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The intellectual legacy left by Vladimir Makei

FOREWORD

Vladimir Makei has been the longest serving Minister of foreign affairs of an independent Belarus. It is true that in 2012 he inherited the country's foreign service that had already been well-established, robust and effective. Nevertheless, V. Makei did his utmost to strengthen the Belarusian diplomacy so that it became even more vigorous and agile both in advancing the country's national interests as well as in promoting a number of topics on the global scene that served to bring all countries of the world together in an effort to address common challenges.

The purpose of this essay is to take stock of the latter dimension, which may be called a unifying agenda, because it is here that V. Makei left his most significant intellectual footprint for his country's diplomats and for the world generally. Indeed, minister Makei was a well-read man who became an original thinker on international relations. So, he practiced and theorised in international relations alike. In this he was much like the 20th century's famous American diplomat G. Kennan.

The late minister was a prolific writer on international relations. He wrote more than a dozen large pieces that addressed such diverse topics as global politics, global order, human rights, identity politics, the United Nations, combatting trafficking in persons and trade in human organs.

The minister's ideas and thoughts provided a crucial direction for action to the Belarusian diplomats, primarily for those specialised in multilateral diplomacy. Some of these thoughts and ideas, especially those related to thematic areas like trafficking in persons were implemented whereas some others that deal with a broader issue of global politics continue to serve as a useful guidance that may help make the world a better place.

With this in mind, I have kindly asked some senior colleagues in the Ministry of Foreign Affairs of the Republic Belarus to share their personal impressions on working with minister Makei on certain issues. Specifically, I asked three senior officials to answer the question of what legacy V. Makei left in the three areas of international cooperation: global politics, human rights and combating trafficking in persons.

Why did I choose these three specific areas? The topic of global politics is the one where V. Makei most vividly demonstrated his original thinking that produced bold and far-reaching ideas, which will surely be discussed for many years to come. As for human rights, V. Makei's ministerial tenure coincided with ever-increasing politicisation of the topic. To his credit, the minister very early captured this negative trend, tried to explain it and provide win-win solutions. As far as the topic of human trafficking is concerned, since 2005 it has been a hallmark international initiative of Belarus. Building on the "edifice" that had already been erected by his predecessor, V. Makei generated new ideas that would result in important international anti-trafficking outcomes.

I hope that the findings of the following three short essays will tell us exactly what V. Makei will be remembered for both in Belarus and abroad. Likewise, I hope that these findings will inspire, first and foremost, the diplomats working in the Ministry of Foreign Affairs of the Republic Belarus to be as creative in their thinking and as vigorous in the advancement of their own ideas as the late minster was.

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GLOBAL POLITICS

The President of the Republic of Belarus A. Lukashenko has on a number of occasions clearly stated that Belarus is not a global power and, thus, harbors no global ambitions. Notwithstanding, Belarus has always sought to make positive contribution to the evolution of global politics. Up to date, our key input in that field is still associated with the President's initiative, which he unveiled in his statement at the United Nations summit in New York in September 2005. The initiative came to be known under the title of recognition of the diversity of ways towards progressive development.

What was the initiative about? In a nutshell, the President's initiative provided a response to the negative dynamics that began to dominate world politics since the late 1990s. It was the time when the United States of America along with its allies, apparently emboldened by a "victory" in the Cold War, embarked on an ambitious policy, which, by the way, ran in violation of international law, of regime change in some countries that were not to the US' liking.

By means of his initiative the President essentially said that a Western-style uniformity around the globe that the United States with its allies sought to achieve was not a way forward for the world, because the world has always been diverse and people in various countries would resist any attempt to impose on them any form of uniformity that has been alien to their historically constructed ways of life. Therefore, the way for the world to progress in its development was through its diversity, through recognition and promotion of that diversity.

Unlike some other international initiatives of Belarus, this one was not limited to a set of specific targets or timeframes. As conceived, it was a conceptual initiative that provided an overarching timeless guidance to the foreign service of Belarus. Since its promulgation Belarusian diplomats did their best to advance the initiative internationally, mainly by reflecting it in some outcome documents adopted at major international events. However, it fell to V. Makei to furnish an elaborate narrative of the initiative, which the Minister presented in his very large academic essay titled "Emerging global system: embracing Diversity-Politik and partnerships"[2] that was published in the "European Journal of Management and Public Policy" in 2012.

What strikes most people once they look at the article is a catchy play of words in the title. Indeed, many readers surely wonder about the meaning the author imputes to his term of "Diversity-Politik", which very much reminds everyone of the famous term of "Realpolitik" used by practitioners in international relations since the times of O. von Bismarck. It should become clear to everyone who finished reading the piece that the play of words was deliberate. What V. Makei surely wanted thus to hint at was that Realpolitik defined global politics in the past, whereas Diversity-Politik must steer world politics in the future.

The article is both a historical and theoretical study, as it presents a journey into history through the lens of theories of international relations. The author contends that it was primarily the two theories of international relations – realism and liberalism – that helped to account for much of what happened in global politics over a past few centuries. V. Makei's point of departure is the Westphalian treaties of 1648 that essentially established the modern system of states.

The minister then proceeds to meticulously demonstrate that world politics from mid-17th century right up to the end of the Cold War was driven by policies associated with the realist theoretical school, whereas in a far shorter period of a couple of decades at the turn of the current millennium it was guided by policies inspired by the liberal theory with its key component of a democratic peace.

V. Makei's next key point is that the Westphalian system was a concentrated system with concentrated actors and threats, whereas today's world is in the process of becoming a "diffused" system with "diffused" actors and threats. In his view, both realism and liberalism in their ongoing discourse overlooked this paradigm shift in international relations. As a result, the policies that both theories recommend are wrong. In this regard, he states the following vital argument: "The "diffused" threats clearly indicate one thing. If states continue with their traditional foreign policy tools like balancing, wars, sanctions, regime change, "democracy" promotion and the like, mankind is likely to be ultimately overrun by multiple threats and modern "barbarians" (by whom he means non-state actors)"[3].

According to V. Makei, the emerging world needs a different set of instruments. He thinks the system of diverse actors, values, and threats demands policies that recognise and respond to its increasingly diverse nature. Hence comes his suggestion to call such a set of policies as Diversity-Politik. He explains that in contrast to Realpolitik that sought to pursue national interests at the expense of others in a zero-sum game, Diversity-Politik should be geared towards the pursuit of such interests in a win-win manner.

The Minister goes on to suggest that the concept should be realised through the instrument of global partnerships. He specifies that a partnership is a new form of co-operation in terms of both its purpose and its membership. It is a particular form best suited for managing the "diffused" world. Partnerships are structures that, in most cases, should include all positive stakeholders of today's world – countries, international

[2] *Makei V. V.* Emerging global system: embarcing Diversity-Politik and partnerships // J. Manag. Public Policy. 2012. Vol. 12, No. 2. P. 49–70.
[3] Ibid.

organisations, civil society, academic community, private sector, etc. The ordering principle of partnerships goes beyond shared ideas and interests to embrace also the recognition of the world's growing diversity.

Surely, in anticipating a question on how partnerships can be established and put into operation, V. Makei proposes to contemplate the process as evolutionary. He advances the point that it would be harder to establish global partnerships on security issues insofar as states far too often think in terms of parochial national interests, but much easier to set up partnerships in non-security areas providing a specific example of the Global partnership against trafficking in persons as an effectively functioning entity in which Belarus assumes a great deal of leadership.

What is also striking about this article is V. Makei's own realism and foresight, which he displayed there. Indeed, he sounds very realistic about his ambitious vision saying in effect that "implementing the ideas of Diversity-Politik and partnerships certainly requires a revolution in the minds of today's politicians"[4]. Likewise, with the benefit of hindsight we can say today that some of his musings proved truly prophetic indeed: "Diversity in itself is not a cause for conflict, but may result in one under certain circumstances. The real culprit in that case would be those who ignore the diversity and its importance, and continue to believe that only they possess the truth of governance and try to foist it on others"[5].

The Minister's article triggered a host of activities by the foreign service of Belarus to advance the idea of Diversity-Politik by means of establishing thematic global partnerships. As mentioned above, Belarus has already been in the vanguard of a partnership against human trafficking, but we came up with proposals to set up partnerships in other areas like, among others, energy, youth, traditional family values, middle-income countries, Chernobyl. What is more, during the negotiations of the future 2030 sustainable development agenda Belarus consistently promoted the line that the future agenda should be implemented by means of thematic global partnerships.

That is exactly how the 2030 agenda has been implemented since 2015 worldwide. Yet, a global partnership was not established in one particular and the most vital area, which V. Makei foresaw as the most problematic – the realm of international security. As a result, since the mid-past decade global politics entered a downward spiral that ultimately brought about a conflict in Ukraine.

It was in the context of that conflict that V. Makei wrote another comprehensive piece on global politics titled "Liberal international order (LIO): can it be saved in today's non-hegemonic world?"[6], which was published in "Russia in Global Affairs" in November 2022, just a few days before the author's sudden death.

In the article's introductory chapter the Minister makes it clear why he decided to undertake the effort at all. It was because the conflict in Ukraine, even more so than some previous events, raised in the global discourse the issue of the current international order's sustainability. Like in his article on the topic of diversity, in the latest one V. Makei demonstrates the same level of historical conceptualisation through which he seeks to arrive at conclusions and recommendations that would be pertinent for today.

Curiously, the author approaches the work lying ahead of him with some degree of sarcasm when he notes that as the debate about the LIO pits the so-called democracies against autocracies, he makes a humble attempt to contribute to the debate from the perspective of an "autocratic" state insofar as Belarus, which Minister of foreign affairs the author is, has the "honour" of being assigned to this group by the West.

V. Makei begins by challenging the conventional wisdom about the LIO's origin. His point is that in "technical" terms the order indeed was launched in the wake of World War II, but in "functional" terms it traces its roots to deeper times in the past. He supports this argument with a reference to the concept of the dual revolution invented by British critical historian E. Hobsbawm in his "The age of revolution" (1962), by which the British writer meant the British Industrial Revolution that occurred at the end of the 18th century and the French Revolution of 1789.

V. Makei's main point is that the key elements that define today's LIO – liberalism, free trade and democracy – have been produced by the dual revolution at the turn of the 18th and 19th centuries. The Minister argues further that the dual revolution produced the two separate tracks – economic and political – which a century and a half later found their reflection in the LIO. V. Makei contends that the problem with the LIO lies precisely in its dual nature, which current political commentators scrutinising the LIO topic overlook.

The Minister goes on that the LIO's real problem is with its "democratic" track, because Western countries seek to impose their specific political domestic form of governance, that is, "democracy", on the rest of the world. V. Makei explains this trend by the West's adherence to the democratic peace theory.

V. Makei had previously touched on the theory in his essay on diversity. In the current piece he provides a more comprehensive narrative on how the theory is realised in practice. In particular, he contends that the democratic peace became a key tool in the US foreign policy arsenal, while its implementation serves only to polarise the world.

Interestingly, in an effort to form his own conclusions about the future prospects for the LIO the author

[4] *Makei V. V*. Emerging global system: embarcing Diversity-Politik and partnerships // J. Manag. Public Policy. 2012. Vol. 12, No. 2. P. 70.

[5] Ibid.

[6] *Makei V. V*. Liberal international order: can it be saved in today's non-hegemonic world [Electronic resource]. URL: https://eng.globalaffairs.ru/articles/liberal-international-order/ (date of access: 14.06.2023).

makes reference to A. Gramsci's hegemony theory. He states that the problem with the LIO is structural, because, as history shows, world orders (or rather regional orders if viewed in the historical perspective) thrived when they were underpinned by hegemonic states.

V. Makei's point is that today's discourse on the order takes place at a post-hegemonic time. Thus, those who keep insisting on the possibility of saving the order, which was relevant for a short-lived liberal hegemonic era in the 1990s and the first decade of the 21st century, miss the point that a diverse world requires a new kind of international order. Therefore, he answers the question he himself posed in the title of his essay with the following sentence: "The liberal international order as a whole phenomenon cannot be saved for the simple reason that it does not reflect the fact of the world's diversity"[7].

In accordance with his usual way of writing essays V. Makei cannot do without suggestions. So, he argues that two options are possible. First, the world can be structured along regional orders as used to be the case throughout much of history. Second, a truly global order, even in the absence of a global hegemon, is also possible. The way to proceed is to cultivate such an order, not to impose it. V. Makei wraps up with the idea to draft in the United Nations "a Charter for the World's Diversity in the XXI Century whereby all Member States in a concerted manner would be able to set out some key principles for governing international life in a non-hegemonic and very diverse world"[8].

All in all, V. Makei's last essay can be fairly viewed as another major contribution to the elaboration and implementation of the President's 2005 initiative on the diversity of ways towards progressive development.

It was not just by means of his academic articles that Minister Makei expressed his views on developments in global politics. This topic has always been paramount in his consideration when the Minister addressed the United Nations General Assembly every year during his tenure. In his last such statement in September 2022, the Minister once again dwelt much on global politics, but admitted that establishing a fair multipolar world requires a "Copernican" paradigm shift in the minds of the West's political mainstream.

Summing up, Minister Makei took the President's initiative on diversity as a "guiding star" for the Belarusian foreign service in all its approaches to global politics. The Minister provided a sophisticated narrative for the initiative in his two large essays on diversity and the LIO. Furthermore, V. Makei came up with many specific proposals which realisation would make the world "safe for diversity", as he himself put in the very end of his article on diversity.

These proposals are bound to be in great demand sooner or later if the world is to steer away from the current turmoil. This specific intellectual legacy of V. Makei will then be properly credited by everyone involved in international relations.

Y. G. Ambrazevich[9]

HUMAN RIGHTS

Minister Makei used to say that when he became Minister of foreign affairs of the Republic Belarus in 2012 he had at once grasped that few issues on the global agenda had been as divisive as human rights while at the same time few matters were growing so much in importance worldwide as human rights. Naturally, he was keen to get to the bottom of this purported paradox, especially given the fact that since 2011 the United Nations Human Rights Council began adopting on an annual basis a resolution on the situation of human rights in Belarus.

Like to many other people, the situation with this resolution appeared extremely odd to the Minister. Indeed, on the one hand, anti-Belarus resolutions on human rights were not something new, as the United Nations Human Rights Commission used to adopt such documents in the first half of the previous decade. On the other hand, as part of the reform package in the context of the forthcoming United Nations summit in September 2005, the UN Human Rights Commission was closed down on the grounds that it was perceived by an overwhelming majority of UN member states as a highly polarised and politicised entity. Therefore, the UN Human Rights Council, which replaced the mentioned commission and came into being in 2006, ostensibly abandoned the practice of politicised country-specific resolutions in favour of relying on the mechanism of the Universal periodic reviews that should be applied to all countries.

Armed with this background knowledge, V. Makei asked a natural question: "What had happened in Belarus in terms of human rights over the past 6–7 years that forced the UN Human Rights Council to revert to the discredited practice of country-specific resolutions of the now defunct commission". The answer was: "Nothing had happened". On the contrary, Belarus has been making steady progress in all dimensions of its internal development. So, the issue of human rights has been clearly politicised by Western countries. But what explained that inclination towards politicisation and what could be done to stop the practice?

[7] *Makei V. V*. Liberal international order: can it be saved in today's non-hegemonic world [Electronic resource]. URL: https://eng.globalaffairs.ru/articles/liberal-international-order/ (date of access: 14.06.2023).
[8] Ibid.
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Minister Makei provided crystal-clear answers to these and other similar questions in his large academic essay titled "Human rights: what and who made them divide the world?"[10] that appeared in a Moscow-based "Russia in Global Affairs" in May 2013. It was indeed an epic essay worthy both of a distinguished historian and a renowned political scientist, neither of which the Minister as a matter of fact was.

As V. Makei used to tell us, his colleagues, what he wanted to do in the article was to delve deeper – into the very origins of some societies and countries that most diverged on human rights with the hope of finding something that would explain their present opposite stances on human rights. So, with this in mind, he decided to analyse China, Russia, Turkey, European countries, and the United States of America.

The choice of sources for the research was really extraordinary. These included, among others, F. Fukuyama's "The origins of political order" (2011), N. Ferguson's "Civilisation: the West and the rest" (2011), S. P. Huntington's "The clash of civilisations and the remaking of world order" (1996), A. M. Schlesinger's "The cycles of American history" (1985), R. Niebuhr's "The irony of American history" (1952), F. Zakaria's "The post-American world and the rise of the rest" (2009).

Looking at this list of sources one cannot help avoiding the conclusion that V. Makei made a deliberate choice in favour of some renowned Western historians and political scientists. It means that from the time he conceived the idea of an article he saw the West as his primary audience. He certainly wanted to demonstrate that his work was not biased against the West. What is even more, he was keen to say to his audience in the West that they may dislike his article's conclusions, but these conclusions were entirely based on the findings of some of the West's most renowned academic figures.

The article itself is a well structured piece consisting of an introduction, a concise historical overview and a number of chapters devoted to the abovementioned countries and regions. In the beginning V. Makei clearly sets out the problem: "No other issue on the international agenda appears currently to be as much divisive and politicised as human rights. Indeed, international relations have been increasingly viewed and conducted through the prism of human rights. Some countries, more than others, have come to assume the mantle of human rights "defenders", and make political and economic relationships with other states contingent on the latter's observance of those human rights "standards", in which the former group allegedly excels"[11].

The author argues that it is an "ideological" approach, because some countries try to prove that they are better and more worthy in something than others. At the same time, this "human rights bickering" presents a dangerous phenomenon, not least because it distracts the world's attention from ever-rising transnational challenges like, among others, climate change.

The Minister states that the human rights debate is mainly about the primacy of specific categories of human rights. While in rhetoric all countries support the equality of all human rights categories, the practice, however, is different, as the industrially advanced nations traditionally put a very high premium on individual civil and political rights, whereas developing states advocate the supreme nature of collective economic, social and cultural rights.

Building on his sources, V. Makei convincingly demonstrates that the above division traces its origin far back to the specific historical development of particular societies, which, in turn, came to shape their contemporary governance structures and attitudes on human rights. So, diverse ultimate and proximate factors like, among others, geography, climate, resource and human endowment, historically served to forge China and Russia as centralised and collectivist societies, while the same, similar or other factors, however, when at play in Western Europe and North America, produced in the latter two parts of the world a kind of societies that put a premium on the opposites – on individualism and power decentralisation.

This point, in turn, allows V. Makei to make a key conclusion, which is: "If we can just better appreciate each other's historical circumstances of development, we will certainly be able to better understand each other's current approaches to human rights, and, hopefully, find ways to bridge the differences stemming from the human rights discourse that at present seem irreconcilable"[12].

Indeed, if countries' attitudes have been historically constructed, they certainly cannot be easily changed. Therefore, the practice with human rights debate over the past two decades proves that an exercise of that kind was absolutely futile, because it is impossible to force some countries to change what has acquired over centuries strong indigenous cultural, religious, and other foundations.

Importantly, arguing against the West's human-rights crusade V. Makei never says that some countries are better than others. His point rather is that there are no ideal countries and that each can learn something from others. Therefore, the way to move the global human rights agenda forward is through cooperation, which can best be organised in the framework of the abovementioned Universal periodic review.

The article received a wide international acclaim. While some Western diplomats and policymakers provided some brief comments either in agreement or disagreement with the findings, no one dared challenge the

[10] *Makei V. V.* Human rights: what and who made them divide the world [Electronic resource]. URL: https://eng.globalaffairs.ru/articles/human-rights-what-and-who-made-them-divide-the-world/ (date of access: 14.06.2023).
[11] Ibid.
[12] Ibid.

Minister's piece in a similar academic style. It indicates only one thing – that V. Makei has driven his point about human rights discourse absolutely right.

Surely, it was with this logic in mind that the Columbian University in the United States invited V. Makei to deliver a lecture based on his article in September 2013 in New York. The Minister drafted a lengthy text, preparing to give some interesting details in his research that did not find their way in the article. The lecture, regrettably, was not destined to be delivered as the Minister's schedule changed making it impossible for him to be in New York on the arranged day.

Generally, the article served to produce two follow-up developments. First, it reinforced the drive of the Ministry of Foreign Affairs of the Republic of Belarus to draft reports on violations of human rights in some Western countries. The Ministry began this practice in 2012 as a response to the West's initiative to sponsor a resolution on the situation of human rights in Belarus at the UN Human Rights Council. But, with the clear message from V. Makei that there were no ideal countries on human rights, we, the Ministry's human rights experts were eager to provide sufficient evidence in support of it. Needless to say that V. Makei took a lively interest in all these reports by writing a foreword to each.

Second, it appeared that the Minister's appeal for human rights cooperation has gained some traction in the West, because in 2015 Belarus launched bilateral dialogues on human rights with both the United States of America and the European Union. In the course of the next few years we held a number of such dialogues, which featured frank exchanges and interesting discussions.

We were even discussing with Western counterparts how to wind down the practice of resolutions on the situation of human rights in Belarus at the UN Human Rights Council and arrived at some understanding on how that could be realised. The Minister always provided clear instructions to the delegations of Belarus for these dialogues. His points have consistently been the same: "Belarus always stands ready for dialogue and cooperation on human rights. But we do not accept any preconditions for dialogue and cooperation. And we have nothing to prove on human rights to the West or justify ourselves"[13].

To be sure, that nascent human rights cooperation with the West abruptly came to an end in the context of the events surrounding the Presidential election in Belarus, held in August 2020. As it is clear today, the West saw a strategic opportunity through a blitzkrieg-style colour revolution to force both a "regime change" in our country and its geopolitical reorientation towards the West. When it failed in its design, absolutely predictably, the West unleashed a veritable "human rights" storm against Belarus. Indeed, since 2020 the so-called Belarus' case on violations of human rights has been considered at virtually every session of the UN Human Rights Council. Thus, the West once again showed that the issue of human rights was nothing for it but a political instrument.

What comes to mind in this regard is the excellent quotation of American political scientist S. P. Huntington, which V. Makei used in his article: "The West won the world not by the superiority of its ideas or values or religion but rather by its superiority in applying organised violence. Westerners often forget this fact, non-Westerners never do"[14]. Unfortunately, this trend continues in today's tumultuous world. The West is bent on remaking the world in its own image using the issue of human rights as a tool to this end.

Human rights should not be an instrument in the West's geopolitical "great game", which may bring about a global catastrophe. Human rights should serve the purpose of guiding action by the world's countries that seek to improve the lives of their people. Heeding the comprehensive and compelling narrative that Minister Makei has presented in his seminal article on human rights a decade ago may surely help in steering the global human rights discourse in the right direction.

I. A. Velichko[15]

COMBATING HUMAN TRAFFICKING

Perhaps, no other issue on the international agenda has been so much associated with Belarus than the topic of fighting trafficking in persons. Foreign diplomats often used to ask their Belarusian colleagues about what had motivated Belarus to play such a notable role in that area. We answered that undoubtedly it was our recognition of the problem in the late 1990s and the subsequent successful domestic campaign that virtually eliminated the crime of human trafficking as an issue of serious concern to the public. Importantly, international organisations praised Belarus' achievements back then.

These factors much inspired us to try to do something useful against human trafficking at the international level. So, in his statement at the United Nations summit in 2005 the President of Belarus A. Lukashenko sent a powerful message to the international community

[13]*Makei V. V.* Human rights: what and who made them divide the world [Electronic resource]. URL: https://eng.globalaffairs.ru/articles/human-rights-what-and-who-made-them-divide-the-world/ (date of access: 14.06.2023).

[14]Ibid.

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to significantly step up its efforts against the crime. That statement, essentially, marked the beginning of Belarus' subsequent vigorous global work against human trafficking.

By the time V. Makei assumed his ministerial function, Belarus had already been in the forefront of global anti-trafficking efforts. Indeed, since 2006 Belarus was sponsoring on a biennial basis a key General Assembly resolution on improving the coordination of efforts against trafficking in persons. Furthermore, Belarus was chairing the Group of friends united against trafficking in persons, an entity consisting of more than 20 countries with branches operating in New York, Geneva and Vienna.

Most important of all, in July 2010 the United Nations General Assembly adopted a Global plan of action to combat trafficking in persons (hereinafter Global plan). Belarus first proposed the idea of a Global plan in 2006 and its diplomats worked strenuously in Vienna and New York – the world's two largest anti-trafficking hubs – to garner support to the idea, which had initially been rejected by many states.

The first thing that V. Makei asked his subordinates in the Ministry of Foreign Affairs of the Republic of Belarus to do with regard to all foreign policy initiatives of Belarus was to draft for him a kind of overviews of all of them. A "human trafficking" overview certainly caught the Minister's attention. Indeed, he asked advice on additional reading, including on negotiations on the Global plan and on the Global forum on human trafficking – the largest ever international event on that issue – held in Vienna in February 2008.

V. Makei soon let us know that he was working on a large article on human trafficking in English. That article titled "Human trafficking in the post-Cold War period: towards a comprehensive approach"[16] appeared in January 2013 in an US-based "Journal of International Affairs".

Two things are striking about this article. First, it reads as if it had been written by someone with many years of experience behind him or her in tackling human trafficking. This fact alone tells us how deeply V. Makei has grasped this theme. Second, and what is particularly interesting, the narrative on human trafficking has been framed into a broader picture of global politics. Indeed, while multitude of essays have been written on trafficking in persons by distinguished authors over years, hardly is it possible to find one that strove to connect the two phenomena. To his credit, Minister Makei did it.

The article contains five parts. The first chapter provides an overview of what is generally known about the crime of trafficking in persons in terms of the crime's definition, types of trafficking, breakdowns by gender and age, global trends and regional incidence, etc. Clearly, V. Makei has read much on the issue and relies heavily on various sources in supporting his statistics.

In the second chapter the Minister in a very concise manner tracks all major international efforts that in some or another way related to the fight against either slavery or trafficking in persons since the early 20th century with a particular focus on the 1990s. His key point is that all earlier initiatives were rather fragmented while during the Cold War there was not much interest in transnational issues like human trafficking, because "the world's major players were primarily preoccupied with traditional security issues"[17].

V. Makei argues that the situation began to change with the end of the Cold War, which inaugurated a more open international environment and more opportunities for migration. But the 1990s were the time, as the Minister put it, for "the problem's recognition", because policymakers far too often confused the two phenomena – trafficking in persons and migration.

In the third chapter the Minister shows that the recognition of the problem found its reflection in the 2000 Human trafficking protocol that supplements the United Nations Convention against transnational organised crime. The interesting point the Minister makes here is that the Human trafficking protocol is strong on prosecution, but not so much on the aspects of prevention and protection. V. Makei explains that the bias was influenced to some extent by domestic policies in the United States adopted in the wake of the 9/11 terrorist attacks.

The deficiencies of the above mentioned protocol were properly addressed at the Vienna Forum on human trafficking, held in February 2008, as the Minister argues in the fourth chapter. The forum, according to the V. Makei, was an important turning point in the fight against trafficking in persons, because it essentially marked the beginning of a new era that would seek comprehensive rather than "reductionist" approaches against the crime.

The first attempt to realise such a comprehensive approach worldwide was associated with the United Nations Global plan, as the Minister demonstrates in the article's final chapter. He explains its comprehensive nature in structural, normative and organisational terms. The Minister ends his piece on a note that the forthcoming High-level meeting of the UN General Assembly on the appraisal of the Global plan scheduled for May 2013 would provide an opportunity to discuss how the comprehensive approach worked in practice.

Thus, it was only natural that Minister Makei personally attended the above High-level meeting in New York. The Minister delivered a powerful statement, with a particular focus on how the specific elements of the Global plan helped reinvigorate the international response against the hideous crime. More than that, V. Makei outlined a new area for action – trafficking in human organs.

Equipped with the Minister's call, the Ministry of Foreign Affairs of the Republic Belarus began working on a draft resolution on fighting trafficking in human organs. The resolution was presented to the United Nations Commission on Crime Prevention and Criminal

[16] *Makei V. V.* Human trafficking in the past-Cold War period: towards a comprehensive approach [Electronic resource]. URL: https://jia.sipa.columbia.edu/online-articles/human-trafficking-post-cold-war-period-towards-comprehensive-approach (date of access: 14.06.2023).

[17] Ibid.

Justice (CCPCJ) in May 2014 and adopted by consensus while a number of delegations, including Russia and the United States, cosponsored it. Another resolution on combating organ trafficking was tabled by Belarus at the CCPCJ in 2016. Once again it was adopted by consensus by the Commission. These two resolutions served the purpose of significantly raising attention to the crime of organ trafficking worldwide.

It was not surprising then that "Forced Migration Review", a journal published in the United Kingdom showed an interest in having an article on the above topic from the Minister of foreign affairs of the Republic of Belarus. The Minister wrote a piece titled "Trafficking for human organs"[18], which was published in the journal in May 2015. The purpose that V. Makei sought to achieve in that article was to provide a rationale for a new international legally binding instrument to deal with organ trafficking. On the basis of this rationale Belarusian diplomats subsequently organised many thematic events in Vienna, Geneva and New York. While the goal of drafting a new international treaty on organ trafficking has not been attained yet, the discussion has slowly but steadily been making progress.

It needs to be pointed out that V. Makei took a keen interest in everything that related to Belarus' "anti-trafficking child", that is , the UN Global plan. In particular, the Crime Commission launched the biennial Global report on trafficking in persons. So, Minister Makei went to Vienna in November 2014 to attend the launch of the next report. In his remarks to the audience the Minister called the report "Just another effective blow of the hammer at the wall of secrecy that surrounds the crime of human trafficking".

Since 2011 Belarus has been sponsoring at the UN Crime Commission in Vienna a resolution titled "Implementation of the Global plan of action to combat trafficking in persons". During V. Makei's leadership in the Ministry of Foreign Affairs of the Republic of Belarus the resolution was adopted by the Commission in 2013, 2015, 2017 and 2021. The Minister always took a keen interest in the preparation and was not avert to discussing details with the Ministry's experts.

Likewise, V. Makei used to attach paramount importance to the quadrennial high-level meetings at the United Nations General Assembly to appraise the Global plan. The Minister attended the meeting in 2013, but was unable to attend one in 2017. Nonetheless, like in 2013 when the Minister voiced the idea of addressing trafficking in organs, his contribution to the 2017 appraisal was also great. In particular, at the Minister's suggestion Belarusian diplomats worked to include in a Political declaration of the meeting a topic of the role of ICTs in combating trafficking in persons. Our idea was endorsed by others and reflected in that declaration.

Building on this, Belarus sponsored at the CCPCJ in May 2018 a resolution on the above topic, which was unanimously adopted with many co-sponsors from all regions of the world. It was the first-ever resolution on this issue and its adoption virtually sparked a lot of various relevant studies and events around the world. On many occasions Belarusian diplomats stood at such events as keynote speakers.

So, when it comes to the topic of combating trafficking in persons, the following three conclusions can be safely made in answering the question of what legacy V. Makei left to us and to the world.

First, through his personal interest, initiatives, involvement, encouragement and attention, Minister Makei worked tirelessly to strengthen and firmly embed Belarus' anti-trafficking leadership on the international scene, which he inherited from his predecessor. As a result, the past decade will always be remembered as a period during which Belarus demonstrated vigorous global engagement in the fight against human trafficking.

Second, V. Makei triggered a world-wide interest in the topic of trafficking in human organs, which is closely related to trafficking in humans. If the world ever develops in the future a separate international legally binding tool on organ trafficking, much credit for it should undoubtedly go to V. Makei, who first broached the issue, elaborated the rationale for it, and did much to advance the idea around the world.

Finally, in his drive to ensure a comprehensive approach to fighting trafficking in persons, V. Makei has in fact inaugurated the need to cover "all angles" of the problem, in other words, to tackle all "dimensions". Indeed, in addition to sponsoring a biennial omnibus resolution on human trafficking at the UN General Assembly, Belarus began proposing in the past decade resolutions in the Vienna-based Crime Commission on specific aspects of the crime, like trafficking in human organs, human trafficking and ICTs.

This line suggested by V. Makei will surely be followed by Belarusian diplomats in the years to come with such topics for new resolutions, among others, as human trafficking in supply chains, human trafficking of children, trafficking in persons in armed conflict, vulnerability to trafficking in persons.

V. S. Pisarevich[19]

[18] *Makei V. V.* Trafficking for human organs [Electronic resource]. URL: https://www.fmreview.org/climatechange-disasters/makei (date of access: 14.06.2023).

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NEW CHALLENGES FOR THE PEOPLE'S REPUBLIC OF CHINA FOREIGN POLICY

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The article provides an overview of the challenges the People's Republic of China faces and its responses to them. Main attention is drawn to the new challenges that mostly appeared at the end of the second decade of the 21st century. These challenges associated with the slowing down of the economic development of China, the Western policy of containment towards the country and the consequences of the Covid-19 pandemic. It is determined that the pace of the China's economic growth might never return to the double digits because of the combined effect of accumulated internal structural and financial problems and pressure from the West. The Western containment strategy includes not just direct tariffs and limitations against the Chinese goods, services and investments but such changes in the world economy that will make more difficult for China to compete in the world markets. The anti-Covid policy of the Chinese government delivered a striking blow to the country's export and contributed to the slowing down of the national economy. The article strives to prove a hypothesis that the PRC's government managed to modify its foreign policy strategy to meet the traditional and new challenges and provide the best possible external conditions for the great rejuvenation of the Chinese nation.

Keywords: United Nations Security Council; Covid-19 pandemic; European Union; USA; China; Security Council resolutions; collective West; political confrontation; consensus; global challenge; global threat; national economy; world economy; economic growth; policy of containment; export; import; world markets; Taiwan issue; the Russian Federation; Ukraine; military operation; democracy; mega-regional economic partnership.

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НОВЫЕ ВЫЗОВЫ ДЛЯ ВНЕШНЕЙ ПОЛИТИКИ КНР

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Рассматриваются вызовы, стоящие перед КНР, и ответы государства на них. Главное внимание уделено новым проблемам, которые проявились в основном в конце второго десятилетия XXI в. Они связаны со снижением темпов экономического развития Китая, западной политикой сдерживания в отношении КНР и последствиями пандемии Covid-19. Высказано предположение, что комбинированный эффект от накопившихся внутренних структурных и финансовых проблем, а также давление со стороны Запада не позволят показателям экономического роста Китая вернуться к двузначным числам. Западная стратегия сдерживания включает не только прямые тарифные и другие ограничения в отношении китайских товаров, услуг, инвестиций, но и изменения в мировой экономике, что затруднит для Китая конкуренцию на мировых рынках. Политика китайского правительства по предотвращению распространения Covid-19 нанесла тяжелый удар по экспорту страны и внесла вклад в сокращение темпов развития национальной экономики. Предпринята попытка доказать гипотезу, что правительству КНР удалось модифицировать свою внешнеполитическую стратегию, чтобы встретить уже существующие и новые вызовы и обеспечить наиболее благоприятные внешние условия для великого возрождения китайской нации.

Ключевые слова: Совет Безопасности ООН; пандемия Covid-19; Европейский союз; США; Китай; резолюции Совета Безопасности; коллективный Запад; политическая конфронтация; консенсус; глобальный вызов; глобальная угроза; национальная экономика; мировая экономика; экономический рост; политика сдерживания; экспорт; импорт; мировые рынки; тайваньский вопрос; Российская Федерация; Украина; военная операция; демократия; мегарегиональное экономическое партнерство.

Introduction

At the beginning of the third decade of the 21st century the PRC was confronted with a number of major challenges some of which were global in nature, some came from the policies of foreign governments and transnational corporations, and some were of its own making. By its sheer size China greatly reflects upon the world economy and world politics. The economic and political situation within the PRC has a big impact on world affairs. And comprehending the Beijing foreign policy becomes an indispensible prerequisite for the governments and other world politics actors to elaborate their own policies.

There are some global challenges that have already become "traditional" in the 21st century: ecological, climatic, challenges emanated from the vestures of international terrorism and the weapon of mass destruction proliferation. In 2020 a new global challenge joined the ranks: it was Covid-19 pandemic.

For quite a number of years China has been considered as "a partner in development" by most of the countries. Washington that became accustomed to its world leader role treated the PRC as "a strategic partner". Even after the Obama administration's "pivot to Asia" caused by the concerns over the unprecedented PRC's growth Beijing remained a useful force to modernise Asia, and Washington envisaged its participation in the US strategic endeavors such as the Trans-Pacific Partnership (TPP). A new challenge came from the US Trump administration that included China in its short list of "revisionist states" (alongside with the Russian Federation) as one of the main security threats for the USA.

Since 2001 the PRC demonstrated an impressive economic growth. One by one it overtook the leading Western economies, in 2009 the country overtook the Japanese economy in GNP terms and became number two economy in the world. Even the 2008–2009 world economic crisis could not stop this impressive growth that just slowed down a bit (from 10 to 7 %). But by the end of the second decade something went wrong. The Chinese economic engine slowed down to 6 % annual rate, and even less[1]. Therefore, the Beijing foreign policy had to reflect a new "internal challenge": slowing down of the national economy.

Eminent British expert on China W. Hutton came to a conclusion that "so far China has defused tension and exploited the system of which, arguably, it is one of the biggest beneficiaries. China's problem is that its objective interest is to buttress the international system from which it benefits; but this means associating itself with values, institutions and processes that directly challenge what it practices at home" [1, p. 225]. US expert on China K. Conkin warns that there could be a new policy twist in the PRC's foreign policy after the 20th Communist party of China (CPC) congress (October 2022). "China long-term economic growth depends on scientific innovation, – he argues, – and Xi Jinping used the 20th party congress to prioritise science and technology as a cornerstone of China's national economic and military "self-reliance strategy". This newly defined policy of national "self-reliance" will further economic decoupling with the US and Europe. Western business and policy makers should view Xi Jin-

[1]According to some Western experts the Chinese official statistics usually paints a brighter picture of the country's economy.

ping's comments on "secure and reliable supply chains" as the opening salvo for further market restrictions and prepare accordingly"[2].

This article will try to test the hypothesis that the new challenges, namely, slowing down of the national economy, confrontation with the West and Covid-19 pandemic, greatly influenced the Beijing foreign policy forcing the Chinese leaders to reconsider traditional ways of international behaviour, to modify its foreign policy strategy to meet the traditional and new challenges and provide the best possible external conditions for the great rejuvenation of the Chinese nation.

Challenges emanated from the internal political and economic problems

Famous dictum says: foreign policy is a continuation of domestic policy. And in most instances it's true. When Xi Jinping was elected CPC Secretary General in 2012 at the 18th CPC congress he proclaimed as a party goal the great rejuvenation of the great Chinese nation. His predecessor Hu Jintao was talking about building of a medium income society, stepping up the economic development of the poor Western provinces of China and conducting a good neighbour policy towards the PRC's adjacent countries. Xi Jinping understood that to restore the Chinese nation greatness would require much more than just increased income and managing the domestic imbalances. It would require a restoration of the great nation psychology, national pride, and ability of putting national interests before the individual ones. The last task proved to be the most difficult, especially for the ruling elites.

At the end of the 20th century the state and party bureaucrats earning state salaries looked like a middle class in comparison with the majority of poor peasants and factory workers. 30 years later their salaries looked very disrespectful in comparison with the high incomes of the Chinese nouveau riches. The state and party bureaucrats became interchangeable: one day the same person could lead a provincial party committee and the next day becomes a provincial governor (and vice verso).

The Chinese nationalism was greatly enhanced by the over 10 % economic growth during 20 years period and an impressive military build-up, resulting in total modernisation of the People's Liberation Army. Last doubts in their own agency were swept away in the Chinese national psychology by the victory at the XXIX Olympiad (2008), successful organisation of the Shanghai EXPO-2010, open confrontation with World War II adversary – Japan – over the Senkaku islands (2012) and with the South China Sea neighbouring states. The state mass media that dominates the country's information space also played a prominent role. Consequently, the Xi Jinping's appeal to rebuild China's greatness found a fertile social soil. The country elites as well as the majority of the ordinary Chinese were ready to support his appeal. The state propaganda machine started calling the years of the Xi Jinping's presidency "a new epoch in the Chinese history". This growing melange of nationalism and authoritarianism confirms the W. Hutton assessment that "Chinese communism and Chinese nationalism are an uneasy coalition; the more nationalism gains upper hand in an authoritarian state, the more China will want to behave according to its own criteria" [1, p. 226–227].

The exceptional status of Xi Jinping in the new epoch was confirmed by the resolution of the 6th Plenary meeting of the Central Committee of the CPC in November 2021. At the Plenary meeting a special resolution on "historic matters" was adopted and it stated that the most important task for the Chinese communists in the coming years will be "to firmly stand up to protect comrade Xi Jinping status as a leading nucleus of the Central committee and the entire CPC, to unswingvenly defend the CPC Central committee's authority and support its united centralised leadership"[3] [cit.: 2, p. 103].

The aim of the PRC foreign policy in the new epoch was formulated by Xi Jinping in his speech before the students and professors of the MGIMO University in 2013. He stated that main objective of the PRC's foreign policy should be the creation of the favourable external conditions for "the realisations of the great rejuvenation of the Chinese nation – the main dream of the Chinese people since the opium wars" [3, p. 371–372]. At the Central meeting on foreign affairs at the beginning of his second term as Chinese President Xi Jinping maid a fine-tuning of this objective: "We have to fully and persistently turn into practice the diplomatic ideas of socialism with Chinese specificity, constantly create favourable external conditions for the realisation of the Chinese dream about the great rejuvenation of the Chinese nation, facilitating the building of the common mankind destiny" [4, p. 663]. This fine-tuning meant that Beijing foreign policy takes upon itself a responsibility not just for the development of the PRC but for the mankind development, as well. The world order should be altered to accommodate the great rejuvenation of the Chinese nation.

The strong economic growth was thought be the main pillar of the whole construction of the building of the great rejuvenation of the Chinese nation. When it slowed down by the end of the second decade of the 21st centu-

[2]Experts react: Xi solidifies his power at China's Communist party congress. What should the world take away? [Electronic resource]. URL: https://www.atlanticcouncil.org/blogs/new-atlanticist/experts-react-what-the-world-needs-to-know-from-chinas-communist-party-congress/ (date of access: 22.01.2023).

[3]Hereinafter translated by us. – *A. B.*

ry (up to 2.3 % in 2020)[4] the entire construction process of the great Chinese nation was put in question.

By the end of the second decade of the 21st century three big problems materialised in the economic development of the PRC: a real estate bubble; a high level of debts of the local and provincial administrations; tremendous debts of the state owned corporations (SOEs) and some big private ones, as well. M. Pettis noted that "…the surge in China's debt burden in the past decade, among the fastest in history…"[5]. It became obvious for the Chinese leadership that without facing up to these three problems the strong economic growth will not return.

At first, Beijing tried to use the traditional method of state planning and mandatory directives to rectify the situation. The Chinese banks were instructed not to provide credits to the construction companies that had build shantytowns, endless roads and airports that no one used. As M. Pettis assessed, "much of China's investment in property and infrastructure in recent years cannot be justified" [5]. About 60 % of homes sold between 2013 and 2020 are thought not have been delivered to buyers, many of whom have nevertheless started to make payments. About 70 % of homes, sold since 2018, have been bought by people, who already own at least one property [5]. The local and provincial administrations were prohibited from issuing bonds and other financial instruments to cover their debts. The SOEs were ordered to clean up their financial mess. These mandatory measures might have worked better but their application coincided with the establishment of the numerous quarantine zones due to the Covid-19 pandemic. The economic situation had not ameliorated and a high degree of social frustration and tension was registered caused by general slowing down of business and freezing of the personal assets of hundreds of millions of the ordinary Chinese in the unfinished real estate projects. As a result, the government had to change its policy. By the end of 2022 the banks have been ordered to extend the credits to the construction companies to allow them to finish the projects they had started. On 13 January 2023, Beijing introduced a draft 21-point plan, which stated that the aim was to provide liquidity to "high-quality developers". The local governments and the SOEs were allowed to issue new stocks and bonds to refinance their previous debts. Therefore, the main problems for the Chinese economic development were not solved; they were partly mitigated in order to allow the economic growth resume its pace, albeit at a much lower rate.

Under these circumstances, Xi Jinping, re-elected for the third term as the CPC Secretary General at the 20th CPC congress in October 2022, had to find some innovative strategy to revive the economic growth and somehow modernise the foreign policy to provide more favourable conditions for the struggling national economy. The economic considerations that were by sided during the first two terms of the Xi Jinping presidency (greater political, social and international ambitions took the precedence) became once again at a forefront of the Chinese foreign policy. In his main report to the 20th CPC congress Xi Jinping articulated a new twist, he emphasised the need for pursuing China's national economic and military "self-reliance" strategy. Most likely, during forthcoming years Beijing would put less emphasis on grand designs (like the Belt and Road initiative, harmonised world, mankind of a common destiny) and would try to pursue more immediate economic results while determining its participation in the international alliances. First step in this direction was taken at the end of 2021 when Beijing announced his desire to sign up to the TPP agreement.

Challenges emanated from the Western policy of containment

The Western policy of containment of the economic and political ambitions of China is multifaceted and covers economic, political and technological matters. The collective West had to apply some protectionist measures to contain the futuristic economic growth of China. The most innovative approach was found at the beginning of 2013 when the Western countries started negotiations on creation of mega-regional economic partnerships, excluding the PRC. Such partnerships – Transatlantic trade and investment partnership (TTIP), TPP, EU – Japan free economic zone, EU – Canada free economic zone – were aimed at limiting Chinese access to the biggest international markets. On 23 March 2018, President D. Trump imposed tariffs on still and aluminium coming from the PRC, starting trade war in response to "China's economic aggression". Russian researchers (A. Vinogradov, A. Salitsky, N. Semenova) conducted a thorough research of the US – China economic confrontation [6]. The collective West later added to the mega-regional economic partnerships the technological and military alliances in Asia, like Quard and AUKUS. On the G7 initiative the Global Partnership on Artificial Intelligence was created in June 2020 to restrict the PRC and the Russian Federation access to modern AI technologies. In June 2022 USA launched the Minerals Security Partnership whose 13 members include G7 and EU countries.

Beijing had to find some counter strategy and it succeeded in doing so by creating a rather attractive alternative to the mega-regional economic partnerships in the form of the BRI. For more than 15 years the BRI, advocating free trade at free markets, providing for the

[4]World economic outlook update: fault lines widen in the global recovery [Electronic resource]. URL: https//www.imf.org/en/Publications/WEO/Issues/2021/07/27/world-economic-outlook-update-july-2021 (date of access: 13.01.2022).

[5]Can China fix its property crisis? [Electronic resource]. URL: https://www.economist.com/finance-and-economics/2023/01/23/can-china-fix-its-property-crisis?utm_content=conversion.direct-response.non-subscriber.article_top&utm_campaign=a.23recessionwatch_content_v1_prospect_test.2 (date of access: 02.02.2023).

interconnectivity of the national economies, received mostly a warm welcome among the developing countries and even some Western powers. United Kingdom, Australia and other countries of the collective West became founding members of the Asian Bank of Infrastructure Investments – financial institution created by China that provided funding for the BRI projects.

In order to meet the challenges emanated from the collective West policy of containment Beijing used three main approaches.

The first approach, associated with the promotion of the BRI, was envisaged to counter the protectionist tendencies that manifested themselves in the creation of the mega-regional economic partnerships and unilateral anti-Chinese policies exercised by the Trump administration.

The second approach was associated with the establishment of closer ties of the PRC with the existing integration institutions and the creation of the new ones that would include China. Exercising this approach, Beijing put a lot of efforts in promoting ASEAN plus China format, summits of China – Africa, China – Latin America, ect. In case when the PRC could not forge closer ties with a certain integration institution, Beijing did not hesitate to undermine it by creating divisive formats with its member states (format of 16+1 with the Eastern and Central European EU member states, for example). In 2021 Beijing expressed its desire to sign the TPP agreement and join this megaregional partnership. The Chinese diplomacy portrayed as its great success the creation on 15 November 2020 of a new regional economic partnership – the Association of the South-Eastern Asian States that included the ten ASEAN countries, China, Japan, Republic of Korea, Australia and New Zealand.

