prospect, the international community has signalled its resistance to sanctions that erode human rights, for example through the creation and renewal of the mandate of the aforementioned UN special rapporteur on unilateral coercive measures. Moreover, the humanitarian exemptions and other efforts by sanctioning states to avert human rights breaches, despite being imperfect, have legal significance for the evolution of customary international law. It has been noted that violations of legal norms cannot be considered in isolation from the expectations of states and other relevant patterns of their behavior as determinants of the development of customary law [34, p. 77].

Also possible is the development of a body of international law that focuses on sanctions, or on unilateral coercive measures more generally, and addresses the human rights issues they raise. Throughout the last century, specialized areas of international law have been created in response to emerging concerns and new forms of state conduct, ranging from international investment law to space law [35]. The expansion in the use and types of unilateral sanctions positions them for such treatment; the human rights problem inherent in them offers a reason to act; and the existence of multilateral organizations, most notably the United Nations, provides forums in which this development may occur.

As mentioned earlier, proposals emanating in the context of the UN Human Rights Council include a mandatory *ex ante* assessment and ongoing monitoring of the humanitarian impact of sanctions. Its first special rapporteur to deal with unilateral coercive measures, Idriss Jazairy, urged that populations in sanctioned countries be brought under "the same protections provided by the Geneva conventions to people in war"[36]; he also proposed elements for a hypothetical UN General Assembly declaration that would address such protections[37].

While changing international law to accommodate the impact of unilateral sanctions on human rights is one path toward addressing the issue, another may be to alter how sanctions are conceptualized as a coercive mechanism, given that the problem arises from the structural design of the sanctions in use today. Existing sanctions, whether comprehensive or targeted, are conceived as "whole" legal instruments from which elements that negatively affect human rights are subtracted, mainly through humanitarian exemptions, rather than as instruments that are assembled only from elements that do not impact human rights. Whether it is possible to achieve the latter is at present untested, although the proposal to assess in advance the humanitarian impact of planned sanctions might help identify elements that can have a coercive effect while being benign from a human rights perspective.

It has been written that "present global challenges… require better thinking in the sphere of international law at a level whereby creativity and innovation need to be implemented into the norms of new international law effectively" [35, p. 65]. Unilateral sanctions, humanitarian exemptions and their impact on the enjoyment of human rights appear ripe for such treatment.

[32]Report of the special rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights: negative impact of unilateral coercive measures: priorities and road map [Electronic resource]. URL: https://undocs.org/en/A/HRC/45/7 (date of access: 22.10.2020).

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