The third approach was associated with the developing of the privileged cooperation with certain countries on the bilateral basis. During the second decade of the 21st century Beijing was trying to build such privileged ties with the Russian Federation, Pakistan, Saudi Arabia, Tajikistan, Kyrgyzstan, Belarus, Georgia, Italy, Greece, Montenegro, ect. In the framework of such privileged cooperation China financed building of the gaz pipeline "Sila Sibiri" in Russia, rented for 49 years Batumi port in Georgia, constructed port facilities in Italy and Greece, built an economic corridor in Pakistan and a national highway in Montenegro. One of the fist foreign visits after his re-election for the third term as the CPC General Secretary Xi Jinping conducted to Saudi Arabia (December 2022). The Chinese President and King Salman signed an agreement on comprehensive strategic partnership, and agreed on coordination of the BRI and Saudi development programme "Vision–2030". During the visit 34 investment protocols were signed worth 29.2 bln of US dollars[6].

Another thorny point in the Chinese relations with the USA (and collective West) is the Taiwan issue. It has a long history and generally it is portrayed in the West as a confrontation point between the authoritarian Goliath and democratic David. Officially and semi-officially Taiwan is recognised as an integral part of the PRC but in practice Taipei preserves its sovereignty over the Taiwanese territory and population. Traditionally, Washington helps Taiwan by delivering arms and providing political support.

The Taiwan issue is a traditional challenge to the PRC's foreign policy but with the introduction by Beijing the law of the PRC on safeguarding national security in the Hong Kong Special Administrative Region (passed on 30 June 2020) and crushing pro-democratic demonstrations of the Hongkongneers opposing this law, there was a new twist in that traditional challenge. Looking at the Hong Kong destiny, the Taiwanese citizens trust less and less the Beijing promises of living in one country under two different political and socio-economic systems. The young Taiwanese openly expressed their solidarity with the Hong Kong pro-democracy demonstrators.

The first Beijing response to this attitude and the speaker of the US House of Representatives N. Pelosi visit to Taipei (August 2022) was to exercise its "hard power": put more missiles and air force plains on alert and to conduct military manoeuvres imitating a Taiwan landing. Unified and decisive response of the collective West to the Russian Federation military operation in Ukraine also contributed to Beijing taking a more cautious stance towards Taiwan. It looks that the Chinese government has to balance the "hard power" methods with "soft power" ones, to invent some new incentives for the Taiwanese to join mother-China voluntarily or at least semi-voluntarily.

The confrontation with the West somewhat eased after the start of the Russian Federation military operation in Ukraine in February 2022. Beijing demonstrated its political support of Moscow by not voting in favour of certain UN resolutions condemning the Russian aggression (PRC mostly abstained), but at the same time it proclaimed its unequivocal support of the territorial integrity of Ukraine. Beijing did not officially sided with the anti-Russian economic sanctions of the West but in practice the Chinese banks stopped accepting the Russian Federation banks' credit cards, the Chinese corporations refrained from new investments and technological transfers to Russia.

Some political experts think that a three-hour meeting of Xi Jinping and J. Biden in Indonesia in October 2022 (on the sidelines of the G20 meeting) laid a fresh start to rebuilding of the US – China bilateral ties and moving a step further to the creation of the G2 format in the world politics. During their first face-to-face meeting as leaders Xi Jinping and J. Biden discussed key issues concerning to the bilateral relations, Taiwan, regional and international security. According to the Chinese Ministry of Foreign Affairs meeting readout, Beijing took seriously president J. Biden's "five noes":

[6]What Xi Jinping's Saudi Arabia visit means for the Middle East [Electronic resource]. URL: https://www.atlanticcouncil.org/blogs/news-atlanticist/what-xi-jinpings-saudi-arabia-visit-means-for-the-middle-east/ (date of access: 23.01.2023).

"…does not seek to change China's political system; does not seek to start a cold war with China; does not seek to strengthen alliances against China; does not support "Taiwan independence"…; does not intend to break off ties with China, impede Chinese economic development, or contain China"[7]. A promotion of Chinese ambassador to Washington Qin Gang to foreign minister position (30 December 2022) was considered by the Chinese business circles as a new attempt by Beijing to improve the Sino-US relations[8].

Challenges emanated from the Covid-19 pandemic

Beijing faced two types of the new challenges emanated from the Covid-19 pandemic: political and economic. The political challenges were mostly associated with the accusations of the PRC being a source of Covid-19. The economic challenges were mostly associated with the negative consequences for the economic development caused by the strict quarantine policies adopted by Beijing.

Politically the coronavirus pandemic played in the hands of unilateralism and isolationism of the Trump administration. It happened that Chinese city Wuhan became the place of origin of Covid-19. The Chinese authorities completely isolated Wuhan and every family in the city was placed under strict quarantine. Subsequently, all country was placed under quarantine measures, curfews, and so on. In the Chinese authoritarian political system, it was possible to do this in a fast and effective manner. The world media that has previously unseen powers and enjoys enormous political influence presented the Wuhan experience as the only effective way to deal with Covid-19 pandemic. The media ostracised the governments that did not follow the Chinese example (Belarus, Sweden). Political leaders of the Western countries facing regular reelections in 4–5 year term, were utterly afraid of being accused of not fighting the pandemic aggressively enough. Under the media pressure, they mostly opted for the Wuhan practices.

The political confrontations between Russia and the West, China and the USA prevented the United Nations and its Security Council to play a meaningful role in fighting the pandemic. In the author's opinion, the United Nations Security Council (SC) should be heavily involved in doing so.

Firstly there have already been precedents when the SC adopted resolutions on the situations caused by the infectious diseases (HIV/AIDS, Ebola), and infectious disease had been already mentioned by UN Secretary General A. Guterres as a global security threat. Therefore, a SC resolution on Covid-19 would have been not an exception but a logical continuation of this UN tradition.

Secondly, the very magnitude of the pandemic with over 30 mln effected and 1 mln innocent men, women, and children dead in about 200 countries and territories all over the world is a sufficient enough reason for the SC to be involved.

Thirdly, the pandemic demonstrated itself as a truly trans border global issue that can not be dealt with only by nation-states' own efforts, but only through an international coordinating mechanism.

Fourthly, the pandemic breeds social discontent, racial and civil unrest that in its part may lead to local and trans border conflicts, including the armed ones.

Fifthly, the pandemic had a really devastating impact on the national economies of different states, some of which do not have enough resources to remedy the situation and destined for years and years of economic stagnation with all its social and political consequences (poverty, social tension, the rise of populism and authoritarian tendencies, and so on) [7].

The inability of the SC to play even a symbolic role in the consolidation of the world's efforts against Covid-19 pandemic badly damaged the United Nations' image. Some experts from Asia and Africa underlined that this SC's "inaction" was not at all accidental, that Chinese diplomats (PRC's ambassador Zhang Jun chaired SC in the crucial days of March 2020) did not want to allow their country to be accused by the SC of giving birth to a pandemic that had become the threat to international peace and security[9].

In fact, the nation states relied mostly on their own recourses. The reciprocal accusations of Beijing and Washington in spreading coronavirus underlined very vividly the new axis of confrontation in modern world politics – between the PRC and the USA. This new confrontation had been added up to an "old" one: between the Russian Federation and the West (since 2014). These two confrontations paralysed the work of the SC. At the SC meeting on 28 May 2020, J. Borrell, EU high representative for foreign and security policy, stated: "At a time of global crisis, we need a Security Council able to take the necessary decisions – and not one that is paralysed by vetoes and political infighting"[10] .

On 22 September 2020, UN Secretary General A. Guterres delivered his annual report on the work of the organisation to the 75th session of the UN General Assembly. Once more he asked for a global ceasefire at the face of Covid-19 and underlined the necessity of the SC leading

[7]US – China relations in the Biden era: a timeline: China briefing [Electronic resource]. URL: https://www.china-briefing.com/news/us-china-relations-in-the-biden-era-a-timeline (date of access: 04.02.2023).

[8]China appoints new foreign minister [Electronic resource]. URL: https://www/china-briefing.com/news/china-appoints-new-foreign-minister/ (date of access: 04.02.2023).

[9]*Mukherjee T.* The United Nations Security Council and securitisation of Covid-19 [Electronic resource]. URL: https://www.orfonline.org/expert-speak/the-united-nations-security-council-and-securitization-of-covid-19-64079/ (date of access: 23.01.2023).

[10]Amid Covid-19, strong multinational system key to delivering for world's most vulnerable, European Union foreign policy chief tells Security Council [Electronic resource]. URL: https://www.un.org/press/en/2020/sc14197.doc.htm (date of access: 16.06.2020).

role in consolidating the world efforts to fight the pandemic. "I appeal, – he said, – for a stepped-up international effort – led by the Security Council – to achieve a global ceasefire by the end of this year"[11]. Unfortunately, even this passionate appeal, did not make the SC permanent members to put aside their differences and let the Council find a consensus and start playing an active role in mobilising the world resources in fighting the common challenge.

By the end of 2022 the Covid-19 pandemic was mostly over worldwide. But this was not the case for China. In autumn of 2022 millions of new coronavirus infections hit the country whose citizens were dead tied of sitting at home doing mostly nothing. The national economy was badly damaged by the work stoppages due to quarantine measures. The law abiding Chinese went out on the streets en masse defying the quarantine limitations maintained by the Governments at different levels. Not accustomed to dealing with mass protests in major and small cities the central Government suddenly decided to recall all limitations in the whole country at once. The ordinary Chinese hardly believed that their factual three-year imprisonment was at last over. In December 2022 millions and millions of the Chinese citizens bought millions and millions of air tickets to travel all over the world. Under these circumstances many countries introduced ten days quarantines against the travellers coming from the coronavirus infected PRC. Beijing tried to interfere on the side of its citizens accusing the relevant countries of discriminating against the Chinese and threatening to introduce the reciprocal measures. All these events sparkled tensions in the international relations and contributed to the growth of anti-Chinese sentiments existing in many countries.

Finally, the Covid-19 pandemic came to its end but the political and economic challenges to the Chinese government associated with it remain. Beijing will have to deal with the pandemic consequences in international relations, as well as in internal affairs.

Conclusions

By playing by the rules, albeit not always of her own making, the PRC achieved great results in economic growth and modernisation. Its foreign policy, subsequently, withstood the challenges associated with the current technological revolution and the Trump unilateralism. In a sense, Beijing has become one of the disciples of globalisation fighting protectionism in all its economic manifestations and being protectionist in preserving its authoritarian political system.

Beijing portrayed the PRC as a responsible world power that not just fights protectionism, but supports the development of an open world economy. At the 20th CPC congress Xi Jinping reiterated the China's foreign policy principles: respecting sovereignty of all nations, opposing hegemonism and power politics, the Cold War mentality and double standards.

Hu Jintao tried to remedy the deficiencies of the otherwise mostly harmonious international universe. Xi Jinping sees more conflicting world where one has to secure China's right standing and influence. He is sure that the CPC should instill in the people's minds a sense of "purpose, fortitude and self-belief… so that we cannot be swayed by fallacies, deterred by intimidation or cowed by pressure"[12].

Dealing with new challenges Beijing tries to hedge the risks associated with them. This foreign policy hedging approach includes the strategy of bandwagoning and the strategy of balancing. Usually these strategies are used by medium-size or small size countries that try to find a more effective way of protecting their interests in the relations with two or more hegemonic powers of the region. In the case of the PRC we might say that we witness bandwagoning and balancing with the Chinese specificity. Fist of all, Beijing have never recognised its hegemonic policy in the region and portrays the PRC as a "third world" country. Secondly, Beijing uses these strategies in the concept of hedging against the USA, Japan or the Russian Federation depending on the development of the situation in the Asia – Pacific region.

Strategy of bandwagoning means trying to strengthen China's position by using the opportunities provided by globalisation, getting most advanced modern technologies from the USA, increasing economic ties with collective West. In order to avoid an open confrontation with the Western states Beijing makes some adjustments in its laws and industrial practices. Under pressure from the Trump administration the PRC adopted the law on intellectual property rights protection, Beijing issued an order prohibiting any involuntarily sharing of technologies by the Western investors with their Chinese partners. The US Public Company Accounting Oversight Board announced on 15 December 2022, that it had successfully gained uncensored access to investigate audit firms in mainland China and Hong Kong for the first time in history, potentially saving thousands of Chinese companies from forced delisting from US stock exchanges[13].

Strategy of balancing in the PRC's foreign policy hedging concept implies internal and external balancing. The former means strengthening China's technological and military capabilities in order to somehow

[11]UN chief appeals for global solidarity at General Assembly, warns Covid is "dress rehearsal" for challenges ahead [Electronic resource]. URL: https://news.un.org/en/story/2020/09/1072972 (date of access: 24.09.2020).

[12]Cit.: *Ruwitch J.* These are 4 key points from Xi's speech at the Chinese Communist party congress [Electronic resource]. URL: https://www.npr.org/2022/10/16/1129277377/china-xi-jinping-communist-party-congress-speech-takeaways (date of access: 04.02.2023).

[13]PCAOB secures complete access to inspect, investigate Chinese firms for the first time in history [Electronic resource]. URL: https://pcaobus.org/news-events/news-releases/news-release-detail/pcaob-secures-complete-access-to-inspect-investigate-chinese-firms-for-first-time-in-history (date of access: 03.02.2023).

balance the relevant superiority of the USA. The latter means joining international alliances that could contain the Washington's hegemonic intentions. The latest indications of this external balancing one can find in the creation of the new regional economic partnership – the Association of the South-Eastern Asian States that included the ten ASEAN countries, China, Japan, Republic of Korea, Australia and New Zealand and in Beijing desire to sign the TPP agreement and join this megaregional partnership (after Washington abandoned it).

The overall aim of this hedging approach is to make sure that the risks associated with the new challenges will not grow out of control and the challenges will not transform into the threats to the Chinese political and economic system. The manner, in which Beijing confronts the traditional and new challenges, confirms an ambivalence of the China's foreign policy in pursuing of its national interests: it preaches multilateral openness in trade and finance and claims to have a right to act unilaterally in security and military matters.

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COMPETITION IN THE PRODUCTION OF ELECTRONIC MICROCHIPS (SEMICONDUCTORS) AS AN ISSUE IN US – CHINA RELATIONS

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Wars and battles throughout the 20th century were fought mostly over oil in resource-rich nations. Recently, the world's two biggest economies, China and the United States, clashed over electronic microchips, a crucial component of almost every modern electronic device. As we describe the semiconductor sector as an area of intensifying technological competition between the US and China, we look at each party's measures against their rival and examine what they did to minimise the side effects of these measures. We conclude that the confrontation in the semiconductor sector typifies the fight for economic and technical dominance that will shape global politics in the 21st century. We also predict that in this ongoing confrontation, Taiwan will shortly come to the centre stage.

Keywords: electronic chips; United States; People's Republic of China; Taiwan; sanctions; trade war.

КОНКУРЕНЦИЯ В ПРОИЗВОДСТВЕ ЭЛЕКТРОННЫХ МИКРОЧИПОВ (ПОЛУПРОВОДНИКОВ) КАК ПРОБЛЕМА АМЕРИКАНО-КИТАЙСКИХ ОТНОШЕНИЙ

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Одной из особенностей XX в. было стремление контролировать добычу нефти, что провоцировало войны и конфликты во многих регионах мира, богатых природными ресурсами. Однако в последнее время две крупнейшие экономики мира, Америка и Китай, оказались в состоянии борьбы за другой ценный ресурс – электронные чипы, лежащие в основе почти всех используемых электронных устройств. Рассматривается роль полупроводников в усилении технологической конкуренции между Америкой и Китаем, а также меры и контрмеры, предпринятые обеими странами для преодоления последствий этой конкуренции. Подчеркивается, что технологическое и экономическое превосходство, особенно передовая индустрия электронных микросхем, определят особенности XXI в. Делается вывод о том, что между Вашингтоном и Пекином развернется ожесточенная технологическая борьба. В таком случае Тайвань в ближайшее время станет ареной конфликта между КНР и США.

Ключевые слова: электронные микрочипы; Соединенные Штаты Америки; Китайская Народная Республика; Тайвань; санкции; торговая война.

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Historical background

Intense rivalry between the US and China for control of the semiconductor market has existed for some time, and it became even more heated when D. Trump was elected US President in 2017. It warrants a separate inquiry due to its high intensity, which might result in proxy warfare. Additionally, Chinese companies have made strides in the semiconductor sector and are already in competition with American firms, even though the majority of US economic sanctions are geared at slowing China's technical development. US-Chinese competition in the microchips industry has received little attention among Belarusian academics, and this study has consulted a variety of materials in Arabic, Russian, Chinese, and English. The goal is to explain how competition in the semiconductor business affects bilateral ties between the US and China and international issues. The following objectives were also addressed: reviewing the issue's history, providing an overview of the electronic chip market and its major players, evaluating the relative positions of Taiwan, the US, and China, assessing the US's ability to hold back China's technological development and its readiness to prevent Taiwan's annexation by force, and assessing China's capacity to respond to US sanctions related to microchips.

Numerous authors have recognised Taiwan's importance to the microchip industry, the US' readiness to defend Taiwan militarily, and its use of sanctions to reduce China's technical competitiveness. For instance, Shawqi Al-Rayes, a Syrian journalist, agrees with all three viewpoints and predicts that the microchip industry will become a key point of contention between Washington and Beijing[1]. The technological rivalry between China and the US has intensified, according to professor Najat Al-Saeed of Zayed University, and both countries have taken steps to transfer chip manufacturing inside their borders. She underlines Taiwan's importance to the global economy and its part in the conflict between the US and China, noting that disruptions in the electronic chip sector will have significant ramifications[2].

The prospect that the US would deploy its military to defend Taiwan is not entirely disregarded by Western academics. Given Taiwan's supremacy in the electronic chip business, J. Matney, president and CEO of "Rand Corporation", believes that Washington would battle for Taiwan as if it were an American state and outlines Washington's alternatives. Others, like professor S. D. Kaplan, believe that the US should take a lesson from China's experience rather than pinning all of its expectations on J. Biden's Chips and science act. In the same way that China's special economic zones in 1980 helped that country get over the limitations of its state-dominated governance structure, which discouraged foreign investment, S. D. Kaplan claims that special manufacturing innovation zones might catalyse entrepreneurial activity in the United States. She argues that subsidies are unproductive because they stifle innovation and competition by creating an uneven playing field. According to her, bureaucrats are not capable of allocating funds to the appropriate objectives, but the Chips and science act may force them to do so. Additionally, the US government lacks the resources necessary to carry out an industrial policy as defined by the Chips legislation. A one-time commitment from Washington would not accomplish as much to boost local manufacture of chips and other high-tech products as empowering markets and customers to drive innovation[3].

When it comes to the future of US-Chinese relations, the majority of Chinese scholars favour cooperation above opposition and conflict and warn that unchecked competition could thwart efforts to address shared threats facing humanity, as argued, for instance, by Mabel Lu Miao, co-founder and secretary general of the Centre for China and globalisation[4].

As an example of bold thinking, Zhuoran Li from the Johns Hopkins University, offered this comment regarding China's response to the US Chips and science act: "From the Chinese leader's perspective, China has no alternative but to move away from a market-based innovation system to security-based national innovation planning". He also cautions against putting security ahead of economic feasibility when making economic plans since it might cause market distortions in the long run. Chinese policymakers have continued the investment-led economic model, which is linked to several issues including cronyism, corruption, local debt, and the real estate crisis. Chinese businesses have been able to profiteer from innovation subsidies due to a lack of accountability. Zhuoran Li contends that Chinese companies' superior price-performance ratio results from their capacity to create high-quality goods at reduced costs. This business strategy depends on access to the

[1]*Al-Rayes Sh*. Will electronic chips draw international geopolitical features in the future? [Electronic resource]. URL: https://aawsat.com/home/article/3968191/%D9%87%D9%84-%D8%B3%D8%AA%D8%B1%D8%B3%D9%85-%D8%A7%D9%84%D8%B1%D9%82%D8%A7%D9%82%D8%A7%D8%AA-%D8%A7%D9%84%D8%A5%D9%84%D9%83%D8%AA%D8%B1%D9%88%D9%86%D9%8A%D8%A9-%D8%A7%D9%84%D9%85%D8%B9%D8%A7%D9%84%D9%85-%D8%A7%D9%84%D8%AC%D9%8A%D9%88%D8%B3%D9%8A%D8%A7%D8%B3%D9%8A%D8%A9-%D8%A7%D9%84%D8%AF%D9%88%D9%84%D9%8A%D8%A9-%D9%81%D9%8A-%D8%A7%D9%84%D9%85%D8%B3%D8%AA%D9%82%D8%A8%D9%84%D8%9F هل سترسم الرقاقات الإلكترونية المعالم الجيوسياسية الدولية في المستقبل؟ (date of access: 22.12.2022) (in Arab.).

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[3]*Kaplan S. D.* How the US can win the chips war with China? [Electronic resource]. URL: https://thediplomat.com/2022/12/how-the-us-can-win-the-chips-war-with-china/ (date of access: 10.02.2023).

[4]*Mabel Lu Miao*. Three scenarios for future US – China relations: a view from Beijing [Electronic resource]. URL: https://www.ispionline.it/en/pubblicazione/three-scenarios-future-us-china-relations-view-beijing-26944 (date of access: 30.12.2022).

global value chain and the use of cutting-edge foreign technology. Zhuoran Li asserts that the US Chips and science act and the semiconductor ban are imitations of China's dubious methods[5].

According to numerous Russian researchers, including P. Aptekar, a Russian historian and journalist, the escalating competitiveness and evolving conflicts between China and the US, the world's two greatest economies and major world powers, present new problems as well as opportunities for Russia. The authors of the seminal Russian International Affairs Council report "Prospects for US foreign policy towards China: implications for Russia" underline how access to the most recent scientific and technological advancements has a significant impact on the balance of power in global politics and economics. Some American firms have been shifting their cutting-edge production from China to India due to the significant role that technology has played in the developing trade and economic dispute between the US and China.

Foreign pressure has not deterred China from pursuing technical leadership, and the report finds that this has potentially positive and negative implications for Russia. For instance, while a strategic alliance between China and Russia is a promising prospect, there are dangers due to Russia's economic, technical, and demographic asymmetries with China[6].

Electronics manufacturers and circuits

A microchip is a tiny silicon semiconductor crystal that carries out a particular function inside an integrated circuit. Silicon is widely used in microchip production because it is one of the ten most prevalent elements on Earth. Since silicon is a semiconductor, a material that lies in between insulators and conductors, its conductivity properties may be modified by the addition of impurities to permit the regulation of electric signals in a variety of electronic devices.

Silicon wafers are used to make microchips. On a single wafer, tens to hundreds of chips can fit. Wafers come in a multitude of sizes, ranging from 100 to 450 mm. It should be remembered that electrical chip dimensions are expressed in nanometers. Thus, when we refer to 7 nanometer and 10 nanometer central processing units (CPUs), we mean extremely tiny transistor measurements. Based on that, the more transistors can be packed onto a silicon wafer, increasing the bandwidth of electrical devices, the narrower the space between transistors.

The chip industry is split into two primary segments: fabless, which designs the chips, and foundries, which take designs and manufacture them in-house. With a 45 % market share, American businesses are leading the world in semiconductor design. The most well-known of them are "Qualcomm", "Broadcom", and "Nvidia". In contrast, Asia is responsible for 82.5 % of all chip manufacturing activities worldwide. For example, the Taiwanese company "TSMC" holds the top position with a 53.1 % share of the world market for electronic chips. The South Korean company "Samsung" is in second place, with a share of 17.1 %. Third on the list, with 7.3 % of the world market, is the Taiwanese "UMC". "SMIC", a Chinese manufacturer, is in fourth position with 5 % of the market[7].

Interestingly, it can take up to three months to produce a single chip, and it also demands a sizable budget and extremely advanced machinery. Therefore, it is challenging for one nation to control the entire production chain. Electronic chips are made in Taiwan, South Korea, and China utilising rare Earth metals from Australia and China, after being designed in the United States of America, as was already explained. The Dutch firm "ASML" manufactures the machinery.

Importantly, with 37 % of the world's reserves, the People's Republic of China is the country with the highest deposits of rare Earth minerals. These minerals are crucial components of electronic chips and other high-tech goods due to their special features. 17 different elements make up this group, including scandium, yttrium, lanthanum, and lanthanides (cerium, praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbium, thulium, and ytterbium and lutetium)[8].

For many years, the American company "Intel" led the world in the manufacture of microchips, but recently, Taiwanese "TSMC" and South Korean "Samsung" overtook it. US companies produced 30 % of the world's microchips in the 1990s. This percentage has now dropped to 12 %, with 53.1 % manufactured by Taiwan's "TSMC"[9].

[5] *Zhuoran Li*. The Future of the China – US chip war [Electronic resource]. URL: https://thediplomat.com/2023/03/the-future-of-the-china-us-chip-war/ (date of access: 11.02.2023).

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Nevertheless, seven of the top ten global producers of electronic chips are based in the United States, including "Intel" and "Qualcomm". While America still produces a variety of chips, Taiwan is the only territory that manufactures the most recent generations of chips, including those that are used in iPhones. Taiwan has been far ahead of the other companies in this industry,particularly with the introduction of 3 nanometer chips[10].

The importance of Taiwan for the US and China

Taiwan is significant to the United States of America for a variety of reasons, including the manufacture of electronic chips. The recent crisis involving semiconductor chips has heightened tensions between China and the US over Taiwan.

The crisis was brought on by several factors.

First, the supply chain and the manufacturing microchips have suffered as a result of the trade war started by US sanctions on Chinese firms under the administrations of D. Trump and J. Biden.

Second, there was an imbalance in the demand for microchips during Covid-19. Due to preventative quarantine measures, automobile factories were shut down while the electronic industry was expanding. However, when the restrictions were scaled down and then lifted, the demand for automotive microchips increased faster than anticipated. As a result, the chip-producing firms were unable to meet the demand for chips.

Third, because of Covid-19, ports were shut down for several months.

The drought in Taiwan in 2021 was the fourth reason. It affected the production of high-purity water, needed to clean factories and the silicon alloys for microelectronic chips[11].

Due to Taiwan's important position in the world's manufacture of electronic chips, high-tech corporations in China and America, whose governments are already at odds with Taiwan, are forced to make tough decisions. Taiwan is a separatist area for China, which it seeks to reunify. There are two equally bad scenarios for the manufacture of electronic chips if China invades Taiwan: either China will seize control of the chip manufacturing facilities, or they will be destroyed in a conflict. The United States and its allies' comparative technical, military, and economic advantages would be diminished in the first scenario if China was able to prevent them from obtaining cutting-edge electronic chips. The second scenario would result in a sudden cessation of almost two-thirds of global shipments of microprocessors to industries that rely on them for production. Significantly, 80 % of auto manufacturers source their electrical microchips from Taiwan's "TSMC". To appreciate the significance of this problem, consider the 210 bln US dollars in losses the US auto sector suffered in 2021 as a result of the pandemic-induced production slowdown brought on by interruptions in the supply chains of the electronic chips used in automobiles[12].

This explains why China's efforts to seize this island by force and control the manufacture of electronic chips are causing the United States increasing alarm.

The US position on curbing China's advancement in technology and the annexation of Taiwan

J. Matheny, president and chief executive officer of "Rand corporation", suggests three ways for America to overcome its dependence on these supplies in response to China's desire to annex Taiwan.

Given the fierce competition between China and the United States, the first answer is to boost manufacturing outside China, especially in the United States, to maintain supply chains while preventing China from accessing cutting-edge technology for the fabrication of electronic chips[13].

To do this, the US government has already started putting restrictions on the export of US technology to

[10]*Mahmoud K.* Nano. When the future of the world is in a chip [Electronic resource].URL: https://www.aljazeera.net/opinions/2022/8/19/%D8%A7%D9%84%D9%86%D8%A7%D9%86%D9%88-%D8%B9%D9%86%D8%AF%D9%85%D8%A7-%D9%8A%D8%B5%D8%A8%D8%AD-%D9%85%D8%B3%D8%AA%D9%82%D8%A8%D9%84-%D8%A7%D9%84%D8-%B9%D8%A7%D9%84%D9%85-%D9%81%D9%8Aالنانو.. عندما يصبح مستقبل العالم في شريحة (date of access: 23.12.2022) (in Arab.).

[11]Electronic chip war. The United States and China put the global industry in the crosshairs! [Electronic resource]. URL: https://followict.news/%D8%AD%D8%B1%D8%A8-%D8%A7%D9%84%D8%B1%D9%82%D8%A7%D8%A6%D9%82-%D8%A7%D9%84%D8%A5%D9%84%D9%83%D8%AA%D8%B1%D9%88%D9%86%D9%8A%D8%A9-%D8%A7%D9%84%D9%88%D9%84%D8%A7%D9%8A%D8%A7%D8%AA-%D8%A7%D9%84%D9%85/ حرب الرقائق الإلكترونية.. الولايات المتحدة والصين تضع الصناعة العالمية في مرمى النيران! (date of access: 24.12.2022) (in Arab.) ; The electronic chip crisis and the semiconductor crisis [Electronic resource]. URL: https://www.the8log.com/%D8%A3%D8%B2%D9%85%D8%A9-%D9%86%D9%82%D8%B5-%D8%A7%D9%84%D8%B1%D9%82%D8%A7%D8%A6%D9%82-%D9%88%D8%A3%D8%B4%D8%A8%D8%A7%D9%87-%D8%A7%D9%84%D9%85%D9%88%D8%B5%D9%84%D8%A7%D8%AA/أزمة الرقائق الالكترونية وأزمة اشباه الموصلات (date of access: 24.12.2022) (in Arab.) ; Electronic chips – semiconductors: everything you need to know [Electronic resource]. URL: https://www.thra3.com/2022/11/chips-and-semiconductors.htmlالرقائق الإلكترونية - أشباه الموصلات : كل ما يجب عليك معرفته (date of access: 24.12.2022) (in Arab.).

[12]*Kaplan S. D.* How the US can win the chips war with China? [Electronic resource]. URL: https://thediplomat.com/2022/12/how-the-us-can-win-the-chips-war-with-china/ (date of access: 10.02.2023).

[13]Ibid.

China. President D. Trump initially ordered sanctions on China in 2018 after he accused Beijing of stealing American technology and intellectual property[14].

The Trump administration increased tariffs in 2019 on 200 bln US dollars worth of Chinese imports into the United States from 10 % to 25 %, starting what later became known as a trade war. China responded symmetrically by putting 25 % tariffs on about 50 % of American imports[15].

D. Trump also issued an executive order in 2019 that prohibited US businesses from utilising foreign telephone networks and equipment, ostensibly to prevent risks to US security. Additionally, the US has placed the Chinese telecom company "Huawei" on a blacklist, barring it from accessing components produced in the US. In the same vein, the US Department of commerce told US semiconductor makers in 2020 that they needed licences to export select technologies to China that it could use for military purposes[16].

Additionally, the Chips and science act was passed by the US Congress and signed by President J. Biden in August 2022 to limit China's technological capability to produce sophisticated electronic chips. The legislation offers around 280 bln US dollars in additional financing to advance local semiconductor research and production in the United States, with the main objective of competing with China[17].

Besides, in October 2022, the American Government issued export restrictions that mandated corporations to get licences before selling electronic chips to China. No matter where it was created, every chip made with US components or software was protected. Due to the restrictions, several Chinese semiconductor companies were unable to hire US citizens or permanent residents with green cards[18]. Many Chinese chip makers had difficulties as a result, according to Linghao Bao, an analyst with the policy research firm "Trivium China". Multiple CEOs of these firms hold US passports, have received their education in the US, and are residents of the US[19].

The United States encouraged chip makers to construct plants both inside and outside of its borders to make sure that its policy of limiting China's access to electronic chips was successful. For example, the "TSMC" started construction of a 12 bln US dollars factory in Arizona in 2021. This facility would be the company's second manufacturing site in the United States[20].

For its part, "Intel" stated in 2022 that it planned to invest over 33 bln euro (36 bln US dollars) to increase chip production in the European Union as it is striving to reduce its dependence on semiconductor imports. The investments made by "Intel" are part of a larger plan that will see the corporation spend up to 80 bln euro in Europe over the following ten years[21].

The investment of up to 100 bln US dollars to construct up to eight electronic chip factories in Ohio, making it the largest production facility in the world, was announced by "Intel" CEO P. Gelsinger in 2022. In late 2022, work on the first two 30 bln US dollars facilities would start, and production would begin in 2025. The move is a part of "Intel's" effort to restore its market dominance in chip fabrication and lessen its reliance on Asian manufacturers[22].

The US investors were worried about how the export restrictions would affect the financial performance of semiconductor producers. "Nvidia", for instance, predicted that the limitations may cost it 400 mln US dollars in sales. US authorities anticipate similar limitations

[14] *Masson J*. Exclusive: Trump considers big "fine" over China intellectual property theft [Electronic resource]. URL: https://www.reuters.com/article/us-usa-trump-trade-exclusive-idUSKBN1F62SR (date of access: 27.12.2022).

[15] The trade war between China and America may even reach the shoe trade [Electronic resource]. URL: https://www.bbc.com/arabic/business-48334999 الحرب التجارية بين الصين وأمريكا قد تصل حتى إلى الأحذية (date of access: 27.12.2022) (in Arab.).

[16] Washington imposes restrictions on the sale of American technology to China [Electronic resource]. URL: https://www.skynewsarabia.com/world/1379198-%D9%88%D8%A7%D8%B4%D9%86%D8%B7%D9%86-%D8%AA%D9%81%D8%B1%D8%B6-%D9%82%D9%8A%D9%88%D8%AF%D8%A7-%D8%A8%D9%8A%D8%B9-%D8%A7%D9%84%D8%AA%D9%83%D9%86%D9%88%D9%84%D9%88%D8%AC%D9%8A%D8%A7-%D8%A7%D9%84%D8%A7%D9%94%D9%85%D9%8A%D8%B1%D9%83%D9%8A%D8%A9-%D9%84%D9%84%D8%B5%D9%8A%D9%86واشنطن تفرض قيودا على بيع التكنولوجيا الأميركية للصين (date of access: 27.12.2022) (in Arab.).

[17] The Chips and science act of 2022 [Electronic resource]. URL: https://www.nga.org/updates/the-chips-and-science-act-of-2022/ (date of access: 27.12.2022).

[18] Commerce implements new export controls on advanced computing and semiconductor manufacturing items to the People's Republic of China (PRC) [Electronic resource]. URL: https://www.bis.doc.gov/index.php/documents/about-bis/newsroom/press-releases/3158-2022-10-07-bis-press-release-advanced-computing-and-semiconductor-manufacturing-controls-final/file (date of access: 11.04.2023).

[19] *Suranjana Tewari*. US – China chip war: America is winning [Electronic resource]. URL: https://www.bbc.com/news/world-asia-pacific-64143602 (date of access: 27.12.2022).

[20] As the electronic chip crisis continues... TSMC is building a $12 billion factory [Electronic resource]. URL: https://www.youm7.com/story/2022/11/20/%D9%85%D8%B9-%D8%A7%D8%B3%D8%AA%D9%85%D8%B1%D8%A7%D8%B1-%D8%A3%D8%B2%D9%85%D8%A9-%D8%A7%D9%84%D8%B1%D9%82%D8%A7%D8%A6%D9%82-%D8%A7%D9%84%D8%A5%D9%84%D9%83%D8%AA%D8%B1%D9%88%D9%86%D9%8A%D8%A9-%E2%80%8FTSMC%E2%80%8F-%D8%AA%D8%A8%D9%86%D9%89-%D9%85%D8%B5%D9%86%D8%B9%D8%A7%D9%8B-%D8%AA%D9%83%D9%84%D9%81%D8%AA%D9%87-12%D9%85%D9%84%D9%8A%D8%A7%D8%B1/5983087مع استمرار أزمة الرقائق الإلكترونية.. TSMC تبنى مصنعاً تكلفته 12 مليار دولار (date of access: 27.12.2022) (in Arab.).

[21] *Shead S*. Intel commits $36 billion to make chips in Europe [Electronic resource]. URL: https://www.cnbc.com/2022/03/15/intel-commits-36-billion-to-making-chips-in-europe.html (date of access: 28.12.2022).

[22] Intel to invest up to $100 billion in Ohio chip plants [Electronic resource]. URL:https://www.cnbc.com/2022/01/21/intel-plans-20-billion-chip-manufacturing-site-in-ohio.html (date of access: 28.12.2022).

from other nations since unilateral action could be ineffective and potentially harmful to US businesses[23].

Notably, roughly 30 % of the profits of American semiconductor businesses come from China, yet the United States is ready to sacrifice them to keep China in check solely because China stands to lose more[24].

As previously indicated, US restrictions target manufacturers of electronic chips and also makers of the equipment for producing them, based mostly in Japan and the Netherlands.

According to P. Winink, CEO of "ASML Holding N. V.", a major Dutch manufacturer of such equipment, the Dutch government forbade its company from selling the most sophisticated printing machines to China starting in 2019 as a result of US pressure. P. Winink was responding to a media inquiry about whether the Dutch Government should restrict exports of chip-making equipment to China. Additionally, the UK-based computer chip manufacturer "Arm" said that it will no longer sell its most cutting-edge designs to China to comply with US and UK prohibitions[25]. "Alibaba", a giant tech company, was one of the Chinese businesses affected.

Because of the potential loss of significant and lucrative clients, the limitations make it difficult for the European and Japanese suppliers to accede to American pressure[26].

For example, any further limitations on exports "ASML" to China may harm commerce between the Netherlands and China. Already, "ASML", the world's only manufacturer of high-precision lithographic devices for microchip production, has been unable to obtain the Dutch Government's licence to export its most advanced extreme ultraviolet equipment to China, costing 160 mln euro (164 mln US dollars) per unit[27].

The extensive US network of allies, however, and the dollar's supremacy across the world enable Washington to impose its policies on other nations. This explains why Japan, the Netherlands, and others agreed to back the US Government's efforts to tighten restrictions on the transfer of sophisticated chip-making equipment to China[28].

J. Matheny's second recommendation for the US is to act swiftly to defend Taiwan militarily from China's threat of annexation[29].

Notably, President J. Biden acknowledged this possibility in 2022 when he was asked what the United States would do if China attacked Taiwan. In the event of a Chinese invasion, J. Biden emphasised, the US military would protect Taiwan[30].

The first and second choices, in J. Matheny's opinion, are problematic because they ignore the time constraint. Taiwan needed at least ten years to become competitive in the semiconductor sector, and over 40 years of global leadership to get to where it is now. The US would require decades and huge expenditures before it could satisfy its local chip demand if it brought chip manufacturing within its borders. Additionally, it would be challenging to replicate some of the Taiwanese firms' distinctive advantages overseas. For example, to support the company's round-the-clock operations, the engineers of R&D division of "TSMC" work three shifts. If the US decides to defend Taiwan, time will also be an issue. The chip plants may be destroyed by China if it invaded before the US could respond, which would put the global manufacturing sector under extreme pressure[31].

The third option for the United States of America is to make China's invasion of Taiwan very costly by giving Taiwan the ability to defend itself and supplying it with a variety of systems, including the high-mobility missile

[23]The United States tightens restrictions on chip sales to China to curb its military advantage [Electronic resource]. URL: https://www.bbc.com/arabic/business-63153650الولايات المتحدة تشدد القيود على مبيعات الرقائق الإلكترونية إلى الصين لكبح تفوقها العسكري (date of access: 28.12.2022) (in Arab.).

[24]*Zhuoran Li*. The future of the China – US chip war [Electronic resource]. URL: https://thediplomat.com/2023/03/the-future-of-the-china-us-chip-war/ (date of access: 11.02.2023).

[25]Electronic chips are the focus of a war between China and America, so what are their dimensions? [Electronic resource]. URL: https://www.alanba.com.kw/BBCNews/14343 الرقائق الإلكترونية محور حرب بين الصين وأمريكا فما أبعادها؟ (date of access: 29.12.2022) (in Arab.).

[26]American electronic chips: new restrictions on China [Electronic resource]. URL: https://aawsat.com/home/article/3923691/%D9%87%D8%A7%D9%84-%D8%A8%D8%B1%D8%A7%D9%86%D8%AF%D8%B2/%D8%A7%D9%84%D8%B1%D9%82%D8%A7%D8%A6%D9%82-%D8%A7%D9%84%D8%A5%D9%84%D9%83%D8%AA%D8%B1%D9%88%D9%86%D9%8A%D8%A9-%D8%A7%D9%84%D8%A3%D9%85%D9%8A%D8%B1%D9%83%D9%8A%D8%A9-%D9%82%D9%8A%D9%88%D8%AF-%D8%AC%D8%AF%D9%8A%D8%AF%D8%A9-%D8%B9%D9%84%D9%89-%D8%A7%D9%84%D8%B5%D9%8A%D9%86الرقائق الإلكترونية الأميركية قيود جديدة على الصين (date of access: 29.12.2022) (in Arab.).

[27]*Deutsch J., Martin E., King I., Wu D.* US wants Dutch supplier to stop selling chipmaking gear to China [Electronic resource]. URL: https://www.bloomberg.com/news/articles/2022-07-05/us-pushing-for-asml-to-stop-selling-key-chipmaking-gear-to-china (date of access: 12.04.2023).

[28]American electronic chips: new restrictions on China [Electronic resource]. URL: https://aawsat.com/home/article/3923691/%D9%87%D8%A7%D9%84-%D8%A8%D8%B1%D8%A7%D9%86%D8%AF%D8%B2/%D8%A7%D9%84%D8%B1%D9%82%D8%A7%D8%A6%D9%82-%D8%A7%D9%84%D8%A5%D9%84%D9%83%D8%AA%D8%B1%D9%88%D9%86%D9%8A%D8%A9-%D8%A7%D9%84%D8%A3%D9%85%D9%8A%D8%B1%D9%83%D9%8A%D8%A9-%D9%82%D9%8A%D9%88%D8%AF-%D8%AC%D8%AF%D9%8A%D8%AF%D8%A9-%D8%B9%D9%84%D9%89-%D8%A7%D9%84%D8%B5%D9%8A%D9%86الرقائق الإلكترونية الأميركية قيود جديدة على الصين (date of access: 29.12.2022) (in Arab.).

[29]*Kaplan S. D.* How the US can win the chips war with China? [Electronic resource]. URL: https://thediplomat.com/2022/12/how-the-us-can-win-the-chips-war-with-china/ (date of access: 10.02.2023).

[30]*Brunnstrom D.*, *Hunnicutt T.* Biden says US forces would defend Taiwan in the event of a Chinese invasion [Electronic resource]. URL: https://www.reuters.com/world/biden-says-us-forces-would-defend-taiwan-event-chinese-invasion-2022-09-18/ (date of access: 30.12.2022).

[31]*Kaplan S. D.* How the US can win the chips war with China? [Electronic resource]. URL: https://thediplomat.com/2022/12/how-the-us-can-win-the-chips-war-with-china/ (date of access: 10.02.2023).

system (HIMARS), drones, anti-tank missiles, and naval mines that can carry out tasks at a relatively low cost. This is sufficient for Taiwan to construct the so-called porcupine defence. The idea is for a small nation to shield itself from a larger one, much like Ukraine does against Russia so that the small nation can rely on numerous smaller, lighter, and more potent systems in the face of powerful armies while decreasing its demand for conventional weapons like tanks and combat aircraft[32].

We believe that the third option would be the most likely course of action for Washington in the case of a Chinese invasion of Taiwan. The 2022 Taiwan policy act testifies to this, as seen from its language of regional stability, deterrence, and harsh sanctions for China[33].

China's policy to counter US microchip-related sanctions

As part of the response to US sanctions, Premier Li Keqiang and his cabinet unveiled Beijing's "Made in China – 2025" strategy in May 2015, emphasising the microchip industry's self-sufficiency, decreased reliance on the United States, consolidation of China's leadership, and concentration of both design and production in Chinese territory[34].

Zhao Lijian, a spokesperson for the Chinese Ministry of Foreign Affairs, condemned the US sanctions as technical terrorism, abuse of state power, coercive diplomacy, and abuse of technology hegemony by the US. "They urge all nations to transition as quickly as they can to technological independence and self-reliance while reminding them of the dangers of technological dependence", – said Zhao Lijan.

At the WTO, China also contested the US' broad export restrictions. However, the resolution of WTO disputes might take years.

Despite the restrictions, China has made impressive strides in the semiconductor sector. By copying a Taiwanese design by "TSMC", the Chinese company "SMIC" began producing 7 nanometer chips in July 2021. As a consequence, China was able to get around US restrictions on its access to the cutting-edge technology required to make advanced semiconductors[35].

Additionally, "SMIC" disclosed intentions to use government money to build a 2.35 bln US dollars semiconductor plant in Shenzhen. The facility began operationsin 2022. China's goal of constructing 31 more plants by 2024 is progressing.

Despite its remarkable successes, China still faces several formidable obstacles, most of which are connected to technological expertise, basic research, and US sanctions. Additionally, the fabrication of electronic chips requires large outlays of capital, extensive expertise and extreme accuracy. It is also quite expensive in terms of plant and equipment. For factories to repay their investments, they must operate around the clock. The amount of time required to finish a batch determines whether a plant succeeds or fails. Sometimes it takes years to create high-quality chips[36].

In reality, China is more than capable of making significant advancements in the semiconductor sector. For instance, it does not need to learn how to create 10 nanometer circuits as it did in 2021 before switching from 14 nanometer to 7 nanometer chips. However, other countries are gearing up to develop 2 nanometer or 1 nanometer chips while China seeks to produce a 5 nanometer chip. Time, knowledge, research, capital, and US sanctions all have an impact. According to experts, China is unable to produce a 5 nanometer chip because US sanctions prevent it from purchasing a EUV lithography machine from the Dutch firm "ASML". Additionally, the United States has imposed restrictions on "SMIC", preventing foreign businesses from purchasing chips made by this company that is 14 nanometer or larger[37].

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[32] *Kaplan S. D.* How the US can win the chips war with China? [Electronic resource]. URL: https://thediplomat.com/2022/12/how-the-us-can-win-the-chips-war-with-china/ (date of access: 10.02.2023).

[33] Taiwan policy act – summary [Electronic resource]. URL: https://foreignaffairs.house.gov/wp-content/uploads/2022/09/Taiwan-Policy-Act-One-Pager-Summary.pdf (date of access: 30.12.2022).

[34] Notice of the State Council on printing and disturbing "Made in China – 2025" [Electronic resource]. URL: https://perma.cc/9PA3-WYBA (date of access: 02.01.2023).

[35] China manages to bypass US sanctions on electronic chips [Electronic resource]. URL: http://www.igli5.com/2022/07/blog-post_856.html#:~:text=%D9%81%D9%81%D9%8A%20%D8%AA%D8%B7%D9%88%D8%B1%20%D9%85%D9%81%D8%A7%D8%AC%D8%A6%20%D9%86%D8%AC%D8%AD%20%D9%85%D8%B5%D9%86%D8%B9,%D9%87%D9%86%D8%AF%D8%B3%D8%A9%20%D8%B9%D9%83%D8%B3%D9%8A%D8%A9%20%D9%88%D8%AA%D9%82%D9%84%D9%8A%D8%AF%20%D8%AA%D8%B5%D9%85%D9%8A%D9%85%20%D8%B4%D8%B1%D9%8A%D8%AD%D8%A9الصين تنجح في التحايل على العقوبات الأمريكية في مجال الشرائح الإلكترونية بطريقة ملتوية (date of access: 03.01.2023) (in Arab.).

[36] *Al-Rayes Sh.* Will electronic chips draw international geopolitical features in the future? [Electronic resource]. URL: https://aawsat.com/home/article/3968191/%D9%87%D9%84-%D8%B3%D8%AA%D8%B1%D8%B3%D9%85-%D8%A7%D9%84%D8%B1%D9%82%D8%A7%D9%82%D8%A7%D8%AA-%D8%A7%D9%84%D8%A5%D9%84%D9%83%D8%AA%D8%B1%D9%88%D9%86%D9%8A%D8%A9-%D8%A7%D9%84%D9%85%D8%B9%D8%A7%D9%84%D9%85-%D8%A7%D9%84%D8%AC%D9%8A%D9%88%D8%B3%D9%8A%D8%A7%D8%B3%D9%8A%D8%A9- %D8%A7%D9%84%D8%AF%D9%88%D9%84%D9%8A%D8%A9-%D9%81%D9%8A-%D8%A7%D9%84%D9%85%D8%B3%D8%AA%D9%82%D8%A8%D9%84%D8%9F هل سترسم الرقاقات الإلكترونية المعالم الجيوسياسية الدولية في المستقبل؟ (date of access: 22.12.2022) (in Arab.) ; *Masson J.* Exclusive: Trump considers big "fine" over China intellectual property theft [Electronic resource]. URL: https://www.reuters.com/article/us-usa-trump-trade-exclusive-idUSKBN1F62SR (date of access: 27.12.2022).

[37] *Awad A.* Why can't China produce advanced electronic chips? [Electronic resource]. URL: https://al-akhbar.com/Technology/304089#:~:text=%D9%88%D8%A7%D9%82%D8%B9%D9%8A%D8%A7%D9%8B%D8%8C%20%D9%8A%D9%85%D9%83%D9%86%20%D9%84%D9%84%D8%B5%D9%8A%D9%86%20%D8%A3%D9%86%20%D8%AA%D9%82%D9%81%D8%B2,%D8%A7%D9%84%D8%AF%D9%88%D9%84%20%D8%A7%D9%84%D9%85%D9%86%D8%AA%D8%AC%D8%A9%20%D9%84%D8%B1%D9%82%D8%A7%D9%82%D8%A9%20%D8%A7%D9%84%D9%805%20%D9%86%D8%A7%D9%86%D9%88%D9%85%D8%AA%D8%B1 لم لا تستطيع الصين إنتاج شرائح إلكترونية متطورة؟(date of access: 04.01.2023) (in Arab.).

Chinese businesses have been impacted by the sanctions. For example, after the United States tightened its export controls against China's tech industry, "Apple" stopped plans to utilise memory chips from one of the country's leading producers in 2022. "Apple" had earlier this year planned to purchase 128-layer 3D NAND flash memory chips from Yangtze memory technologies "YMTC" for use in the iPhones offered in the Chinese market, with the possibility of sourcing up to 40 % of the chips for all of its iPhones[38].

Linghao Bao, a Trivium China expert, cites "Huawei" as an illustration of how sanctions may be effective. This communications giant was once the world's second-largest smartphone manufacturer in the world after Samsung. Now it is "essentially dead"[39].

The Chinese Communist party's 20th national congress in October 2022 called for the establishment of a national industrial information technology system. The founder, chairman, and president of chip design company "Loongson technology corporation", Hu Weiwu, says that the absence of one is like "farming on other people's land: we do not have control".

Measures and countermeasures from the United States and China may show that the parties favour "risking and de-coupling" over "de-risking and coupling". Three possibilities for future relations between China and the US are presented by Mabel Lu Miao, co-founder, vice president, and secretary general of the Centre for China and globalisation.

In the first scenario, despite some animosity, China and the US will cooperate. While still competing geopolitically and economically, they will not decouple.

In the second scenario, there would be some partial decoupling: both parties will cut back on their joint research and development efforts in science and technology areas like 5G communications. Despite certain advantages of this result, such as reduced dangers to national security, it will delay progress in science and innovation. The divisions will eventually affect both parties and the rest of the globe.

When the parties totally "decouple" in the third scenario, other countries will have to choose between two camps, There is a chance that a new, dangerous Cold War may start and turn into a "hot" conflict. The world's divides will squander a lot of resources and obstruct the possibility of lasting peace and prosperity. Increased fragmentation in a multipolar world will harm chances for sustainable development[40].

According to Mabel Lu Miao, China and the US will move to a form of partial decoupling as they compare the three scenarios. Deep economic ties will keep them from complete decoupling, while other countries will have to choose a side. Ultimately, a multitude of camps will emerge.

Conclusions

Throughout the 20th century, the US-led West sought to control the oil supply under the guise of human rights, freedom, and democracy, all used as pretexts for waging wars and staging coups. Today, a fierce technological struggle is unravelling under the same pretences between America and China, and it will determine the distribution of power and influence for decades. In the previous five decades, geopolitics revolved around oil. In the 21st century, technological and economic superiority is at the centre. In the electronic chip industry, control over design and production determines who will set the course for the 21st century.

China has largely succeeded in becoming self-sufficient in the production of electronic chips, but this sparked technological competition with the US, which has attempted to halt China's development by imposing sanctions and creating geopolitical issues by putting pressure over Taiwan, human rights, and other issues. This containment policy has only partially succeeded in limiting China's access to technology. Still, Washington will continue to subvert China's growth as a major power, which it perceives as a risk to American hegemony. China will not remain silent and will work to lessen the effects of the sanctions. It may not be technologically more advanced than the US yet, but it is moving forward by drawing talent to its high-tech sectors.

China has astounded the globe with its 5G technology as well as the economic miracle of its openness policy since 1978, which has helped it go from a poor developing country to the second-largest economy in the world in less than 40 years. It may once more surprise everyone. But to do so, it must not only make significant investments in scientific research, but also reduce the room for the US to use complicated problems like minority rights, human rights, and freedoms, or the peaceful resolution of border conflicts as justification for assaults on it.

Because both countries have nuclear weapons, the likelihood of a full-scale conflict between them is minimal. However, shortly, proxy conflicts seem more probable. Despite its relative decline, the United States

[38] *Hardwick T*. Apple freezes plan to buy memory chips from China's YMTC after US imposes export controls [Electronic resource]. URL: https://www.macrumors.com/2022/10/17/apple-freezes-plan-buy-chips-ymtc/ (date of access: 05.01.2023).

[39] *Shead S*. Intel commits $36 billion to make chips in Europe [Electronic resource]. URL: https://www.cnbc.com/2022/03/15/intel-commits-36-billion-to-making-chips-in-europe.html (date of access: 28.12.2022).

[40] *Zhuoran Li*. The future of the China – US chip war [Electronic resource]. URL: https://thediplomat.com/2023/03/the-future-of-the-china-us-chip-war/ (date of access: 11.02.2023).

will not cede ground to Russia or China in regions it sees as crucial to its interests, such as the Middle East or Southeast Asia. To dissuade China and lessen global dependency on Chinese producers, it will work to improve the economic and military capacities of other Asian nations, including the Philippines, India, Taiwan, and Japan. From our vantage point, a Chinese-American battle might soon be centred on Taiwan.The best course of action to avert a catastrophe would be for both parties to transform antagonism into mutual acceptance. Beijing should continue to behave in its ascent as a peaceful nation that promotes global security and stability both inside and beyond its borders, just as Washington should recognise that the world order is dynamic and not perceive China's development as its intention to replace America's position.

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THE EVOLUTION OF THE CHINA – US RELATIONS DURING XI JINPING'S PRESIDENCY

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The bilateral relationship between the United States and China is one of the most crucial and complex in the world. In the 21st century, the geopolitical landscape has changed as a result of China's rise to economic dominance and the United States diminishing role in global production and commerce. There have been numerous ups and downs in the ties between China and the United States ever since Xi Jinping became the President of the People's Republic of China. The evolution of these ties is reviewed, and the characteristics of each stage are examined.

Keywords: China – US relations; Xi Jinping's presidency; dispute; cooperation; diplomatic relations; Covid-19; international order; dialogue; technological and cultural exchanges; US Government; protectionism; US President; unilateralism.

ЭВОЛЮЦИЯ КИТАЙСКО-АМЕРИКАНСКИХ ОТНОШЕНИЙ В ПЕРИОД ПРЕДСЕДАТЕЛЬСТВА СИ ЦЗИНЬПИНА

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Отношения между США и Китаем имеют важное значение в современном мире и характеризуются чрезвычайной сложностью и противоречивостью. В XXI в. в результате экономического подъема Китая и одновременной потери прежних позиций США в мировой экономике геополитическая обстановка в мире существенно изменилась. С момента избрания Си Цзиньпина председателем КНР периоды относительного укрепления китайско-американских отношений чередовались с периодами их ослабления. Рассматривается ход развития этих отношений, описываются их этапы и характерные признаки.

Ключевые слова: китайско-американские отношения; период председательства Си Цзиньпина; дипломатические отношения; Covid-19; мировой порядок; диалог; технический и культурный обмен; американское руководство; протекционизм; президент США; односторонние действия.

Introduction

When the Empress of China anchored at Guangzhou in 1784, China and the US had their first encounter. However, until the start of the First Opium War, the two nations made no official contacts or established diplomatic ties. For many years, the China – US relationship had a far lower relative importance than in contemporary world politics. The world did not start paying attention to China – US relations until the big countries battled each other in the Far East. Due to their mutual enthusiasm and high aspirations, the two nations allied quickly when the Pacific War began in 1941. But a series of events – the start of the Cold War, the founding of the

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People's Republic of China (PRC), the start of the Korean War, and the US assistance to Jiang Jieshi's administration in defending Taiwan – led to a lasting hostility and isolation between the two nations.

The 1970s saw several historical turning points. PRC became a member of the UN in 1971. A few months later, R. M. Nixon travelled to China and signed the Shanghai communiqué, which lay the ground for fully normalising ties between the US and China. The two countries' diplomatic relations were formally established on 1 January 1979. In the meantime, China started its reforms to open up to the world and integrate into the global system dominated by the United States. Since then, China and the US have maintained steady progress in their relationship, with expanding economic and trade ties, regular scientific, technical, and cultural exchanges, and collaboration on important international problems. Most of the conflicts were resolved by negotiation up until 2010 when China overtook the United States as the second largest economy in the world.

This paper is divided into two parts. First, we look at how the two nations perspectives hardened during Xi Jinping's first term as president. Nevertheless, throughout Obama administration, the two sides remained in contact and worked together on several significant international problems. China was now "both an enemy and a potential partner", according to B. Obama [1, p. 68]. In the second part, we trace how the package of new US policies towards China took shape under Trump's administration, when Xi began his second term as president, leading to a sharp decline in bilateral ties across the board.

Many American authors examine the strategic rivalry between the US and China as an attribute of US – China relations. The Trans-Pacific Partnership (TPP), the Regional Comprehensive Economic Partnership (RCEP), rare earth metals, and state-owned enterprises (SOEs) are just a few examples of the issues that have caused long-standing mistrust between the United States and China, according to the American expert Edward I-hsin Chen [2, p. 57]. The phrase "Thucydides trap"[1] was coined by the American political scientist G. T. Allison to refer to a visible propensity towards a war between the United States and the People's Republic of China. There is "no doubt" that the United States and China will fight a war over the islands in the South China Sea within the next ten years, as S. Bannon, D. Trump's senior strategist, remarked while the US – China opposition grew[2]. Few aspects of the bilateral ties over the past few years have been left unaffected by rivalry and conflict. Many analysts affirmed that the escalating tension between China and the US signalled the start of a "new Cold War" [3, p. 331].

However, Chinese scholars and policymakers still hope for a smooth and peaceful development of US – China ties. Most experts on Sino-US relations claim that both sides should avoid falling into Thucydides trap [4, p. 78], and China had no intention of waging a new Cold War [5, p. 99]. Wang Yi, Minister of foreign affairs of China, contended that an outbreak of a new Cold War will be a disaster for China and the US, as well as other parts of the world[3]. China always views cooperation with the US as an effective way to develop a sound international system.

Since Xi Jinping took office, the US administration has roundly criticised China's foreign policy, particularly concerning Taiwan, Hong Kong, Xinjiang, Tibet, the South China Sea, and the East China Sea. The impending Taiwan crisis is the most emotional of the many issues and disagreements that the Chinese leadership is now confronting. During the Covid-19 pandemic and the military operation in Ukraine, public attitudes in both countries soured. It is uncertain how the Biden administration will address the complicated legacy of the Trump administration's policies.

This article explores the key characteristics of the China – US relationship under Xi Jinping to provide a complete analysis and forecast by drawing on data, reports from mainstream media, and government publications.

Materials and methods

The relationship between China, the world's largest de veloping nation, and the United States, the biggest industrial nation, has a significant and direct bearing on the state of the world. However, there has been a constant lack of trust in their relationships and their long-standing strategic rivalry. Substantial misunderstanding and rising mistrust are evident in reporting from both countries' mainstream media. The predominant attitudes of both nations may be gleaned from the distinctive language of news stories due to the significant influence of official discourse on forming public opinion.

In this study, the "New York Times" and "China Daily", two major US and Chinese news outlets, are compared for their viewpoints. To define the features of the bilateral ties during Xi Jingping's presidency, the study analyses the diverse narratives about the same events conveyed by these outlets. A thorough scientific analysis of the news items was performed to uncover the underlying ideologies from many viewpoints

[1]The Thucydides trap: are the US and China headed for war? [Electronic resource]. URL: https://www.theatlantic.com/international/archive/2015/09/united-states-china-war-thucydides-trap/406756/#main-content (date of access: 17.11.2022)

[2]Next stop for the Steve Bannon insurgency: China [Electronic resource]. URL: https://www.nytimes.com/2017/09/08/us/politics/steve-bannon-china-trump.html (date of access: 17.11.2022).

[3]Wang Yi meets with former Secretary of State Henry Kissinger of the United States [Electronic resource]. URL: https://www.fmprc.gov.cn/eng/zxxx_662805/202209/t20220920_10768474.html (date of access: 17.11.2022)

using the tools of critical discourse analysis[4] and systemic functional grammar[5]. The Chinese state newspaper "China Daily", statements from US official spokespeople, stories from the "New York Times" and the texts of the US annual report to Congress were reviewed to examine perspectives from the Chinese and US governments.

China's official English-language newspaper, "China Daily", has the largest print run of any English-language publications in China. It is regarded as the "voice of China" or "window on China" due to its global circulation in more than 150 countries and regions [6, p. 8]. The online edition (*www.chinadaily.com.cn*) is China's most popular English-language web portal and a complete multimedia platform, making it qualified to represent Chinese news media.

As one of the world's most significant newspapers, the "New York Times" has been referred to as a national newspaper of record[6] in the American newspaper industry. This prestigious newspaper, headquartered in New York City, is available daily online (*www.nytimes.com*) and has readers all around the world. The top ten issues covered in the US annual report to Congress include the global rivalry between the US and China and their competition in international markets.

In this study, trade data were collected from Chinese official media and authoritative US sources to analyse the China – US trade relations.

Relations between China and the US during Xi Jinping's first term

President B. Obama began his second term in office in 2013. The People's Congress of the PRC also affirmed Xi Jinping as president of the nation, concluding China's 10-year transition from the 4th to the 5th generation of political leaders. The two nations' relations underwent a period of strategic mistrust from 2013 to 2018 but retained an amazing level of bilateral contact in the domains of business, politics, culture, and humanitarian aid. However, China – US ties quickly deteriorated once D. Trump assumed office.

Strategic mistrust under the Obama administration

China has emphasised the importance of fostering global collaboration and sustainable development ever since Xi Jinping's inauguration on 14 March 2013. The Chinese President advocated for a new regional cooperation model when visiting Kazakhstan in September 2013. He offered to work together to construct the Silk Road economic belt. On his visit to Indonesia a month later, Xi Jinping renewed his appeal for the creation of the Asian Infrastructure Development Bank and the 21st century maritime Silk Road. These two initiatives are formally known as the Belt and Road initiative (BRI)[7]. To date, more than 100 countries, mostly poor nations, have signed the memorandum of understanding on BRI cooperation.

The BRI was created with the intention of bringing more nations into the economic globalisation process and achieving shared prosperity via win-win collaboration. The initiative's connectedness is its cornerstone. Improved connectivity in both hard and soft infrastructure, including transportation, energy, and digital technology, is creating new platforms for international cooperation, boosting regional and global socioeconomic development, and facilitating the flow of people, money, knowledge, technology, and ideas [7, p. 104].

Despite the impressive accomplishments of recent years, the BRI encountered significant mistrust and misunderstanding both domestically and internationally. The US administration immediately labelled it as the normalisation by China of its coercive treatment of weaker nations and an aggressive geopolitical move that violated the liberal international order by forcing collaboration on weaker nations. The BRI has been referred to as China's Marshall plan by both mainstream media and expert commentators from its inception. However, the two fundamentally differ in structure and motivation. In contrast to the Marshall plan, which was strongly driven by politics and directed against the socialist camp, the BRI is open to the entire globe and does not specifically target any third party [8, p. 315].

Furthermore, BRI sceptics have long accused China of employing debt-trap diplomacy, which refers to providing money to a borrowing nation to strengthen the lender's political clout[8]. Poor countries are cur-

[4]Critical discourse analysis emerged from critical linguistics developed at the University of East Anglia by R. Fowler and fellow scholars in the 1970s. Critical discourse analysis is an interdisciplinary approach to the study of discourse that views language as a form of social practice.

[5]Systemic functional grammar is a form of grammatical description originated by M. Halliday. It is part of a social semiotic approach to language called systemic functional linguistics.

[6]Average paid and verified weekday circulation of "The New York Times" from 2000 to 2021 [Electronic resource]. URL: https://www.statista.com/statistics/273503/average-paid-weekday-circulation-of-the-new-york-times/ (date of access: 29.09.2022).

[7]What is the Belt and Road initiative? [Electronic resource]. URL: https://www.yidaiyilu.gov.cn/info/iList.jsp?tm_id=540 (date of access: 29.09.2022) (in Chin.).

[8]The complete story of debt-trap diplomacy [Electronic resource]. URL: https://thegeopolitics.com/the-complete-story-of-debt-trap-diplomacy/ (date of access: 29.09.2022).

rently paying a heavy price for loans from China, as the "New York Times" lamented, and they are going through an economic and political crisis. The "China Daily" rebutted, saying that the US administration was pushing the idea of so-called Chinese debt traps to manipulate and restructure the supply chains and undermine China's international cooperation.

The argument intensified quite rapidly. The launch of Beijing's project "Made in China – 2025" exacerbated the Obama administration's concerns over China's alleged economic threat to the US-led international order, even though it aimed to develop Chinese industry in ways that would benefit both parties. The "New York Times" persisted in presenting the project as "a threat to traditional business"[9] and a weapon to "dislodge established industry leaders and replace them with Chinese brands"[10].

Through high-level negotiations from 2013 to 2016, China and the United States were still able to reach an agreement on crucial topics, such as nuclear nonproliferation and the South China Sea, and prevent severe disputes. Both sides understood the other's significance and their interdependence in many fields, so their collaboration remained robust and all-encompassing. During this time, China's overall exports to the United States increased steadily, reaching a record high of 385.1 bln US dollars in 2016[11].

The US administration, however, claimed that its unprecedented 347 bln US dollars trade deficit with China was proof of China's unfair trade practises[12]. President D. Trump made the deficit a major campaign issue in the 2016 US presidential election. This action had repercussions on other nations since it defied the normative framework of the WTO [9, p. 406].

D. Trump's first two years in office: a historically low point

On 20 January 2017 D. Trump was inaugurated as president of the United States. He overturned a long-standing, bipartisan agreement on US policy towards China, which he believed made the US too cautious and kept it from reacting forcefully enough to China's alleged abuses. The Trump administration's approach to China appeared to be motivated by the notion that, in the long run, the historical trajectory of the two nations' ties benefitted China in its bid for global leadership and harmed the US. To stop this trend, the Trump administration took a more America first, unilateralist, protectionist, zero-sum, and nativist stance[13]. Although D. Trump had declared that it does not want to be protectionist, it still reserved the right to be protectionist when trade is not free and fair.

Trump launched a trade war on 23 March 2018, by slapping tariffs on steel and aluminium and issuing the Presidential Memorandum against China's economic aggression [10, p. 38]. The US administration soon announced sanctions against China based on Section 301 of the US Trade act, escalating the US – China trade conflict. The world's two largest economies imposed rounds of import tariffs on each other.

There is general agreement among American decision-makers that China's activities threaten the multilateral trade system and that the country's state-led, market-distorting economic model endangers American economic and national security interests. According to the US – China economic and security review commission's 2018 report to Congress[14], Chinese industrial policies unfairly support the international expansion of Chinese firms while erecting market barriers, discriminating against foreign firms, and endorsing technology transfer as a prerequisite for market access. Additionally, they offer minimal protection and redress for foreign owners of intellectual property in strategic industries.

Political leaders in China believed that they had no choice but to respond to US unilateralism and trade protectionism. Solutions included modernising and transforming Chinese industries, upgrading the investment structure, looking at new business prospects in domestic and international markets, and encouraging enterprises and firms to adopt technical training programmes. "China Daily" described the ongoing trade war between China and the US as a "lose-lose" situation harmful to the world economy[15]. Beijing has always maintained that the thriving and steady growth of commercial ties between China and the US is in the interests of the two countries and the world at large. Instead of engaging in greater conflict, China and the United States should work to find solutions that benefit everyone.

[9]China's goals threaten traditional business [Electronic resource]. URL: https://www.nytimes.com/video/multimedia/100000003760465/chinas-goals-threaten-traditional-business.html?searchResultPosition=3 (date of access: 05.10.2022).

[10]2015 Report to Congress of the US – China economic and security review commission [Electronic resource]. P. 9. URL: https://www.uscc.gov/sites/default/files/annual_reports/2015%20Annual%20Report%20to%20Congress.pdf (date of access: 05.10.2022).

[11]2010–2016 China – US trade value added accounting report [Electronic resource]. P. 2. URL: http://images.mofcom.gov.cn/zys/202101/20210127144306952.pdf (date of access: 05.10.2022) (in Chin.).

[12]US trade deficit last year hit its highest level since 2012 [Electronic resource]. URL: https://www.cnbc.com/2017/02/07/us-trade-deficit-last-year-hit-highest-level-since-2012.html (date of access: 06.10.2022).

[13]America first foreign policy [Electronic resource]. URL: https://trumpwhitehouse.archives.gov/issues/foreign-policy/ (date of access: 07.10.2022).

[14]2018 Report to Congress of the US – China economic and security review commission [Electronic resource]. P. 3. URL: https://www.uscc.gov/sites/default/files/2019-09/2018%20Annual%20Report%20to%20Congress.pdf (date of access: 08.10.2022).

[15]Trade row a "lose-lose" situation [Electronic resource]. URL: https://www.chinadaily.com.cn/a/201810/16/WS5bc521bea310eff303282823.html (date of access: 08.10.2022).

Despite brief periods of truce in the China – US trade war – from December 2018 to May 2019 and again after the G20 Summit in June 2019 – it continued to dissuade investment and lower productivity in the two countries as well as in other nations. Relations between China and the US became notably more adversarial as tensions over political and economic issues grew and surveys revealed a sharp deterioration in the American perception of China.

D. Trump's presidency final two years: continuing escalation

In 2019, the Chinese-American trade dispute entered its second year and was still mostly unresolved. 2019 saw China's weakest growth performance in more than 30 years due to the country's internal economic issues, exacerbated by rising trade tensions with the United States. China's technical innovation became one of the Trump administration's primary worries as China was creating and acquiring new technology important to its civilian and military industries.

The technology conflict centred on "Huawei" and 5G. Despite being a major global supplier of telecom equipment and a producer of smartphones, "Huawei" is still shunned in some nations as a result of the US Trump administration's inclusion of "Huawei" on its list of entities that pose a danger to the US telecommunications industry. Google and other Washington-based companies stopped part of their dealings with Huawei as a result of the blacklisting. Although D. Trump insisted that Washington did not wish to "artificially" restrict "Huawei" from the 5G market[16], the administration was unable to come up with a cohesive plan. Trade negotiations between the US and China have been intermittent, and the parties have yet to reach a comprehensive settlement to this long-running trade dispute. Claiming "routine" violations by China of its WTO obligations, Trump decided to undercut the WTO by making its dispute-adjudication system ineffective and enacting trade policies that the organisation had ruled illegal.

In 2020, China's growth was expected to continue. Beijing and Washington came to a Phase one trade agreement in January, putting the trade conflict on hold. The high tariffs the US imposed on China before the agreement have not yet been reduced, leaving the fundamental differences between the two parties unsolved. The coronavirus pandemic devastated the world and plunged China into its worst crisis in decades. The US-Chinese ties hit their lowest point in the four decades of their diplomatic relations, and possibly, in the entire history [11, p. 16].

Some US politicians blamed the pandemic's worldwide spread on China, accusing it of negligent handling and deliberate cover-up of the Covid-19 outbreak. The use of the term "Chinese virus" was supported by President D. Trump months later, sparking a dispute over who was responsible for the pandemic's politicisation[17]. Numerous commentators and government representatives also accused China of using the coronavirus pandemic to promote itself as a responsible and benevolent world leader and its form of government as being superior to liberal democracies.

Beijing rejected claims that it had engineered the Covid-19 pandemic to harm the United States and that it was "the brains behind the global health crisis"[18]. The Trump administration, according to political elites in China, failed to provide and commit to a clear response to the coronavirus. Additionally, the US failed to show sufficient levels of collaboration and solidarity and lacked the capability or willingness to lead the global response to the epidemic.

J. Biden's presidency: back on track?

In 2021, China's economy continued to be impacted by the Covid-19 pandemic's immediate consequences and longer-term problems affecting growth and financial stability. The Chinese people are proud at how quickly their nation was able to contain the pandemic, especially in comparison with the West. Numerous Chinese observers anticipated that after J. Biden's inauguration on 20 January 2021, China will finally move past the toxic legacy of the Trump administration [12, p. 457]. They hoped that the new US President would give China – US relations a new push and put them back on the right track[19].

Top Biden administration and Chinese officials met for the first time in person on 19 March 2021 in Alaska. China viewed the two-day high-level strategic meeting as constructive and a sign of hope for a global recovery[20]. The conversation, in contrast, ended without a joint statement, according to US sources, reflecting the two sides' profound divisions. Additionally, the Biden administration continued several of D. Trump's

[16]Trump: US not to "artificially" block Huawei from 5G market [Electronic resource]. URL: https://www.chinadaily.com.cn/a/201902/23/WS5c70a132a3106c65c34eaf71.html (date of access: 09.10.2022).

[17]Trump defends using "Chinese virus" label, ignoring growing criticism [Electronic resource]. URL: https://www.nytimes.com/2020/03/18/us/politics/china-virus.html (date of access: 10.10.2022).

[18]China didn't create the Covid-19 pandemic to attack America, says US magazine [Electronic resource]. URL: https://www.chinadaily.com.cn/a/202007/11/WS5f098732a310834817258c55.html (date of access: 11.10.2022).

[19]Xinhua commentary: steer China – US ties back to the right track [Electronic resource]. URL: http://www.news.cn/english/2021-11/18/c_1310319043.htm (date of access: 13.10.2022).

[20]High-level talks "constructive" [Electronic resource]. URL: https://www.chinadaily.com.cn/a/202103/22/WS6057d0d0a31024ad0bab0859.html (date of access: 15.10.2022).

policies, including the Trump-era restriction on American investment in Chinese companies connected to the military and the preservation of tariffs on Chinese imports. President J. Biden also stressed the importance of investing in American infrastructure and technology to compete with China[21].

Xi Jinping and J. Biden met online on 16 November 2021. Both presidents characterised their meeting as open, helpful, substantive, and fruitful. The majority of US commentators, however, claimed that it produced little more than polite words and brought no breakthroughs to a relationship that has spiralled dangerously downward. The "New York Times" reported that the two parties were unable to even compose a joint statement of the kind that normally comes out of summits[22]. According to these analysts, the Biden administration continues to regard China as a major issue of immediate concern.

Despite maintaining their tough rhetoric, Washington and Beijing's bilateral commerce reached pre-tariff levels in 2021, and US capital flows to China rose. The Chinese policies of the Trump and Biden administrations will, however, have more similarities than differences given the legacies of the Obama and Trump administrations and the expectations – explicit or implicit – from Congress, the media, think tanks, and the American public [13].

Conclusions

For whoever is in charge in Beijing or Washington, managing US – China ties is a recurrent challenge. The long-held US prejudice that China represents authoritarian leadership and America represents democracy has contributed to the deterioration of US-Chinese ties. The world still has hope in this partnership, though, and to fulfil that optimism, both parties should work towards a win-win collaboration.

The US has historically objected to how China handled Xinjiang, Tibet, Hong Kong, and Taiwan, and also to its industrial policies, trade practices, and international relations. Taiwan has been the most touchy subject. Washington has often received advice from the Chinese leadership to avoid interfering in Taiwan. However, the Taiwan policy act of 2022 and US House Speaker N. Pelosi's provocative visit to Taiwan exacerbated the already tense situation between the US and China[23]. The Biden administration has also been promoting its China – Russia binding theory and the democracy versus authoritarianism storyline since the outbreak and escalation of the situation in Ukraine. The result has been a widening of ideological gaps across the world[24].

In recent years, the US administration has embraced unilateralism, attacking institutions like NATO while threatening to withdraw from others, like the WHO and the Paris agreement. Chinese officials argue that to address the growing number of global issues – like infectious diseases or climate change – that cannot be confined inside national borders, a multipolar world model is required. Beijing wants its relationship with the US to be distinguished by peaceful cohabitation, a shared set of principles, consensus, and a willingness to work together. However, Washington's great power rivalry has driven the evolution of the US-Chinese relationship, which is characterised more by competition and conflict than by collaboration.

Surely, competition will remain in the American-Chinese relationship in future. But it is also possible to make other predictions. The pattern of "punctuated equilibrium", a concept from evolutionary biology might give us a clue. Perhaps we may expect some rapid changes to occur during brief periods of very unpredictable, stressful conditions. The current rift between the US and China could be the point of equilibrium to which the country may return after an outburst of activity [14, p. 14]. If that prediction is true, we could expect a mostly stable relationship interrupted by extended periods of tension. For now, both parties might benefit by finding the appropriate tone for their conversation and choosing the maxim first do no harm as their overriding principle for action.

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PROSPECTIVE CHANGES IN AUSTRALIA'S SECURITY STRATEGY IN THE SOUTH PACIFIC

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This study, which focuses on regional political relations and security, presents possible future changes in Australia's security strategy in the South Pacific region. The goal is to develop a short-term forecast for Australia's security policy in the South Pacific. Eight predictive assumptions are proposed, with a causal explanation for each. The study contributes to research by describing the presumptions driving Australia's strategic security measures in the South Pacific in the decade beginning from 2022, as obtained from an examination of Russian and English language materials and historiography. The findings can help shape future research on the South Pacific and, more broadly, on regional security.

Keywords: South Pacific region; military-political cooperation; infrastructure projects; Belt and Road initiative; Blue dots network; regional leadership.

ПРОГНОЗ ИЗМЕНЕНИЯ СТРАТЕГИИ БЕЗОПАСНОСТИ АВСТРАЛИИ В ЮЖНО-ТИХООКЕАНСКОМ РЕГИОНЕ

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Представлен авторский прогноз изменения стратегии безопасности Австралии в Южно-Тихоокеанском регионе (ЮТР). Объект исследования – региональные политические отношения в сфере безопасности. Предмет исследования – стратегия безопасности Австралии в ЮТР. Целью работы является подготовка прогностического сценария развития стратегии безопасности Австралии в ЮТР на краткосрочную перспективу. Автор выделяет восемь прогностических положений в стратегии безопасности Австралии, подробно раскрывает их и освещает причинно-следственные связи для каждого такого положения. Новизна данного исследования заключается в том, что оно содержит основанные на анализе как русскоязычных, так и англоязычных источников и историографии предположения о стратегических шагах, которые будет предпринимать Австралия в ближайшие (с 2022 г.) десять лет для обеспечения безопасности в ЮТР. Результаты работы могут быть использованы для дальнейшего развития данной темы и в более комплексных исследованиях в сфере региональной безопасности.

Ключевые слова: Южно-Тихоокеанский регион; военно-политическое сотрудничество; инфраструктурные проекты; инициатива "Один пояс, один путь"; сеть голубых точек; региональное лидерство.

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Introduction

Many academics have dubbed the 21st century the Pacific era, referring to the Asia – Pacific region's pivotal geopolitical position and possibly crucial role in world politics and international affairs.

Divergent national interests, which have resulted in political disputes, have recently put regional security in the Asia – Pacific region on the centre stage.

Throughout the 20th century, Australia's involvement in the area was minimal, but its recent growth to a middle-sized power in the Asia – Pacific region resulted in its "turn towards Asia" in 2007, transforming it into a sub-regional leader in the South Pacific. China has been competing with Australia for leadership in the South Pacific since 2008. China's military growth, expanded military presence, and treaty with the Solomon Islands have all had implications for Australia's security and sub-regional leadership. Predicting changes in Australia's security policy in the South Pacific is thus a relevant topic for research. Broad philosophical principles of comprehensiveness and determinism were applied in this work. It uses analysis, synthesis, abstraction, comparison, and analogy as its cognitive methodologies. Political science procedural methods were applied, including institutional analysis, content analysis, sociological, normative-value and systemic analysis, and the historical retrospective approach.

The studies of R. Glasser [1; 2], P. Jennings [3], A. Garin [4; 5], A. Tolstosukhina [6], V. Gulevich [7], and E. Pozdnyakov [8], among others, served as the foundation for the predictive hypotheses. Document analysis included official sources, such as Australia's defence white papers of 2009, 2013, 2016 (including the 2020 Defence strategic update), 2020 Force structure plan and 2017 Foreign policy white paper[1].

According to R. Glasser from the Australian Strategic Policy Institute, the Australian Government has to pay attention to climate and environmental change – now that they have been ignored for so long – since both have an impact on the country's security [1; 2].

P. Jennings, a former deputy secretary for strategy at the Australian department of defence (2009–2012) who is currently the executive director of the Australian Strategic Policy Institute, cautions that unless Australia engages with the Solomon Islands, a Chinese military base there may be established, which will affect Australia's regional strategic and security interests.

A. Tolstosukhina from the Russian International Affairs Council examines developments in the South Pacific area, predicts their future ramifications, and outlines Australia's choices for enhancing its competitive position against China [6]. In light of China's growing regional influence, V. Gulevich reviews developments in Australia's ties with Indonesia and the Solomon Islands [7].

The US-Australian and US-Chinese relations are examined by E. Pozdnyakov from the Pacific Research University in the context of the Biden administration's new foreign policy strategy in the Asia – Pacific region, which emphasises China's containment by fostering old and new partnerships [8].

The main part

Firstly, we predict that Australia will continue its island chain strategy and the pursuit of the military and economic containment of China in its future security strategy for the South Pacific. To this end, Australia will continue to raise its defence spending to offset China's growing military presence in Oceania and its suspected intention to establish military bases there and to become more self-sufficient militarily, given the US limited activity in Oceania. In light of China's expanding military, a perceived rise in naval presence, and rising aspirations in Oceania (as evidenced by the China – Solomon Islands pact), Australia's military presence in the South Pacific region will continue to build up.

The discourse of the 2020 Defence strategic update and Australia's defence white papers of 2009, 2013, 2016 may indicate Australia's increasing emphasis on challenges to its security and the region's rule-based order. The word "security" was used 267 times in the Defence white paper in 2009, 322 times in 2016, and more than 390 times in the 2020 update. The term "rules-based" (rules-based order) appeared 59 times in 2016 and 2020, up from 11 in 2009 and 2013. In the upcoming years, the emphasis on security is likely to increase even more.

Australia plans to procure and upgrade up to 23 military ships at the cost of 127 bln US dollars. Australia now produces offshore patrol ships of the "Arafura" and "Guardian" classes, which are supplied to Oceania. It will begin to build "Hunter" class frigates and "Attack" class submarines in the following two to three years. The submarine fleet is receiving more focus. A strike-class submarine would now cost Australia around 35 bln US dollars. Submarines can be a particularly efficient means

[1]Defence white paper 2009 [Electronic resource]. URL: http://www.defence.gov.au/whitepaper/2009/docs/defence_white_paper_2009.pdf (date of access: 05.10.2022) ; Defence white paper 2013 [Electronic resource]. URL: http://www.defence.gov.au/whitepaper/2013/docs/WP_2013_web.pdf (date of access: 05.10.2022) ; Defence white paper 2016 [Electronic resource]. URL: http://www.defence.gov.au/WhitePaper/Docs/2016-Defence-White-Paper.pdf (date of access: 07.10.2022) ; 2020 Defence strategic update [Electronic resource]. URL: https://www.defence.gov.au/about/strategic-planning/2020-defence-strategic-update (date of access: 10.10.2022) ; 2020 Force structure plan [Electronic resource]. URL: https://www.defence.gov.au/about/publications/2020-force-structure-plan (date of access: 10.10.2022) ; 2017 Foreign policy white paper [Electronic resource]. URL: https://www.fpwhitepaper.gov.au/foreign-policy-white-paper (date of access: 07.10.2022).

of defence given Australia's geographical position and the size of the island territories inside its sphere of influence [4].

Australia's drive to improve its defence capability is motivated by a desire for more independence in preserving security within the South Pacific, in addition to offsetting China's expanding military strength [4].

According to Australia's 2020 Defence strategic update, only American nuclear and conventional weapons can effectively deter possible nuclear threats to Australia. The government does, however, aim to take greater responsibility for Australia's security, and considers it essential to build its military power. Additionally, given its limited resource base, Australia must develop its military capabilities at its own pace, without attempting to keep up with the other major powers, according to the 2020 Defence strategic update. This involves, for instance, developing long-range attack weapons and cyber-warfare capabilities to keep enemy forces and infrastructure away from Australia. In defence planning, the government will concentrate on the immediate region of key strategic importance to Australia, extending from the northeast Indian Ocean, mainland Southeast Asia, to Papua New Guinea and the Southwest Pacific, where it will project its power and influence to protect shared regional security and trade interests. Under the 2020 Force structure plan, the government will allocate 270 bln US dollars over the decade 2029–2030 towards meeting its defence needs[2].

Secondly, as the nations closest to Australia, the Solomon Islands, Fiji, Vanuatu, and Papua New Guinea will receive priority in Australia's defence cooperation. These nations are also pursuing a multi-directional foreign policy strategy, which includes strengthening connections with China.

During World War II, when Australia anticipated being invaded by Japan, it fought elsewhere – in modern-day Papua New Guinea, the Solomon Islands, or the Coral Reefs – rather than in its territory. This event highlights Oceania's strategic importance for Australia's security. The militarisation of the South Pacific, predictions of "a poorer, more dangerous, and more disorderly world after the pandemic"[3], and calls for Australia to be better prepared for high-intensity conflicts (which the Prime Minister mentioned in his statement) are all driving Australia to invest in its defence cooperation and security.

Additionally, the US, Australia, and New Zealand were disturbed by China's agreement with the Solomon Islands, which prompted Australia to strengthen its ties to these nations. According to the terms of its agreement with the Solomon Islands, which it sees as a diplomatic success, China will help the country keep the peace, safeguard the lives and property of its residents, and deal with natural catastrophes, including by sending its army and police forces. On invitation from the government, Chinese ships will also have the right to enter its ports [7].

The Solomon Islands have revoked their recognition of Taiwan's sovereignty in exchange for Beijing's commitment to invest in building roads and bridges. China is concurrently expanding the staff of its embassies across the region, particularly in Vanuatu, Fiji, and Kiribati, which has Australia worried that it may eventually set up a military base there, as well as in Fiji and Papua New Guinea [7].

Papua New Guinea has been deepening its ties with China, but Australia is still its main security partner. It provides key support to the 2001 Peace agreement between Papua New Guinea and the autonomous government of Bougainville[4].

Papua New Guinea's population is 8 mln people, where 40 % aged below 15. It is expected to reach 18 mln people by 2050, even as the country is already facing serious development challenges. Papua New Guinea is not on track to achieving many key development targets, including maternal and child mortality, infectious disease, access to clean water and sanitation. Australia has been spending about 550 mln US dollars annually on health, education and economic growth in Papua New Guinea. Some 4,600 Australian firms have invested 18 bln US dollars in the country. Australia's aid to Papua New Guinea will continue in the expectation that it would make its security choices in Australia's favour. Despite its strong and long partnership with Papua New Guinea, Australia has a more adversarial relationship with Fiji. In 2009, Fiji was expelled from the Pacific Islands forum at Australia's initiative and then refused to return when it was invited back. In these circumstances, Fiji has been deepening its relationship with China.

Thirdly, Australia will restore its relationship with Fiji to a high-level partnership and has already begun to do so.

In 2017, China offered to rebuild part of the Black Rock camp base in Nadi, Fiji, and construct an airport there. In turn, Australia offered to establish on Fiji a regional centre for the training of joint police and peacekeeping forces of Oceania if it rejected the Chinese military base project. Fiji accepted the Australian offer in exchange for large Australian investments [4].

In response to the probability of a pact between Beijing and Honiara, Australia renewed its pre-existing agreement with Fiji. Similar to New Zealand, Australia's strategy to contain China involves maintaining control over the Pacific island chain extending from

[2]2020 Defence strategic update [Electronic resource]. URL: https://www.defence.gov.au/about/strategic-planning/2020-defence-strategic-update (date of access: 10.10.2022).

[3]Ibid.

[4]2017 Foreign policy white paper [Electronic resource]. URL: https://www.fpwhitepaper.gov.au/foreign-policy-white-paper (date of access: 07.10.2022).

Tuvalu and Fiji through Kiribati and Palau to the Philippines and Japan [7].

As far as the Solomon Islands are concerned, Australia will likely seek to convince them that it will be their best security partner. In all probability, Australia may offer to build its naval base in the Solomon Islands. This will include a range of military construction and engineering projects that Australia might propose with the United States that will improve the Solomon Islands' outdated infrastructure [3]. In the assessment of P. Jennings – which appears credible – China's growing presence in the Solomon Islands if left unchecked, will ultimately lead it to establish a military base there. Therefore, Australia will likely seek to open its naval base in the Solomon Islands ahead of China.

Fourthly, although both Australia and China will continue to build up their military power, neither will be likely to engage in an armed conflict for their exclusive leadership in the region in the short or long-term perspective.

In the assessment of A. A. Garin of the Institute of Oriental Studies of the Russian Academy of Sciences, with which we concur, Australia is universally recognised as a guarantor of security in the South Pacific region. Nor will China be willing to appear as an aggressor, because it has been advocating for a community of common destiny. Moreover, the USA and France have territorial possessions in the South Pacific. Any attack in Oceania will entail the involvement of ANZUS and NATO, and military action is unlikely to benefit any party.

Fifthly, China will continue to invest in infrastructure and lend to the South Pacific to engage its states in its Belt and Road initiative. Australia will react by accelerating its infrastructure projects and strengthening its humanitarian activity with its partners.

Beijing will continue to strengthen its position in the South Pacific region by offering help to vulnerable countries in the form of grants, and concessionary loans to bring on board as many partners in the Belt and Road initiative as possible. Infrastructure initiatives will be the primary focus. Australia will keep working to address regional issues through the Pacific assistance programme, which includes attracting labour migrants, promoting tourism, and offering financial and technical assistance to address issues related to climate change and natural disasters [6]. Australia will collaborate within the Blue dot network and contribute to the Australian infrastructure financing facility.

Australia will push for India's participation in the Blue dot network with cooperation from the US, enhancing the credibility of the project.

J. Biden, who has been critical of several of D. Trump's initiatives, carried on with the Blue dot network project in its original form. Many analysts anticipate its expansion outside the Asia – Pacific region and think it has promise.

Remarkably, the Blue dot network is potentially accessible to any regional player and is not restricted to a small group of participants. Collaboration with India is especially appealing since it will significantly improve its status. On 27 February 2020, D. Trump met with Indian Prime Minister N. Modi to entice India to join. The Prime Minister showed interest, noting the project's strong potential for the region. India typically takes time to consider any membership proposal. For example, India's Foreign Minister Harsh Vardhan Shringla stated that although membership in the Blue dot network was being considered, a careful legal review was required. Undoubtedly, the increasing hostility between Beijing and Washington is upping the pressure on India to choose a side. New Delhi may ultimately be inclined to join the Network due to its interest in dialogue within quadrilateral security dialogue [8].

Sixthly, climate change will play a significant role in China and Australia's leadership struggle, forcing Australia to step up its climate efforts in the region.

Small island nations in the South Pacific are particularly at risk from cyclones, floods, and tsunamis. From the 1950s through 2010, there were more than 200 catastrophes that affected over 3.5 mln people [1].

China and Australia have seen the devastating effects of climate change firsthand. Two-thirds of China's land area is susceptible to floods. Even though it is home to 20 % of the world's population, it only has 12 % of the world's arable land, much of which is drought-prone, and many of its northern aquifers are already overused. Bushfires during Australia's most recent "black summer" devastated 24 mln hectares and took the lives of 480 Australians directly and indirectly [2]. As a result, both nations are sympathetic to the worries of the small island states and will take proactive measures on climate.

A. Albanese, the leader of the Labour party in Australia, compared climate change to nuclear annihilation and called it a serious national security issue on the eve of the election. Opposition spokesman B. O'Connor claimed that lasting national security was impossible to achieve in the absence of an effective response to climate change [2].

The Solomon Islands and Kiribati announced a scaling down of ties with Taiwan in 2019, citing China's climate assistance as the cause. China, a major provider of renewable energy technologies, has pledged to stop supporting Oceania's coal-fired power stations and encourage renewable energy projects instead. This move might improve its reputation in the South Pacific.

The Solomon Islands and Kiribati may have been influenced to strengthen ties with China in 2019 by US's ambivalent attitude on climate change in its foreign policy. Both cited the US decision to withdraw from the Paris climate agreement and Australia and New Zealand's inaction as contributing factors. China may benefit from J. Biden's opposition to international agreements to reduce emissions [1].

To stay competitive in the regional leadership struggle, Australia will aim to equal China's gains in the climate area through the Pacific Islands forum, where it is the leader and where it could preside over climate change policy, contribute its resources, and engage in international diplomacy [1].

Partners in the Blue Pacific, a new regional alliance to foster collaboration on the region's objectives and assist the island states, was announced on 24 June 2022, by Australia, the UK, New Zealand, the US, and Japan. According to the founding declaration, its member nations will adhere to the Pacific Islands forum's strategy through the year 2050[5].

Australia's elections in March 2022 resulted in the election of a new labour government. The new foreign secretary, P. Wong, reaffirmed her government's commitment to combating climate change in remarks made during a trip to Fiji: "I understand that Australia has neglected its responsibility to act on climate change, ignoring our Pacific family's calls to action under previous governments". She also said that Australia has formed the "Australia – Pacific climate infrastructure partnership" to aid energy and infrastructure initiatives connected to climate change in the South Pacific and Timor-Leste[6].

Seventhly, the South Pacific won't be divided into military-political blocs.

A northern and southern block made up of allies of China and the United States, according to A. V. Dyshin and D.U. Demina of the Far Eastern Federal University, is a realistic scenario [9].

However, this divide is improbable in our opinion. Only two of the states in the area, Papua New Guinea and Fiji, have armies, and all of them rely on Australia and other Western countries for their protection. It appears unlikely for any of these nations to challenge Australia by joining a rival alliance. Small island states also have cultural ties to Australia, the United States, and France. The latter two have several islands as their foreign territories. As a strategic "backyard" bequeathed to it by Great Britain, the region has historically been Australia's sphere of influence. Furthermore, Oceania's nations are closer to Australia than to China in terms of their liberal ideologies and ideals.

Hedging looks like a more likely course of action for these states.

As a result of China's economic rise and its expanding influence, particularly in areas like infrastructure, health, and climate, as well as the impending expansion of the Belt and Road initiative, the majority of island nations will adopt a hedging strategy in their relations with China and Australia to benefit from cooperation with both. By weighing the economic benefits from China and the security benefits from Australia, they will come to emulate Australia which had been hedging for years in its relations with the US and China.

Finally, Australia will continue to be a regional leader despite China's recent growth, which is expected to continue in the coming years.

A. A. Garin highlights the value of the 2020 survey titled "Powers, norms, and institutions: the future of the Indo-Pacific from a Southeast Asia perspective"[7] for the analysis of Australia and China's interactions in Oceania in his article "Australian foreign policy 2020: development aid, defence, and trade war with China" [5]. A. A. Garin contends that certain generalisations about the South Pacific may be made from the survey responses provided by the Fijian policymakers who took part.

Fijian respondents identified Australia as the region's most influential actor and named China, New Zealand, the European Union, and the United States among its other major players. In ten years, they anticipated China to reach the same level of influence as Australia [5].

The opinions of the responders from Fiji should not be taken as indicative of the South Pacific, in our opinion. Fiji competes with Papua New Guinea for influence as a developing mid-sized regional power, aspires to greater independence from Australia, and has long pushed for lessening the influence of Australia and New Zealand in the Pacific Islands forum and the region.

We reject the notion that China will rival Australia in terms of regional impact for the following reasons.

Although China outperforms Australia in credit and infrastructure, Australia is now catching up, both individually and in collaboration with other countries (for example, through the Blue dot network initiative and the Australian-Pacific infrastructure financing facility). Australia is unquestionably a global leader in humanitarian action, and vaccine diplomacy, and has been strengthening its leadership on climate change.

Australia has been and will continue to be the South Pacific's main security pillar. By joining AUKUS and boosting spending to maintain a larger military presence in the Asia – Pacific and South Pacific, it has already reinforced its defence posture.

The Pacific Islands forum will continue to be the most important and influential regional international institution with Australia at its helm. Alternative organisations (such as the Fiji-sponsored Melanesian initiative group and the Pacific Islands development forum) lack the ability and resources of the Pacific Islands forum.

Australia retains a wide array of partnerships, including those with Japan (which has increased its regional presence by taking part in infrastructure projects) and the United States (which has once more focused its attention on the region under J. Biden).

[5]Statement by Australia, Japan, New Zealand, the United Kingdom, and the United States on the establishment of the partners in the Blue Pacific (PBP) [Electronic resource]. URL: https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/24/statement-by-australia-japan- (date of access: 12.10.2022).

[6]Why Australia is declaring a "new era" in the Pacific [Electronic resource]. URL: https://www.bbc.com/news/world-australia-61669954 (date of access: 24.09.2022).

[7]Powers, norms, and institutins: the future of the Indo-Pacific from Southeast Asia perspective [Electronic resource]. URL: https://www.csis.org/analysis/powers-norms-and-institutions-future-indo-pacific-southeast-asia-perspective (date of access: 11.10.2022).

Small island nations have a shared history with Australia, the United States, and France. Some islands in the area are French and American foreign territories. As Great Britain's strategic "backyard" left to Australia, the South Pacific and Oceania have historically been under its sphere of influence. Furthermore, in terms of their liberal ideas and values, the nations of Oceania are nearer to Australia than China. The interests of national security are major influences on how nations act, according to the realist theory. Australia will defend its leadership in that area because it is so crucial to its national security. The area is less significant for China's security, though.

Conclusions

The following assumptions regarding Australia's future security plan are suggested.

1. Australia will continue to invest in its defence and expand its military presence in the region as it pursues military and defence cooperation with its sub-regional partners and the island states, most notably the Solomon Islands, Fiji, Papua New Guinea, and Vanuatu. Australia can propose setting up a naval base in the Solomon Islands and promoting several military and engineering initiatives with the United States to update the country's ageing infrastructure.

2. A military confrontation over regional leadership will not be started by either China or Australia. Instead, both will refine their current and new tools for regional competition. Australia could collaborate with the US to include India in the Blue dot network initiative.

3. Australia will concentrate on solidifying its stance on climate change, particularly within the framework of the Pacific Islands forum.

4. It is doubtful that the South Pacific will be divided into military-political blocs. Small island states are more inclined to use hedging strategies.

5. In the short- and medium-term, Australia will continue to lead in the South Pacific. Although China outperforms Australia in economy, credit and infrastructure, Australia is the South Pacific's main security pillar, the leader of the Pacific Islands forum and it has more influential power.

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INTERNATIONAL TRANSPORT CORRIDORS IN SOUTH ASIA: GEOPOLITICAL PROBLEMS

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The difficulties and geopolitical constraints for international transport corridors in South Asia are studied. The present barriers to their operation and expansion, such as infrastructural deficits, political instability, and geopolitical restraint are discovered. The impact of geopolitics on regional trade and economic development is also discussed, along with the contribution of regional and global players to the resolution of security and stability issues. A review of the intricate geopolitical dynamics of the transit corridors revealed significant issues and conflicts amongst the states in the region. Opportunities are identified for the Eurasian Economic Union to reroute its cargo flows in response to Western sanctions presented by the International North – South transport corridor, Indian projects "Act East" and "Neighbourhood first", and the China – Pakistan economic corridor.

Keywords: South Asia; Pakistan; India; international relations; geopolitics.

МЕЖДУНАРОДНЫЕ ТРАНСПОРТНЫЕ КОРИДОРЫ В ЮЖНОЙ АЗИИ: ПРОБЛЕМЫ ГЕОПОЛИТИКИ

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Рассмотрены проблемы, связанные с международными транспортными коридорами в Южной Азии. Выявлены факторы, препятствующие развитию и эффективному функционированию транспортных маршрутов, такие как различия в инфраструктуре, политическая нестабильность и геополитические вызовы. Кроме того, оценено влияние геополитических проблем на региональную торговлю и потенциал экономического роста. Определена роль региональных и международных участников в решении вопросов безопасности и стабильности в регионе. Проведен углубленный анализ сложной геополитической динамики вокруг международных транспортных коридоров в Южной Азии, который позволил обозначить проблемы и противоречия между государствами. Особое внимание уделено Международному транспортному коридору "Север – Юг", индийским проектам "Действуй на Востоке" и "Соседи прежде всего", а также геополитическому значению строительства китайско-пакистанского экономического коридора. Обозначены направления и преимущества в сотрудничестве со странами Южной Азии как альтернативный вариант перенаправления грузопотоков из-за введенных Западом санкций для государств Евразийского экономического союза.

Ключевые слова: Южная Азия; Пакистан; Индия; международные отношения; геополитика.

Introduction

Trade, political, and economic links between the North, South, West, and East of Eurasia were enhanced as a result of South Asia's rising stature and economic might. This development has drawn scholars' attention to the function, importance, and role of international transport corridors (ITC) as tools of globalisation and integration in South Asia.

Consideration of the intricate link between integration, which promotes international links, and the quality of the transport infrastructure contributes to

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our understanding of the importance of ITCs in world politics. In Europe, integration led to a supranational transport policy, and consequently the formation of a common transport area. Transport corridors connect countries to international transport systems and logistic chains, amid fierce competition among global actors [1].

Theoretically, ITCs are a primary tool for expanding trade and economic links among states. International transport corridors have been shown to enhance the flow of freight traffic, improve the legal framework, harmonise border procedures, attract investment in infrastructure and make government-business interactions more effective[1].

Transport corridors are especially important for landlocked countries. Following up on the High-level midterm review of the implementation of the Vienna programme of action for land-locked developing countries for the decade 2014–2024, the UN General Assembly Resolution 74/15, adopted on 5 December 2019, put forth a "corridor approach", by which transit and landlocked developing states can improve trade and transport links[2].

Geopolitical studies have mainly addressed the following three transport corridors in South Asia:

1) International North – South transport corridor (INSTC);

2) corridors covered by the "Act East" policy of the Indian government, regarding the main directions, aspects and objectives of this policy;

3) China – Pakistan economic corridor(CPEP).

According to G. Sakhdeva, professor at the Centre for European Studies at the School of International Studies at J. Nehru University, each integration endeavour in Eurasia advances in two dimensions: geopolitical and economic. He observes: "Geopolitics may come to the fore and inhibit interaction by erecting formidable barriers to international transport corridors in South Asia" [2].

India has a strong interest in developing its transport system since doing so would diversify its commerce and energy supplies. However, geopolitics has made building a stable and friendly neighbourhood a challenging task and thus prevented India from acting on this desire. As an example, the proposed gas pipeline from Turkmenistan to India via Afghanistan and Pakistan, otherwise extremely beneficial economically for all parties, is being held up by domestic upheaval in Afghanistan and the India – Pakistan dispute over Kashmir.

However, South Asian nations are being urged to think about taking alternate political and economic paths by China's increased presence, as demonstrated by its Belt and Road initiative. N. Modi, Indian prime minister, has unveiled a development strategy for the distant yet crucially located Northeastern parts of his nation. As a component of Indian basic initiatives, "Act East" and "Neighbourhood first", these objectives are directly tied to the development of Indian networks of international transport corridors and are expected to strengthen its geopolitical influence. The INSTC is pertinent to this article because it will allow India broad access to the markets of Central Asia and Europe.

The CPEC, which connects China to the Pakistani port Gwadar, is a flagship project of the Chinese Belt and Road initiative. The Belt and Road includes the CPEC prominently. It is seen as the symbol of a new era of connectedness and integration in Pakistan and is projected to alter the pattern of economic growth and increase the standards of living for both its citizens and those in the surrounding countries. For China, it is the shortest way to reach the Indian Ocean. The CPEC is not just a turning point in the history of the ties between China and Pakistan; it also stands out among the other six major Belt and Road routes. If the sea route across the Malacca Strait is compromised, the CPEC offers China a geopolitical and economic alternative.

The INSTC is a multi-modal transportation network that connects India, Iran, and Russia via sea, rail, and road routes. It was established at the beginning of the 21st century as a joint initiative to promote trade and economic cooperation among the countries involved and the wider region. The corridor aims to reduce transportation costs and time, increase trade volumes, and act as an alternative to the existing transport corridors.

In light of the above observations, this paper examines the geopolitical significance and issues relating to the INSTC, Indian "Act East" and "Neighbourhood First" policies and CPEC.

Several studies on the state of the Russian transport infrastructure have explored its role in regional and global connectivity and presented a detailed analysis of the INSTC's potential and challenges, including transregional cooperation and integration. Some examples are [1–5]. P. Migulin describes the evolution of the Russian railway system in the late 19th and early 20th centuries, contributing insights into the role of railway policy in shaping Russia's economic and social development [6].

G. Pierre [7] and A. Sajjanhar [8] cover India's "Act East" policy, and N. Rogozhina [9] and D. Baruah [10] write on India's regional diplomacy and strategic partnership. E. Bragina [11] explores the trade relations and potential for further economic cooperation among South Asian countries.

Several studies on China's Belt and Road initiative present relevant findings on China's strategic interests in the Indian Ocean [12–14]. Research on the CPEC addresses questions such as transportation cost, investment in infrastructure, benefits and challenges, and the economic and geopolitical interests of the

[1]Performance of transport corridors in Central and South Asia [Electronic resource]. URL: https://doi.org/10.1596/27797 (date of access: 15.12.2022).

[2]United Nations General Assembly 74th session resolution's political declaration of the high-level midterm review on the implementation of the Vienna programme of action for landlocked developing countries for the decade 2014–2024 [Electronic resource]. URL: https://digitallibrary.un.org/record/3831653 (date of access: 07.01.2023).

third counties are analysed. Some leading studies in this theme are [15–22]. Several writers [23–25] examine the corridor's significance for Pakistan as a transit country, underlining its strategic location, resource potential, role in regional connectivity, new opportunities opened by this project. Several papers consider the agreement on the INSTC, the long term plan for CPEC and the long-term impact of CPEC[3] [26].

However, there has been relatively limited discussion in recent years of the role and significance of the international transport corridors in South Asia and their geopolitical impact. This text contributes new insights on this subject.

The geopolitical aspects of the INSTC

A transport connection between India and Europe via Russia was first proposed at the end of the 19th century. The Russian Empire met the idea with interest, hoping to secure railway access to India's coastline via Afghanistan and Persia [6].

Today, the corridor is a multimodal network of sea, rail and road routes linking Northwest Europe with Central Asia, the Persian Gulf and the Indian Ocean. The agreement on the corridor was signed by India, Iran and Russia on 27 September 2000, during the 2nd Eurasian transport conference in Saint Petersburg. The agreement became effective on 16 May 2002, after ratification by all the parties[4] [26].

Since then, Armenia, Azerbaijan, Belarus, Kazakhstan, the Sultanate of Oman, Tajikistan, and the Syrian Arab Republic have joined as members, and Bulgaria as an observer. Pakistan, Turkmenistan and Afghanistan, while not being parties, are interested in using the corridor. Pakistan may participate as part of the international transportation route that runs from Islamabad to Tehran and Istanbul.

The above corridor may divert some cargo away from the Mediterranean Sea and towards Eurasia, bypassing the Gibraltar Strait and Suez Canal. This would increase the importance and influence of South Asia in world affairs.

Due in part to the sanctions against Iran and the different railway gauges, the INSTC has drawn substantially less freight than the existing Eurasian corridors: Transsib (the Trans-Siberian route) and TRACECA (Transport corridor Europe – Caucasus – Asia). However, the importance of the INSTC has increased recently as a result of closer ties between India and Iran and the member countries of the Eurasian Economic Union, particularly Armenia, Belarus, Russia, Kazakhstan, and Kyrgyzstan, as well as more favourable legal and regulatory regimes around the Caspian Sea.

The expansion of transport routes across Eurasia makes it possible to export, localise industrial output, employ the nations' transit capacity more effectively, and connect landlocked nations and areas[5].

The Covid-19 pandemic's interruptions to the supply chain heightened the demand for alternative logistical solutions. The incident involving a cargo ship flying the flag of Panama that grounded in the Suez Canal and stopped all trade between the Red Sea and Mediterranean Sea served to highlight the importance of INSTC. The incident led to widespread disruptions in global transport networks, a steep increase in freight costs, and significant doubt over the sustainability of supply chains between Europe and Asia. While the INSTC could not replace the Suez Canal, even a 5–10 % traffic diversion would improve its efficiency.

The Eurasian Economic Union needs transport routes since three of its five members lack access to the sea. Similarly, Afghanistan, Bhutan, and Nepal are three landlocked states in South Asia that rely on the infrastructure of their neighbours.

Eurasia has fewer international transport routes per square kilometre than either Europe or East Asia. Although there are several East-West routes, the INSTC is the only meridional corridor. Given that India's economy is expanding quickly, the INTSC might bring significant efficiency advantages for its commerce with Russia and Central Asia.

The southerly shift of the EAEU and the seamless operation of the INSTC have acquired particular significance given the major changes in global geopolitics and the inevitable rearrangement of supply chains in Eurasia following the Ukrainian crisis.

The EU has prohibited entrance for trucks registered in Russia and Belarus[6] as part of its strict sanctions, which poses a significant obstacle to Eurasian commerce and political ties[7].

Thus, the establishment of the INSTC is an important step for the EAEU and Central Asia in enhancing their commercial relations with Turkey, Iran, India, and other nations in South Asia and the Persian Gulf.

[3]Agreement on the International transport corridor "North – South" [Electronic resource]. URL: https://docs.cntd.ru/document/901828641 (date of access: 04.01.2023) ; Long-term plan for China – Pakistan economic corridor (2017–2030) [Electronic resource]. URL: https://www.pc.gov.pk/uploads/cpec/LTP.pdf (date of access: 04.01.2023).

[4]Agreement on the International transport corridor "North – South" [Electronic resource]. URL: https://docs.cntd.ru/document/901828641 (date of access: 04.01.2023).

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[6]*Potaeva K.* The EU has restricted the entry of trucks with Russian and Belarusian numbers [Electronic resource]. URL: https://www.vedomosti.ru/business/articles/2022/04/10/917473-es-ogranichil-fur (date of access: 02.01.2023) (in Russ.).

[7]*Millar M.* How the Ukraine crisis is disrupting global supply chains [Electronic resource]. URL: https://www.brinknews.com/how-the-ukraine-crisis-is-disrupting-global-supply-chains/ (date of access: 15.12.2022).

The INSTC finally moved forward after years of delay when the Eurasian Economic Union was established and a free trade agreement was reached in 2015 under Russia's leadership. The trade potential of Eastern Europe, the Persian Gulf, and India started to be realised actively.

The INSTC is a crucial political and economic option for South Asia, particularly for India as a counterbalance to China's rise.

Given the Western efforts to isolate Russia economically and politically, South Asian states can strengthen their influence on a regional and international scale and use INSTC to diversify their export and import potential. Since the EAEU and Iran signed a free trade agreement in May 2018, nations along the North – South axis have looked for ways to step up their interaction[8]. The Interim free trade agreement with Iran was extended by a protocol agreed in March 2022 until 27 October 2025, or until the entrance into effect of a new agreement, whichever occurs first, to prevent the expiration of the preferential trading system with Iran. The EAEU and India are negotiating a similar FTA[9].

India showed its interest in the corridor by investing 2.1 bln US dollars in the INSTC. This sum helped finance the 500-kilometre Chabahar – Zahedan railway route as well as the Chabahar port in Iran[10]. Now that Chadabar port can handle extra-large cargo ships, India may ship to Iran and Central Asia without going via Pakistan. Thus, the corridor will reach markets in wider Eurasia, including Afghanistan and Central Asia.

From New Delhi's perspective, the INSTC should strengthen its geopolitical influence in resource-rich Central Asian republics (CARs), acting as alternative supplier of energy resources and large markets for Indian goods. Already, India has deepened its collaboration with CARs in trade, energy, defence, counterterrorism, and also in technology and culture through "Connect Central Asia" and other modalities[11].

INSTC is superior to other alternatives, including the deep-water Suez Canal, because of significantly shorter delivery times. For example, it takes 20 to 45 days for cargo from Mumbai to reach inland destinations via Saint Petersburg or Novorossiisk through the usage of the Suez Canal (currently the most widely used option), and 15 to 24 days via the INSTC [4, p. 12]. Delivering via the Eastern Corridor route (through Kazakhstan and Turkmenistan) is even faster – 15–18 days. When the Astara-Rasht railway come into operation, travel times will be reduced even more. Delivery time is critical for products such as food, textiles, home appliances and electronics. However, despite faster delivery, high cost remains a major disadvantage for the INSTC [5, p. 6–7].

The INSTC can contribute significantly to multilateral initiatives and programmes like the Vienna programme of action for landlocked developing countries (LLDC) and the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) Regional action programme for sustainable transport development in Asia – Pacific region (2022–2026), the achievement of the sustainable development goals, and international action on sustainable transport and transit corridors that follow from the UN General Assembly resolutions, and recommendations from two UN global conferences on sustainable transport, in Ashgabat, in November 2016, and Beijing, in October 2021.

Studies by E. Vinokurov, A. Ahunbaev and A. Zaboe estimated the prospective volume of the container and non-container traffic to quantify synergies between the INSTC and the Eurasian East – West corridors. The aim was to propose a new concept for the Eurasian highway and estimate its benefits for LLDCs in Eurasia [3, p. 162–163].

Russian Railways Logistics ("RZD Logistics") launched a regular container service via the eastern branch of the INSTC[12].The train takes up to 31 forty-foot containers and travels across Kazakhstan, Turkmenistan, and Iran, where the cargoes continue by sea to India. Initially, the train will run monthly, but more frequencies may be added later. The return service will be available for deliveries to the Russian Federation.

According to the Russian deputy Prime Minister, A. Overchuk, by connecting North and South, the corridor brings significant developmental benefits, and they are spread widely across the region. Speaking at the international export forum "Made in Russia – 2022", he emphasised that while the East – West corridor supported transit between China and the West, the INSTC contributed to economic development across the EAEU and the CIS[13].

When the Russia – Europe relationship returns to normal, the strengths of the North – South corridor will enhance the transit benefits, making it a strong competitor to the Suez Canal. That will cement collaboration across the region, including between Russia and Iran and within South Asia regionally.

[8]EAEU and Iran signed agreement on a free trade zone [Electronic resource]. URL: https://tass.ru/ekonomika/5207751 (date of access: 05.01.2023) (in Russ.).

[9]The head of the Ministry of Industry of India said about the lack of opportunities for negotiations with the EAEU on the FTA [Electronic resource]. URL: https://tass.ru/ekonomika/15436389 (date of access: 06.01.2023) (in Russ.).

[10]The political economics of the International North – South transport corridor [Electronic resource]. URL: https://thewire.in/world/political-economics-international-north-south-transport-corridor-india-iran-russia (date of access: 15.12.2022).

[11]*Chalikyan N.*, *Tashjian Y.* Geopolitics of the North – South transport corridor [Electronic resource]. URL: https://southasianvoices.org/geopolitics-of-the-north-south-transport-corridor/ (date of access: 15.12.2022).

[12]RZD Logistics launched a regular container train along the eastern branch of the North – South corridor [Electronic resource]. URL: https://portnews.ru/news/print/337737/ (date of access: 10.12.2022) (in Russ.).

[13]In 2022, an active reorientation to the markets of countries lying south of Russia began [Electronic resource]. URL: https://portnews.ru/news/337398/ (date of access: 11.12.2022) (in Russ.).

While the project has been moving forward, it has encountered several constraints, both technical and geopolitical. At the technical level, the slow development of the needed infrastructure has impeded progress, in the absence of a leading actor driving the project politically and financially[14]. Unlike the Belt and Road initiative, backed by China and supported by dedicated financial institutions, the INSTC is proceeding in a more ad-hoc way. Its long-term strategy of financing is largely missing, and funds mostly comes from regional development banks or the participating states. As a result, the corridor is encountering a far larger number of bureaucratic and technical issues such as discrepancies in transport laws, adequacy of insurance coverage, and security of the cargo in transit, among others.

Despite these obstacles, the project has the potential to develop into a significant transportation corridor, an engine for economic expansion, and a hub for regional integration. According to A. Karavayev and M. Tishehyar, this is only feasible if the INSTC attracts active commerce, a flow of goods, and accompanying investment[15]. The long-term viability of the corridor also depends on a coherent regional integration plan and robust institutions for interregional collaboration, policy harmonisation, and digitalisation.

The member states also seek their geopolitical and strategic goals in addition to economic gains. The corridor is seen by Russia, India, and Iran as a possible tool for expanding their international connections, projecting their influence, and enhancing bilateral ties and trade[16].

This study indicates that the INSTC is a crucial component in India's struggle for influence in the South Caucasus, namely in Azerbaijan and Armenia. Azerbaijan is an important partner in the INSTC because of its strategic position, robust infrastructure, and investment potential. The corridor's final segment, the railway link between Astara (Iran) and Rasht (Azerbaijan), is going to be completed with Azerbaijan's insistence. The other route to Iran, meanwhile, goes through Georgia and Armenia, and the Indian ambassador to Iran has often expressed New Delhi's interest in connecting Chabahar Port with Armenia[17].

Azerbaijan and Turkey have been collaborating to create a new land route between the two countries via the Armenian Syunik Province bordering Iran. However, this development has India on guard. In addition to changing the future of the INTCS' Georgian, Armenian, and Iranian sectors, it also allows Turkey the chance to leverage Azerbaijan's strategic location to strengthen its position in Central Asia. India's interests may coincide with Armenia's worries about the Pakistan – Azerbaijan – Turkey axis being strengthened, as it was during the 2020 Karabakh War[18].

The close ties between Pakistan and Turkey worry India the most, especially in light of Ankara's backing of Islamabad in the Kashmir dispute. India's rising worries that Turkey may be aiming to take the lead in South and Central Asia were evident in 2021 news reports of Turkey supporting Syrian mercenaries in Kashmir[19].

We hypothesise that to compete with Turkey and Azerbaijan for influence in this increasingly competitive region, India may be motivated to engage more closely with Armenia on the Armenian component of the INSTC.

India has staked out its geopolitical interests in Central Asia, where the INSTC has become a front of an intense struggle for dominance.

India's increased presence in Central Asia balances China's growing sway, which is projected, among other things, through its multiple Belt and Road transit initiatives, including the 70 bln US dollars CPEC. Indian efforts have helped relieve the CARs' concerns about Chinese hegemony. The INSTC supports Indian aspirations to diversify its energy sources and take an active role in Eurasia.

The INSTC is still in the initial phases of implementation, in contrast to the Belt and Road initiative. With the potential to grow into an important transport and logistics hub for all of Eurasia, it already functions as a geostrategic counterbalance and an alternative to the new Silk Road. It also acts as a supplement to the China – Central Asia – West Asia economic corridor.

India has expressed interest in expanding the INSTC to include Uzbekistan and Afghanistan. A land route via Kabul and Tashkent would create the Eastern branch of the INSTC, thus expanding partnerships. With its increasing influence and commitment to the INSTC, India can maintain the parties' interest in creating the transportation corridor's infrastructure. Already, it is serving as an example of effective energy collaboration with the Russian Federation in the face of anti-Russian sanctions.

Additionally, the Chabahar seaport in Iran and the expansion of the trade corridor to Afghanistan and Uzbekistan may create a significant Eurasian commercial route that links landlocked Central Asian nations to the rest of the world[20].

[14] *Chalikyan N.*, *Tashjian Y.* Geopolitics of the North – South transport corridor [Electronic resource]. URL: https://southasianvoices.org/geopolitics-of-the-north-south-transport-corridor/ (date of access: 15.12.2022).
[15] Ibid.
[16] Ibid.
[17] Ibid.
[18] Ibid.
[19] Ibid.
[20] *Shvaikovsky A.* Will the Iranian port of Chabahar connect India, Russia and Central Asia [Electronic resource]. URL: https://rg.ru/2022/11/30/soedinit-li-iranskij-port-chabahar-indiiu-rossiiu-i-centralnuiu-aziiu.html (date of access: 21.12.2022) (in Russ.).

India also wants Chabahar to develop into a significant logistical and strategic hub on the Oman Gulf. Today, Chabahar is among the top ten global economic and transportation centers. India's interest in Chabahar Port originates from its geopolitical competition with Gwadar Port on the CPEC, a project where China plays a dominant role[21].

The INSTC has the potential for further extension and enhanced collaboration, and it does not end in South Asia, as is evident from the geopolitical analysis. The initiatives of the Indian government under N. Modi, such as the Howrah – Nagpur – Mumbai line, reform of the regulatory environment, and incentives for participating nations, facilitate the corridor's expansion to Southeast Asia.

Geopolitical perspectives of Indian "Act East" and "Neighbourhood first" policies

The Indian government renamed its "Look East" policy to "Act East" under N. Modi's premiership in 2014, it increased its involvement in several regional organisations, including the Bay of Bengal initiative for multi-sectoral technical and economic cooperation (BIMSTEC), which is now seen by India as the main means of regional integration in the South Asian region [7, p. 152]. The South Asian Association for Regional Cooperation has faced growing constraints due to tensions between India and Pakistan; in New Delhi's vision, BIMSTEC should ultimately take its place. The major focus of the "Act East" policy is on strengthening the relationship with the Association of South East Asian Nations (ASEAN).

The "Act East" policy starts in Bangladesh, as Indian Prime Minister N. Modi stated during his visit there in 2014. Another important component of Indian foreign policy is "Neighbourhood First", which prioritises international economic relationships within India's neighbourhood and is particularly focused on trade relations with Southeast Asia [11, p. 68]. A 2018 World Bank analysis found that there are 14 rail and 19 road routes between Bangladesh, Bhutan, Myanmar, Nepal, and East India[22].

Priority has so far been placed on transport routes connecting India's heartland with its Northeast and ultimately with Myanmar. The State of Myanmar serves as a bridge between India and ASEAN thanks to its geographic location, which is important to India for several reasons. First, its 1,600 km border with Myanmar is porous, which raises concerns about the entry of radicals and illegal immigration. Second, there is serious anxiety over Beijing's desire to use Myanmar's frontiers as a passageway to the Bay of Bengal and ultimately the Indian Ocean. Thirdly, Myanmar shows potential as a source of mineral resources.

The "Act East" programme major transportation initiatives include three projects.

The first of them is project for multimodal transit transportation in Kaladan[23]. India is interested in a transit route through Myanmar for geopolitical reasons, including establishing a connection to Southeast Asia and expanding its influence to balance Beijing's pronounced presence. The project establishes a link between Kolkata and the port in Sittwe, Myanmar. The path continues overland to the Indian state of Mizoram through the Kaladan River and Lashio [8, p. 218].

The second project is the trilateral highway project between India, Myanmar, and Thailand[24] (Trilateral Highway). The project's goal is to link Thailand, Myanmar, and the North East of India. From the Indian city of Moreh to the Thai city of Mae Sot, the 1,360 km route passes primarily through Myanmar. This route might eventually be extended to Laos, Cambodia, and Vietnam [9].The project is expected to benefit from the geographical location of the Northeastern Indian states. The Kaladan transit project is seen as essential for improving connectedness with the land-locked northeastern nations. The need for a reliable transport link has never been any stronger in the region. This immediate demand is met by the Trilateral highway study, which also lays out routes for medium- and longer-term integrated connectivity solutions between India and ASEAN[25].

The third project is Agartala – Akhaura rail link between India and Bangladesh. In a speech delivered in October 2022, J. S. Lakra, divisional railway manager for Northeast Frontier Railway, predicted that the railway project would be finished in the middle of 2023[26]. The governments of Bangladesh and India signed a Memorandum of understanding on the Agartala – Akhaura project in 2013[27]. With the 15-kilometre link, the journey from Agartala to Kolkata through Dhaka will take 10 h as opposed to 31 h[28].

[21]What is the INSTC? [Electronic resource]. URL: https://byjus.com/free-ias-prep/international-north-south-transport-corridor/ (date of access: 17.12.2022).

[22]The WEB of transport corridors in South Asia [Electronic resource]. URL: https://documents1.worldbank.org/curated/en/430671534922434794/pdf/The-Web-of-Transport-Corridors-in-South-Asia.pdf (date of access: 02.01.2023).

[23]*Pulipaka S.*, *Singh A. G.*, *Sircar S.* India and connectivity frameworks [Electronic resource]. URL: https://www.delhipolicygroup.org/publication/policyreports/india-and-connectivity-frameworks.html (date of access: 06.01.2023).

[24]Ibid.

[25]Executive summary [Electronic resource]. URL: https://www.eria.org/uploads/media/Research-Project-Report/2020-02-Trilateral-Highway-Report/Executive-Summary.pdf (date of access: 30.12.2022).

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[27]Agartala – Akhaura rail project to be completed in next 4–5 months [Electronic resource]. URL: https://www.hindustantimes.com/india-news/agartalaakhaura-rail-project-to-be-completed-in-next-4-5-months-nfr-official-101665546558545.html (date of access: 23.12.2022).

[28]Ibid.

Additionally, the project will give India a direct train connection between Mumbai and Agartala via Bangladesh. The project would connect Bangladesh to the INSTC, a relevant detail for the topic discussed earlier in the article.

The Indian Prime Minister asserts that his country's interactions with other East Asian countries give rise to opportunities for greater adaptability, mobility, and strategic thinking. The "Made in India", "Skill in India", and "Digital India" programmes all work to advance energy security, infrastructure development, and a transition to smart cities. Additionally, they expand the political possibilities for contesting Beijing's hegemony. The governments of Southeast Asia are wary of China's stance and would want to see India play a more prominent role in the area, as noted by A. Sajjanhar, a former Indian ambassador. Their choices are in line with India's initiatives to forge alliances within the region to cooperate on mutually advantageous projects [8, p. 219].

India will likely put a lot of effort into expanding its exports to Southeast Asian countries in the coming years. To achieve better conditions for accessing these markets through its policy actions, it may choose to join the Regional comprehensive economic partnership (RCEP). Fifteen Asia – Pacific nations, including 10 members of ASEAN, have proposed a free trade agreement called the RCEP. With around one-third of the global population and GDP, the alliance could become the greatest trade bloc in human history. Reduced tariffs, more market access for goods and services, greater commerce, and higher investment are some of the anticipated advantages[29].

In light of this, it is possible to conclude that the current initiatives are crucial to the development of a coherent network of transport corridors that extend beyond South Asia to Southeast Asia. Within the INSTC project, India can and does play a role in bringing Western, Central, South, and Southeast Asia together, and its activities support this role by enhancing India's international standing.

Geopolitical aspects of the CPEP

In all internal and international circumstances, China and Pakistan have maintained a strong friendship and long-standing strategic cooperation. According to a writer of the "Global Village Space Magazine"[30], China and Pakistan must increase mutual trust, foster cooperation, and stand shoulder to shoulder against new challenges as the world goes through fundamental changes and the international landscape become more turbulent, complex, and unstable. By hosting the CPEC, one of the Belt and Road initiative signature projects, Pakistan acts as its crucial partner. The corridor's geopolitical importance has been extensively discussed by academics as a tool for a rising China to maintain a presence in a periphery nation and assert its global leadership. The BRI is centered on the CPEC. As a "symbol of connectedness and integration in a new era", it represents Pakistan's desire to convert regional economic growth into improved levels of well-being for its citizens [13, p. 6].

The corridor links Gwadar, a seaport in Pakistan's Balochistan province, with China's Xinjiang Uighur Autonomous region [24, p. 134]. According to its architects, the corridor would be lined with motorways, roads, railways, pipelines, ports, and information technology parks[31]. One most important elements of the corridor is Gwadar, a gateway for cargo shipped from Western China across the Arabian Sea and the Indian Ocean. After modernisation, the Karakoram highway, the second crucial component, would improve the connection between Gilgit in Northern Pakistan and Gwadar in South[32]. With more than 62 bln US dollars invested in the CPEC by Chinese entities[33], China has shown a greater interest in funding Pakistan's infrastructure than any of Islamabad's other strategic partners [10, p. 15].

To benefit their economies, countries are looking for shorter trade routes to minimise time and costs and conduct more commerce in less time. Through its significant time and cost savings, CPEC serves to expand economic links [15, p. 5–6]. CPEC project's implementation is seen to provide greater opportunities for commerce and enhance regional growth [16, p. 1–3].

In an interview with the"Global Village Space Magazine", G. Khan, president and CEO of Engro Corporation Ltd., said: "The most important economic benefit is Pakistan's potential transformation into a trans-regional trading corridor. Furthermore, it will attract Chinese foreign direct investments (FDI) into special economic zones (SEZs) and contribute to the country's industrialisation"[34].

Pakistan acts as a geopolitical link between China, Central Asia, Western Asia, and South Asia [17, p. 187]. According to a different study, CPEC projects significantly influence how the local population perceives their quality of life, economic possibilities, and ability to escape poverty [18, p. 1–4]. Beijing continues to view

[29]Summary of the Regional comprehensive economic partnership agreement [Electronic resource]. URL: https://www.mofa.go.jp/mofaj/files/100114908.pdf (date of access: 02.01.2023).

[30]*Pirzada M.* Editorial periscope // Glob. Village Space Mag. 2020. Vol. III, issue X. P. 21.

[31]Long-term plan for China – Pakistan economic corridor (2017–2030) [Electronic resource]. P. 26. URL: https://www.pc.gov.pk/uploads/cpec/LTP.pdf (date of access: 04.01.2023).

[32]*Husain K.* Exclusive: CPEC master plan revealed [Electronic resource]. URL: https://www.dawn.com/news/1333101 (date of access: 13.01.2023).

[33]*Hussain S.* China's CPEC investment in Pakistan reaches $62 billion [Electronic resource]. URL: https://www.livemint.com/Politics/dB5tQKISoKNrvl7EwDPFbP/Chinas-CPEC-investment-in-Pakistan-reaches-62-billion.html (date of access: 13.01.2023).

[34]*Khan G.* Speaks to Global Village Space // Glob. Village Space Mag. 2020. Vol. III, issue X. P. 78.

close cooperation with Islamabad as the cornerstone of regional peace, and the CPEP as a great example of the success of the Belt and Road initiative on the continent, according to N. Zamaraeva [19, p. 170–171].

Russia sees Pakistan as a key link connecting the Eurasian Economic Union to the rest of Asia, the Indian Ocean area, and beyond [20, p. 173]. China's profit from the CPEC route's successful completion could amount to 70 bln US dollars [28, p. 4]. Additional benefits are anticipated for both countries after all the infrastructure is complete, and the mode of transportation is switched from sea to land. China is expected to gain from alternative commercial and energy routes and easier access to the Middle East, Africa, and Europe. Overall, CPEC is a complex initiative that gives China the quickest access to the 21st century maritime Silk Road across the Indian Ocean [23], promotes the growth, integration, and connectivity of regional economies and markets [12, p. 4], assures Pakistan's participation in the BRI as a key partner and provides China with a secure economic corridor in a scenario of war in the South China Sea.

Sovereignty, security, and a stronger strategic alliance between China and Pakistan are India's three primary concerns about the CPEC. In Jammu and Kashmir, where the borders of China, India, and Pakistan intersect, these issues are particularly evident. It is difficult to envisage New Delhi connecting its regional infrastructure projects to CPEC, given these concerns. India's participation in the project is viewed as unlikely because of concerns over sovereignty and territorial interests in Jammu and Kashmir.

In his remarks during the 70th session of the UN General Assembly in 2015, the Indian representative, A. Singh, said that "India's reservations about the proposed China – Pakistan economic corridor stem from the fact that it passes through Indian territory illegally occupied by Pakistan for many years". India has informed China of its worries and asked Beijing to halt all works in the area while it closely monitors developments surrounding the CPEC. If the CPEC is allowed to proceed, it will weaken India's sovereignty and strengthen Pakistan's claim to the disputed area [35].

The more enduring military presence of China along its northwest frontier via Pakistan would have an impact on New Delhi's defence and security priorities [22, p. 86].

India reads Beijing's shift in policy towards Kashmir as an indication of a more comprehensive strategic partnership between China and Pakistan[36].

From India's perspective, the CPEC signals China's emergence as Pakistan's principal international ally, replacing the United States. This is happening at a time when the United States' status is diminishing relative to other countries, China – US ties are deteriorating, India – US relations are improving, and new tensions between China and India are escalating. The development of as a land link between China and Pakistan is enlarging the already substantial geopolitical divide between New Delhi and Beijing, while Gwadar provides the BRI's maritime component. In India's view, Gwadar may develop into a potential site of Chinese military activity in the Indian Ocean. Although it is still a civilian port, there are many worries in New Delhi that it could one day transform into a significant naval base for China. If true, China's projection of its naval might may change the balance of power in the area [10, p. 16–17].

The presence of the Chinese navy in the Oman Gulf is due to political considerations, which include, but are not limited to, reducing Indo-US supremacy in the Indian Ocean [14, p. 305–310]. To gain a foothold in this region where the Indian navy has historically dominated, China requires ports and military infrastructure. Cooperation between China and India on this route is now unlikely because of New Delhi's worries about its sovereignty over Kashmir and the declining level of confidence between India and China [24, p. 129].

Because of its limited presence in the Persian Gulf and the Indian Ocean, China has a geopolitical and geostrategic interest in the deep-water port of Gwadar [21, p. 471].

This corridor, unlike any other, embodies China's goal for a new economic and strategic status quo[37].

In case the Strait of Malacca is threatened, CPEC is crucial for China strategically as a backup route to the Indian Ocean. It also serves as a tool for China's rise to regional domination and a vehicle for its military and political influence [25, p. 131].

In addition to being a significant turning point in China and Pakistan's friendship, the CPEC also stands out among the other six important corridors of the Belt and Road and offers extensive potential for continuous collaboration.

Importantly, CPEC promotes connectivity and regional collaboration. However, it has sparked strategic worries from several important powers, most notably India. The success of CPEC, Pakistan's economy, and eventually the region's prosperity depends on India and Pakistan's ability to reevaluate their regional strategies and normalise their bilateral ties. The Pakistani-Indian peace dialogue has so far been sporadic and centered more on political and ideological disagreements than on the countries' common interests in economic development and cultural exchange.

[35]Statement by First Secretary, Permanent Mission of India to the UN, exercising India's right of reply during the general debate of 70th session of UN General Assembly [Electronic resource]. URL: http://mea.gov.in/Speeches-Statements.htm?dtl/25872/Statement by First Secretary Permanent Mission of India to the United Nations exercising Indias Right of Reply during the General Debate of 70th session (date of access: 12.12.2022).

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Conclusions

The world's largest region in terms of both area and population is Asia. As the most populated region in Asia, the region covered by this study offers tremendous potential for commerce, economic cooperation, and greater integration.

Transportation infrastructure and integration have a complicated relationship, as our analysis shows. Contacts among nations are strengthened via transport infrastructure, and ITCs support many forms of international collaboration. According to our examination of South Asian international transport corridors, geopolitics and the predominance of national interests determine how countries engage along these corridors. As follows from our analysis, the region covered gives international transport projects a high priority as they are crucial to the growth of the individual nations and the region as a whole.

If India and Pakistan could settle their differences, regional ties might be enhanced and reinforced. India can build contacts with the Russian Federation and Central Asia through the INSTC while avoiding its regional competitor, Pakistan. By spending 2.1 bln US dollars, including the expansion of port "Chabahar" in Iran and the building of the 500-kilometre Chabahar – Zahedan railway line, India has demonstrated its interest in the INSTC project. port "Chabahar" competes directly with Pakistan's port "Gwadar".

The INSTC serves as both an economic and political development engine for India and a check on China's expanding regional dominance. South Asian countries have a chance to expand their regional and global influence as a result of the Western political and economic blockade of Russia. The INSTC might be used by EAEU members as a means of diversifying imports and export.

India makes a substantial contribution to the creation of a coordinated network of transport corridors both inside and outside of South Asia with its "Act East" and "Neighbourhood first" projects. From a geopolitical perspective, India may be a key player in the integration of Western, Central, South, and Southeast Asia. It strives to expand its influence internationally and uses the INTSC as a vehicle to project its soft power.

Across the border, China and Pakistan are building the CPEC. The corridor stands out among the Belt and Road's six main economic arteries and gives China speedy access to the Indian Ocean. It also marks a significant turning point in the history of ties between China and Pakistan. Additionally, the CPEC acts as a geopolitical and economic alternative to the Malacca Straits, China's primary accessway to the Indian Ocean. Simultaneously, China and India are changing the pattern of influence in South Asia, as indicated by the expanding roles of China and India in multilateral economic and security diplomacy (e.g. as members of the G20), and the variety of other international entities participating. It appears that a new global order is taking shape, with China, the United States, Russia, and India actively pursuing their interests while the EU members perform a difficult balancing act.

South Asia is entering the geopolitical and economic centre stage in this shifting geopolitical landscape. Regional integration might spread over all of Eurasia with improved connectivity. Russia conducts a balanced foreign policy in South Asia and may make a substantial contribution to this integration along with partners such as China and Pakistan, as well as India, Iran, and Afghanistan [20, p. 174].

In the South Asia region, an integrated transport and logistics system would aid in several local and international policy objectives, such as job creation, reducing unemployment, and stemming out-migration.

In conclusion, the continuing international transport corridor projects in South Asia contribute to a greater level of regional integration and the involvement of every state in world affairs. Despite the disagreements, conflicts, and issues impacting its states, the area has enormous potential to connect Central, Western, and Southeast Asia. It is impossible to overstate the significance of international transportation routes in this area with a large population and vast territory.

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INBOUND TOURISM TO SOVIET BELARUS DURING THE KHRUSHCHEV'S THAW AS A COLD WAR FRONTLINE

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The author of this article examines the use of inbound tourism to the BSSR during the Cold War for promoting the Soviet way of life abroad. Despite a tripling of foreign visitors number during the Khrushchev's thaw era, inbound tourism continued to serve the same primary purpose as in earlier decades: to convince foreign audiences of the indisputable merits of the socialist system and the Soviet way of life while enticing more people to visit. With this objective in mind, the technical framework and intellectual foundation for the reception of foreign tourists were built. At the centre of this endeavour was the agency "Intourist", which worked closely with the Soviet government, Communist party organisations, and secret services. International guests were also received by the international youth tourism bureau "Sputnik" and the Belarusian society for cultural relations with foreign countries, which later changed its name to the Belarusian society for friendship and cultural relations with foreign countries. The impressions and attitudes of foreign visitors towards the Belarusian Soviet reality are reconstructed from a body of hitherto unstudied archive papers and magazines. Tourism was a crucial tool for the Soviet Union in projecting its ideology. It was becoming an increasingly significant weapon in its political confrontation with the West given the continually increasing number of tourists. Yet tourism was not only solidifying the opposing ideologies' stances, it was also bringing them closer together, and public diplomacy was crucial in this process.

Keywords: BSSR; inbound tourism; Cold War; ideology; propaganda; tourist service.

НА ТУРИСТСКОМ ФРОНТЕ ХОЛОДНОЙ ВОЙНЫ: ВЪЕЗДНОЙ ТУРИЗМ В БССР ЭПОХИ ХРУЩЕВСКОЙ ОТТЕПЕЛИ

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Анализируется использование въездного туризма в БССР как одного из инструментов популяризации советского государства за рубежом в период холодной войны. Иностранный туризм хрущевской оттепели сохранил черты предыдущего периода, однако в рассматриваемое время наблюдалось многократное увеличение туристских потоков. Необходимо было не только привлечь иностранцев к совершению путешествий по БССР, но и убедить их в абсолютном преимуществе социалистического строя и советского образа жизни, для чего создавалась соответствующая инфраструктура и обеспечивалось идеологическое сопровождение зарубежных туристов. Основным координатором этого процесса в рассматриваемый период являлась организация "Интурист", которая тесно взаимодействовала с советскими партийными органами, а также со спецслужбами. Также прием иностранных гостей осуществляли Белорусское общество культурной связи с заграницей (в 1958 г. переименовано в Белорусское общество дружбы и культурных связей с зарубежными странами) и бюро международного молодежного туризма "Спутник". Вводи-

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мые впервые в научный оборот архивные документы и материалы периодики позволили реконструировать отношение иностранных туристов, численность которых с каждым годом неуклонно росла, к белорусской советской действительности. Въездной туризм оказывал значительное идеологическое влияние на зарубежную аудиторию, являлся инструментом политического противостояния Западу. Одновременно расширение туристических связей способствовало не только укреплению позиций противоборствующих сторон, но и взаимному открытию друг друга, в том числе с помощью народной дипломатии.

Ключевые слова: БССР; въездной туризм; холодная война; идеология; пропаганда; туристическое обслуживание.

Introduction

The peaceful coexistence of the socialist and capitalist regimes became a cornerstone of Soviet foreign policy after J. Stalin's death. N. Khrushchev viewed coexistence as a never-ending struggle with the West in the areas of politics, ideology, and culture. In reality, the Soviet Union's foreign policy was divided between the need to compete with the West and to cooperate with it. Its dualism resulted from this fundamental trade-off.

The doctrine promoted a rise in mass inbound tourism and more interactions between Soviet residents and foreigners. Even in the early Khrushchev's thaw years, the diversity of tourists was impressive. Among them were veterans of the German labour movement, French school teachers, Swedish footballers, Indonesian legislators, and Icelandic union leaders. The Paris Grand Opera vocalist R. Gore, the Belgian pianist A. de Vries, and the Australian violinist B. Kimber all had performances on the Minsk theatre stages in 1960. In September 1961, the Belarusian State University established a foreigner preparation programme. Children from France, Italy, the Netherlands, Austria, and Finland spent their summer vacations in pioneer camps in Belarus. The first Minsk travel guide was published in English, Spanish, and Mandarin [1].

A. Mickiewicz's great-grandson, the French journalist E. Horetsky, expressed his happiness with the way his distinguished ancestor's memory was honoured at his birthplace in the city of Novogrudok in 1957[1]. N. Khodasevich-Léger visited Minsk in 1959 with her husband and two sons of the general secretary of the French Communist party, M. Thorez, and left with a quite favourable impression [2, p. 37]. A "New York Times" journalist J. Reston referred to Minsk as "a symbol of the Soviet government's achievement in reconstruction" in October 1957. The peasants "felt confidence", according to him, and "ate well". The Western region of Belarus, he continued, reminded him of "the enormous planes of the United States beyond the Mississippi River"[2].

Several historians and experts in international relations have studied the interactions between Belarusians and foreigners in the late 1950s and early 1960s. V. G. Shadursky looked at how individuals during the Cold War communicated their ideas through literature, film, theatre, and the visual arts [3, p. 63–146]. I. M. Aulasenka detailed how Belarusian authors came into contact with the West and utilised creative discourse to sway Belarusians' opinions against it [4, p. 136–187]. By concentrating on the economy of travel exchanges between the People's Republic of Poland and Soviet Belarus, G. F. Shapaval depicts the rise of mass international tourism in Belarus in the mid-20th century in his study of the history of Belarusian tourism [5, p. 109–122, 141–151]. M. B. Nesterovich showed in his article the "people's touristic economy", the smuggling of products by residents of Soviet Belarus and the Polish People's Republic in particular [6, p. 303–307].

Inbound tourism in Soviet Belarus, however, has not been thoroughly explored as a unique socio-economic and political and ideological phenomenon during the Khrushchev era, as our review of the existing literature reveals. This study demonstrates how inbound tourism played a crucial role in socioeconomic communication in Soviet Belarus. The Belarusian communist party's top officials viewed foreign travel as a front in their ideological confrontation with the West and devoted a growing number of personnel and resources to it.

Creation of tourist infrastructure

The Council of Ministers of Soviet Belarus founded the department of foreign tourism in 1953. Belarus' Ministry of Interior eased significantly the restrictions on foreigners' movement. The Kremlin did not respond to the "signal" given by the first secretary of the Central committee of the Belarusian Communist party N. Potolichev, that this decision "gives a chance for enemy agents to access the territory of Belarus with impunity"[3] (hereinafter translated by us. – *A. H.*). The Belarusian society for cultural relations with foreign countries hosted 53 foreign delegations from 23 countries between 1953 and 1958. International youth tourism bureau "Sputnik" was launched in 1958.

The joint stock company for international tourism "Intourist" established itself in Minsk in 1955, and in Brest several months later. Foreign visitors number increased significantly thereafter. The Communist party charged "Intourist" with the duty of developing positive impressions of the USSR and the successes of its socialist

[1] *Mirachycki L.* Adam Mickiewicz's great-grandson in Novogrudok // Litaratura i mastactva. 11 May 1957. No. 38. P. 4 (in Belarus.).
[2] American correspondent Reston about visiting Belarus // Sov. Belorussiya. 15 Oct. 1957. No. 236. P. 4 (in Russ.).
[3] Natl. Arch. of the Repub. of Belarus (NARB). Fund 4p. Invent. 100. File 6. Sh. 58–59.

system in addition to its apparent function of catering to tourists. The board of "Intourist" required from its partners abroad full payment for the whole spectrum of tourist services, including the constant accompaniment of visitors by local guides, to retain the highest level of control over tourists. Many visitors, especially those from capitalist nations, were perplexed and even upset by this service arrangement. Still, it was powerless to halt the rising interest in a nation engaged in a remarkable social experiment under the guise of communism. The number of tourists served by the Minsk branch of "Intourist" increased from 500 in 1956 to over 3,000 people in 1957. About half stopped in Minsk only briefly while passing through[4] (fig. 1).

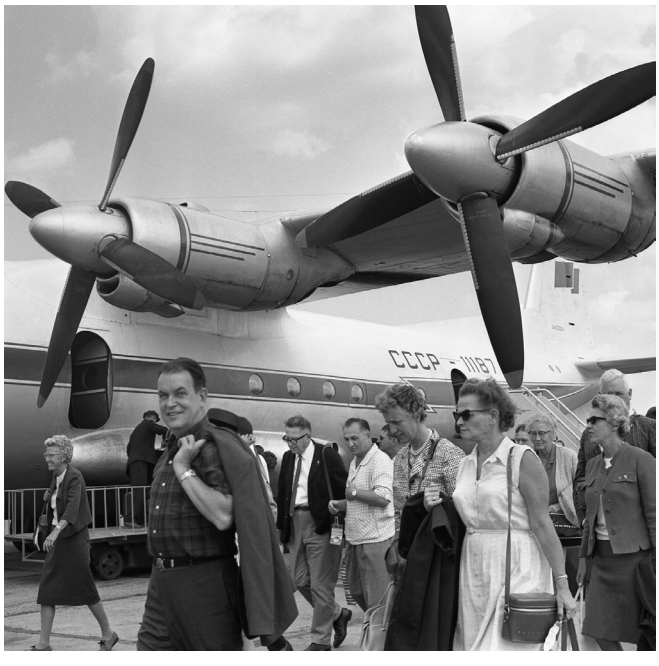

Fig. 1. A group of American photographers upon arrival at the Minsk airport (1966). Source: Belarusian State Archive of Audiovisual Documents (BSAAVD). 0-077477

During the Khrushchev's thaw period, the Soviet Union's accomplishments in post-war reconstruction, science, and culture, as well as its international stature, attracted significant attention and prestige. Soviet victories in the space race sparked curiosity and jealousy in the West. International tourists praised Minsk's new housing neighbourhoods and its educational, cultural, and recreational facilities.

Nonetheless, despite the increase in tourism, service options frequently remained constrained. The major barriers were a lack of proper tourism infrastructure, poor service, and a general inability to satisfy the growing levels of expectations. For example, in June 1960, the Belarusian KGB chief V. Petrov alerted the first secretary of the Belarusian Communist party K. Mazurov that the entire route from Brest to the border with the Russian Federation was lined with numerous old homes houses, barracks, half-destroyed barns, and steambaths. This was especially true in the districts of Gorodishchi, Stolbtsy, and Dzerzhinsk. He thought that the cinema "First", built in Minsk during the nazi occupation, made a negative impact on visitors[5].

East German passengers on a "friendship train" in May 1959 made the following remark: "You have constructed lovely residences, it appears like you love your people and let them rest well, but why are you embarrassing yourselves with such bad bathroom hygiene?"[6]. The lack of information desks, fast food restaurants, porters, and reliable long-distance phone service in Belarus irritated tourists from capitalist countries even more. Many of these flaws increased the doubts that foreigners had about the Soviet way of life.

Between the middle of the 1950s and the beginning of the 1960s, the Belarusian government made substantial efforts to improve the number of lodging alternatives, develop and repair roads, preserve landmarks, and enhance the availability of souvenirs and other tourist-related goods. The Belarusian Council of Ministers enacted the resolution of 7 February 1956 "On enhancing the reception and serviced for foreign delegations and foreign visitors". Dissatisfied with the speed and quality of its execution, the government promulgated on 20 March 1957, a further resolution, "On measures to enhance the hospitality and other services for foreign delegations

[4]Foreign guests in Minsk // Sov. Belorussiya. 25 September 1957. No. 227. P. 4 (in Russ.) ; Foreign tourists // Sov. Belorussiya. 11 June 1957. No. 136. P. 4 (in Russ.).
[5]NARB. Fund 4p. Invent. 62. File 531. Sh. 281.
[6]Ibid. File 509. Sh. 121.

and inbound tourists". The situation finally started to get better. A list of specific actions to promote the republic's tourist infrastructure from 1960 to 1965 was contained in a third resolution of 13 November 1959 "On measures to expand the services for foreign visitors"[7].

The USSR Cabinet of Ministers enacted a historic decision of 28 January 1961 "On enhancing services for foreign motorists on Soviet roadways", as a consequence of the work done by the government committee headed by A. Kosygin. The proposal included a detailed plan for the construction of petrol stations, service stations, lodging and catering facilities, as well as a system of orientation in English. The resolution also noted the nearly total lack of infrastructure for auto tourism, including on the Brest – Moscow highway. Even provisions for the restaurants along the routes taken by international tourists (crabs, caviar, milk, juices, wine, and coffee) were included. The camping location in Volchkovichy, outside of Minsk, already had a satisfactory food outlet running when the mentioned resolution was enacted[8].

The renovation and modernisation of hotels and restaurants that catered to foreign visitors were required by a decision dated 9 April 1962, which replicated the USSR Communist party resolution "On developing tourism ties with foreign countries". Restaurants had to improve their menu selections, culinary standards, and customer service. To upgrade services for organised tourists, buses would be equipped with sound systems, tour guides would be supplied with instructions and reference materials, and albums, brochures, and postcards would be printed in foreign languages[9].

The Belarusian Cabinet of Ministers established the department of international tourism in May 1964, responding, in large part, to a sharp increase in the number of foreign visitors. Its duties included anything from running petrol stations that provided high-quality fuel to foreign visitors to educating tour guides on politics and ideologies. When the 6th Annual world festival of youth and students was held in Moscow in 1957, nearly 110,000 foreign visitors learned about Belarus. In the following year, which was more typical, inbound tourism fell by 50 % but continued its upward trend. 19,817 of the 72,604 foreign visitors to Belarus in 1968 visited Minsk. 14,018 of these tourists were nationals of capitalist nations, including, but not limited to, the United States, Germany, Italy, Belgium, France, and the United Kingdom. Around 70 % of them were motorists[10].

In June 1964 the Council of Ministers identified among its foreign tourism office's top priorities the construction of a 400-bed hotel for foreign visitors to Minsk. Originally named "Beryozka", it opened under the name "Yubileinaya" in 1968. A hotel for foreign motorists for 200 beds was another priority with which the tourism office was entrusted. The motel-camping "Minskii" opened its doors in 1967. Finally, the foreign tourism office was tasked with organising trade in convertible currency through a network of "Beryozka" shops. In 1968, the network's total sales amounted to 321.9 thousand convertible roubles[11].

The department of international tourism's limited personnel, led by Belarusian career diplomat P. Astapenko, had to deal with several everyday difficulties in addition to its pressing obligations. An excerpt from a 1965 report by a Moscow inspector sheds light on the nature of these challenges. The inspector determined the following after evaluating Brest's facilities for international visitors: "The furnishings at the border crossing are worn out and neglected. The windows are dressed with lavish, worn draperies. The employees' quarters at the customs are in a sorry state. The table is damaged, and the sofa and chairs are outdated and filthy. However, at the sanitary station, the furniture is beyond reproach. The border crossing point has no running water. The building's roof leaks during heavy downpours. The equipment at the fuel station is outdated, unsightly and generally in bad condition. The one motel in the city, Boug, provides subpar amenities"[12].

Foreigners were often dissatisfied with the way the Soviet customs conducted their business. Customs personnel occasionally overreacted out of fear of spying. As an illustration, an 80-year-old Canadian called Churila, a native of Smorgon, "wept helplessly" when a handful of soil from his homeland that he had wrapped in a handkerchief was taken from him for radioactive testing as he was passing through customs in Brest[13].

To address the acute shortage of trained personnel for receiving foreign visitors, the Minsk State Pedagogical Institute for Foreign Languages introduced language courses for professionals in 1960 and two secondary schools in Minsk (school No. 24, school No. 64) offered comprehensive language programmes. The translation departments of the Minsk State Pedagogical Institute for Foreign Languages were created in 1964 by the faculties of English, German, and French.

"Through the looking glass", Soviet style

Because of the Cold War between the United States and the Soviet Union, travellers on both sides faced considerable limitations on where they could visit. As part of its "peaceful coexistence" policy, the Soviet leadership that succeeded J. Stalin in 1953 eased travel restrictions for foreigners. However, even as it worked to improve

[7]NARB. File 462. Sh. 60 ; Ibid. File 532. Sh. 88–91.
[8]Ibid. File 551. Sh. 52–57.
[9]Ibid. File 595. Sh. 281–285.
[10]NARB. Fund 100. Invent. 2. File 1. Sh 1.
[11]Ibid. File 1. Sh. 2–3 ; Ibid. File 11. Sh. 4.
[12]Ibid. File 7. Sh 7.
[13]*Karpyuk A. N.* Parting with illusions. Hrodna ; Wrocław, 2008. P. 140 (in Belarus.).

the infrastructure for tourists, it also sought to control every aspect of a visitor's journey to ensure that they only saw the best of the Soviet Union. No visitor could enter Soviet Belarus without some status, such as a tourist, businessman, or diplomat. There was little room for a tourist's personal preferences because everything about their programme and agenda was scheduled. Visitors were escorted, and their arrival times and accommodations were planned. The Starobyn Communist party committee meticulously planned the visit of N. Sharko, a US citizen and a Belarusian emigrant to his home in a Starobyn district village in 1960.

10 May. To arrive at Metyavichi village. To stay with the son for the night. To meet the family members.

11 May. From 11:00 to 17:00. To see the daughter in the same village. Then to visit the cooperative farm. To stay with the son for the night.

12 May. From 11:00 to 14:00. To visit the sister in the village; after 13:00 to go back to the son's residence. The second sister arrives from Sakovichi.

13 May. From 15:30 to 17:00 to visit the Metyavichi secondary school, to have lunch and free time from 13:00 to 15:30, 11:00 to 13:00 to visit the village store, club, and library. To spend the evening viewing a movie.

14 May. From 12:00 to 16:00 to visit the Chkalov cooperative farm, Pogost secondary school and the village hospital. To return to the son's house at 16:00 and to rest.

15 May. To visit the city of Soligorsk from 12:00 to 16:00, and to observe the construction of the potash factory. To return to the son's house at 16:00 and to rest[14].

The party and government entities created a confidential list of locations recommended for visiting by foreign delegations as a follow-up to the Central Committee of the Belarusian Communist party's 1955 decision "On improving reception of foreign delegations visiting Soviet Belarus" adopted on 29 September 1956. In addition to the State Art Gallery, the Great Patriotic War Museum, and the State Literary Museum of Yanka Kupala, it also included the Minsk Tractor Plant, Minsk Printing Works, the television studio, the Belarusian State University, the State Library of the Belarusian SSR, the central bookstore, and the top kindergartens and schools across the capital. Similar lists were created for regional centres at the start of 1956. Local government officials in Mogilev, for example, chose 39 tourist attractions[15].

Throughout the latter half of the 1950s, there were more places that foreigners could visit. By 1961, around 100 sites were open in Minsk alone. The list was expanded in 1965 to include lake Naroch, Belovezhskaya Pushcha National Park, and several hunting resorts. Industrial businesses and communal farms, on the other hand, were removed from the list. Unofficially, it was said that the production process was being negatively impacted by foreign visitors[16].

The Communist party was focused on ideology, while the government was largely concerned with tourism logistics. For example, the resolution "On measures furthering the development of foreign tourism in the Belarusian SSR" adopted on 1 December 1959 required that all excursion materials for foreigners be approved by the ideological department of the party committee of the city of Minsk. Moreover, it stipulated that a training conference be organised in Minsk in 1960, to which the tour guides and employees of the suggested tourist attractions would be invited[17].

On 15 May 1965, the Belarusian Communist party's Central Committee adopted a resolution titled "On steps to increase propaganda work among foreign visitors to soviet Belarus". According to the resolution, public commissions would be established to oversee activities involving foreign visitors and would report to the party committees of the cities of Minsk, Brest, and Grodno. Writers, artists, and composers were expected to demonstrate a thriving cultural life during their arranged contact with tourists. The best Belarusian films and books were being translated for this purpose, and multilingual leaflets on the socialist way of life were being prepared[18].

Foreign visitors from capitalist countries received "operational escort" from the KGB's 7th directorate. This round-the-clock surveillance was put in place to halt "unwanted" interactions and activities as well as to stop deviations from the pre-approved routes. In the early 1960s, a dedicated KGB telephone line was constructed along the Brest – Moscow route to help with this activity. "The rules on the residence of foreigners and stateless people in the USSR", in 1962, provided a legal foundation for KGB activities among foreigners. A secret addendum governed the deportation of foreign nationals for spying, anti-Soviet activities, and speculation on items like clothing or consumer goods[19].

Much like the party ideologues and secret agents, tour guides and interpreters were in the vanguard of the Cold War battles in the travel and tourism industry. Summer was the busiest time. For example, 11,177 tourists took part in almost 600 tours of Minsk in 1965 alone[20]. Tour guides were advised on how to engage in debates about ideologies and respond to uncomfortable questions. A tour guide's ability to steer visitors away from the negatives and towards the positives was seen as a crucial talent. It was expected that tour guides would be so kind and caring towards the visitors that they would feel too ashamed to make negative comments.

[14]NARB. Fund 4p. Invent. 53. File 62. Sh. 164.
[15]Ibid. Invent. 62. File 453. Sh. 41–42, 144–148.
[16]Ibid. File 601. Sh. 6.
[17]Ibid. File 542. Sh. 288–290.
[18]NARB. Fund 100. Invent. 2. File 2. Sh. 9.
[19]Ibid. Fund 4p. Invent. 62. File 585. Sh. 28–37.
[20]Ibid. Fund 100. Invent. 2. File 5. Sh. 10.

Still, it was believed that answering biassed questions were essential for propaganda. A tour guide had to be prepared to address questions such as why there was only one political party in the USSR, if there was any private farming allowed in Soviet Belarus, whether there were German army cemeteries, and even why Minsk's large billboards were so unpleasant. Foreign visitors also questioned why women were working physically taxing jobs like building pavements and why Belarusians appeared to choose foreign goods and films over domestic ones. The information section of "Intourist" gathered and examined these and other unsettling queries before coming up with suggested answers.

It was suggested to use public sector volunteers in counter-propaganda efforts as inbound tourism increased. In November 1963, A. Lisovsky, director of the Minsk office of "Intourist" met with the Belarusian Communist party leader P. Masherov and proposed creating teams of Komsomol activists, high school students, and young professionals to explain the merits of the Soviet way of life to tourists who were interested not only in theatre, museums or old churches but also in politics[21].

Lost in translation

Notwithstanding restrictions on visitors' autonomy and freedom of movement, the system for showcasing the advantages of the Soviet way of life occasionally broke down.

Brest citizens, for instance, said in a letter to N. Khrushchev in October 1960 that their city served as the entrance to the USSR for all visitors, delegates, and foreign dignitaries. Tourists from outside visited the shops, inquired about prices and costs, made notes, and took photographs. "The Soviet Union announces in print and on the radio that it has surpassed the United States in terms of meat and dairy product consumption. However butter, fats, and even sunflower oil had been unavailable in Brest for more than two months. There is no meat, either, and even groats of buckwheat have been out of stock for a while. Where is all of it? Why are people standing up as they did to buy food during the war if we are the richest and have everything? How deplorable! Both our allies and adversaries call us beggars at home," read the letter[22].

In private conversations with the locals, tourists learned information that was at odds with the idealised perception of Soviet reality. A Russian-speaking German tourist approached an old woman on the street in Minsk and inquired about her life. The woman replied that she lived in a room of 7 m^2, had recently laid her mother to rest, and was making 300 rubles per month[23]. Three locals stopped the Federation of Russian Canadians members as they were going through Sherashava village in the Pruzhany district and declared that "this is how our life is today. It is because of the Bolsheviks who have dispossessed us. Nonetheless, you are dressed smartly".

A Belarusian emigrant named D. Gorbatsevich visited his birthplace, a village in Slutsk district in 1966, and lamented "the deep degradation" of the villagers from the "huge quantities of moonshine" they frequently drank[24].

With their cameras, foreigners documented the queues, squalor, and drunkenness. The public who still viewed Westerners as them versus us, treated them with growing suspicion and occasional mistrust. In 1961, a group of watchful Minsk citizens barred two West German professors from photographing intoxicated people, partially destroyed dwellings and shabbily dressed peasants. The photo cassette was taken in reaction to the public outcry, the academics received a warning, and rules were created to prevent future occurrences of this kind[25]. During the same tourist season, several Minsk citizens intervened when French photographer R. Gué was photographing a nine-year-old pupil. They thought the image would show the child as a beggar[26]. Several British World War II veterans were taken to a police station in the summer of 1968 after they photographed themselves standing in a lengthy line in front of a barrel of dry wine on a Minsk street[27].

It was thought that Western provocateurs were sending tour groups to Soviet Belarus to undercut Soviet propaganda. The administration of the Minsk State Pedagogical Institute for Foreign Languages reported that the English and French philology students who came to Minsk in the 1967/68 academic year to study Russian in the first summer courses may have been assigned the task of gathering intelligence through "inappropriate" means, such as speaking with the residents or taking pictures of forbidden objects. The institute also complained that most students rejected narratives about the heroic past and the sacrifices made by the Belarusian people during the Great Patriotic War and declined to visit any sites connected to these topics while in Minsk[28].

To present the USSR as a forward-looking nation, the party ideologists supplemented the war theme with the topic of the welfare state that its citizens were enjoying. Free housing, healthcare, education, and other benefits were emphasised. Visits were organised to model summer camps where children could rest for free. Still, many visitors remained unimpressed. To highlight achievements in industrial production was even harder. Nevertheless, the best communal farms and cutting-edge enterprises were shown to tourists.

[21]NARB. Fund 4p. Invent. 62. File 625. Sh. 96.
[22]Ibid. File 548. Sh. 118.
[23]Ibid. File 509. Sh. 121.
[24]*Gorbatsevich D.* Two month visiting the collective farmers (notes of American tourist). New York, 1967. P. 47.
[25]NARB. Fund 4p. Invent. 62. File. 571. Sh. 216.
[26]*Stralcow B.* Sensation on a dump // Zviazda. 22 August 1961. No. 198. P. 4 (in Belarus.).
[27]NARB. Fund 4p. Invent. 62. File 718a. Sh. 62.
[28]Ibid. Invent. 73. File 283. Sh. 77.

On a visit to the Minsk Worsted Factory in 1961, Italian communists were astonished to discover that Belarusian weavers had harsher working conditions and fewer holidays than their Italian colleagues. They also noted that, compared to floor workers, the compensation of technical and engineering staff was low[29].

After visiting the Minsk Motorcycle Plant, A. Harris from the metalworkers' union in the city of Nottingham claimed that similar businesses in his country had made significant strides in increasing worker autonomy, improving working conditions and making the workplaces cleaner and more pleasant. Harris said that for every 42 hours worked, employees at a comparable plant in Britain had two days of rest. His firm "Raleigh" produced 1,800,000 bicycles a year, while the Minsk factory, with the same 6,000 employees, only made 320,000[30].

New Zealand poultry farm managers surprised their counterparts at the Minsk Poultry Plant by revealing that most international facilities kept their production areas lit and played music to increase productivity[31].

The ideologists of the Khrushchev era supported internationalism as a unifying force among the significant ethnic variety. By showcasing how the various ethnicities in the Soviet Union were keeping their identities, they hoped to improve the country's appeal. Visits to the Union republics were intended to show off their vibrant cultures. Yet, intense Russification of Belarus left little space for even a passing ethnic influence.

G. Veresov, a chess player and the head of the Belarusian society of cultural relations with foreign countries, wrote to T. Kiselev, the secretary of the Belarusian Communist party Central committee: "In 1954, members of a Polish delegation made the informal comment that they had seen too much of Russia and not enough of Belarus during their visit to the republic. Other delegations have expressed similar views. In contrast to other Soviet republics, ethnic distinctions are hardly noticeable in Soviet Belarus. Signs, posters, slogans, and billboards are frequently in Russian, even in Minsk, the capital city. Amateur and professional troupes and choirs rarely performed Belarusian music, dance and drama. Polish and Czech troupes sometimes offered more Belarusian content. The Belarusian Publishing House commissioned few translations of works by Belarusian writers[32].

When visitors brought up sensitive topics or made disparaging remarks about what they observed, host organisations in Belarus usually saw them as provocateurs. Guides and interpreters were formally tasked with responding to these insinuations. F. Herrington, a photo reporter for the publication "Look", visited Minsk as a wealthy tourist on 15 June 1967. According to an incident report, "he has shown utter disregard for the situation ever since he arrived. He made it clear that he was here on business and immediately wanted to be brought to the city to snap photos. F. Herrington wanted to see historical cemeteries and meet an abstract artist". Instead, the American photographer was taken to see a bested factory's model kindergarten. As an alternative to meeting an abstract artist, he was offered a visit to A. Bembel's studio. F. Herrington finally warmed to Belarus after a meeting with P. Rumyantsev's relatives at the House – Museum of the 1st Congress of the Russian Social Democratic Labour Party, as the "Intourist" official's incident report claimed[33](fig. 2).

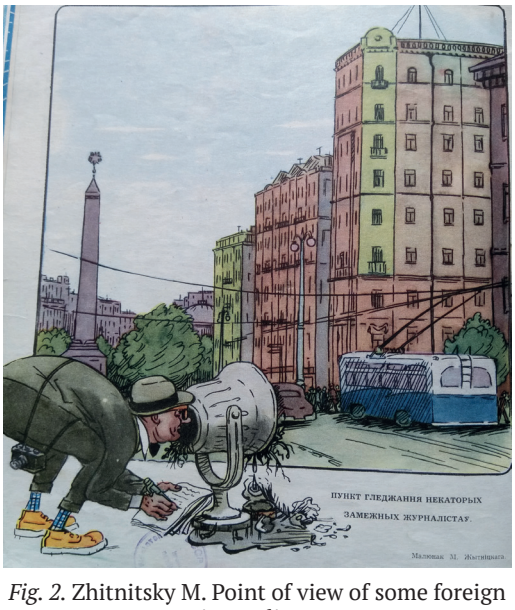

Fig. 2. Zhitnitsky M. Point of view of some foreign journalists.
Source: Vozhyk. 1959. No. 18. P. 12

[29]NARB. Invent. 62. File 571. Sh. 265.
[30]Ibid. Sh. 54.
[31]Ibid. Sh. 202.
[32]NARB. Fund 4p. Invent. 62. File 469. Sh. 77.
[33]Ibid. Invent. 47. File 562. Sh. 138–143.

In 1964, the "Intourist" office in Minsk refused to take an American-Canadian group of geographers on a landscape tour of Polesye after consultation with the secret services. A heated dispute ensued[34]. The Federation of Russian Canadians occasionally reported difficulties with visiting relatives of Canadians who lived close to secret locations.

J. Sorokin, an American visitor, was expelled from Soviet Belarus in June 1965 after an attempt to visit his family while on a group tour to Minsk. His countryman J. Leon was also deported after offering a private driver his gold watch in exchange for taking him to his relatives in Bobruisk[35]. J. Sigelman, an American guest at the hotel "Minsk" in August 1965, asked a porter to arrange a trip to his family outside of Minsk. A police patrol followed and stopped him along the way. As many as 10 foreign nationals were deported from the BSSR in 1965, according to V. Petrov, head of the Belarusian KGB[36].

During the Cold War, the US, the UK, and West German intelligence services sent agents to Belarus posing as tourists, according to the KGB. For instance, testifying before the court of the Belarusian military district, in March 1966, BND (Bundesnachrichtendiehst) agent A. Piotrovsky admitted to carrying out an intelligence operation and recruiting his brother while visiting Belarusian territory as a tourist on 30 August 1965[37].

In addition to using spies, Western intelligence services also smuggled written materials to stir up anti-socialist sentiment. A. Lisovsky explained in detail the technology used in this activity in his report to P. Masherov on the outcomes of the 1961 travel season. He described instances where hotel "Minsk" staff found anti-Soviet literature in restrooms, corridors, under rugs, and in other places. Some American visitors attempted to distribute pamphlets with titles like "USA: a quick study of true facts" or "Human dignity" while they were driving[38].

Counterintelligence officers saw other unfavourable effects of inbound tourism in addition to spying, including prostitution, forgery, and cash transaction on the black market. These shadowy aspects of Soviet life were evident at the hotel "Minsk", where the majority of foreign visitors stayed at the beginning of 1960. For instance, the said J. Leon was apprehended with a smuggler while exchanging money in the hotel's "Minsk" toilet. Con artists and room service were in competition for access to foreign apparel and cosmetics.

Popular diplomacy through tourism

One mistake that trainee guides frequently made was becoming too informal with the tourists, which led "Intourist" to refuse their services outright. In the meantime, the climate of relative freedom encouraged many Belarusians to establish unofficial ties with foreigners. The Khrushchev's thaw, if brief, revealed that intercultural understanding stood on a solid foundation.

Author A. Karpyuk, who oversaw the "Intourist" office in Grodno at the time, describes an event that occurred in 1963 on the Paris – Moscow train. Students from France were travelling together by train. During a stop in Grodno, a train guard riding in the students' carriage hurried over to A. Karpyuk and sobbed: "Come here right away, comrade director of "Intourist"! There is a naked woman in a compartment!". The scene in the car left A. Karpiuk speechless for a moment. A tourist mentioned that the young French were holding a pageant. A. Karpiuk made it clear that beauty pageants were forbidden in the USSR. Then he turned to the train guard and calmed him when the initial shock passed: "Do not be afraid. It is just the French!"[39].

Early in the 1960s, people-to-people diplomacy emerged in the West, and it has since developed into an essential aspect of international relations. The arms race accelerated, global problems got worse, and popular confidence in governmental institutions decreased. Public diplomacy came into the picture. At its core was the exchange of information. In addition to meetings or marches, tourism was one of its key tools. Despite their different origins and philosophical frameworks, its actors shared a critical position on many societal concerns and looked for common solutions. The Soviet leadership supported these people-to-people diplomats hoping to benefit politically from their activism (fig. 3).

A group of American quakers organised a peace march from San Francisco to Moscow in 1960 to advance their pacifist agenda and call for unilateral disarmament. N. Khrushchev, the leader of the Soviet Union, agreed to let them in despite his hostility to religion. Starting in California, the marchers covered 10,000 km in about a year and a half, walking across Europe and the United States. Along the route, they handed out pacifist literature and had conversations and debates mostly focused on putting an end to the arms race. B. Lyttel led the team of five quaker marchers that crossed the Polish-Soviet border in Brest on 15 September 1961, and continued towards Minsk. In each administrative district they crossed, secretaries for ideology of the local Communist party committee escorted them. Marching across the Minsk region from 20 to 25 September, they had meetings with the public in Stolbtsy,

[34]NARB. Fund 4p. Invent. 47. File 657. Sh. 37.
[35]Ibid. Fund 4p. Invent. 62. File 571. Sh. 218.
[36]Ibid. Invent. 2a. File 9. Sh. 173.
[37]*Fedorov K.* Under the mask of tourist // Znamya yunosti. 13 March 1966. No. 52. P. 3 (in Russ.).
[38]NARB. Fund 4p. Invent. 62. File 571. Sh. 213.
[39]*Karpyuk A. N.* Parting with illusions. Hrodna ; Wroclaw, 2008. P. 220 (in Belarus.).

Dzerzhinsk, Fanipol, Zhodino, and Borisov. The meeting with the citizens of Minsk was on 23 September at the office of the Belarusian society of friendship and cultural relations with foreign countries. While in Minsk, they carried the poster "Nations of the world disarm unilaterally" and distributed pacifist leaflets.

Fig. 3. Participants of the San Francisco – Moscow peace march head to Brest after crossing the Polish-Soviet border (1960).
Source: BSAAVD. 0-083504

The quakers urged their audiences to join their appeal to the Soviet and American leadership to halt preparations for a nuclear war and refrain from constructing military bases. They called on the public to refuse to enlist in the military or work in military factories. The hand-picked members of the Belarusian public begged to differ and lay the blame for the arms race squarely on the United States. Nevertheless, the Americans were given a cordial reception. They were met with concerts and offered lunches, and they left with an overall positive impression, as the event organisers reported[40].

Three years later, at Brest, another unusual party of people-to-people diplomats crossed the Polish-Soviet border. L. Gillis, a 44-year-old restaurant owner from Richmond, Virginia was travelling with his family at the wheel of a covered truck nicknamed "Last wagon West". From 1963 to 1964, they drove across Western Europe, through France and the Netherlands, en route to Minsk and Moscow. They relied fully on the hospitality and generosity of the people they met. So far as their visit was non-political, and the authorities showed no interest in escorting them. Therefore, they were free to make stops along the Brest – Moscow highway, have conversations with the people they met, take pictures and exchange souvenirs[41] (fig. 4).

Fig. 4. American traveller L. Gillis with his family in Brest (1964).
Source: BSAAVD. 0-055375

[40]NARB. Fund 4p. Invent. 62. File 562. Sh. 160–172.
[41]*Panamarow V.* Three years on the road // Belarus. 1964. No. 10. P. 23 (in Belarus.).

Several local publications, television shows, and even the feature film "Beloved", made at the studio "Belarusfilm", documented their travels. L. Gillis may have had a soft spot for communism, but when an American wagon appeared in one of the scenes, the members of the film studio's artistic council were uneasy. One of the council members, director V. Korsh-Sablin, discerned references to several Western films, including F. Fellini's "Sweet life". Nonetheless, the film was eventually released, and this visit is now part of Belarus' documented history.

Public diplomacy expanded opportunities for unplanned and unregulated contact between foreigners and Belarusians.

Conclusions

It is no exaggeration to say that Belarus became more open to the outside world as a result of Khrushchev's thaw. Throughout the latter part of the 1950s and the beginning of the 1960s, Belarus welcomed tourists from 94 countries, including celebrities like G. De Santis, M. Marceau, R. Kent, and V. Cliburn. Their visits sparked advancements in the fields of science, art, music, and fashion, and – significantly – they increased exposure to novel concepts, especially for the intelligencia. Foreign visitors served as ambassadors for intellectual freedom, liberal democracy, and technical progress.

For many Soviet citizens, contact with inbound foreign tourists during the Khrushchev's thaw was an essential first step in assimilating Western culture. Geography caused these Westernizing influences to spread from Belarus to the rest of the Soviet Union. From the middle of the 1950s, Belarus served as the USSR's Western gateway, through which thousands of Western and Soviet visitors passed. As a result of this exposure to the West, Belarusians gradually reexamined their past, questioned their class conscience, and reassessed the social-realist underpinnings of their art and culture. Yet, it also sparked more active anti-Western propaganda.

The growth of inbound tourism coincided with a deep transformation of Belarus in the late 1950s and 1960s, accompanied by significant strides in production, science, technology, culture and education. N. Khruschev's reforms were a time of positive expectations and great achievements. However, the shortcomings of the system of "advanced socialism" could not escape the view of the inbound tourists. Institutions such as "Intourist", "Sputnik", and the Belarusian friendship society worked hard to create islands of high-class service for these tourists, but even their best efforts failed to convince many of these visitors that the bright communist future was anywhere near.

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THE ACTIVITIES OF THE RUSSIAN-UKRAINIAN-POLISH COMMISSION ON REPATRIATION IN 1921–1924

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The article considers the work of the Mixed Russian-Ukrainian-Polish commission on repatriation in 1921–1924 and the issues affecting its effectiveness. The commission's performance was highly dependent on the state of Soviet-Polish relations at the time. Soviet Russia and Poland established diplomatic relations, but the bilateral ties remained tense, and these tensions impeded the overall progress of repatriation. It is shown that especially during the Riga peace conference (September 1920 – March 1921), the return of the prisoners of war and other nationals was recognised as an acute problem, and art. VII of the Preliminary peace treaty of 12 October 1920, envisaged the creation of mixed commissions. Immediately, the Polish side asked for the return of the prisoners of war, but the Russian-Ukrainian delegation insisted that it could proceed only if the truce was extended, which the Polish side refused to do. It is emphasised that from the beginning, the Polish side was reluctant to address the most contentious questions via the Russian-Ukrainian-Polish commission on repatriation. Disputes erupted over the exchange of individuals, which the parties had committed to performing as a priority under the additional protocol of understanding of 24 February 1921. The article details the cooperation between the Mixed commission on repatriation and the relevant bodies on improving the material and sanitary conditions of the repatriates, notably, between the branches of the Red Cross Society and the Central directorate for the evacuation of the population of the RSFSR, with a focus on the division of the Mixed commission on reparation for the western region, which covered the Vitebsk, Gomel and Smolensk provinces of the RSFSR and the BSSR. It is also shown that the Polish delegation of the Mixed commission on reparation was de facto providing consular services to the Polish nationals in the western regions and the BSSR. It has been established that the initiative to close the process of repatriation of prisoners of war and refugees came from the Soviet side, and responded to the decrease in the numbers willing to repatriate en masse ("in echelon order", i. e. by evacuation trains). On 15 February 1923, the Russian-Ukrainian delegation to the Mixed commission on repatriation announced its return and the suspension of the evacuation trains. The Polish side was offered to take similar action and deal with any future matters concerning repatriation by diplomacy. The Polish government suggested that the mandate of the repatriation commission be extended until 1 February 1924, and those of its divisions (in Kyiv, Kharkiv and Minsk) until 15 January 1924. The final protocol ending the mandate of the Mixed commission on repatriation was not signed until 30 August 1924. The repatriation process and the work of the commission were declared complete on 1 September 1924. The Polish delegation referred all unfinished repatriation cases to the consular department of its diplomatic mission. The following estimates are given for the numbers of repatriates who returned to their home countries during the mass repatriation period in 1921–1925: the Republic of Poland (over 1.5 mln, including 1.1–1.2 thnd returning independently), and the USSR (1.2 mln).

Keywords: repatriation; Russian-Ukrainian-Polish commission on repatriation; Tsentrevak of the RSFSR; prisoners of war; refugees.

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ДЕЯТЕЛЬНОСТЬ РОССИЙСКО-УКРАИНСКО-ПОЛЬСКОЙ КОМИССИИ ПО РЕПАТРИАЦИИ В 1921–1924 гг.

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Рассматривается деятельность российско-украинско-польской комиссии по репатриации в 1921–1924 гг., выделяются основные проблемы ее функционирования. Работа комиссии во многом определялась советско-польскими отношениями того времени. Напряженность в установлении дипломатических связей между сторонами отражалась на общем ходе репатриации. Утверждается, что проблема военнопленных и репатриантов приобрела особую актуальность во время Рижской мирной конференции (сентябрь 1920 г. – март 1921 г.). В ст. VII Прелиминарного мирного договора от 12 октября 1920 г. предусматривалось создание смешанных комиссий. Стороны были обязаны заключить соглашение о репатриации. Польская сторона предлагала сразу начать обмен военнопленными, но российско-украинская делегация считала это возможным только при продлении срока перемирия, на что не соглашались польские представители. Подчеркивается, что с самого начала работы российско-украинско-польской комиссии по репатриации выявилось нежелание польской стороны решать спорные вопросы. Разногласия начались при обсуждении персонального обмена, который, в соответствии с дополнительным протоколом к соглашению от 24 февраля 1921 г., должен был производиться в первую очередь. Показан процесс сотрудничества смешанной комиссии по репатриации с органами, занимающимися вопросами улучшения материального и санитарного положения репатриантов: отделениями Общества Красного Креста, Центральным управлением по эвакуации населения РСФСР. Обращается внимание на специфику деятельности отделения смешанной комиссии по репатриации по западной области РСФСР (Витебская, Гомельская и Смоленская губернии) и БССР. Кроме этого, указывается, что филиал комиссии с польской стороны фактически выполнял консульские функции в отношении польских граждан как на территории западной области РСФСР, так и на территории БССР. Установлено, что инициатива по приостановке процесса репатриации военнопленных и беженцев принадлежит советской стороне. Причиной этого стало уменьшение количества людей, желающих выехать эшелонным порядком за границы республик. В итоге 15 февраля 1923 г. было объявлено о возвращении российско-украинской делегации Смешанной комиссии по репатриации и приостановке эшелонной отправки. Аналогичные меры предлагалось предпринять польской стороне, а в будущем решать вопросы о репатриации в дипломатическом порядке. Польское руководство считало необходимым продлить срок деятельности репатриационной комиссии до 1 февраля 1924 г., а в соответствующих отделениях (в Киеве, Харькове, Минске) – до 15 января 1924 г. Подписание заключительного протокола Смешанной комиссии по репатриации произошло только 30 августа 1924 г. В итоге массовая репатриация и деятельность комиссии были признаны оконченными с 1 сентября 1924 г. Все незавершенные репатриационные дела польская делегация передала в консульский отдел своей дипломатической миссии. Приводится количество репатриантов, выехавших массовым порядком в 1921–1925 гг. в Польскую Республику (более 1,5 млн человек, в том числе около 1,1–1,2 тыс. человек, приехавших стихийно) и в СССР (1,2 млн человек).

Ключевые слова: репатриация; российско-украинско-польская комиссия по репатриации; Центрэвак РСФСР; военнопленные; беженцы.

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Introduction

The activities of the Mixed repatriation commission in 1921–1924 have not been researched as a separate subject. Indirectly, its operations have been covered in the studies on the lives of the prisoners of war and refugees during World War I, the activities of the Central directorate for the evacuation of the population of the RSFSR (Tsentrevak) [1–3], the Belarusian administration for the evacuation of the population [4]. The Mixed commission on repatriation active between the world wars has received limited attention, apart from several mentions in the historiography [5–9]. Polish, Russian and Belarusian scholars have focused extensively on the numbers of repatriates, while the systems and mechanisms for repatriation have largely been overlooked, including with regard to the Polish prisoners of war held in the camps of Soviet Russia during 1921–1922. The available publications mainly provide statistics on repatriated Poles [10–13]. Notably, the Polish researcher C. Żołędowski [14] reviews the progress of repatriation from 1918 to 1924, detailing the ethnic and religious composition of the repatriates. A fundamental collection prepared by I. I. Kostyushko covers the regulatory and legal frameworks and documents the numbers of repatriated Polish prisoners of war [15]. A document collection on population exchanges prepared by a team of Polish researchers is also noteworthy in this context [16]. However, the interaction between the central institutions and departments, the local state authorities and the management of the camps for the prisoners of war have received scarce attention in these and other studies.

Regulations, correspondence with the Main department of forced labour, and the lists of repatriated Poles can be found in the National Archives of the Republic of Belarus in fund 39 (Central department for the evacuation of the population of the Western region),

fund 40 (Belarusian administration for the evacuation). The bulk of the documents on the topic are kept in two Russian federal archives: the State Archive of the Russian Federation in fund 393 (Chief department of forced labour), fund 3333 (Central department for population evacuation of the RSFSR (hereinafter – Tsentrevak)), and in the Russian State Archive of Social and Political History in fund 63 (Polish bureau of the Central Committee of the Russian Communist party of the Bolsheviks (RCP(b)) – negotiations and development of the normative framework, the work of the Polish delegation in Moscow, and others).

Warsaw and Moscow were the commission's operational hubs, and a sizable proportion of the repatriates travelled through Belarus. The primary duty of the Belarusian administration for the evacuation of the population, which was a division of the central department, was to provide sanitary and medical care. The Mixed commission on repatriation workers oversaw and coordinated this operation. The commission's efforts were largely targeted at evacuating the population of Polish descent, while the majority of those transported (up to 51.7 %) were ethnic Belarusians, Ukrainians, and Russians. Studying the commission's operations will therefore yield insightful information about Belarus' social and economic history as well as its foreign relations. This research paper examines the work of the Mixed commission on repatriation in 1921–1924. Consistent with this goal, its objectives were as follows: to explore the tensions in Soviet-Polish relations during the Riga peace conference (September 1920 – March 1921) affecting the collaboration on building an effective repatriation system, to describe the moments of tension during the operation of the Mixed commission on repatriation in 1921–1924, to explain the reasons for the reduction of mass repatriation of prisoners of war, refugees, hostages and civilian prisoners.

Research methodology

The operations of the Mixed commission on repatriation in 1921–1924 were studied utilising a set of historical methodologies grounded in the principles of historicism, and objectivity. With the historical and systemic method, the structural and functional aspects of the Mixed commission on repatriation work in 1921–1924 were uncovered, and the defining role of the overall state of Soviet-Polish relations was demonstrated. Evacuation train services were suspended as the parties stood close to breaking off diplomatic relations, and many of the terms of the Riga peace treaty remained unfulfilled. Sampling, data grouping and other statistical methods were utilised to estimate the overall number of repatriates, prisoners of war and refugees. The problem-chronological method made it possible to reconstruct the activities of the Mixed commission on repatriation as a sequence of logical steps, from the proposal to establish a repatriation system negotiated within the Commission on the exchange of prisoners, refugees, hostages, and internees at the Riga peace conference to the suspension of mass repatriation by rail.

Results and discussion

The Riga peace conference gave significant consideration to the question of prisoners of war and repatriates. The Committee for the exchange of prisoners, refugees, hostages, and internees, presided over by E. Zalewski and I. L. Lorenz, addressed the subject of prisoners. The Provisional peace treaty and the Armistice agreement were both signed on 12 October 1920, and the joint commissions were envisaged by art. VII of the Riga peace treaty. The parties agreed to come to a separate repatriation arrangement. In the view of the Russian-Ukrainian delegation, this premise could only be fulfilled if the armistice remained effective, but the Polish delegates disagreed. The Polish side offered to begin the exchange of war prisoners immediately. There were protracted disagreements about how to define the term "prisoner of war" when the treaty's text was being written. As a result, it was determined that only the actual combatants in the Polish-Soviet war of 1919–1920 would be included[1].

A member of the Polish delegation L. Wasilewski told the Soviet representatives on 26 October 1920, that the Mixed commission on repatriation must be set up and that exchanges must begin. A. A. Joffe, the head of the Russian-Ukrainian mission at the Riga peace conference, consented to the transfer of severely ill and injured Polish prisoners from Minsk in exchange for the transfer of twice as many Red Army detainees, given their larger number[2]. L. D. Trotsky, the People's commissar for military and naval affairs, believed that it was vital to expedite the exchange of prisoners of war, according to G. V. Chicherin, who informed A. A. Joffe on 27 November 1920. The People's commissar of foreign affairs endorsed the idea of a prisoner exchange, as evidenced by the resolution of E. M. Sklyansky, the deputy chairman of the Revolutionary Military Council of the republic[3].

A commission for the return of hostages, detainees, and internees was established in Riga to draft a treaty

[1]Russ. State Arch. of Socio-Polit. History (RSASPH). Fund 63. Invent. 1. File 190. Sh. 5.
[2]Ibid. Sh. 82.
[3]RSASPH. Fund 5. Invent. 1. File 200. Sh. 25.

on repatriation. It was very active, meeting 11 times between the middle of October and the beginning of November 1920. I. L. Lorenz presented the first draft of the treaty on repatriation on 22 November on behalf of the Russian-Ukrainian delegation. The right of the Polish prisoners of war to select their country of citizenship was brought up at the same time[4].

On 24 December 1920, I. L. Lorenz transmitted from Riga the final draft of the first 18 provisions of the treaty on repatriation to G. V. Chicherin. A week later, on 31 December he announced a revision to the weekly number of prisoners of war to be exchanged, stating that 4,000 Red Army soldiers would be sent back in return for every 1,500 Polish prisoners of war[5]. A. A. Joffe notified G. V. Chicherin on 17 January 1921, that the treaty on repatriation had been printed but not signed. Because there was still no agreement to extend the armistice, the immediate exchange of prisoners could not begin. The Polish side concurred[6].

In the meantime, work had begun to prepare the receiving areas for repatriates. The Western front's head of the sanitary unit called a meeting on 29 January 1921, to set the priorities and work out the procedure. A medical examination of each train was planned at an isolation checkpoint, and all confirmed or suspect cases would be sent to medical facilities or evacuated by sanitary trains. It was proposed that all incoming returnees would be placed in quarantine before being sent to bathhouses and stationed at barracks [15, p. 284–285].

The Repatriation agreement was signed on 24 February 1921. The term "prisoner of war" was defined to include combatants, who directly participated in combat operations while serving in the armed forces of one of the parties, non-combatants, or active members of the armed forces of one party captured by the army of the other party, and members of Polish army units and detachments captured by the Russian-Ukrainian armies on other fronts, and disarmed and interned by the Russian and Ukrainian authorities. Under the agreement, the prisoners would be exchanged on the all for all principle. Forcible repatriation was not permitted. The sick, disabled and inmates kept in unfavourable conditions would be given priority. The parties agreed to suspend all ongoing persecutions and halt the execution of any sentences in relation to the persons to be exchanged. Only heated wagons would be used for the carriage of healthy prisoners during the winter months, while the sick and frail would be transported by sanitary trains, where possible. Prisoners with infectious diseases would not be allowed to travel with the healthy prisoners and would be available for return only after they have recovered [15, p. 284].

Before the joint commissions were even established, A. A. Joffe told G. V. Chicherin on 6 March 1921, that the dispatch of transports with Polish army prisoners of war had to start no later than 10 days after the agreement was signed. However, the expected first wave of prisoners of war did not show up at the exchange stations, as promised by the Russian-Ukrainian side[7].

To complete the repatriation, two mixed Polish-Russian-Ukrainian commissions were established within a month, with offices in Moscow and Warsaw. There were a maximum of 30 individuals in each delegation, which consisted of three members, two of their deputies, and any support personnel that was required. The two joint commissions' duties included facilitating the organisation and progress of the repatriation of prisoners of war. Members of the commission were also granted the authority to visit the locations where prisoners of war were being held, as well as to register and maintain records of prisoners of war (create lists)[8].

It was decided that the repatriation commissions would get to work as soon as the Riga peace treaty was signed, without having to wait for its ratification. The local authorities concerned were given an urgent directive by the Soviet government to send the Polish prisoners of war. The first return of Polish war prisoners was from the Smolensk camp. It began on 19 March 1921, a day after the peace agreement was signed. The first trains with the prisoners of war from the Orel, Bryansk, and other camps departed westwards on 30 March. By mid-April, the Soviet border station Negoreloe had received the first transports with Soviet war prisoners from Poland[9].

The exchange of prisoners of war under the terms of the Repatriation agreement began in mid-March 1921. Two entry points were designated. One was on the Moscow – Minsk – Baranovichi line, at Negoreloe (Koidanovo) on the Soviet side, and Stolbtsy on the Polish side. The other was at Zdolbunovo on the Rovno – Shepetovka – Kyiv line. Standing on the Polish side, Zdolbunovo received traffic in both directions[10]. Notwithstanding the all for all principle established in the Repatriation agreement, the exchange was not symmetrical. The Soviet government cited difficulties in locating passenger-grade wagons and the scarcity of functional locomotives as reasons for the delays on its part. Large sections of the Soviet railways had been damaged and had not been repaired for a long time. Railway congestion was also a problem. As a result, travel speed was slow, and stops for several days at the hub stations were not infrequent.

In early April, the Soviet government approved the composition of the Russian-Ukrainian delegation to

[4]RSASPH. Fund 5. Invent. 1. File 191. Sh. 95.
[5]Ibid. Sh. 234.
[6]Ibid. Sh. 267.
[7]RSASPH. Fund 63. Invent. 1. File 191. Sh. 431.
[8]Ibid. Fund 17. Invent. 112. File 208. Sh. 2–3.
[9]Ibid. Sh. 56.
[10]Natl. Arch. of the Repub. of Belarus (NARB). Fund 39. Invent. 1. File 340. Sh. 17–20.

the Mixed commission on repatriation to work on Polish territory. The Polish side appointed a similar delegation to travel to Moscow (chairperson S. Korsak and members colonel S. Lubenski (deputy chairperson), J. Ermalowicz, K. Skszynski, V. Skupenski, M. Ragalski, M. Mikulowski). On 11 April the Russian-Ukrainian delegation departed for Warsaw. It was headed by E. N. Ignatov (succeeded by E. Y. Aboltin in November 1921) and consisted of P. I. Burowcew, W. K. Sosnowski, Y. S. Kaluzhny (members), A. A. Bartoshevich (secretary), and S. N. Orekhov (general secretary). At the Soviet border, the Soviet delegation learned that the Polish delegation had not departed from Warsaw for an unknown reason[11]. For the Soviet delegation, that meant having to wait at the border indefinitely. It could not continue to Warsaw for another two weeks, until it finally arrived on 24 April. The commission's work did not start for another four days. Branch offices for the Polish mission were located in Kharkiv, Petrograd, Minsk, and other cities. The Russian-Ukrainian delegation had offices in Baranovichi and Rovno, where the refugees were being registered[12].

The Polish side's reluctance to settle contentious matters was clear from the outset of the Mixed commission on repatriation work. Disagreements arose over the exchange of individual prisoners, provided by the addendum to the treaty of 24 February 1921. The Soviet side was offered to exchange 300 political prisoners, mostly members of the labour movement held in Polish jails and labour camps, for an equal number of Poles imprisoned in the Soviet republics. A personal exchange in small groups, the makeup of which was decided by the Polish authorities independently, was the only arrangement the Soviet delegation was able to secure from the Polish side after protracted negotiations. As a result, the exchange was delayed for several months. When forming the transports with repatriated Polish citizens, the Polish delegation to Moscow was giving preference to ethnic Poles over Belarusians and Jews. According to the Repatriation agreement, the return of the prisoners was voluntary. They could refuse by signing a written notice, but such refusals were not common[13].

There had also been several calls to relocate the entry point for the repatriates from Negoreloe to another area (like Koidanovo). However, the commission never had a substantive discussion about the proposal while the permanent border was being established. Trains from the RSFSR arrived at Negoreloe station, where they were turned over to a Polish representative, according to the Tsentrevak. On 10 August 1922, the Russian-Ukrainian delegation requested to open a third transfer point on the Polotsk – Vileika line to facilitate the journey for the repatriates. In the end, the Polish government rejected this suggestion and requested the creation of more repatriation commission offices in areas where sizable numbers of refugees could be found[14].

By the end of 1921, the bulk of the Polish refugees had returned. The repatriation of optants started concurrently with the refugees' return and continued up until the fall of 1923. By the beginning of August 1921, most Red Army prisoners of war, along with large numbers of hostages and refugees, had also returned from Poland. By May – July, the great majority of Polish war prisoners had returned to their homeland. No more than 7,000 or 8,000 were still waiting to return.

As quoted in a response to the Polish side from the Russian-Ukrainian delegation to the Mixed commission on repatriation, the Polish counterparts had expressed displeasure at the growing numbers of refugees arriving at the crossing points (1,000 people daily at Baranovichi and 500 at Rovno) and had shared concerns about the lack of food and poor sanitary conditions on the trains. In the understanding of the Polish side, only organised travel of the refugees was allowed, and no individual crossings were permitted. However, art. XXVII of the Repatriation agreement sets the minimum number of arrivals at a crossing point at 4,000 weekly. Also, the Polish side could not refuse to accept more arrivals. In its letters of 16 and 17 November 1921, the Polish delegation complained about a large number of returnees delivered by the Russian-Ukrainian side. Indicating that the Polish border facilities were overwhelmed with the workload, the Polish side proposed to limit the number of arrivals to 1,000 weekly at Baranovichi and 500 at Rovno. In turn, the Russian-Ukrainian side complained about long delays in securing border crossing clearances from the Polish side, causing a line of trains to build up. On 18 November the Polish delegation demanded that health and food stations be set up and barracks be constructed at the border[15]. Incidentally, a feeding point was already active at Negoreloe at the time, open to Polish and Soviet repatriates[16].

In reality, the Mixed commission on repatriation activity conflicted with the organisations responsible for the physical and sanitary conditions of the repatriates. For example, on 4 July 1921, the head of the Polish delegation S. Korsak wrote a letter to the Minister

[11]Statement by the press bureau of the Ministry of Foreign Affairs of Poland on the course of the first meeting of the Mixed Russian-Ukrainian-Polish commission on repatriation affairs // Documents and materials on the history of Soviet-Polish relations. Moscow, 1965. Vol. 4 : April 1921 – May 1926. P. 19–21 (in Russ.).

[12]NARB. Fund 6. Invent. 1. File 192. Sh. 38.

[13]Letter from the chairman of the Polish delegation to the chairman of the Russian-Ukrainian delegation to the peace talks with Poland A. A. Ioffe // Documents on the USSR foreign policy. Moscow, 1959. Vol. 3 : 1 July 1920 – 18 March 1921. P. 658 (in Russ.).

[14]NARB. Fund 39. Invent. 1. File 340. Sh. 45–49.

[15]Letter from the Russian-Ukrainian delegation to the Mixed commission on repatriation of the Polish delegation on the obstacles placed by the Polish authorities in the repatriation of Poles from the RSFSR and the Ukrainian SSR // Documents and materials on the history of Soviet-Polish relations. Moscow, 1965. Vol. 4 : April 1921 – May 1926. P. 113–114 (in Russ.).

[16]NARB. Fund 40. Invent. 1. File 91. Sh. 40, 47, 51.

of foreign affairs of Poland in which he questioned the legitimacy of S. Sempalovska's activity as a representative of the Russian Red Cross Society. The letter criticised S. Sempalovska for her attempts to visit a camp for Red Army war prisoners and her demands that their living and medical circumstances be rectified. Citing art. XXXIII of the Repatriation agreement, S. Korsak insisted that the mandate of the Red Cross Society and its representatives in Poland only lasted until the work of the Mixed commission on repatriation began[17]. By that time, S. Sempolovska had been working in Polish prisoner-of-war camps since 1920. Based on the agreements between the Russian and Polish societies of the Red Cross concluded on 6 and 17 September 1920 in Berlin, the Polish Red Cross Society set up its representative offices in Russia. On 2 November 1920, a decision of the 2nd Department of the Headquarters of the Polish Ministry of War granted S. Sempolovska the authority to care for and aid all categories of Russian nationals, including "prisoners of war, internees, and civilian prisoners"[18].

The first prisoner-of-war exchange between Poland and Minsk took place in December 1920. Mass exchanges began in March 1921, when 2,594 prisoners of war were dispatched to Poland, while 8,545 prisoners of war and 84 hostages returned from Poland via Minsk. The first repatriation train with 1,383 refugees departed for Poland via Minsk in April. The numbers rose significantly when the joint commissions got to work in Moscow and Warsaw, according to a report on the activities of the commission for the Western region and BSSR dated 3 October 1921. There were roughly 20,000 repatriates by the end of May. Two Polish representatives (J. Zmieczarowski and A. Laszkiewicz) and two Russian-Ukrainian envoys (M. I. Stokovski and Y. A. Wojtyga) were sent to expedite the formalities. However, the Polish envoys declined to endorse the lists of refugees prepared by Belarusian administration for evacuation of population. A month later, two Polish delegates travelled to Moscow with M. I. Stokovski to set up a permanent section of the Mixed commission on repatriation in the BSSR. As a result, in early July 1921, delegates from the Polish side and the Russian-Ukrainian commissioners who had previously been appointed as permanent members arrived in Minsk, where a branch of the Mixed commission on repatriation for the Western region and BSSR was established, with one member from each side and four technical personnel. Commissioners oversaw the registration of repatriates, kept the lists of the deceased, monitored the execution of the Repatriation agreement, provided help and supervision for refugees, and paid visits to detention facilities and camps. The bilateral commission resolved its cases by consensus. Representatives from Poland had the authority to put approval stamps on the lists and provide material support. W. Domaski led the Polish delegation, and M. I. Stokovski was in charge of the Russian-Ukrainian mission. The commission's area of responsibility included the BSSR and the Vitebsk, Gomel, and Smolensk provinces of the RSFSR. Essentially, the Polish delegation to the Mixed commission on repatriation was providing consular services to the Polish residents in its designated area. The Council of People's Commissars of the BSSR notified the Polish delegation to the Mixed commission on repatriation in Minsk of the BSSR's accession to the USSR on 21 July 1923[19].

In 1921 between March and July 14,356 prisoners returned to Poland via Negoreloe station and 7,179 via Zdolbunovo station. 46,337 refugees and other categories of repatriates returned to Poland from the RSFSR, BSSR, and 67,872 individuals were repatriated to the USSR. From July to December 1921 alone, 12,119 repatriates crossed the border at Negoreloe station and 3,791 at Zdolbunovo station. Thereafter, the numbers dwindled. From the beginning of mass repatriation in March 1921 to mid-1922, as many as 34,839 prisoners of war returned to Poland[20]. In an interview with the newspaper "Warsaw Voice" on 29–30 July 1921, the head of the Russian-Ukrainian delegation, E. N. Ignatov, stated that as of 23 July, a total of 39,191 prisoners and refugees had crossed the border from Poland into Russia and Ukraine[21].

In June 1920, the Polish bureau under the Smolensk Provincial Committee of the Russian Communist party of the Bolsheviks (RCP (b)) requested in its letter to the Polish bureau under the Central Committee of the RCP (b) that it conducts political propaganda among the Polish war prisoners. "The relevance and seriousness of the issue of the captured Poles have grown increasingly clear throughout the military operations on the Western front against bourgeois Poland", – read the letter. "From its direct observation, the Smolensk Polish bureau is convinced that the Polish communists must actively participate in the agitation and propaganda among the Polish prisoners, and take charge of this work, with the aid of their Communist party bodies. The Polish army is disintegrating, and our campaigns are invariably successful among the captured soldiers, some of whom can

[17]Letter from the Polish delegations to the Mixed Russian-Ukrainian-Polish commission on repatriation to the Ministry of Foreign Affairs regarding the activities of the representative of the Russian Red Cross Society in Warsaw S. Sempolovska // Documents and materials on the history of Soviet-Polish relations. Moscow, 1965. Vol. 4 : April 1921 – May 1926. P. 29–30 (in Russ.).

[18]Archiwum Akt Nowych (AAN). Zespół PRM. 16315/15. Sh. 5.

[19]NARB. Fund 7. Invent. 1. File 8. Sh. 46.

[20]Ibid. Fund 39. Invent. 1. File 338.

[21]The report of the newspaper "Warsaw Voice" about the interview of the chairman of the Russian-Ukrainian delegation of the Mixed commission for repatriation E. N. Ignatov to the newspaper about the obstacles placed by the Polish side in the implementation of the Riga peace treaty // Documents and materials on the history of Soviet-Polish relations. Moscow, 1965. Vol. 4 : April 1921 – May 1926. P. 42–45 (in Russ.).

become prospective leaders of the revolutionary struggle for workers' power in Poland"[22] (hereinafter translated by us. – *O. B.*).

The extent of the Soviet leadership's propaganda among the repatriates was well known to the Polish side. To check the flow of political undesirables, it took steps to slow the repatriation process. On 15 August 1921, the Ministry of the Interior of Poland issued a special directive to stop the arrival of "subversive elements" into Polish territory[23]. As a result, a sizable group of Polish refugees assembled at the border. The Soviet government proposed to open more entry points and increase the throughput of the existing ones, but these initiatives went unanswered[24].

Apart from slowing the flow of refugees and prisoners of war, the Polish government (Prisoners and internees department under the Ministry of Foreign Affairs of Poland) initially sought to verify documents (identification cards, prisoner-of-war cards, and other relevant materials) more thoroughly. It could take up to several weeks, to verify the identity of a prisoner of war, since many lacked the documentation to substantiate their personal information or were using documents they had received as prisoners or in somebody else's name. It was crucial to learn about the prisoner's conduct while being held captive. From all this information, the Polish authorities would identify those who might be sent as returning prisoners to conduct subversive activity on Polish soil. Details of such persons were forwarded to the 2nd Department of the Ministry of Military Affairs Headquarters, and other military and police bodies[25].

In his opening remarks at the first joint meeting of the Mixed commission on repatriation in Warsaw on 28 February 1921, the head of the Polish delegation, S. Korsak, recalled: "Despite the treaty, the Polish authorities have still not abandoned the view that our prisoners of war are somehow like enemies, and have subjected them to various forms of persecution"[26].

Assigning a Polish delegate to be present for the customs inspection of the Polish repatriates' luggage was brought up during the Mixed commission on repatriation session on 22 November 1921. The Polish side's appeal, nevertheless, was turned down because it could slow down the work of the customs officers. Furthermore, a Polish official had no power to influence the examination of the luggage. K. I. Tsykhousky, an ethnic Pole and a member of the Russian-Ukrainian delegation was permitted to be present at the inspection[27].

A letter from Poland's charge d'affairs in the RSFSR, T. Filipowicz, to the People's commissar of foreign affairs, G. V. Chicherin, dated 18 September 1921, posed an ultimatum before the Soviet government demanding that it resolve by 1 October the issues in the repatriation process that the Polish side had raised. In a response note on 22 September 1921, G. V. Chicherin insisted that the repatriation was making satisfactory progress. Tensions in the Polish-Soviet relations were impacting the course of the repatriation and were slowing its progress. The parties were trading accusations and ultimatums and threatening to break off diplomatic relations, all of which brought the work of the crossing point at the Negoreloe station to an almost complete halt[28].

A protocol outlining the requirements for the Riga peace treaty's execution was signed on 7 October 1921, when the RSFSR's plenipotentiary envoy in Warsaw, L. M. Karakhan, and Poland's acting Minister of foreign affairs, J. Dąbski, met. The protocol's signatories agreed to establish joint commissions and commissions on re-evacuation. In addition, Poland agreed to deport several individuals suspected of anti-Soviet activity (such as V. Savinkov and D. Odinets) and pay the Soviet side for the damage to its railway property. Both sides would start securing their borders to stop the entry of rogue elements, etc.[29]

The Tsentrevak announced the dissolution of its local offices in December 1921. Consistent with its directive of 5 January 1922, the district offices for evacuation were closed in February and the provincial offices in March 2022. Instead, base evacuation sites and line evacuation points were established at major railway stations, but not in all provinces. These started operating in 1922. Evacuation sites were eliminated in the second half of 1922, and starting from 1 July free transportation for famine refugees was discontinued. The processing of paperwork for refugees to leave the country was given to the administrative departments of the provincial executive committees, following the dissolution of the Tsentrevak and its local organisations[30].

The decision to halt the work of the repatriation commission was communicated to R. Knoll, the designated representative for Polish affairs, in a letter issued by Y. S. Ganetski, member of the board of the People's Commissariat of Foreign Affairs (PCFA) of the RSFSR, on 31 January 1923. The cause for this was the decline in the numbers applying to leave the republics be-

[22]RSASPH. Fund 63. Invent. 1. File 240. Sh. 88 rev.
[23]AAN. Zespół PRM. 16318. Sh. 17.
[24]Ibid. Sh. 23–27.
[25]Centralne archiwum wojskowe. 4 Armia. Sygn. 1.311.4.329.
[26]Minutes of the meeting of the Mixed commission on repatriation // Documents and materials on the history of Soviet-Polish relations. Moscow, 1965. Vol. 3 : April 1920 – March 1921. P. 514 (in Russ.).
[27]NARB. Fund 40. Invent. 1. File 91. Sh. 75.
[28]Ibid. File 17. Sh. 12.
[29]Protocol on the conditions for the implementation of the Riga peace treaty, signed by the vice Minister of foreign affairs of Poland J. Dąbski and the plenipotentiary representative of the RSFSR in Warsaw L. M. Karakhan // Documents and materials on the history of Soviet-Polish relations. Moscow, 1965. Vol. 4 : April 1921 – May 1926. P. 86–89 (in Russ.).
[30]NARB. Fund 39. Invent. 1. File 337. Sh. 75.

low 20,000. As a result, it was no longer deemed necessary to continue running a designated system and procedure for repatriation. For these reasons, the Soviet Union declared that its delegation's work with the Mixed commission on repatriation had come to an end. As of 15 February 1923, evacuation trains were no longer used. The Polish government was invited to follow suit and handle any remaining issues through normal diplomatic channels. In response, the Polish side suggested extending the mandate of the repatriation commission in Moscow through 1 February 1925, and of its branches (in Kyiv, Kharkiv, and Minsk) through 15 January 1924, a further year. From 10 February through 3 May 1923, negotiations and communication were ongoing. The People's Commissariat of Internal Affairs of the RSFSR sent a circular letter to its provincial divisions on 4 June 1923, shutting the window for submitting repatriation requests on 1 June and establishing 1 August 1923, as the last day for departure[31]. On the Polish government's request, the departure date for individuals who had registered was extended to 1 October. The PCFA of the USSR informed the Polish side once more in a letter dated 14 June 1923, that the final deadline for repatriation from Russia to Poland and vice versa was 1 October. After that date, individual repatriation was to be handled by diplomatic missions. 111,830 people in total returned to Poland in the first half of 1923[32].

On 25 June 1924, the Mixed commission on repatriation declared that mass repatriation would be suspended. A formal circular explaining the departure process and paperwork requirements would be issued by the appropriate administrative organisations. Russian telegraph agency reported on 21 May 1924, that a total of 1,110,000 repatriates returned to Poland between April 1921 and April 1924. Of this number, 45.9 % were ethnic Poles, and around 51.7 % were ethnic Ukrainians, Belarusians and Russians [14]. According to Polish sources, approximately 1.5 million ethnic Poles remained and did not exercise their right to return home. 1,264,731 persons had returned to Poland from the RSFSR, the Ukrainian SSR, and the BSSR by the time the Mixed commission on repatriation final protocol was signed on 30 August 1924 [14]. The commission's operations and mass repatriation were therefore deemed to have terminated on 1 September 1924. The Polish delegation forwarded all repatriation cases that had not been resolved by 1 September to the consular division of its diplomatic mission for resolution in diplomatic order[33].

Conclusions

Throughout the interwar years, the exchange of prisoners of war and other repatriates was both pressing and complicated. It was given a high profile during the Riga peace conference, where a separate commission was set up to work on a Repatriation treaty and its addendums (signed on 24 February 1921), and also on the articles of the Riga peace treaty of 18 March 1921, that established the regulatory and legal frameworks for the repatriation process. The Mixed commission on repatriation organised and managed the exchange of prisoners of war and other categories of repatriates. Repatriation encompassed hostages, political prisoners, internees, prisoners of war, refugees, and emigrants. In practice, the commission acted as a monitoring and directing body. In Belarus, local evacuation committees actively participated in the essential activities linked to the repatriation of refugees to their home countries. A repatriation system was developed as a result of this work, which was able to complete the return of more than 1.5 million people from March 1921 to December 1924, despite frequent disruptions that delayed trains at the border and worsened the sanitary situation.

Unsatisfactory organisation and slow pace were characteristics of official repatriation. The closure of the local offices of the Tsentreak in 1922–1923, slowed the pace of the mass return and resulted in repeated suspensions of registration for free departure. The dispatch of repatriates who could not return on their own continued until 1925 when they were finally declared Soviet citizens. The repatriation of prisoners of war came to an end in 1925. They then had the option to exit the country through a process designed for foreign nationals.

The Mixed commission on repatriation activity was directly impacted by the state of the bilateral ties between Poland and the Soviet Union. The signing of the Riga peace treaty in March 1921 did not result in the peaceful resolution of outstanding bilateral disputes. Some of the treaty's provisions were not fulfilled, including with regard to repatriation. Backlogs of refugees at the border, a brief closure of the border point at the Negoreloe station, and delays in the re-evacuation of prisoners of war followed the build-up of tensions in the bilateral relations between the parties.

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THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE – THE PROTECTION OF THE EU'S FINANCIAL INTERESTS AS A SUPRANATIONAL INTEGRATION PROJECT[1]

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This article presents an overview of the competencies of the recently established European Public Prosecutor's Office (EPPO), a supranational body that investigates and prosecutes criminal offences affecting the financial interests of the European Union. Various aspects related to criminal procedure and substantive criminal law will be discussed to explain how the EPPO is embedded in the national judicial systems despite its supranational origin. Among the matters to be examined will be the requirement to prosecute crime efficiently while ensuring that the procedural rights of the suspects and the accused persons will be duly respected. A particular focus will be on cooperation with the other EU entities and national authorities both in the member states as well as in third countries. This article provides elements to help readers assess the EPPO's performance against the legislative objectives set by the EU.

Keywords: European Union; European Public Prosecutor; international cooperation; financial interests; law enforcement; criminal procedure; fundamental rights; rule of law.

[1]The content of this article reflects solely the author's personal view.

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ИНСТИТУТ ЕВРОПЕЙСКОГО ГОСУДАРСТВЕННОГО ОБВИНИТЕЛЯ: ЗАЩИТА ФИНАНСОВЫХ ИНТЕРЕСОВ ЕВРОПЕЙСКОГО СОЮЗА КАК НАДНАЦИОНАЛЬНЫЙ ИНТЕГРАЦИОННЫЙ ПРОЕКТ

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Представлен обзор компетенций недавно учрежденного института европейского государственного обвинителя – наднационального органа по расследованию и уголовному преследованию преступлений против финансовых интересов Европейского союза. В ходе обсуждения различных аспектов процедурного и материального уголовного права раскрывается, что институт европейского государственного обвинителя укоренен в национальных правовых системах, несмотря на его наднациональный характер. Затрагивается проблема выполнения требования эффективного преследования преступлений при обеспечении надлежащего соблюдения процедурных прав подозреваемых и обвиняемых. Особое внимание уделяется сотрудничеству государственного обвинителя с другими органами ЕС, а также с национальными государственными органами как в государствах ЕС, так и в третьих странах. Исследование дает представление о результатах работы европейского государственного обвинителя в соответствии с законодательно установленными целями его деятельности.

Ключевые слова: Европейский союз; европейский государственный обвинитель; международное сотрудничество; финансовые интересы; правоохранительная деятельность; уголовный процесс; основные права; верховенство права.

Introduction

After many years of debate, the European Public Prosecutor's Office (EPPO) has finally become a reality. With the adoption of Regulation (EU) 2017/1939 implementing enhanced cooperation on the establishment of the EPPO by the Council on 12 October 2017 (hereinafter – EPPO regulation), the competencies of this new EU body – which creation was foreseen in the EU treaties – were defined. With the adoption of EPPO regulation implementing enhanced cooperation on the establishment of the EPPO, the competencies of this new EU body have been set out, its creation was foreseen in the EU treaties. Similar to Europol and Eurojust, primary EU law presupposes the existence of EPPO. However, the former two EU agencies – that also happen to operate in the area of home affairs – have already been in existence for an extensive period. EU agencies are only established when the need for a delegation of competencies to specialised bodies arises (as regards the creation and the functioning of EU agencies, see [1, p. 44]). The considerable delay in the establishment of the EPPO may be interpreted as an indicator of its contentious nature, among the member states, at the Council, and among the EU institutions in the framework of the legislative procedure that led to the adoption of the founding regulation. It is particularly important to bear this aspect in mind when examining the geographical scope of the EPPO regulation, the organisational structure of the new EU body and the powers conferred upon it. The present paper will shed light on all these subjects and explain the advantages that the establishment of the EPPO brings for the protection of the financial interests of the EU but also the obstacles that it is likely to face in the pursuit of its mission.

The establishment of the EPPO

As the European communities were providing themselves with their own budgets – by adopting Council Decision 70/243/ECSC, EEC, Euratom of 21 April 1970 on the replacement of financial contributions from member states by the communities' own resources – concern arose that the decision did not grant the community sanctioning power to protect the community's financial interests. For this reason, the Commission presented in 1976 a project to amend the treaties related to the use of criminal law for the protection of the community's financial interests. The first initiative that opened the debate concerning the creation of a European Public Prosecutor was the report "Corpus juris: introducing penal provisions for the protection of the financial interests of the European Union" (hereinafter Corpus juris), delivered in 1997 by an expert group, whose main proposals would later be collected in the Green paper on criminal-law protection of the financial interests of the community, and the establishment of a European Prosecutor, and published by the Commission in December 2001. This text sought to generate a public debate on the practical repercussions of the creation of a European Public Prosecutor without intending, in any case, to create a complete and autonomous community penal system. This is because the Corpus juris contemplated a mixed system, in which national and supranational elements were so combined that the member states would apply criminal law, not the community itself.

As a project of regional integration, the idea to create a supranational body tasked with protecting the financial interests of the EU took shape at a time when the Treaty establishing a Constitution for Europe was being debated. In the aftermath of the unsuccessful referenda in France and the Netherlands that brought the ratification process to an end, a period of reflection was initiated, eventually leading to the Treaty of Lisbon. This treaty incorporated many of the basic ideas underlying the EPPO, albeit without specifying in detail how it would be organised and on the basis on which rules it would operate. Instead, it was assumed that these aspects would be regulated in an act of secondary EU law. Article 86(1) of the Treaty on the functioning of the European Union (TFUE) stipulates that regulations to be adopted "shall determine the general rules applicable to the EPPO, the conditions governing the performance of its functions, the rules of procedure applicable to its activities, as well as those governing the admissibility of evidence, and the rules applicable to the judicial review of procedural measures taken by it in the performance of its functions".

Admittedly, however, the proposal to create an EPPO was not received with enthusiasm by all the member states, as some of them feared that their sovereignty could be compromised [2, p. 464]. This initial attitude is understandable given that the area of criminal law is traditionally connected with the notion of sovereignty. The norms of criminal law usually reflect the ethical values of a society and can therefore be considered deeply rooted in national culture [3]. Having said this, whilst the EU is indeed obliged to respect the cultural traditions of the member states according to art. 3(3) of the Treaty on the European Union (TUE), the treaties leave no doubt that protecting the financial interests of the EU constitutes a legitimate objective that the legislature can pursue at the supranational level. Consequently, it would be logical to claim that this objective must prevail over potential national interests. This is even more so when the effect of this diversity is to hamper the protection of the financial interests of the EU. The principle of subsidiarity would not impede this course of action – as enshrined in art. 5(3) of the TUE that reads: "The EU shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the member states, either at the central level or at a regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at EU level". The difficulties in the protection of the financial interest of the EU were put forward as an argument in favour of the creation of the EPPO.

The EU could overcome the opposition of some member states by resorting to the mechanism of enhanced cooperation laid down in art. 20 of the TUE. Whilst unanimity at the Council would, in principle, have been required to adopt the EPPO regulation, art. 86(1) of the TFEU provides that at least nine member states engage in such enhanced cooperation by adopting the said regulation. The legal consequence of resorting to this mechanism is that the EPPO regulation only applies to the participating member states but not those outside of this group. The fact that art. 86 of the TFEU expressly refers to the possibility of enhanced cooperation (although it remains open in any policy area outside the exclusive competencies of the EU) shows that the member states were aware of the opposition to this integration project in their ranks. Twenty member states had initially agreed to be a part of the enhanced cooperation. Since then, the Netherlands and Malta have joined it. This implies that, to date, five member states have remained outside the scope of enhanced cooperation, namely, Denmark, Hungary, Ireland, Poland and Sweden. Denmark, Ireland and the United Kingdom (before Brexit) did not join the EPPO due to a derogation provided by Protocol No. 21 and Protocol No. 22 to the EU treaties that allowed these member states to refrain from participating in the adoption of measures falling within the area of freedom, security and justice under title V of part three of the TFEU (for an analysis of the legal and political aspects of Brexit, see [4, p. 64]). Whilst Denmark enjoys a permanent opt-out from the EU measures concerning criminal justice, Ireland, Hungary, Poland and Sweden can join at any time. Despite this situation, the EPPO may in practice seek judicial cooperation with at least some of these non-participating member states (NPMS) and vice versa. It is worth mentioning in this context that the EPPO regulation contains specific provisions on judicial cooperation with NPMS as well as third countries, which will be examined later in this paper.

The establishment of the EPPO took some time to complete in practice. In this context, one might recall that whilst the EPPO regulation entered into force on 31 October 2017, the EPPO did not begin to operate until 1 June 2021. There are several reasons for this delay, mainly related to the regulatory and practical measures that had to be taken in the meantime. Firstly, the participating member states had to adopt and publish, by 6 July 2019, the laws, regulations and administrative provisions necessary to comply with Directive (EU) 2017/1371 of the European Parliament and Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (hereafter PIF directive), which, as will be explained in this paper, defines the material competence of this EU body. Secondly, the EPPO itself had to adopt the necessary internal legal acts, recruit staff, set up a case management system and conclude several working arrangements with national authorities and EU entities to ensure the proper implementation of the provisions of the EPPO regulation.

Hybrid organisational structure

The EPPO is defined by its founding regulation as "an indivisible EU body operating as one single office with decentralised structure". However, this short description is not enough to understand the institutional setup conceived by the EU legislator. One of the most remarkable aspects of the EPPO is its hybrid nature, as a single body that operates simultaneously at the EU and the national level, as evidenced by its organisational structure and powers. Furthermore, unlike the other EU entities, the EPPO is anchored in the judicial systems of the member states, while at the same time preserving its independence. For the sake of clarity, the organisational structure will be examined first, before looking in detail at the competencies of each of the organs within the EPPO.

The central level. The central level of the EPPO comprises a college consisting of the European Chief Prosecutor, selected following an open call for candidates and appointed by the European Parliament and the Council of the EU for a non-renewable term of 7 years, and European prosecutors (one from each participating member state), appointed by their respective member state. In October 2019, Laura Codruţa Kövesi was appointed as the first European Chief Prosecutor. In July 2020, the Council appointed 22 European prosecutors. The college establishes the so-called permanent chambers that steer national-level operations. The permanent chambers are composed of a chairperson and two permanent members. They monitor and direct the investigations and prosecutions, thereby guaranteeing the coherence of the EPPO's activities. The number of permanent chambers, the composition thereof, and the division of competencies reflect the functional needs of the EPPO and are laid down in its rules of procedure. Essentially, the European prosecutors assume coordinating and strategic tasks. They decide within the college in coordination with the European Chief Prosecutor. It is safe to conclude that the EPPO's power lies not with the European Chief Prosecutor but with the college and above all the permanent chambers as organisational units within the EU body. The European Chief Prosecutor can nevertheless exercise some influence and power if it manages to persuade the members of the college of a certain course of action. Notably, the European Chief Prosecutor, in her role as primus inter pares, not only performs the said coordinating function at the college, but also participates in the day-to-day work and decision-making within the permanent chamber to which she has been assigned, like any other European Prosecutor.

The EPPO is structurally independent in terms of organisation and planning, as it is not incorporated into another EU institution, agency or body. It is nonetheless accountable for its general work to the Council, the European Parliament as well as the European Commission. Article 7 of the EPPO regulation vests this EU body with the duty to draw up and publish an Annual report on its general activities in the official languages of the institutions of the EU. It must transmit the report to the European Parliament and national parliaments, the Council and the Commission. Furthermore, the European Chief Prosecutor is required to appear once a year before the European Parliament, the Council, and the national parliaments of the member states at their request, to report on the general activities of the EPPO. In the latter case, the European Chief Prosecutor may be represented by one of two deputy European chief prosecutors, appointed to assist in the discharge of duties and act as substitute when European Chief Prosecutor is absent or is prevented from attending to those duties. As any other public prosecutor, the EPPO is obliged to respect the fundamental principles, such as legality, proportionality and due process. The European Chief Prosecutor can be dismissed only by a decision of the Court of Justice of the European Union (CJEU), following an application by any of the aforementioned EU institutions.

The decentralised level. The decentralised level is anchored in the judicial system of the participating member state and is composed of the so-called European delegated prosecutors (EDPs). Upon a proposal from the European Chief Prosecutor, the college shall appoint the EDPs nominated by the member states. The EDPs act on behalf of the EPPO in their respective member states and have the same powers as national prosecutors in respect of investigations, prosecutions and bringing cases to judgment, in addition, and subject to, the specific powers and status conferred on them, and under the conditions set out in the EPPO regulation. The EDPs are responsible for those investigations and prosecutions that they have initiated, that have been allocated to them or that they have taken over using their right of evocation. The EDPs are also responsible for bringing a case to judgment. In particular, they have the power to present trial pleas, participate in taking evidence and exercise the available remedies in accordance with national law. There are two or more EDPs in each member state. They must be active members of the public prosecution service or judiciary of the member states, entrusted with criminal investigations and prosecutions. The EDPs continue to exercise their duties as national public prosecutors and have therefore a double function; however, they are entirely independent of their national prosecution authorities [5, p. 128]. This requirement is of particular importance, as, firstly, the status of the prosecuting authorities may vary from one national system to another (with either the judiciary or the public prosecution service taking prominence) and, secondly, the public prosecution service may not enjoy the same level of independence from the executive branch of the state as the judiciary [2, p. 457].

Competence and tasks

Supervision and instructions. The European prosecutors are those who, from a legal and organisational point of view, supervise the investigations and prosecutions on behalf of the competent permanent chambers at the EU level, for which the EDPs are in turn responsible in their respective member states of origin. As a rule, a European Prosecutor is in charge of the supervision of the EDPs in his or her member state of origin. Only in exceptional cases, for example, when there is a high number of investigations and prosecutions, a European Prosecutor may request that the supervision of certain investigations and prosecutions in his member state of origin be assigned to other European prosecutors. They constitute, from a functional point of view, a junction between the central office in Luxembourg and the decentralised level in the member states. In this role, they facilitate the functioning of the EPPO as a single office. As a rule, the EDPs are bound by the instructions given by the permanent chambers and the European prosecutors. Consequentially, the national rules prescribing that a public prosecutor must comply with the instructions of his national superior, may not apply to EDPs.

Material competence. Pursuant to art. 22 of the EPPO regulation in connection with art. 86(1) and art. 86(2) of the TFEU, the EPPO is in charge of combatting criminal offences affecting the financial interests of the EU. The PIF directive, as implemented by national law, is relevant for the determination of the material competence of the EPPO. It can investigate cases of fraud in connection with EU funding. The latter may comprise regional funds, financial resources of the common agricultural policy or other projects financed by the EU. One area of focus could be the manipulation of award procedures (for an overview of the latest reform in this area of EU law, see [6, p. 150]). In particular, the EPPO will investigate complex cases related to the value-added tax (VAT) carousel fraud. Article 3(2) of the PIF directive contains a definition of fraud affecting the EU's financial interests, which essentially amounts to any damage inflicted on the EU budget from the use of public funds for purposes other than those specified by the law or contract.

An effective investigation by the EPPO of criminal offences punishable under EU law may necessitate its extension to other criminal offences punishable under national law when the latter are inextricably linked to criminal conduct detrimental to the financial interests of the EU. The EPPO is also in charge of prosecuting criminal offences that, despite not falling within the scope of the PIF directive, relate to the same facts. In general, the competence and powers of the EPPO are far-reaching. The EPPO is also competent for offences regarding participation in a criminal organisation if the focus of the criminal activity is on the commission of any of the offences referred to in the PIF directive. However, the EPPO is not competent for criminal offences in respect of national direct taxes including offences inextricably linked thereto.

The EPPO regulation contains important restrictions on material competence. As regards VAT fraud, it states that the EPPO shall only be competent when the intentional acts or omissions defined in that provision are connected with the territory of two or more member states and involve a total damage of at least 10 mln euro. Another restriction follows from art. 25(2) of the EPPO regulation, according to which where a criminal offence caused or is likely to cause damage to the EU's financial interests of less than 10, 000 euro, the EPPO may only exercise its competence if the case has repercussions at EU level which require an investigation to be conducted by the EPPO; or officials or other servants of the EU, or members of the institutions of the EU could be suspected of having committed the offence. The EPPO shall, where appropriate, consult the competent national authorities or bodies of the EU to establish whether the above criteria are met. By all accounts, the material competence provisions aim to ensure that the EPPO only intervenes if its involvement is justified by the nature and (or) the gravity of the criminal offence, otherwise leaving the investigation and prosecution to national authorities.

Territorial competence. The EPPO is competent for the aforementioned criminal offences where such offences are committed in whole or in part within the territory of one or several member states. A procedure initiated by an EDP or following the instructions of a permanent chamber is generally conducted by the EDP of the member state in which the focus of the offence lies. In appropriate cases, an EDP from another member state can be assigned, for example, when the suspected person has a habitual residence in that member state, has the nationality of that member state or the financial damage had mainly been produced there.

Initiation, termination of the investigation and prosecution. Where, in accordance with the applicable national law, there are reasonable grounds to believe that an offence within the competence of the EPPO is being or has been committed, an EDP of a member state with jurisdiction over the offence under national law shall initiate an investigation and note this in the case management system. The EPPO may be informed of those offences through a dedicated platform on its website (www.eppo.europa.eu)[2], but also through European and national institutions, including the judicial authorities already entrusted with an investigation. Once an offence has been notified to the EPPO, it has 20 days to initiate an investigation and, if an investigation

[2]Members of the public are advised to go to the category of report a crime, in which they will find ample information on the criminal offences falling within the competence of the EPPO, as well as a web form to fill out if they wish to report a crime.

is already being carried out at the national level, the EPPO has a deadline of five days to exercise its right of evocation and to inform the national authorities of its decision.

When the handling EDP considers the investigation to be completed, it submits a report to the supervising European Prosecutor, containing a summary of the case and a draft decision on whether to prosecute before a national court or to consider a referral of the case, dismissal or simplified prosecution procedure. The supervising European Prosecutor forwards those documents to the competent permanent chamber accompanied, if it considers necessary, by its own assessment. The final task of the permanent chamber is to decide whether to bring a case to judgment or to close it. A case can be closed by a permanent chamber when the prosecution becomes impossible due to lack of evidence, prescription, the ne bis in idem principle, amnesty, immunity, etc. A possible investigation based on new facts shall remain unaffected thereby. A case is brought to court by the EDP in accordance with national law.

Lifting of privileges or immunities. Given that the EPPO will have to investigate and prosecute criminal offences affecting the financial interests of the EU – for example in the area of customs, VAT and public procurement, where both EU and national public servants exercise key functions – the privileges and immunities accorded to some high-ranking public servants might pose obstacles to the investigation. As immunities are not meant to offer impunity but rather aim at ensuring the fulfilment of a public servant's tasks by shielding him from undue interference, these immunities must be lifted in specific cases to guarantee compliance with the law. The EU legislator seems to have been aware of these challenges, as art. 29 of the EPPO regulation provides that EPPO shall make a reasoned written request for the lifting of such privilege or immunity in accordance with the procedures laid down, as appropriate, by EU or national law.

Rights and procedural safeguards provided in EU law

Rights enshrined in the EPPO regulation and harmonised minimal standards. The EPPO regulation contains numerous rights and procedural safeguards applicable to suspects, accused persons and witnesses. The objective is to guarantee the legality of the activities carried out by this body as well as the strict respect of EU law. This requirement is important, as national law governs all aspects of the proceedings if not explicitly dealt with by this regulation. More concretely, art. 41(1) of the EPPO regulation prescribes that these activities shall be carried out in full compliance with the rights enshrined in the Charter, including the right to a fair trial and the right to defence. Among the rights guaranteed by the Charter that may prove relevant in cross-border investigations the presumption of innocence should be mentioned (art. 47 of the Charter)[3], and also the principle of ne bis in idem (art. 50 of the Charter)[4], and the legality and proportionality of criminal offences and penalties (art. 49 of the Charter)[5].

Furthermore, art. 41(2) of the EPPO regulation provides procedural rights already foreseen in several EU directives:

- Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings;
- Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings;
- Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty;
- Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings;
- Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings.

By referring to these directives, the EU legislator recalls that the minimum standards for the procedural rights of suspects or accused persons apply in all member states [7, p. 503]. Consequently, it would be logical to assume that the differences in legislation from one member state to another will not be particularly striking given the degree of harmonisation that currently exists. However, it cannot be ruled out that these procedural rights might not be implemented entirely or correctly in all national legal systems. In such a case, the reference to the aforementioned directives would allow suspects and accused persons to invoke those rights directly against the EPPO. It can be expected that the precise scope of the procedural rights guaranteed by EU law will be a contentious issue that will require clarification by the CJEU by way of preliminary rulings pursuant to art. 267 of the TFEU[6]. The interpretation given by the CJEU to the

[3]CJEU order of 12 February 2019 in case C-8/19 PPU, RH, EU: C:2019:110.
[4]CJEU judgment of 26 February 2013 in case C-617/10, Åkerberg Fransson, EU: C:2013:105.
[5]CJEU judgment of 20 March 2018 in case C-524/15, Menci, EU: C:2018:197. Para 55.
[6]See, for example, CJEU judgment of 12 March 2020 in case C-659/18, VW (right of access to a lawyer in the event of non-appearance), EU: C:2020:201 ; CJEU judment of 23 November 2021 in case C-564/19, IS (illégalité de l'ordonnance de renvoi), EU: C:2021:949.

procedural rights guaranteed in other EU legal instruments that fall within the domain of judicial cooperation in criminal matters could be useful as well. It should not be forgotten in this context that the Council Framework decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between member states provides for procedural safeguards such as the *ne bis in idem* principle that qualify as a ground for mandatory non-execution of a European arrest warrant [8]. In the same vein, art. 11 of the aforementioned framework decision guarantees the right of access to information for the requested person by demanding that he or she be informed of the warrant, its contents and of his or her entitlement to legal representation by the issuing member state. The said principles as well as other concepts inherent to this domain as a whole should be interpreted uniformly in the interest of consistency.

The relation between the rights guaranteed by the aforementioned directives and those foreseen in the EPPO regulation is likely to be another matter of contention when interpreting EU law, in particular where there is an overlap of their material scope. As an example, art. 41(2)(b) of the EPPO regulation refers to the right to information and access to the case materials, as provided in Directive 2012/13/EU, while also laying down the conditions of access to the "case file", which in turn is defined in art. 45 of the EPPO regulation. A potential conflict could arise if there were to be a contradiction between the provisions of Directive 2012/13/EU and those of the EPPO regulation, thus requiring clarification as to which provisions prevail in a concrete case. In that regard, it must be pointed out that, on the one hand, art. 45(2) of the EPPO regulation states that "access to the case file shall be granted by the handling EDP in accordance with the national law of that prosecutor's member state", which implies that Directive 2012/13/EU might be relevant in so far as it imposes certain requirements on national law. Recital 31 of Directive 2012/13/EU lists some of the materials that may be contained in a case file (documents, photographs and audio as well as video recordings).

On the other hand, attention should be drawn to the fact that art. 45(1) of the EPPO regulation specifies that "the case file shall contain all the information and evidence available to the EDP that relates to the investigation or prosecution by the EPPO". Questions could therefore be raised as regards the precise content of the "case file" to be made accessible to a suspect or a person accused in criminal proceedings. An answer could only be given by means of a systematic interpretation. Given the fact that Directive 2012/13/EU, firstly, imposes general requirements for criminal proceedings and, secondly, was adopted before the adoption of the EPPO regulation that introduces specific provisions, it would be reasonable to assume that those conflicts would have to be solved by relying on the rule of interpretation *lex specialis derogat legi generali*. As a result, the provisions of the EPPO regulation must prevail over those of Directive 2012/13/EU if they contain specific rules for implementing the procedural right in question. An interpretation by the CJEU would be in order since a solution to these questions might not always be easy to find.

The European convention on human rights. Where the case law of the CJEU does not provide sufficient guidance as to how to interpret the provisions of the EPPO regulation requiring this EU body to handle criminal proceedings in compliance with the rule of law, in particular the principles of due process, the case law of the European Court of Human Rights (ECtHR) is likely to fill those gaps. This concerns in particular the admissibility of evidence, an aspect that has been the subject of abundant case law under art. 6(1) of the European convention on human rights (ECHR). Whilst art. 37(1) of the EPPO regulation states that evidence presented by the prosecutors of the EPPO or the defendant to a court shall not be denied admission on the mere ground that the evidence was gathered in another member state or in accordance with the law of another member state, it is not difficult to imagine circumstances that might potentially raise questions as to whether the evidence obtained in an investigation may be used in court. After all, art. 37(2) of this regulation recognises the freedom of national courts to assess the weight of the evidence presented by the defendant or the prosecutors of the EPPO.

Consequently, there is a risk that national courts might develop different views on this subject. Furthermore, it is noteworthy that, as recital 80 recalls, national courts may apply "the fundamental principles of national law on the fairness of the procedure that they apply in their national systems". The risk of a lack of uniformity as regards the admissibility of evidence might be contained by the minimum standards set by art. 6(1) of the ECHR, as interpreted by the ECtHR. Even though the EU has not yet acceded as a contracting party to the ECHR[7] and therefore the latter does not constitute a legal instrument which has been formally incorporated into EU law[8], one should recall, in the interest of completeness, that these minimum standards would equally apply in circumstances in which the member states were to "implement EU law" within the meaning of art. 51 of the Charter, because these standards are recognised as having the status of general principles of EU law, according to art. 6(3) of the TEU [9, p. 175].

[7]In its opinion 2/13 of 18 December 2014, EU: C:2014:2454, adopted pursuant to art. 218(11), the CJEU concluded that the draft agreement on the accession of the EU to the ECHR was not compatible with art. 6(2) of the TEU or with Protocol (No. 8) relating to art. 6(2) of the TEU on the accession of the EU to the ECHR.

[8]CJEU judgment of 20 March 2018 in case C-524/15, Menci, EU: C:2018:197. Para 22.

Procedural rights available under the applicable national law. Last but not least, it should be mentioned that according to art. 41(3) of the EPPO regulation, suspects and accused persons as well as other persons involved in the proceedings of the EPPO "shall have all the procedural rights available to them under the applicable national law", including the possibility to present evidence, to request the appointment of experts or expert examination and hearing of witnesses, and to request the EPPO to obtain such measures on behalf of the defence. In other words, national law is likely to function as an additional "safety net" in the sense that it will guarantee protection in all aspects not dealt with by the EPPO regulation. Furthermore, national legislation might potentially guarantee procedural rights that are not foreseen in EU law or the law of other member states. More interestingly, national legislation might even offer more advantageous rights, which is not per se ruled out as long as it does not compromise the primacy, unity and effectiveness of EU law[9]. Given the fact that the issue of how multiple sources of fundamental rights interact is far from being resolved [10, p. 250], it can be expected that the CJEU will be called upon to defuse potential conflicts between EU law and national law related to the scope of protection, as has already been the case in the past.

Data protection rules. The EPPO necessarily processes personal data in order to fulfil its mission. This is in particular the case when the EPPO transmits to other public entities personal data that has been collected during its investigations. The EPPO regulation provides a set of data protection rules for operational purposes so that this EU body does not need to rely on Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the union institutions, bodies, offices and agencies and on the free movement of such data. However, an important exception applies to data processed for administrative purposes, such as human resources, budget and security-related purposes. As a result, the EPPO's legal framework distinguishes between two main purposes of the processing, namely operational and administrative, each of them with separate sets of rules. Whether the personal data in question is processed for operational or administrative purposes has consequences for several aspects, such as how and where the personal data is processed, for how long, and with whom it may be shared, but also as regards the rights of data subjects and the reasons why they may be restricted.

According to the data protection rules laid down in the EPPO regulation, personal data may only be used in compliance with EU law, in other words, processed lawfully and fairly, collected for specified, explicit and legitimate purposes and not further processed in a manner incompatible with those purposes. The competencies to ensure efficient, reliable and uniform oversight of the fulfilment of this legal obligation are conferred on the European Data Protection Supervisor (EDPS)[10]. It can advise the EPPO and exercise control of the latter's activities that prove relevant for the protection of personal data. It is important to note in this context that the EDPS is expected to monitor personal data processing according to the EPPO's special data protection regime [11, p. 38].

Procedural rights in cases involving non-participating member states and third countries. It is necessary to stress that the above explanations apply first and foremost to cross-border cases involving the member states that participate in the enhanced cooperation on the establishment of the EPPO. As will be explained further in this paper, the EPPO is supposed to cooperate as well with NPMS and third countries, which poses certain challenges to the protection of procedural rights. However, that does not mean that a suspect or an accused person will be fully deprived of their procedural rights. As explained later in the text, the degree of protection might nonetheless vary depending on whether a case involves an NPMS or a third country. Although art. 41 of the EPPO regulation, the cornerstone of the protection of procedural rights under this legal act, would not formally apply to an NPMS, there is little doubt that the consequences for the protection of procedural rights in criminal proceedings would not be entirely different, as an NPMS would, in any case, be bound by the Charter and the directives harmonising national legislation referred to above by virtue of its status as an institution of an EU member state. Merely those procedural guarantees explicitly enshrined in specific provisions of the EPPO regulation would not apply. In addition, it can be maintained with certainty that the NPMS would have to respect the procedural rights guaranteed by other EU legal instruments of judicial cooperation already mentioned in this paper, such as those regulating the European arrest warrant and the European investigation order.

If those legal instruments are inapplicable to a particular NPMS in question, the Convention on mutual assistance in criminal matters between the member states of the European Union could be invoked, which however provides very limited safeguards, namely the respect for basic principles of the member state's national law and compliance with the ECHR. In this context, the minimum standards of protection in criminal proceedings set by art. 6(1) of the ECHR would apply as binding on every member state. The situation would only be considerably different if a third country were involved, depending on whether it is a party to the ECHR or not. Should this not be the case, merely the procedural

[9]CJEU judgment of 26 February 2013 in case C-399/11, Melloni, EU: C:2013:107. Para 60.
[10]Interpretation of the EPPO regulation in light of its supervision by the EDPS (report of 12 April 2021) provides an overview of the data protection rules applied by the EPPO.

rights guaranteed in the domestic legislation of that third country would apply, probably in the implementation of international human rights agreements into domestic law. An example would be the International covenant on civil and political rights, its art. 14 recognises and protects the right to justice and a fair trial. Article 15 of the said covenant prohibits prosecutions under ex post facto law and the imposition of retrospective criminal penalties and requires the imposition of the lesser penalty where criminal sentences have changed between the offence and conviction. Given that the said human rights essentially mirror those protected under the ECHR, it cannot be ruled out that equivalent protection will be guaranteed.

Mechanisms of control and legal remedies. The mechanisms of control and the legal remedies provided for in the EPPO regulation should be briefly mentioned in connection with the procedural safeguards that suspects and accused persons may invoke in criminal proceedings. According to its art. 42(1), procedural acts of the EPPO that are intended to produce legal effects vis-à-vis third parties are subject to review by the competent national courts in accordance with the requirements and procedures laid down by national law. The same applies to any failures of the EPPO to adopt procedural acts which are intended to produce legal effects vis-à-vis third parties and which it was legally required to adopt under this regulation. Due to the importance of legal review for safeguarding the rule of law in criminal proceedings, its various modalities will be examined more closely herein in a dedicated chapter.

Legal review

Respect for the rule of law, one of the values on which the EU is founded (as stated in art. 2 of the TEU) requires that the acts adopted by the EPPO be subject to legal review. Article 47 of the Charter and art. 19 of the TEU guarantee, *inter alia*, the right to an effective legal remedy and the right to an independent and impartial tribunal previously established by law, as regards the protection of the rights and freedoms guaranteed by EU law[11]. The exclusion of such a review would therefore be not only a direct attack on the rule of law but would challenge the obligation of the EU to uphold fundamental rights, as enshrined in the ECHR and the Charter. It is worth recalling in this context that the EU still benefits from the so-called Bosphorus presumption, developed in the case law of the ECtHR[12], whereby when a member state implements its obligations arising from its membership in the EU, the member state is presumed acting in compliance with the ECHR, provided that the protection of fundamental rights in the EU is equivalent to that provided by the ECHR. In that respect, art. 52(3) of the Charter specifies that in so far as the Charter contains rights which correspond to the rights guaranteed by the ECHR, the meaning and scope of those rights shall be the same as those laid down by the ECHR. EU law may nevertheless provide more extensive protection. When it comes to providing a legal review of the acts adopted by the EPPO, the question of jurisdiction is particularly sensitive and complicated due to its hybrid nature. Reference has already been made to art. 42(1) of the EPPO regulation that confers on national courts the power to exercise judicial review of those procedural acts of the EPPO that are intended to produce legal effects vis-à-vis third parties. In other words, although established as a supranational EU body, for purposes of judicial review, the EPPO acts as a national body. As a result, the role of the national judge in guaranteeing effective legal protection in the areas of operation of the EPPO is crucial [10, p. 374].

An aspect that must be examined more closely is the jurisdiction assigned to the CJUE, given the fact that the EPPO is an "indivisible EU body", according to art. 8(1) of this regulation, after all, and, consequently, subject to its jurisdiction unless otherwise regulated by EU law. It should be recalled in this context that, pursuant to art. 19(1) of the TEU, the CJEU "shall ensure that in the interpretation and application of the treaties, the law is observed". These competencies are laid down in paras 2–8 of art. 42 of the regulation and require further scrutiny. Before going into details, it is safe to affirm that the role of the supranational judge remains residual. In any case, the supranational judge appears to play a less prominent part than the one assigned to his national counterpart when it comes to legal review. The EPPO regulation provides that the CJEU has jurisdiction, under art. 267 of the TFEU, to give preliminary rulings concerning the validity of procedural acts of the EPPO, in so far as such a question of validity is raised before any court or tribunal of a member state directly based on EU law. Furthermore, the CJEU has the competence to interpret the validity of the provisions of EU law, including the EPPO regulation, and the interpretation of art. 22 and art. 25 of this regulation in the context of any conflict of competence between the EPPO and the competent national authorities. Moreover, the decisions of the EPPO to dismiss a case, in so far as they are contested directly based on EU law, are subject to judicial review before the CJEU, in accordance with art. 263(4) of the TFEU. The CJEU is also competent for compensation for damage caused by the EPPO, for arbitration based on clauses contained in contracts concluded by the EPPO, and for disputes concerning staff-related matters. Its jurisdiction encompasses the dismissal of the European Chief Prosecutor or European prosecutors as well. Last not least, the judicial review of the CJEU covers decisions related to data protection, the right of public access

[11]See: CJEU judgment of 16 February 2022 in case C-156/21, Hungary v Parliament and Council, EU: C:2022:97. Para 157.
[12]See: ECtHR judgment of 30 June 2005, Bosphorus Airways v Ireland, application No. 45036/98.

to documents, decisions dismissing EDPs or any other administrative decisions.

The first case pending before the CJEU concerning the interpretation of the EPPO regulation is a reference for the preliminary ruling lodged on 25 April 2022 in case C-281/22, GK and others, by which the Oberlandesgericht Wien (Vienna Higher Regional Court in Austria) seeks clarification as to the extent of judicial review if it comes to cross-border investigations within the EPPO regime. In the case at issue, the Austrian court has to decide on appeals by natural and legal persons who were subject to searches in Austria. Investigations were conducted by the EDP in Munich, Germany (handling EDP), which sought assistance from his colleague in Austria (assisting EDP). The appellants contested the coercive measures in Austria as being inadmissible due to the lack of suspicion and proportionality and due to the infringement of fundamental rights. According to the referring national court, art. 31(3) and art. 32 of the EPPO regulation are unclear as to which extent Austrian courts can verify the measure under their national law. On the one hand, it could be argued that the courts in the assisting member state (in the case at hand, Austria) are not limited to a formal review, but must also verify the substantive provisions of this member state. On the other hand, this would mean, according to the referring court, that cross-border investigations carried out under the EPPO regulation might be more cumbersome than approving a measure in accordance with the EU's instruments on mutual recognition, notably the European investigation order. The referring national court also poses the question as to the extent to which decisions taken by the courts in the member state of the EDP handling the case (in the case at hand, Germany) must be recognised. The appellants, the Austrian EDP, the governments of Austria, France, Germany, the Netherlands and Romania as well as the Commission have submitted written observations. The hearing in this case took place on 27 February 2023. The legal opinion of Advocate General Ćapeta is expected to be published on 22 June 2023.

This pending case raises interesting legal questions as regards the scope of judicial review and the extent to which the principle of mutual recognition of judicial decisions applies in the area of freedom, security and justice [12, p. 449]. For the sake of completeness, it should be pointed out that whilst there have already been a few cases before the General Court (GC) involving the EPPO, these cases only concerned the legality of the appointment of certain European prosecutors and EDPs. More specifically, the candidates applying for these positions saw their applications rejected and therefore either requested interim measures against the decisions appointing the more successful competitors or the annulment of these decisions by the GC[13]. However, to this date, none of these actions has been successful, and an appeal filed before the CJEU has even been withdrawn. Given that these cases are not particularly interesting from a legal point of view, as they rather concern questions of procedure, it is advisable to await the Advocate General's opinion and the CJEU's judgment in the aforementioned Austrian case to gain insight into how this jurisdiction assesses the legal nature of the EPPO.

Issues arising from the interaction with national law

Rather than being a supranational body that relies exclusively on EU law, the EPPO comes across as a hybrid entity that uses national law extensively to achieve its objectives. Indeed, whilst the PIF directive (as transposed in national law) determines the criminal offences to be prosecuted and the EPPO regulation lays down the competencies and duties of this EU body, matters of criminal procedure are mainly determined by national law. Indeed, art. 5(3) of the EPPO regulation specifies that, as far as investigations and prosecutions on behalf of the EPPO are concerned, national law shall apply "to the extent that a matter is not regulated by this regulation". In addition, the actual power of the EPPO lies in the coordination that takes place within the permanent chambers, while the frontline powers rest with the EDPs who remain deeply embedded in their national criminal justice systems. Against this background, it is safe to claim that the drafters of the EPPO regulation have envisaged keeping interference in the procedural autonomy of the member states to a minimum.

The EU legislator's choice in favour of an intergovernmental model. This choice is particularly obvious in the decentralised structure that includes a college consisting of the European Chief Prosecutor and European prosecutors from each participating member state, as already mentioned. The model initially conceived in the Commission's proposal[14] envisaged a more centralised, vertical and hierarchical setup with a European Public Prosecutor at the top and the EDPs based in the member states. Under the Commission's proposal, the EDPs would be in charge of the investigations and prosecutions under the direction and supervision of the European Public Prosecutor. The legislative history leading to the adoption of the EPPO regulation shows that the member states opposed this model fearing that it may constitute an alleged breach of the principle of

[13]GC order of 23 February 2022 in case T-603/21 R, WO/EPPO (not published) EU: T:2022:92 ; GC order of 13 June 2022 in case T-334/21, Mendes de Almeida/Council, EU: T:2022:375.

[14]Proposal for a Council regulation on the establishment of the European Public Prosecutor's Office, COM (2013) 534 final (17 July 2013).

subsidiarity. For that reason, despite the Commission's insistence on keeping the model on the table, the proposal was modified in favour of the current one that has a clear intergovernmental setup [13, p. 8]. Indeed, the EPPO regulation confers real power not on the European Chief Prosecutor but on the college. Likewise, it should be recalled that the permanent chambers in charge of taking case-related decisions are dominated by prosecutors appointed as representatives of their member states. Whilst the European Chief Prosecutor can be outvoted in the college, it can still exercise some influence, provided that it has the necessary support of the other members [14, p. 270].

From an analytical point of view, it is legitimate to ask whether the college structure that underlies the current model is, to some extent, a relic from pre-Lisbon times, when cooperation in criminal matters would follow an intergovernmental approach [15, p. 40]. The creation of a more centralised and hierarchical structure, with the European Chief Prosecutor (or the European Public Prosecutor, according to the terminology used in the proposal) may have been more in line with the changes that the EU treaties have undergone in the past decade. On the other hand, it could be argued that the creation of a college composed of the public prosecutors of every member state, each of them being familiar with the legal and factual situation in their respective member states, has the advantage of guaranteeing, firstly, a sense of ownership over the investigations and, secondly, the necessary accountability for the results obtained in those investigations. Indeed, it is hard to imagine how a rather small, centralised unit based in Luxembourg could have possibly steered investigations in the whole territory of the EU. Against that background, the approach followed by the EU legislator appears sensible.

The institutional anchoring of the European delegated prosecutors in the national judicial systems. Whilst the fact that EDPs are anchored in the judicial system of their member states may have some advantages for the performance of their tasks – such as proximity to the place in which the criminal offences have been committed, or knowledge of the procedural possibilities a prosecutor – certain aspects give rise to criticism nonetheless. One is the "dual hat" that EDPs are obliged to wear, according to art. 13(3) of the EPPO regulation. This provision states that the EDPs may also exercise functions as national prosecutors, to the extent that this does not prevent them from fulfilling their obligations under this regulation. It could be argued that it might be difficult in practice for an EDP to exercise his functions as a "part-time EU public prosecutor" and that an EDP's duties towards the EPPO risk being neglected. This might be the reason why some member states have already decided against this option.

The aforementioned provision addresses this issue by specifying that the EDPs shall inform the supervising European Prosecutor of such functions. If an EDP at any given moment is unable to fulfil his functions as an EDP because of the exercise of such functions as a national prosecutor, he shall notify the supervising European Prosecutor, who shall consult the competent national prosecution authorities to determine whether priority should be given to their functions under this regulation. The European Prosecutor may propose to the permanent chamber to reallocate the case to another EDP in the same member state or that he conduct the investigations himself in accordance with art. 28(3) and art. 28(4) of the EPPO regulation. It remains to be seen how these provisions will be applied in practice and whether they are adequate to ensure that the "double responsibility" borne by the EDPs does not compromise their efficiency.

Incomplete harmonisation of substantive criminal law. As already mentioned, the material competence of the EPPO is defined with reference to the PIF directive, which aims at harmonising substantive criminal law of the member states in a specific area. This entails, by definition, a certain margin of flexibility for the member states as to how they implement the PIF directive. In addition, it is worth drawing attention to the fact that art. 1 of this directive states that it "establishes minimum rules concerning the definition of criminal offences and sanctions with relevance to combatting fraud and other illegal activities affecting the EU's financial interests", which means that the member states may adopt stricter rules to protect the said interests. The EU criminal justice system is far from being harmonised and therefore it strongly depends on its interaction with the national legal systems [16, p. 191]. The diversity of definitions that may arise from this significant leeway granted to national legislatures might prove incompatible with the principle nullum crimen sine lege, enshrined in art. 49(1) of the Charter, according to which "no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law or international law at the time when it was committed". This provision, corresponding to art. 7 of the ECHR, is an expression of the rule of law and, as such, is of paramount importance in the area of criminal law.

Against this background, it cannot be ruled out that this legal issue might be raised in the framework of criminal proceedings. Whilst the harmonisation of substantive criminal law might still be an issue for some member states concerned about potential loss of sovereignty, such an approach should nevertheless be contemplated in the future to prevent a possible scenario in which the compatibility of the EPPO regulation with primary law might be questioned before the CJEU, for example in the framework of a preliminary ruling procedure, under art. 267 of the TFEU. In this context, it should not be forgotten that, according to art. 5(1) of this regulation, the EPPO shall ensure that its activities respect the rights enshrined in the Charter. Given that the issue of compliance with

fundamental rights has the potential to undermine the legitimacy of the EPPO and, ultimately, to hamper its functioning, it should be addressed as a priority.

Diversity of national procedural rules. In its investigations and prosecutions, the EPPO relies on provisions of national law, in so far as a matter is not regulated by the EPPO regulation. Still, differences in national procedural rules might make the investigation and the prosecution of crimes less predictable. Those differences might affect various aspects of the procedure, such as the admissibility of evidence and the availability of legal remedies, with consequences for safeguarding the rights of the defendants. Indeed, the lack of clarity might prove detrimental to this objective, as suspects have a right to know the applicable rules. Moreover, the potential existence of more favourable procedural rules in some member states is likely to increase the risk of "forum shopping" in favour of the EPPO. To prevent an arbitrary choice of forum, the EPPO regulation sets outs certain rules. Article 5(3) stipulates that, unless otherwise specified, the applicable law is the law of the member state of the EDP handling the case. Article 26(4) states that, as a principle, a case shall be initiated and handled by the EDP from the member state where the focus of the criminal activity is or, in case of connected offences, by the EDP from the member state where the bulk of the offences was committed. A deviation from this rule is allowed, however only under strict conditions. More concretely, it should be duly justified taking into account the criteria listed in order of priority, i. e. the residence and nationality of the suspect or accused and the place where the main financial damage occurred.

Article 37 of the EPPO regulation states that the evidence presented by the prosecutors of the EPPO or the defendant to a court shall not be denied admission on the mere ground that the evidence was gathered in another member state or in accordance with the law of another member state. This provision promotes the principle of free movement of evidence across the EU, based on mutual recognition of evidence, fully consistent with the overarching concept of area of freedom, security and justice, as foreseen in the EU treaties. However, it is worth noting in this context that recital 80 introduces an important caveat by stating that the said principle applies the following: "…provided that the trial court considers its admission to respect the fairness of the procedure and the suspect or accused person's rights of defence under the Charter". Furthermore, it should be pointed out that the same recital specifies that "respecting the different legal systems and traditions of the member states as provided for in art. 67(1) TFEU, nothing in this regulation may be interpreted as prohibiting the courts from applying the fundamental principles of national law on the fairness of the procedure that they apply in their national systems". It follows from this clarification regarding the interpretation to be given to the EPPO regulation that the powers of the prosecutors are again limited by national law in so far as the EPPO is obliged to verify that the applicable rules on procedure do not prevent the admission of evidence. The possibility that there might be important differences in that respect among the member states is liable to affect the efficiency of the EPPO's prosecution in cross-border cases. A possible solution to this issue would be for the EU legislator to adopt directives aimed at harmonising the national rules on the admission of evidence.

Use of autonomous concepts for addressing the reality of national law. Where the EPPO regulation does not specifically refer to national rules[15], declaring them applicable, but rather using autonomous concepts of EU law, the EPPO faces the challenge of having to "translate" those concepts into the terminology of national law. Even though the EPPO regulation is directly applicable in the legal systems of all member states according to art. 288 of the TFEU, the EU legislator appears to have opted for framing several concepts in sufficiently open and general terms to allow the EPPO and its aides at the decentralised level to identify the equivalent concepts in national law. This approach – often used in EU legislation – is a response to the diversity of the legal systems and the impossibility of harmonising the entirety of the national rules through directives[16]. As such, it can be used to refer to public authorities, procedures[17], specific legal statuses and other concepts of criminal procedure likely to exist in one way or another in all (or at least in most) member states. It is also a way to ensure that the provisions of the EPPO regulation be applied effectively notwithstanding this legislative diversity. Logically, the use of autonomous concepts of EU law requires a uniform interpretation, a task that would primarily fall within the responsibility of the EPPO as the authority in charge of applying the EPPO regulation, obviously under the control of the CJEU as the supreme interpreter of EU law. In addition, it seems necessary from a practical point of view to adopt implementing rules at the national level to specify those autonomous

[15]In para 81 of the CJEU judgment of 22 June 2021 in case C-439/19, Latvijas Republikas Saeima (Points de pénalité), EU: C:2021:504 the case law is reproduced, whereby terms of a provision of EU law which makes no express reference to the law of the member states to determine its meaning and scope must normally be given an autonomous and uniform interpretation throughout the EU.

[16]CJEU judgment of 24 November 2020 in case C-510/19, Openbaar Ministerie (Faux en écritures), EU: C:2020:953 regards the concept of executing judicial authority within the meaning of Council Framework decision 2002/584/JHA on the European arrest warrant.

[17]An example is the recourse to "simplified prosecution procedures" under art. 40 of the EPPO regulation if the applicable national law provides for such a procedure aiming at the final disposal of a case on the terms agreed with the suspect. The EPPO regulation refers to the criteria that the permanent chamber has to take into account when deciding to apply such a simplified procedure (seriousness of the offence, willingness of the suspected offender to repair the damage caused) and allows the college to adopt guidelines on the application of these criteria.

concepts, or at least to develop certain administrative guidelines explaining what the equivalent concepts of national law would be, hereby allowing national authorities to better understand the provisions of the EPPO regulation. Such an approach would be consistent with EU law, as it would not undermine its primacy and direct effect.

Sentencing and sanctions. Whilst the EPPO is in charge of the prosecution of crimes, sentencing and sanctions remain the exclusive competence of national courts, which will decide in each case based on national law. Article 325(1) and art. 325(2) of the TFEU, a directly applicable provision, merely lays down general requirements by obliging the member states "to counter illegal activities affecting the financial interests of the EU through effective and deterrent measures, and to take the same measures to counter fraud affecting the financial interests of the EU as they take to combat fraud affecting their financial interests"[18], hereby essentially declaring the principles of effectiveness and equivalence applicable in the area of criminal justice. These principles certainly set limits to the procedural and institutional autonomy of the member states in the interest of more effective enforcement of EU law at the national level[19].

However, their main disadvantage is that compliance can often only be verified retrospectively and on a case-by-case basis in the framework of the court proceedings. They cannot be considered an appropriate substitute for the non-existing precise requirements in EU legislation, despite the groundwork laid with the adoption of the PIF directive establishing minimum rules concerning sanctions. In consequence, some offences could be sanctioned more severely or leniently in some member states than in others. For example, an offence might be sanctioned by imprisonment in one member state and by a simple administrative fine in another one. Although legally possible given the great diversity of legal traditions and ethical views throughout the EU and in the absence of more advanced harmonisation in this area, this divergent judicial practice would still be hard to justify from a perspective of material justice.

For that reason, it cannot be ruled out that the EPPO might, in the long term, attempt to influence the sanctions and sentencing by requesting sentences of a specific severity or through plea-bargaining, where it is permitted. The EPPO might as well request from the national court to apply a specific sanction foreseen in guidelines reflecting the judicial practice of certain member states and the CJEU case law in fraud cases [3, p. 224]. One can assume the EPPO might strive to achieve a certain degree of coherence to underline the gravity of the prosecuted offences and create the necessary deterrent effect. This development will certainly depend on the EPPO's ability to implement a prosecution strategy across the EU. The necessary guidelines referred to in the present article should ideally be established by an advisory council, constituted by the EPPO and representatives of the national prosecutor offices, with the aim to foster an atmosphere of cooperation. Inspiration could be drawn from other areas of EU law, in which this approach is applied, such as data protection and those characterised by a high degree of technicity.

Cooperation

Cooperation with other EU bodies. The EPPO may establish and maintain cooperative relations with institutions, bodies, offices or agencies of the EU consistent with their respective objectives in so far as necessary for the performance of its tasks. Cooperation expressly includes the exchange of information. There are practical reasons for foreseeing such cooperation, namely the possibility of taking advantage of specialised knowledge and resources available to other EU bodies. Mutual assistance is very common among EU agencies, to the point that it is often explicitly envisaged in the EU treaties or the founding regulations. Where this is not the case, the principle of sincere cooperation, enshrined in art. 4(3) of the TEU, may be invoked. The EU bodies operating in the area of home affairs, in particular those involved in the fight against criminality, are most likely to become "privileged partners". Whilst the EPPO regulation itself envisages such cooperation and contains specific provisions to that effect, details are set out in working arrangements of a technical and (or) operational nature to be agreed between the EPPO and the counterpart, as is the case of many EU agencies. Article 99(3) of the EPPO regulation contains a caveat, specifying that the working arrangements may neither form the basis for allowing the exchange of personal data nor have legally binding effects on the EU or its member states.

It should be stressed that cooperation with the EPPO is also essential for the EU bodies operating in this area, as they do not have the autonomous power to initiate an investigation. The mission of the latter is essentially limited to supporting and coordinating. In turn, competent national prosecutors and national police forces investigating and prosecuting serious crimes can only act upon a request, and thus they necessarily rely on the EPPO's power to launch its investigations and prosecutions. To some extent, with its investigative and prosecuting powers the EPPO fills a sensitive gap at the EU level in the fight against cross-border crime. Notwithstanding this positive aspect, it is worth noting that the EPPO and the EU bodies operating in the area of home

[18]CJEU judgment of 5 December 2017 in case C-42/17, M.A.S. und M.B., EU: C:2017:936. Para 30.
[19]CJEU judgment of 17 January 2019 in case C-310/16, Dzivev a.o., EU: C:2019:30. Para 30.

affairs share a common trait that could be regarded as a gap intentionally created by the EU legislator to preserve national sovereignty, which is the lack of coercive powers. Instead, recital 69 of the EPPO regulation stipulates that this EU body should rely on national authorities, including police authorities, hereby reproducing what is already laid down in primary law, namely, the exclusive responsibility of the competent national authorities as regards the application of coercive measures.

Eurojust. It is an EU agency operating in accordance with art. 85 of the TFEU and Regulation (EU) 2018/1727 of the European Parliament and the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation, replacing and repealing Council decision 2002/187/JHA (Eurojust regulation). It works with national authorities to combat a wide range of serious and complex cross-border crimes involving two or more countries. The cases brought to Eurojust concern crimes such as terrorism, cybercrime, trafficking in human beings, drug trafficking, crimes against the financial interests of the EU, migrant smuggling, environmental crime, money laundering, swindling and fraud. Eurojust offers operational support throughout the different stages of cross-border criminal investigations, providing prompt responses, an on-call coordination service that is permanently operational and assistance with the preparation of judicial cooperation requests, including official translations. Furthermore, Eurojust can accommodate complex forms of assistance and coordination mechanisms, which may be combined as required to support major operations. Eurojust can coordinate parallel investigations, organise coordination meetings involving the judicial authorities and law enforcement concerned, and set up and (or) fund joint investigation teams in which judicial authorities and law enforcement work together on transnational criminal investigations based on a legal agreement between two or more countries and plan joint action days, steered in real time via coordination centres held at Eurojust, during which national authorities may arrest perpetrators, dismantle organised crime groups and seize assets.

Eurojust is undoubtedly a privileged partner for the EPPO. Their relations are explicitly addressed in art. 100 of the EPPO regulation. Specific provisions regarding their cooperation are laid down in the Eurojust regulation as well. In operational matters, the EPPO may associate Eurojust with its activities concerning cross-border cases, including by sharing information, such as personal data, on its investigations. The EPPO may invite Eurojust or its competent national member(s) to provide support in the transmission of its decisions or requests for mutual legal assistance to, and execution in, member states of the EU that are members of Eurojust but do not take part in the establishment of the EPPO, as well as third countries. Furthermore, it is foreseen that the EPPO shall have indirect access to information in Eurojust's case management system. Eurojust has its headquarters in the Hague, a circumstance that had urged some voices to call for the seat of the EPPO to be placed in the same city. It remains to be seen whether the geographical distance will pose obstacles to cooperation.

As already indicated in the introduction, Eurojust shares a similarity with the EPPO in that the EU treaties presuppose their existence. Interestingly, art. 86 of the TFEU stipulates that "the Council, by means of regulations adopted under a special legislative procedure, may establish an EPPO from Eurojust". The last part of the sentence raises questions as regards the feasibility of such an approach, given the fact that both are EU entities independent from one another [17, p. 87]. Given the sensitivity involving the creation of the EPPO and the length of the process involved, it cannot be ruled out that at the time of the drafting of the Treaty of Lisbon, it was not fully clear how exactly this task would be achieved. In any case, recital 10 of the EPPO regulation provides some clarifications in the sense that, in the EU legislator's view, "this implies that this regulation should establish a close relationship between them based on mutual cooperation". To ensure such cooperation, the European Chief Prosecutor and the President of Eurojust are required to meet regularly to discuss issues of common concern. The details specifying the extent to which the EPPO may rely on the support and resources of the administration of Eurojust have been laid out in a working arrangement concluded in February 2021.

Several provisions of the Eurojust regulation hint at the risk of possible overlaps in the competencies of both EU agencies, which is the reason why art. 100(1) of the EPPO regulation specifies that cooperation shall take place "within their respective mandates". In general, as can be inferred from recital 8 of the Eurojust regulation, this EU agency appears to exercise rather a subsidiary competence, for instance, where crimes involve the member states that participate in the enhanced cooperation on the establishment of the EPPO and NPMS (at the request of the EPPO or the NPMS). Whenever the EPPO is not competent or where, although the EPPO is competent, it does not exercise its competence. For obvious reasons, the NPMS may continue to request Eurojust's support in all cases regarding offences affecting the financial interests of the EU.

OLAF. The European Anti-Fraud Office (OLAF) is a directorate-general of the Commission that combats fraud, corruption and other similar illicit activities in the EU. It is responsible for monitoring the affairs of the EU institutions and investigating any possible instances of fraud, corruption and financial misconduct within the EU institutions to protect the financial interests of the EU. OLAF conducts its investigations in close cooperation with the relevant agencies of the member states.

According to its recently amended legal framework[20], OLAF investigates the following matters: all areas of EU expenditure (the main spending categories are structural funds, agricultural and rural development funds, direct expenditure, and external aid); EU revenue, in particular customs and illicit trade in tobacco products and counterfeit goods; suspicions of serious misconduct by EU staff and members of the EU institutions. The investigations carried out by OLAF aim at enabling financial recoveries, disciplinary and administrative action, prosecutions and indictments. It must be pointed out that OLAF has no law enforcement powers, nor does it have any power to bring a prosecution. Instead, OLAF may make recommendations to jurisdictions that a prosecution should be brought [18, p. 280]. The EPPO, on the contrary, has those prosecuting powers, which makes it a precious ally for bringing criminal offences to justice.

The relationship between the EPPO and OLAF is based on mutual cooperation within their respective mandates and information exchange. OLAF tends to give priority to investigations carried out by public prosecutors. As a rule, where the EPPO conducts a criminal investigation, OLAF shall not open any parallel administrative investigation into the same facts. In the course of an investigation by the EPPO, the EPPO may request OLAF, under OLAF's mandate, to support or complement the EPPO's activity in particular by providing information, analyses (including forensic analyses), expertise and operational support [19, p. 245]. Where the EPPO does not conduct any investigations, it may provide information to OLAF to conduct administrative investigations, enabling the latter to consider taking adequate administrative measures. Due to its power to carry out administrative investigations with the EU institutions, agencies and bodies (but also in countries with which the EU has a special relationship), OLAF constitutes a sort of "administrative arm" on which the EPPO can rely. Details of this cooperation are laid down in a working arrangement concluded on 5 July 2021.

Europol. It is the EU's law enforcement agency, its remit is to help make Europe safer by assisting law enforcement authorities in the member states. Based in the Hague, Europol operates under the provisions laid down in Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) (Europol regulation). The objectives of this EU agency are to support law enforcement authorities by facilitating exchanges of information, providing criminal analyses, as well as helping and coordinating cross-border operations; to become the EU's criminal information hub by identifying common information gaps and investigation priorities; to develop further as an EU centre for law enforcement expertise by pioneering new techniques, as well as facilitating knowledge sharing and quality training in specialist areas like terrorism, drugs and euro counterfeiting.

The EPPO shall establish and maintain a close relationship with Europol as well. To that end, both entities have concluded a working arrangement in January 2021 setting out the modalities of their cooperation within the limits of their respective legal frameworks and mandates. Where necessary for its investigations, the EPPO shall be able to obtain, at its request, any relevant information held by Europol concerning any offence within its competence, and may also ask Europol to provide analytical support to a specific investigation conducted by the EPPO. The cooperation may, in addition to this exchange of information, in particular, include the exchange of specialist knowledge, general situation reports, information on criminal investigation procedures, information on crime prevention methods, the participation in training activities as well as providing advice and support, including through analysis, in individual criminal investigations.

Cooperation with non-participating member states. As already explained, the creation of the EPPO took place as an enhanced cooperation congruent with art. 86(1) of the TFEU, which implies that some member states do not participate in this project. Nonetheless, this fact alone is not a valid reason for preventing cooperation, in particular in an important area such as fighting crime. Furthermore, it must be borne in mind that, irrespective of the specific distribution of competencies within any legal order, the protection of the financial interests of the EU is a concern shared by all the member states. Consequently, art. 105 of the EPPO regulation lays down provisions regulating the EPPO's relations with NPMS that merit a more detailed explanation here. As follows from these provisions, non-participation does not preclude cooperation: art. 105 of the EPPO regulation expressly states that the EPPO may conclude working arrangements with those member states, which may in particular concern the exchange of strategic information and the secondment of liaison officers to the EPPO. Moreover, it is stipulated that the EPPO may designate, in agreement with the competent authorities concerned, contact points in NPMS to facilitate cooperation in line with the EPPO's needs.

It is another question whether an NPMS is legally obliged to cooperate with the EPPO if the EPPO were to seek judicial cooperation with them in any given case. What seems problematic in this regard is the provision of art. 20(4) of the TEU which states that "acts adopted in the framework of enhanced cooperation shall bind only participating member states". In principle, it could be invoked as an argument against cooperation. To that,

[20]Regulation (EU, Euratom) 2020/2223 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU, Euratom) No. 883/2013, as regards cooperation with the European Public Prosecutor's Office and the effectiveness of the European Anti-Fraud Office investigations.

one may respond that, firstly, art. 105(3) of the EPPO regulation appears to contain an implicit assumption that judicial cooperation between the EPPO and the NPMS will require the adoption of a separate legal instrument, a solution liable to provide for some legal certainty. However, setting out the details of cooperation in separate legal instruments with the ensuing diversity of rules might make the relations with the authorities of the NPMS more difficult, unless the EPPO opts for using a sort of "template" or "model agreement" aimed at reducing the heterogeneity of applicable rules. Secondly, it should be noted that this provision obliges the member states that take part in the enhanced cooperation to notify the NPMS that the EPPO will act as a competent authority in criminal matters falling under the competence of the EPPO. By so doing, they guarantee that the NPMS is aware of the fact that the EPPO has henceforth assumed the role formerly exercised by a national authority and, consequently, acts as a sort of "legal successor" as far as the prosecution of a certain category of crimes is concerned. This provision is useful, as it might not always be obvious which authority is in charge, in particular at the beginning of the EPPO's operations.

The question that still remains open concerns the legal effect of such a unilateral notification. In the author's view, the principle of sincere cooperation is enshrined in art. 4(3) of the TEU and speaks in favour of a legal obligation upon the NPMS to cooperate with the EPPO[21]. The purpose of the notification is to indicate the authorities in charge and consequently to ensure the proper functioning of the system under which the financial interests of the EU are meant to be protected. The same applies to the conclusion of the agreement in question, without which any cooperation would not be possible. Since, according to the principle of sincere cooperation, "the member states shall facilitate the achievement of the EU's tasks and refrain from any measure, which could jeopardise the attainment of the EU's objectives", it is logical to assume that member states must actively cooperate with the EPPO whenever their involvement is required. More importantly, they must refrain from placing obstacles for the EPPO's activities.

In this context, it is noteworthy that recital 110 of the EPPO regulation requires the Commission to play an active role in fostering sincere cooperation through "proposals", to ensure effective judicial cooperation in criminal matters between the EPPO and the NPMS. Given the lack of clarity as to how to attain these objectives, it cannot be ruled out that it will be for the Commission to develop the necessary mechanisms. This task could entail the provision of technical support in the drafting of the legal instrument referred to above that shall lay down the rules governing the cooperation. The role of the CJEU could be to specify the scope of this principle by way of an interpretation of art. 4(3) of the TEU [20, p. 294]. More concretely, the CJEU could guide us as to what the member states must do to ensure that the EPPO can exercise its functions effectively. In general, the Commission, as "guardian of the EU treaties", is destined to assume a central role in enforcing compliance through infringement proceedings, by invoking art. 258 of the TFEU, against those member states that might be reluctant to act in a spirit of sincere cooperation, whether they are NPMS or not. The Commission is the instance that intervenes on behalf of the EPPO if a member state does not respond to requests for information [21].

The EPPO's role as the "legal successor" of national prosecuting authorities in investigation cases might pose practical difficulties when it comes to exchanging information and other ways of mutual support. Because the EPPO shall be the competent authority in respect of cases falling within its jurisdiction, it would logical to assume that the EPPO will be the contact point for any requests for assistance. Difficulties might arise if evidence from a specific member state is requested by an NPMS for an investigation when the EPPO does not have that evidence at the central level. The submission of that evidence would necessarily involve the decentralised level and would require a high degree of cooperation, as the EPPO would be entirely dependent on the national authorities.

Another issue that the EPPO is likely to encounter is the risk of parallel proceedings at supranational and national levels if an NPMS happens to investigate the same or a related matter. This might potentially lead to conflicts of jurisdiction. To avoid unnecessary duplication of efforts and a waste of resources, it might be advisable to relinquish jurisdiction in favour of either the EPPO or the national authority of the NPMS. Since the protection of the financial interests of the EU remains a common interest of all member states, there is no objective reason for keeping criminal proceedings running in parallel. However, it is worth noting in that respect that whilst art. 26(1) of the EPPO regulation obliges an EDP to initiate an investigation where there are reasonable grounds to believe that an offence is being or has been committed in a member state (so-called principle of legality), there is no provision allowing the closure of a case because the same case is being or has been investigated by the authorities of an NPMS. This situation might prove inconsistent with the *ne bis in idem* principle enshrined in art. 50 of the Charter. Therefore, the EPPO and the respective NPMS will necessarily have to coordinate their course of action in the interest of an efficient prosecution and the safeguarding of fundamental rights.

In addition to the above considerations, it is important to stress that other mechanisms of judicial coope-

[21]Opinion of Advocate General Pikamäe in case C-404/21, INPS and Repubblica Italiana, EU: C:2022:542 regards the role of the principle of sincere cooperation and the possibility to invoke this principle to overcome regulatory gaps.

ration in criminal matters, such as the European arrest warrant and the European investigation order, continue to apply to most of the NPMS. The same is the case for the Convention on mutual assistance in criminal matters between the member states of the European Union, its aim is to encourage and facilitate mutual assistance between judicial, police and customs authorities on criminal matters and to improve the speed and efficiency of judicial cooperation. Therefore, the EPPO could rely on these mechanisms in criminal proceedings through the intermediary of an EDP acting under the provisions of his national legal system. This is one of many examples in which the EDP's double function as a national and European prosecutor might prove beneficial for the fulfilment of the EPPO's tasks.

Cooperation with third countries. It is an area that plays an important role, in particular bearing in mind the many projects financed by the EU in those countries, which are generally subject to the scrutiny of the Court of Auditors given the proper allocation of resources. The protection of the financial interests of the EU cannot stop at its external borders. Having said that, it is not difficult to imagine how much more challenging must be the investigations concerning fraud, corruption and any other illegal activity affecting those financial interests if these crimes are committed in third countries, in which the influence of the EU and its member states is limited, as it touches upon the sovereignty of those third countries. The same applies to the recovery of ill-spent EU money. For that reason, cooperation with the competent judicial authorities of third countries is crucial. To mention a practical example, it is known that the United Kingdom will continue to receive funds from the EU even though it is no longer a member state. To fight against irregularities, fraud and other criminal offences affecting the financial interest of the EU, the Trade and cooperation agreement (TCA) concluded with the United Kingdom contains specific provisions that confer certain powers of investigation to both the Commission and OLAF in the territory of what is now a third country (art. UNPRO 4.2(1) of the TCA). Interestingly, the TCA does not mention the EPPO at all, which is not surprising because of the United Kingdom's initial opposition to this integration project. However, it cannot be ruled out that the EPPO might nevertheless intervene indirectly in certain cases that involve funding under EU programmes (art. UNPO 4.2(12) of the TCA), namely through the intermediary of its EDPs acting within their respective national judicial systems. The following explanations will shed light on how this might happen in practice.

Given the fact that dealing with a supranational body might be an unfamiliar situation for some third countries, it is necessary to ensure that the EPPO will be accepted as an equal partner and that its role will not be undermined, for example by addressing the judicial authorities of the member states instead. Whereas the principle of sincere cooperation, enshrined in art. 4(3) of the TEU, may be interpreted as imposing a legal obligation upon any NPMS to cooperate with the EPPO in its quality as the "legal successor" of national authorities of participating member states as regards the prosecution of specific criminal offences, nothing equivalent applies to the external relations with third countries. Therefore, unless otherwise prescribed, nothing prevents third countries from resuming their cooperation with the EU member states and ignoring the EPPO's existence. To offset these disadvantages, the EU legislator has developed several mechanisms that will be explained in detail below.

As a general rule, the EPPO can exercise its competence when offences against the financial interests of the EU falling within the material scope of the EPPO regulation have been committed in the territory of one or several member states. This follows from the principle of territoriality in criminal law (territorial theory), adapted to take into account the conferral of competencies to a supranational body with the adoption of the EPPO regulation. The extent of the EPPO's exterritorial jurisdiction is defined in art. 23(b) and art. 23(c) of the EPPO regulation. According to these provisions, the EPPO shall be competent where the offences were committed by a national of a member state, provided that the member state in question has jurisdiction for such offence when committed outside of its territory, or outside the territories of one or several of the member states by a person who was subject to the Staff regulations or the Conditions of employment, at the time of the offence, provided that a member state has jurisdiction for such offences when committed outside its territory. This essentially implies that the EPPO has competence in this situation where EU citizens and EU officials are involved. It is an adaptation to a supranational environment of the well-known principle of criminal law, whereby a state has jurisdiction over its national wherever it may be and hence can hold it accountable for its criminal misdeed wherever committed (personal theory). As a result, locally employed staff, contractors, interims, seconded national experts and trainees who are not EU citizens and who are not subject to the Staff regulations or Conditions of employment in principle do not fall under the EPPO's competence [22, p. 171].

Whilst the mandate of the EPPO concerning criminal offences linked to third countries is set out in art. 23 of the EPPO regulation, it should be reminded that the EPPO will have to exercise its extraterritorial jurisdiction in compliance with international law and, in particular, within the legal framework of bilateral agreements with those third countries, aimed at making the necessary judicial cooperation possible. Cooperation in criminal matters, often articulated in the form of mutual legal assistance, might potentially take place within the existing agreements concluded in the framework of the Council of Europe and the United Nations. However, given the special nature of the EPPO as a supranatio-

nal body in the service of the EU (and the participating member states), it is obvious that the EU had to resort to varied techniques to enable the EPPO to assume its external role as its representative in criminal matters. In other words, a legal solution had to be developed to ensure that the EPPO would be recognised as a partner in this judicial cooperation. This was of particular importance, as cooperation within the meaning of the EPPO regulation implies several activities, such as the exchange of strategic information, the designation of contact points in third countries and the secondment of liaison officers. With art. 104 of the EPPO regulation, the EU legislator has come up with three creative solutions that still have to stand the test of practice.

The first solution envisaged by art. 104(3) of the EPPO regulation is the conclusion of specific international agreements, which is the traditional way in international relations to establish judicial cooperation. This provision states that international agreements with one or more third countries concluded by the EU or to which the EU has acceded under art. 218 of the TFEU in areas that fall under the competence of the EPPO, such as international agreements concerning cooperation in criminal matters between the EPPO and those third countries, shall be binding on the EPPO. This EU body honours the commitments entered into by this supranational organisation in its relations with third countries, as far as its area of responsibility is concerned.

However, there might be situations in which an agreement enabling the EPPO to act on behalf of the EU and its member states might not yet exist. Because the EPPO was established not long ago, this might be the most common scenario at this point. Article 104(4) of the EPPO regulation covers these situations, specifying that the member states shall, if permitted under the relevant multilateral international agreement and subject to the third country's acceptance, recognise and, where applicable, notify the EPPO as a competent authority for the implementation of multilateral international agreements on legal assistance in criminal matters concluded by them, including, where necessary and possible, by way of an amendment to those agreements. This provision takes into account the fact that the designation of the EPPO as the counterpart of a third country's authorities will generally be subject to the latter's acceptance, as otherwise such a course of action would run counter to the principle pacta tertiis nec nocent nec prosunt in public international law, laid down in art. 34 of the Vienna convention on the law of the treaties, according to which a treaty does not create obligations or rights for a third state without its consent[22] [23].

The aforementioned provision of the EPPO regulation must be interpreted in light of recital 109 which calls upon the member states to act in the spirit of sincere cooperation by facilitating the exercise by the EPPO of its functions, pending the conclusion of new international agreements by the EU or the accession by the EU to multilateral agreements already concluded by the member states, on legal assistance in criminal matters. It is important to note in this context that the EU legislator seems to have been perfectly aware of the fact that the objective to allow the recognition of the EPPO as the authority in charge on the EU's side might face factual or legal obstacles, in certain cases even requiring the amendment of agreements already in force. The second solution is laid down in art. 104(4) of the EPPO regulation and rests on the idea that the EPPO is the legal successor of the national authorities, a concept that has already been discussed in this paper in connection with the relations between the EPPO and the NPMS. In any case, it appears that for this concept to be successfully implemented in the area of external relations of the EU, it should be necessary to allow the EPPO to exhort the Commission and the Council to conclude agreements with several third countries of interest.

Having said this, it would be perhaps naive to assume that third countries would unconditionally accede to the EU's demands to recognise the EPPO as their counterpart when it comes to the investigation and prosecution of criminal offences. The EU legislator seems to have taken this issue into account by including a third solution in art. 104(5) of the EPPO regulation. According to this provision, in the absence of an agreement referred to in para 3 or a recognition referred to in para 4, the handling EDP may have recourse to the powers of a national prosecutor of his or her member state to request legal assistance in criminal matters from authorities of third countries, consistent with art. 13(1) of the mentioned regulation, and based on international agreements concluded by that member state or applicable national law and, where required, through the competent national authorities. In that case, the EDP shall inform and where appropriate shall endeavour to obtain consent from the authorities of third countries that the evidence collected on that basis will be used by the EPPO for the purposes of this regulation. In any case, the third country shall be duly informed that the final recipient of the reply to the request is the EPPO.

This approach is based on the idea that EDPs have a double function, as they exercise simultaneously the competencies of a national prosecutor and those of a prosecutor subject to the instructions of the EPPO, acting in defence of the financial interests of the EU. In their capacity as active members of the public prosecution service or judiciary of the member states, EDPs may be "borrowed" by the EPPO in so far as they are required to exercise their prerogatives foreseen in national law to attain the EPPO's missions. This includes resorting to all legal possibilities set out in the international agreements to which his respective member state is a party.

[22]CJEU judgment of 25 February 2010 in case C-386/08, Brita, EU: C:2010:91. Para 44 ; CJEU judment of 21 December 2016 in case C-104/16 P, Council v Front Polisario, EU: C:2016:973. Para 100.

It is possible to infer from the manner in which all three avenues are listed that, firstly, there is a hierarchy between them and, secondly, the "borrowing" of an EDP for the benefit of the EPPO constitutes an ad hoc solution that only applies under the condition that the other two avenues are barred. Furthermore, it is necessary to point out that the EU legislator has stressed that this approach requires the EDP to act in full transparency to both the suspect and the authorities of the third country. Indeed, mutual trust between the EPPO and the latter can only be fostered if consent to this course of action is granted. As ingenious as this third approach might appear, it is obvious that, in the interest of legal certainty, mutual trust should lead in the long term to the conclusion of an agreement setting out the terms of the cooperation and specifically foreseeing the intervention of the EPPO.

It should be stressed that in the meaning of art. 104 of the EPPO regulation, cooperation implies the possibility to provide information or evidence in the possession of either the EPPO or the third country. However, this provision expressly does not cover the extradition of persons suspected of having committed a criminal offence, as the EU legislator was of the opinion that such a faculty should be left to the member states, not just because the EPPO will not have its own detention facilities or police officers, but because extradition has traditionally been regarded as a sensitive area where national authorities prefer to be in charge of the decision-making themselves due to the implications on their bilateral relations with third countries. Furthermore, it should be recalled that some member states are barred from extraditing their nationals by their constitutional law[23], just to mention a few considerations in support of allowing the member states to keep this faculty despite the EPPO being in charge of an investigation. The third avenue of cooperation with third countries is laid down in art. 104(5) of the EPPO regulation and described above, and might prove useful in the future, as the EPPO would be able to rely on the EDPs embedded in their national judicial system as well as on other national resources (infrastructure, staff, equipment, etc) to request extradition. Indeed, art. 104(7) of this regulation states that where it is necessary to request the extradition of a person, the handling EDP may request the competent authority of its member state to issue an extradition request under applicable treaties and (or) national law.

As for the cooperation with third countries taking place on a contractual basis, it should be observed that the EPPO regulation distinguishes between international agreements and working arrangements as the two possible legal instruments. Those falling within the first category are legally binding instruments concluded by the EU as a whole pursuant to art. 218 of the TFEU that set out the terms of the cooperation, whereas the instruments referred to in art. 104(1) in conjunction with art. 99(3) of the EPPO regulation merely deals with technical and (or) operational matters that aim to facilitate cooperation and the exchange of information between the parties, as already explained in this paper. To date, the EPPO has concluded working arrangements with the judicial authorities of a number of third countries, such as the USA, Moldova, Ukraine, Albania, Georgia and North Macedonia. The EPPO has prioritised the conclusion of working arrangements with the authorities of those third countries that it considers particularly relevant for the fulfilment of its mission. The conclusion of those working arrangements is possibly due to the fact that the EPPO has been given legal personality according to art. 3(2) of the EPPO regulation, which allows this EU body to enter into legal commitments in its own name instead of relying on the EU's legal personality. In that respect, the EPPO is similar to other EU agencies and bodies that, as part of the wider phenomenon of agencification in EU public administration, carry out various tasks, even beyond the EU's external borders [1, p. 44]. By spelling out the subject matter of the working arrangements that may be concluded, the EU legislator has apparently aimed at preventing the risk that EPPO might overstep its competencies.

General aspects concerning the functioning of the EPPO

Working languages. Like many other EU institutions, agencies and bodies, the EPPO has established its working language by the decision of 30 September 2020 on internal language arrangements, adopted on the basis of art. 107(2) of the EPPO regulation that requires a two-thirds majority of the college members. According to this decision, the working language for the operational and administrative activities of the EPPO shall be English. Having said this, the decision in question takes into account the fact that French is currently the working language of the CJEU by stipulating that the said language shall be used along with English in its relations with this judicial institution.

Legal personality and capacity. Further to the legal personality referred to above, the EPPO has in each of the member states the legal capacity accorded to legal persons under national law according to art. 106(1) of the EPPO regulation, which allows it, for example, to conclude contracts for the acquisition of goods and services in the framework of tender procedures. This is necessary in order to be able to operate as an EU body in the member state but particularly in Luxembourg, where it has its headquarters. In this context, it should be mentioned that art. 106(2) of

[23]See: CJEU judgment of 2 April 2020 in case C-897/19 PPU, Ruska Federacija, EU: C:2020:262. Para 13.

the EPPO regulation refers to an important requirement for any EU institution, agency and body, namely the conclusion of a headquarters agreement with the host member state. It follows from this provision that the necessary arrangements concerning the accommodation provided for the EPPO and the facilities made available by Luxembourg, as well as the specific rules applicable in that member state to the members of the college, the administrative director and the staff of the EPPO, and members of their families shall be laid down in the said headquarters agreement. The agreement in question has been concluded on 27 November 2020.

Luxembourg as the "judicial capital" of Europe. Pursuant to art. 341 of the TFEU, the seat of the institutions of the EU shall be determined by the common accord of the governments of the member states. Although this provision refers exclusively to the "institutions" within the meaning of art. 13 of the TEU, the member states appear to have interpreted it as encompassing agencies and bodies as well. However, the CJEU has recently made clear that the competence to determine the location of the seat of a body, office or agency of the EU "lies not with the member states but with the EU legislature, which must act to that end in accordance with the procedures laid down by the substantively relevant provisions of the EU treaties"[24]. This makes perfect sense, as the power to adopt the founding act of any of the entities referred to above logically implies the competence to take a decision on its geographical location. Founding acts usually expressly specify the seat of the entity in question, as is the case in art. 106 of the EPPO regulation. In this context, it should be pointed out that the question as to which legal bases are applicable in connection with the establishment of EU bodies, offices of agencies has already been extensively discussed elsewhere by the author so readers are kindly invited to consult this source [1, p. 44]. The question regarding the specific legal basis for the establishment of the EPPO has been explained in the introduction to this paper.

The (political) choice of Luxembourg as the host city of a future EPPO was taken at the European Council on 12 and 13 December 2003, simultaneously with the selection of the Hague as the host city of Eurojust, even though the wording of art. 86 of the TFEU ("establish a European Public Prosecutor's Office from Eurojust") could suggest that both entities would have to be based in the same city. On the other hand, this phrase could be interpreted as referring to the structure and powers of the new EU body and not necessarily to its headquarters. However, as already explained in this paper, the Council opted for making the EPPO not just a department or internal service of Eurojust but rather an autonomous EU body with which it maintains close ties. Consequently, the decision taken by the Council has cleared any remaining ambiguity concerning the legal nature of the EPPO. As far as the location of the headquarters is concerned, it is worth noting that the aforementioned decision of December 2003 refers to an earlier decision of the representatives of the Governments of the member states, adopted in 1967, in which it is explicitly stated that "shall be located in Luxembourg the judicial and quasi-judicial bodies"[25]. Against this background, it is safe to conclude that this earlier decision paved the way for the subsequent selection of the headquarters of the EPPO throughout the process that led to its establishment [24, p. 52]. This interpretation is confirmed by recital 121 of the EPPO regulation, which refers explicitly to both decisions. With the establishment of the EPPO in Luxembourg City, besides the CJEU, the EFTA Court, the Court of Justice of Benelux[26] and, more recently, the Court of Appeal of the Unified Patent Court[27], this city deserves henceforth being denominated the judicial capital of Europe (for a comparative study of the procedural rules applied by various international courts, see: [25]).

Transparency and public access to documents. The EPPO must comply with the entirety of rules related to good administration enshrined in art. 41 of the Charter, in particular with those concerning transparency and public access to documents, in addition to the rules related to the EPPO's operational activities in the framework of criminal investigations and prosecutions. Article 109(1) of the EPPO regulation, therefore, provides that the Regulation (EC) No. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents shall apply to documents other than case files, including electronic images of those files, that are kept by the EPPO in accordance with art. 45 of the EPPO regulation. Furthermore, as has already been mentioned in this paper, this EU body will have to abide by the rules on the protection of personal data, a subject particularly sensitive in the area of criminal investigations and prosecutions, and to cooperate with the EDPS, whose participation is explicitly foreseen in several provisions of the EPPO regulation.

Staff rules. The rights and obligations of EPPO staff are governed by art. 96–98 of the EPPO regulation. Ac-

[24]CJEU judgment of 14 July 2022 in case 743/19, Parliament v Council, EU: C:2022:569. Points 73, 74.

[25]Decision (67/446/EEC) (67/30/Euratom) of the representatives of the governments of the member states of 8 April 1965 on the provisional location of certain Institutions and departments of the communities.

[26]The Treaty of 31 March 1965, relating to the institution and statute of a Benelux Court of Justice entered into force on 1 January 1974. The permanent seat of the court is in Luxembourg, where it holds hearings. The court is an international court which essential role is to promote uniformity in the application of the legal rules which are common to the Benelux countries in a wide variety of fields such as intellectual property law (trademarks and service marks, designs and models), civil liability insurance for motor vehicles, penalty payments, visas, collection of tax debts, protection of birds and equal tax treatment.

[27]See: Agreement on a Unified Patent Court.

cording to its art. 96(1), the Staff regulations and the Conditions of employment of other servants of the EU (CEOS), and the rules adopted by agreement between the institutions of the EU for giving effect to those Staff regulations and the CEOS shall apply to the European Chief Prosecutor and the European prosecutors, the EDPs, the administrative director and the staff unless otherwise provided in the EPPO regulation. Article 96(4) requires the college of the EPPO to adopt implementing rules to the aforementioned legal acts. This has occurred with the college decision of 28 April 2021. In this context, it is worth noting that the European Chief Prosecutor and its deputies, as well as the European prosecutors, are engaged as "temporary agents" in accordance with art. 2 of the CEOS, whereas EDPs are engaged as special advisers in accordance with art. 5, 123, 124 of the CEOS. A special adviser is a person who, by reason of his or her special qualifications and notwithstanding gainful employment in some other capacity, is engaged to assist one of the institutions of the EU either regularly or for a specified period and who is paid from the total appropriations for the purpose under the section of the budget relating to the institution which he or she serves. Furthermore, according to art. 98 of the EPPO regulation, the EPPO may make use, in addition to its own staff, of "seconded national experts" or other persons put at its disposal but not employed by it. The "seconded national experts" shall be subject to the authority of the European Chief Prosecutor in the exercise of tasks related to the functions of the EPPO. By the college decision of 22 September 2021, the EPPO has adopted rules governing the engagement of this type of staff. Finally, it should be mentioned that Protocol No. 7 on the privileges and immunities of the EU applies to the EPPO and its staff.

The recruitment of suitable staff encountered some difficulties at the beginning, related mainly to the insufficient funding of this EU body[28] and the high cost of living in Luxembourg, both factors that affected the attractiveness of the EPPO as an employer. Whilst it was initially assumed that some staff members of the Commission and Eurojust would voluntarily seek assignment at the EPPO, this scenario has so far failed to materialise. In general, recruitment of suitable staff in Luxembourg appears to meet some difficulty, and this situation let several actors – such as the Court of Auditors and trade unions representing EU staff – to demand tangible solutions, including a corrector coefficient for Luxembourg, distinct from the one currently applicable to Brussels. Another difficulty that the EPPO had to face was the delay in the appointment of EDPs by some member states, in particular, Slovenia [26, p. 209], a situation which had to be addressed through political intervention at various levels. At this point in time, the process of appointment can be considered complete.

Case management system and other IT tools. Having a case management system is of utmost importance for prosecutors. In particular, such a system must take into account the special nature of the EPPO, allowing the sharing of information between the central and decentralised levels. Given the fact that the work of the EPPO is carried out in electronic form, a major focus in the year 2021 was precisely on developing the case management system and making it ready for the operational start. It is described as a complex set of tools and applications that allows the European prosecutors, EDPs and designated EPPO staff to work in compliance with the EPPO regulation and the internal rules of procedure. It enables the transfer of cases to and from national authorities, the reception and processing of information from other sources (including private parties), automated translation and all of the case-related workflows. The case management system allows the EPPO to operate as a single office, making the case files administered by EDPs available to the central level for the exercise of its decision-making, monitoring, directional, and supervisory tasks. In addition to the case management system, the EPPO developed and rolled out several IT tools to facilitate and support operations: a platform for the secure transfer of information (EPPO box), crime report forms for the automated import of information, an information exchange tool with other judicial organisations such as Eurojust, Europol and OLAF and an e-translation system for the automatic translation of the registered cases.

The future of criminal justice

Possible extension of the EPPO's mandate to other serious crimes. One of the major advantages of establishing the EPPO lies in the fact that a supranational body vested with powers of investigation and prosecution will potentially manage to overcome the barriers typically posed by differences in terms of the legal system, language and culture. Driven by the interest in protecting the common good, the EPPO will pursue its mission with the support of the EU member states. Furthermore, assigning those powers to a specialised EU body could expect an increase in efficiency. Based on the premise that these expectations are realistic, one cannot resist the impression that the EU legislator has fallen short in exploiting the EPPO's full potential. Whilst the EU's financial interests are certainly a matter of general concern that can be affected by criminal acts that transgress national boundaries, there are other not less important interests that deserve equivalent protection. In this context, it is worth referring to art. 83(1) of the TFEU, a provision that allows the EU to establish "minimum rules concerning the definition of criminal offences and sanctions" in connection with

[28] EU Commission blocking the hiring of staff, says EPPO // Luxemb. Times. 22 Sept. 2021.

serious crimes having a cross-border dimension, such as terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.

It is therefore surprising that the EPPO has seen a clear limitation of its mandate from the very moment of its inception. On the other hand, it should be pointed out that art. 86(4) of the TFEU contains a clause in principle allowing for an extension of its powers to include serious crimes having a cross-border dimension by means of a simplified amendment of the EU treaties [27]. This aspect is a legislative novelty and marks a major breakthrough with regard to previous projects mentioned in this paper that were restricted to the protection of the EU's financial interests [28]. This raises the question as to whether an extension of the EPPO's powers would be feasible to include the fight against environmental crime [29], organised crime and terrorism. The answer to this question depends on legal and political factors. Although there are currently no indications that there is a political will among the EU member states to make use of this faculty, recourse to art. 86(4) of the TFEU remains a legal option [30, p. 192]. According to this provision, a decision of the European Council is necessary, adopted unanimously after obtaining the consent of the Parliament and after consulting the Commission. The decision to be taken would have as effect to amend art. 86(1) of the TFEU which merely mentions the fight against the EU's financial interests as the EPPO's mission.

Considering that the EPPO has been established on the basis of enhanced cooperation, this would lead to the question as to what is to be understood by a "unanimous" vote, more concretely, whether the consent of all EU member states would be required or only those participating member states would be entitled to decide in support of such an extension of powers. Although art. 86 of the TFEU is a lex specialis in respect of the rules of title III of part VI concerning enhanced cooperation, this provision explicitly states that the rules on enhanced cooperation apply. As a consequence, the general rules apply as far as they do not conflict with the specific provisions laid down in art. 86 of the TFEU. Since neither para 1 nor para 4 contains any guidance, it is necessary to resort to the general provision of art. 330 of the TFEU, which clearly stipulates that "unanimity shall be constituted by the votes of the representatives of the participating member states only". Further guidance can be found in the interpretation of the provisions on enhanced cooperation given by the CJEU in the case concerning the creation of the Unitary patent, where it declared that "when the conditions laid down in Article 20 TEU and in Articles 326 TFEU to 334 TFEU have been satisfied <…> provided that the Council has not decided to act by a qualified majority, it is the votes of only those member states taking part that constitute unanimity"[29]. In other words, it could be argued that a unanimous vote by the member states participating in enhanced cooperation would be sufficient to extend the competence of the EPPO to other serious crimes having a cross-border dimension such as those referred to above, while the other member states would have to abstain from voting [27]. Once the competencies of the EPPO would have been extended, it would not be possible to have a "variable geometry" approach within the EPPO in a way that the member states would participate in different parts of its competence. In the same way, non-participating member states that might later join the EPPO would have to participate in it as a whole.

Such an approach would obviously require a legislative amendment of the EPPO regulation itself, with a view to specifying the crimes falling within the EPPO's jurisdiction. Whilst the EU legislature foresees minimum rules concerning the definition of criminal offences and sanctions, the principle nullum crimen sine lege, already mentioned in this paper, requires crimes, for which a sanction is foreseen, to be defined beforehand. Article 2 of the EPPO regulation would have to be amended in order to include a precise definition of cross-border terrorism and to provide the necessary terminological clarifications related to prosecutions in that area. In particular, art. 4 and art. 22 of the EPPO regulation, which set out the EPPO's tasks and material competence, would have to be amended, whereas the provisions pertaining to institutional and organisational aspects could remain untouched. An extension of the EPPO's mandate would also require adjustments in terms of budget and recruitment policy, as specialised staff would have to be hired. Having said this, these considerations remain strictly theoretical as long as there is no political will among the participating member states to embark on that path [31, p. 832]. However, it should be mentioned that the Commission has submitted in September 2018 a communication to the European Parliament and the European Council containing an initiative to extend the competencies of the EPPO to cross-border terrorist crimes[30], in which a number of proposals are made, including some of the amendments mentioned above. Although this communication does not legally qualify as a legislative proposal in the strict sense, the institutional history of the EU teaches us that the relevance of this type of initiative should not be underestimated. In any case, it would be wise to carry out a

[29]CJEU judgment of 16 April 2013 in joined cases C-274/11 and C-295/11, Spain and Italy v Council, EU: C:2013:240. Para 35.

[30]A Europe that protects: an initiative to extend the competencies of the European Public Prosecutor's Office to cross-border terrorist crimes : communication of the Europ. Comission to the Europ. Parliament and the Europ. Council of 12 Sept. 2018, COM(2018) 641 final.

preliminary assessment of such a need before eyeing an extension of the EPPO's mandate [32, p.118].

European Criminal Court and European criminal defence. The establishment of the EPPO has already led to further demands in academic circles for the creation of a European Criminal Court and an institutionalised European criminal defence [10, p. 386; 33, p. 183]. The idea of a European Criminal Court is explained by the concern for sufficient safeguards to control Eurojust, Europol, the European judicial network, OLAF and, in particular, the EPPO in the future. This concern is reflected in the Treaty of Lisbon, more concretely in lit c of art. 12 of the TEU and para 1 second sentence of art. 263 and para 5 of art. 263 of the TFEU. The idea of an institutionalised European criminal defence is explained by the concern to maintain a certain balance in procedural terms (so-called equality of arms) in cross-border criminal proceedings. The importance of the rights of defence was emphasised by the legally binding nature of the judicial rights of the Charter, in particular in art. 47 of the Charter. The preparation and gradual implementation of the Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings[31] also takes the importance of the rights of defence into account. As has already been explained in detail in this paper, art. 41 of the EPPO regulation refers to the rights of suspects and accused persons that apply at the EU and national levels. Although there is currently no legal basis for a European Criminal Court or an institutionalised European criminal defence system in the EU treaties, the concerns referred to above should be taken into consideration as far as possible in the further development of the EPPO and the rights of suspects and accused persons in criminal proceedings.

Looking back at the first year of operation

On 24 March 2022, the EPPO published its first annual report[32], which gives an account of the office's operational activities from 1 June to 31 December 2021. The report provides an overview and statistical data on the operational activities of the central office in Luxembourg and all 22 participating member states. It also outlines typologies identified in EPPO cases and recovery actions regarding the proceeds of criminal activity. In the first seven months of operation, the EPPO processed 2,832 crime reports. 576 investigations were opened, and 515 investigations were active by the end of the year. The estimated damage to the EU's budget was around 5.4 bln euro, whereby 147 mln euro were seized upon request by the EPPO. 95 European delegated prosecutors have been appointed, who work in 35 EPPO offices in the 22 participating member states. Nevertheless, it should be borne in mind that these numbers are updated on a regular basis by the EPPO in order to better reflect the current state of affairs.

The EPPO's success can be best measured by the number of convictions to which the prosecutions have so far led in Croatia, Bulgaria, Latvia and Germany, often involving criminal activity in other member states as well, such as Czechia and Romania. The convictions are essentially related to subsidy fraud in connection with the allocation of funds from the European Agricultural Fund for Rural Development, procurement fraud and VAT carousel fraud [34]. The sanctions imposed on the perpetrators of these criminal offences include several years of imprisonment as well as fines. These cases are reported by the EPPO in official press releases and very often echoed by the general press, contributing to an increased visibility of the EPPO's activities in the public sphere.

Conclusions

The establishment of the EPPO constitutes without any doubt a milestone in the institutional history of the EU. A supranational body has been set up, endowed with the powers to prosecute criminal offences that affect the financial interests of the EU. An important gap in the institutional framework has been filled in so far as the EPPO will complement the activities carried out by other EU entities with investigative powers such as OLAF, Europol and, most importantly, Eurojust. The expected synergy effects resulting from the cooperation between these entities will contribute to a more efficient fight against crime across national borders. The statistics related to the number of prosecutions as well as the amount of money seized by the EPPO and the supporting national authorities within such a short period of time give reasons for optimism. The good results obtained by the EPPO to this date will hopefully convince the member states that its creation was a good investment and that cooperation truly pays off. As any newly created body, the EPPO must find its place in the complex institutional framework of the EU and demand to be recognised as a valuable partner by all member states, in a spirit of sincere cooperation. Both the Commission and the CJEU are likely to play a crucial role in the pursuit of this objective.

The EPPO's success will hopefully motivate the EU legislature to embark on more ambitious projects such as the extension of this EU body's mandate to include the

[31] Resolution of the Council of 30 November 2009 on a Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings.

[32] EPPO annual repost [Electronic resource]. URL: https://www.eppo.europa.eu/sites/default/files/2022-03/EPPO_Annual_Report_2021.pdf (date of access: 20.12.2022).

fight against other criminal offences having cross-border relevance, for example, organised crime, terrorism and environmental crime. For this purpose, a preliminary assessment of such a need should be carried out. Furthermore, it would be worthwhile envisaging tackling issues likely to hamper the EPPO's functioning, such as the current fragmentation of the rules on procedural and substantive criminal law. A decisive approach should be undertaken with a view to creating a uniform set of rules governing the criminal procedure, going beyond what is already set out in the EPPO regulation. Furthermore, an effort should be made to further harmonise the typification of criminal offences in the interest of legal certainty, thereby preventing the risk that criminal proceedings be considered in breach of the nullum crimen sine lege principle. Moreover, it would be advisable for the EPPO to develop a sort of guidance for national courts on how severely criminal offences should be sanctioned, so as to foster a coherent judicial practice throughout the EU, eventually preventing the risk of forum shopping. All these measures would be beneficial to the area of freedom, security and justice in so far as they would strengthen the trust of EU citizens in the institutions administering justice. It is necessary to stress in this context that the creation of the EPPO represents a contribution to increased accountability of the EU towards its citizens and must therefore be considered a profoundly democratic act.

According to recent public statements made by the European Chief Prosecutor, the objective of the EPPO for the next year is to consolidate the achievements made so far. Whilst these achievements are indeed remarkable, as the statistics show, the present paper has presented a number of issues that the EPPO should raise with the EU institutions involved in the legislative process with a view to improving its effectiveness.

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UNFAIR COMPETITION BY MISREPRESENTATION AND THE LEGAL PROTECTION AGAINST IT IN BELARUS

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The author of the article analyses provisions against unfair competition by misrepresentation contained in the Paris convention for the protection of industrial property of 20 March 1883, the Treaty on the Eurasian Economic Union of 29 May 2014, and the domestic legislation of the Republic of Belarus. It is shown that the Republic of Belarus has duly implemented its obligations under these treaties. Changes are proposed to art. 26 of the Law of the Republic of Belarus of 12 December 2013 No. 94-3 "On counteracting monopolistic activitity and promoting of competition" to cover actual and potential misrepresentation, as that would strengthen the preventative function of domestic legislation on unfair competition. It is also suggested that a complete list of remedies be included in art. 1030 of the Civil Code of the Republic of Belarus of 7 December 1998, to enhance legal certainty and the balance of public and private interests. Furthermore, it is argued that in establishing a fact of misrepresentation, the relevant authorities should determine that at least 20–25 % of consumer respondents in sample polls find a statement or representation actually or potentially misleading. Relevant changes are suggested to the Recommended practices for determining violations of anti-monopoly legislation concerning unfair competition and a prospective Resolution of the Plenum of the Supreme Court of the Republic of Belarus on adjudication of Belarusian courts in unfair competition.

Keywords: art. 10-bis of the Paris convention for the protection of industrial property; common rules and principles of competition; unfair competition; unfair competition by misrepresentation; violation of anti-monopoly legislation.

НЕДОБРОСОВЕСТНАЯ КОНКУРЕНЦИЯ ПУТЕМ ВВЕДЕНИЯ В ЗАБЛУЖДЕНИЕ И ЗАЩИТА ОТ НЕЕ В РЕСПУБЛИКЕ БЕЛАРУСЬ

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Проведен анализ норм Парижской конвенции по охране промышленной собственности от 20 марта 1883 г., Договора о Евразийском экономическом союзе от 29 мая 2014 г. и национального законодательства Республики Беларусь о недобросовестной конкуренции путем введения в заблуждение. Установлено, что Республика Беларусь выполнила в этой сфере свои обязательства, принятые в соответствии с данными международными документами, надлежащим образом. В целях усиления превентивной функции законодательства о недобросовестной конкуренции предложено изменить формулировку ст. 26 Закона Республики Беларусь от 12 декабря 2013 г. № 94-З «О противодействии монополистической деятельности и развитии конкуренции», чтобы в ней охватывалось как реальное, так и потенциальное введение в заблуждение. Для повышения правовой определенности и обеспечения справедливого баланса между публичными и частными интересами необходимо перечислить в ст. 1030 Гражданского кодекса Республики

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Беларусь от 7 декабря 1998 г. все способы гражданско-правовой защиты, доступные в случае осуществления недобросовестной конкуренции, а также закрепить в методических рекомендациях по установлению факта наличия (отсутствия) нарушения антимонопольного законодательства в части недобросовестной конкуренции и в постановлении Пленума Верховного суда Республики Беларусь о некоторых вопросах рассмотрения белорусскими судами дел о недобросовестной конкуренции (которое могут принять в будущем) положение, согласно которому для установления введения в заблуждение необходимо, чтобы как минимум 20–25 % опрашиваемых потребителей считали соответствующие утверждения вводящими в заблуждение или способными ввести в заблуждение.

Ключевые слова: ст. 10-bis Парижской конвенции по охране промышленной собственности; общие правила и принципы конкуренции; недобросовестная конкуренция; недобросовестная конкуренция путем введения в заблуждение; нарушение антимонопольного законодательства.

Introduction

Misrepresentation is a common form of unfair competition often bringing losses to domestic and foreign economic entities. Successful struggle against this practice depends on progressive, well-developed norms at the international and domestic levels and effective enforcement.

The Republic of Belarus is a party to two treaties regulating certain questions of protection against unfair competition, including by misrepresentation: the Paris convention for the protection of industrial property of 20 March 1883 (hereinafter the Paris convention) and the Treaty on the Eurasian Economic Union of 29 May 2014 (hereinafter the Treaty on the EAEU).

In domestic legislation, unfair competition by misrepresentation is addressed in art. 26 of the Law of the Republic of Belarus of 12 December 2013 No. 94-3 "On counteracting monopolistic activitity and promoting of competition", amended as of 8 January 2018 (hereinafter the Law on competition) and art. 1029(3) of the Civil Code of the Republic of Belarus of 7 December 1998 (hereinafter the Belarusian CC).

To date, the topic of unfair competition by misrepresentation has received limited attention from Belarusian scholars. Yu. A. Amelchenya and O. A. Bakinovskaya[1], E. V. Ganakova[2], T. V. Ignatovskaya [1], S. S. Losev[3], N. G. Maskayeva (Tykotskaya) [2–4], I. V. Popova [5], E. A. Svadkovskaya, V. F. Chigir[4], among others, address it as one of a multitude of uncompetitive practices. These and other works on competition law, including of the Eurasian Economic Union and its member states [6–13], provide no comprehensive or comparative analysis of the treaties and legal acts of the Republic of Belarus concerning misrepresentation. Most scholars discuss protection against unfair competition in general[5] [14–21], or its specific forms [22; 23], without specifically addressing misrepresentation[6].

The aim of this article is to consider misrepresentation as a form of unfair competition with reference to international treaties, legal acts of the Republic of Belarus and legal protection against it available in Belarus.

Results and discussion

The Paris convention is a universal treaty that "primarily deals with patent, trademark and design law, as well as trade names and indications of origin" [25, p. 53]. The initial text of the Paris convention contained no provisions expressly dealing with unfair competition, although the preamble referred to the desire of the contracting states to guarantee fair trade [26, p. 12].

Presumably, at the adoption of the Paris convention "protection against unfair competition was at best only weakly developed in most of the contracting states" [27, p. 16]. Provisions on unfair competition appeared in the convention due to the revision conferences held in Brussels (1900), Washington (1911), the Hague (1925) and Lisbon (1958) [25, p. 62–63].

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[1]*Amelchenya Yu. A.*, *Bakinovskaya O. A.* Commentary "Novelties of the Law of the Republic of Belarus of 12 December 2013 No. 94-3 "On counteracting monopolistic activity and development of competition" (part 3)" (as of 27 March 2014) [Electronic resource] // ConsultantPlus: Belarus / LCC "Yurspectr". Minsk, 2022 (in Russ.).

[2]*Ganakova E. V.* On unfair competition (as of 18 August 2017) [Electronic resource] // ConsultantPlus: Belarus / LCC "Yurspectr". Minsk, 2022 (in Russ.).

[3]*Losev S. S.* Unfair competition (as of 15 January 2005) [Electronic resource] // ConsultantPlus: Belarus / LCC "Yurspectr". Minsk, 2022 (in Russ.) ; *Losev S. S.* Unfair competition (part 2) (as of 15 September 2015) [Electronic resource] // ConsultantPlus: Belarus / LCC "Yurspectr". Minsk, 2022 (in Russ.) ; *Losev S. S.* Institute of protection against unfair competition: new in the legislation [Electronic resource]. URL: https://etalonline.by/document/?regnum=u01801197&q_id=0 (date of access: 16.03.2022).

[4]*Popova I. V.*, *Svadkovskaya E. A.*, *Chigir V. F.* Article-by-article commentary on the Civil Code of the Republic of Belarus. Sect. V. Exclusive rights to the results of intellectual activity (intellectual property) (art. 979–1030) (as of 1 November 2007) [Electronic resource] // ConsultantPlus: Belarus / LCC "Yurspectr". Minsk, 2022 (in Russ.) ; *Chigir V. F.* Industrial property law. Manual (as of 22 April 2009) [Electronic resource] // ConsultantPlus: Belarus / LCC "Yurspectr". Minsk, 2022 (in Russ.).

[5]*Filippovskii V. V.* Protection against unfair competition (as of 13 June 2011) [Electronic resource] // ConsultantPlus: Belarus / LCC "Yurspectr". Minsk, 2022 (in Russ.).

[6]The only published work dealing with protection against unfair competition by misrepresentation is the article by A. S. Valevko [24].

As stated in art. 1(2) of the Paris convention, the repression of unfair competition is an object of the protection of industrial property. "The inclusion of unfair competition in the sphere of industrial property by the Paris convention is understandable if one examines more closely the torts already[7] recognised as unfair competition. They mainly concerned cases like passing off, exploitation of another's reputation, disparagement, betrayal of secrets etc…" [27, p. 18].

For Belarus, the obligations under the Paris convention are as follows.

Firstly to assure to nationals of the countries of the Union[8] as well as nationals of countries outside the union who are domiciled or who have real and effective industrial or commercial establishments in the territory of one of the countries of the union effective protection against unfair competition and appropriate legal remedies effectively to repress unfair competition in the meaning of the convention (art. 10-bis(1); 10-ter(1); 10-ter(3)). The implementation of this obligation does not require the enactment of specific legislation [25, p. 63] – that can be achieved by the norms of any branch of law (criminal, administrative, civil or other) and (or) by judicial precedents. The contracting states are also free to decide on the mechanisms, remedies, sanctions and procedures concerning such protection.

The Paris convention does not oblige its member states to grant the above protection to its nationals. As C. Wadlow rightly points out, except for the conventions on human rights, states typically enter into international conventions primarily to protect their interests abroad, and this includes the interests of their nationals. Where states wish to protect their nationals at home, the normal and appropriate route is by domestic legislation [28, p. 52]. Thus, the nationals of the Republic of Belarus cannot invoke the provisions of the Paris convention to seek protection against unfair competition.

The Paris convention defines unfair competition as "any act of competition contrary to honest practices in industrial or commercial matters" (art. 10-bis(2)). It provides an open list of examples that constitute such an act (art. 10-bis(3)). This definition and the list should be treated as a minimal standard of protection which must be provided to all the contracting parties[9]. States may expand this list and modify the examples set forth in it, in their domestic law to be able to qualify a wider range of acts or omissions as unfair competition. Importantly, art. 2 of the Paris convention proclaims national treatment as its fundamental principle, meaning that "nationals of other member states must be treated like a country's own nationals" [25, p. 54]. Thus, "…whatever rights and remedies a country confers on its nationals in the field of unfair competition must equally be made available, without discrimination or any requirement of reciprocity, to nationals of the other countries of the union and other ressortissants subject to the reservation of art. 1(3) in respect of matters of jurisdiction and judicial procedure…"[10] [28, p. 53]. The member state in which protection against unfair competition is claimed cannot impose on the mentioned persons any requirement as to their domicile or establishment in this state (art. 2(2) of the Paris convention).

Secondly to provide measures to permit federations and associations representing interested industrialists, producers, or merchants existing in other member states, to take action in its courts or before its administrative authorities, with a view to the repression of unfair competition, if two conditions are cumulatively met:

- the existence of such federations and associations is not contrary to the laws of their countries;
- the said actions are allowed by Belarusian law (art. 10-ter(2) of the Paris convention).

Article 10-bis(3(ii)) of the Paris convention assigns to unfair competition and obliges the member states to prohibit any indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods. In academic literature, those are often referred to as misrepresentation [28] or misleading the public [26, p. 14]. This example of acts of unfair competition was incorporated in the text of the Paris convention at the 1958 Lisbon conference.

The operation of the Eurasian Economic Union is grounded on the principles of a market economy and fair competition (art. 3 of the Treaty on the EAEU), realised by three types of policies:

- common policies as to protection against unfair competition in cross-border markets through uniform legal regulation – the Common rules of competition (art. 76 of the Treaty on the EAEU, and Protocol on common principles and rules of competition (annex 19 to the Treaty on the EAEU));
- agreed policies, in relation to the protection of competition in the national markets, by providing common principles and rules of competition (art. 75, 76

[7] In 1911 this provision was included in the Paris convention at the Washington conference.

[8] The Union for the protection of industrial property, comprising all the countries to which the Paris convention applies (art. 1(1) of the Paris convention).

[9] Protection against unfair competition. Analysis of the present world situation: WIPO publication No. 725. Geneva, 1994. P. 18 (in Russ.).

[10] A reservation of this kind is outlined in art. 2 of the Paris convention, which is correct. According to art. 2(3) of the Paris convention, the provisions of the laws of each of the countries of the union relating to judicial and administrative procedure and to jurisdiction, and to the designation of an address for service or the appointment of an agent, which may be required by the laws on industrial property are expressly reserved.

of the Treaty on the EAEU), which may be developed in the domestic legislation of the member states;

• coordinated policies, in relation to the actions of economic entities (market participants) from third countries, where such actions may have a negative impact on the competition in the commodity markets of member states (art. 74(4) of the Treaty on the EAEU)[11].

Subparagraph 14 of the Protocol on the common principles and rules of competition defines unfair competition as follows: any act of an economic entity (a market participant), or a group of persons or several economic entities (market participants) or groups of persons aimed at obtaining a business advantage, that is inconsistent with the law of the member states, customary business practices, the principles of decency, reasonableness and fairness, and causes or may cause damage to other competing economic entities (market participants) or damage or may cause damage to their business reputation.

Article 76(2) of the Treaty on the EAEU contains a non-exhaustive list of the forms of unfair competition, including misrepresentation as to the character, method and place of production, consumer properties, quality and quantity of goods or as to the producer (para 2).

This definition and list must be applied for the realisation of common policies (executed by the Eurasian Economic Commission through prosecution of unfair competition from the economic entities (market participants) of member states and from their natural persons and non-commercial organisations not engaged in entrepreneurial activity, where such unfair competition affects or may affect competition in the cross-border markets of two and more member states, except for financial markets) (para 10–21 of the Protocol on common principles and rules of competition) and agreed policies (executed by national bodies of member states through prosecution of "other" unfair competition). Under these policies the mentioned definition and list serve as a "minimum standard": based on art. 74(3) of the Treaty on the EAEU the member states may "expand" them in their national legislation to qualify as unfair competition and, accordingly, suppress more acts and (or) omissions.

Under the Treaty on the EAEU, each member state has to provide existence of the national authority of the government whose competence includes implementation and (or) carrying out competition (antimonopoly policy), which means, *inter alia*, vesting such authority with the power to control observance over prohibition of anti-competitive acts and prohibition of unfair competition, over economic concentration, and to prevent and detect violations of the competition (antimonopoly) legislation and take measures on their termination and bringing the perpetrators to liability (art. 75(5) of the Treaty on the EAEU). Belarus has fulfilled this obligation by establishing the Ministry of Antimonopoly Regulation and Trade of the Republic of Belarus (hereinafter MART), mandated to perform all of the above functions (see Edict of the President of the Republic of Belarus of 3 June 2016 No. 188 "On the bodies of anti-monopoly regulation and trade", Art. 4, 13–17, 33, 49–51 of the Law on competition, subpara 5.1–5.2 of para 5 of the Regulation on the MART).

Other issues of protections against unfair competition are subject to the discretion of the member states. At the same time, the Treaty on the EAEU demands that member states enforce their competition (antimonopoly) legislation similarly and equitably without regard for the legal form and place of registration of an economic entity (a market participant) of other member states (art. 75(1) of the Treaty on the EAEU).

From the analysis of the text of the Paris convention and the Treaty on the EAEU, the following conclusions may be drawn.

Several differences are found in the language of art. 10-bis(3(ii)) of the Paris convention and art. 76(2(2)) of the Treaty on the EAEU:

• the Paris convention specifies which actions may constitute misrepresentation (e. g. indications or allegations), but the Treaty on the EAEU does not;

• it is sufficient for the "indications" or "allegations" to be liable to mislead the public in the language of the Paris convention, while in the Treaty on the EAEU, the misrepresentation must have already occurred and this document does not specify who must be misled;

• the instruments differ in the product features that may be the object of misrepresentation; furthermore, unlike the Paris convention, the EAEU provides that "misleading" also applies to information about producers.

Both instruments also share several similarities:

• neither treaty provides for the assessment of the defendant's state of mind or the finding of the information as false as a condition for establishing misrepresentation: in a comment on a provision of the Paris convention, WIPO correctly observes that "even a statement that is literally correct can be deceptive if gives the misleading impression… The omission of information may also be potentially misleading"[12];

• misrepresentation cannot be claimed in relation to "merely private, social or political communications, particularly communications that are considered "free speech" [29, p. 21], because, according to art. 10-bis(3(ii)) of the Paris convention the relevant indications or

[11] Such policy presupposes the establishment of common approaches, including those approved within the bodies of the union, which are necessary for achieving the objectives of the union (para 1 of the Advisory opinion of the Court of the Eurasian Economic Union of 4 April 2017). See: The Advisory opinion of the Court of the Eurasian Economic Union of 4 April 2017 [Electronic resource]. URL: https://docs.eaeunion.org/docs/ru-ru/01314091/ac_05062017 (date of access: 16.03.2022) (in Russ.).

[12] Model provisions on protection against unfair competition. Articles and notes. WIPO publication No. 832(E). Geneva, 1996. P. 30.

allegations must be made in the course of trade, and, according to the definition of unfair competition[13] provided in subpara 14 of the Protocol on the common principles and rules of competition, the latter covers only acts aimed at obtaining advantages in entrepreneurial activity;

• both instruments neither notion the ways and forms of misrepresentation, nor specify the subjects whose opinion must be consulted to establish misrepresentation and their minimum number (states have the freedom of discretion on those matters, the Paris convention refers to "the public", but does not define that term)[14];

• the member states are given full discretion in evaluating the reactions of the addressees of misleading;

• both instruments set a "minimum standard" of protection against misrepresentation, allowing the member states to assign more acts and (or) omissions to unfair competition by national legal acts or judicial precedents.

Paragraph 10 of Art. 1 of the Law on competition defines unfair competition as "any act of one or several economic entities aimed at obtaining advantages (benefits) in entrepreneurial activity, that contradicts this law, other legislative acts, acts of antimonopoly legislation or principles of good faith and reasonableness and cause or may cause losses to competitors or cause or may cause damage to their business reputation".

The acts directly assigned to unfair competition are enumerated in art. 25–30 of this law and art. 1029 of the Belarusian CC. These lists are open and both include those covered by art. 10-bis of the Paris convention and art. 76(2) of the Treaty on the EAEU, *inter alia* misrepresentation. The Law on competition also mentions incorrect comparison (art. 27), unfair competition involving the acquisition and (or) use of intellectual property (art. 28), unfair competition through unlawful acquisition, use, or disclosure of a commercial, official, and other secret information protected by law (art. 30). At present, no other legal instrument directly assigns certain acts or omissions to unfair competition. However, the umbrella character of the definition of unfair competition allows to recognise as such any act meeting the criteria enshrined in it. Having such a definition in the law is absolutely necessary: J. Kohler once compared unfair competition to Proteus, the son of Poseidon and Tethys, who was very difficult to catch as he changed into all possible forms [26, p. 3].

As stated in art. 1029(3) of the Belarusian CC, indications or allegations, the use of which in the course of entrepreneurial activity may mislead as to the nature, properties, suitability for use or quantity of goods, works, services of a competitor shall be recognised as unfair competition. The article puts forth an exhaustive list of the objects of misrepresentation.

Article 26 of the Law on competition, prohibits unfair competition by misrepresentation by an economic entity, *inter alia* concerning the following points:

• the quality and consumer properties of its product offered for sale, the purpose of such product, the methods and conditions of its (manufacture) production or use, the results expected from the use of such product, its suitability for specific purposes;

• the quantity of its goods offered for sale, the availability of such goods in the market, the possibility of acquiring them under certain conditions, the actual size of demand for such goods;

• the place of manufacture (production) of its goods offered for sale, the manufacturer (producer) of such goods, the warranty obligations of the seller or the manufacturer (manufacturer) of the goods;

• the conditions under which its goods are offered for sale, in particular the price (tariff).

As seen from the above, art. 26 of the Law on competition and art. 1029(3) of the Belarusian CC allow assigning to misrepresentation more acts and omissions than corresponding articles of the Paris convention and the Treaty on the EAEU which, as already shown, is allowed by both treaties. However, the provisions of art. 26 of the Law on competition and art. 1029 of the Belarusian CC also differ in some respects. The list of the objects of misrepresentation contained in art. 26 of the Law on competition, is non-exhaustive and broader than in art. 1020 of the Belarusian CC. This creates uncertainty over which provisions will be applied in a specific case involving misrepresentation.

In the Republic of Belarus administrative and judicial protections against misrepresentation can be sought. Parties can recourse to an arbitration court as well[15].

Administrative protection is provided by the MART, through the exercise of its powers to launch an investigation proceeding *ex officio* or upon a complaint. There are no restrictions in the Belarusian law on competition as to which person may lodge the latter. To determine whether a misleading statement constitutes unfair competition, the ministry applies provisions of the Law on competition and the Recommended practices for determining violations of antimonopoly legislation concerning unfair compe-

[13]To our mind, it shall be applied cumulatively with art. 76(2(2)) of the Treaty on the EAEU. Otherwise, it would be impossible to identify the sphere in which unfair competition is possible, the subjects whose actions can be recognised as unfair competition etc. See: *Losev S. S.* Unfair competition (part 2) (as of 15 September 2015) [Electronic resource] // ConsultantPlus: Belarus / LCC "Yurspectr". Minsk, 2022 (in Russ.).

[14]As M. Senftleben suggests, the use of the latter in art. 10-bis(3) of the Paris convention "implies that the prohibition is intended to cover situations where deceptive indications or allegations are directed at the consumer". See: Status report on the protection against unfair competition in the WIPO member states [Electronic resource]. URL: https://www.wipo.int/export/sites/www/sct/en/meetings/pdf/wipo-strad-inf-8-prov.pdf (date of access: 16.03.2022).

[15]For more details see [30].

tition (approved by the Order of the Minister of antimonopoly regulation and trade of the Republic of Belarus of 18 September 2017 No. 154) (hereinafter the Recommended practices) except for its provisions contradicting the indicated law.

In the MART's decisions on misrepresentation available for this analysis this body invokes the provisions of the domestic legislation of the Republic of Belarus only. Aside from the debate on whether the norms of the Paris convention and the Treaty on the EAEU are directly applicable, we believe that the absence of references thereto in MART's decisions has no detrimental effect on any injured party because Belarusian domestic legislation defines misrepresentation more broadly than the aforementioned treaties.

For an act to be recognised by MART as a misrepresentation, it must be perpetrated by one or several economic entities, i. e. a commercial, or a non-commercial organisation engaged in an income-generating activity, or one or several entrepreneurs, or individuals not registered as entrepreneurs but practicing an income-generating professional activity for which a license is required (subpara 16 of para 1 of art. 1 of the Law on competition).

The terms "commercial (non-commercial) organisation", the organisational-legal forms thereof and the mentioned professional activities are put forth in domestic legal acts (see, respectively, para 1 of art. 46, para 1, 2 of art. 36 of the Belarusian CC, subpara 24.4 of para 24 of the List of the types of activity requiring possession of a special permit (license) and the state bodies and state organisations with mandates to issue licenses (annex 1 to the Regulation on the licensing of certain activities, approved by the Edict of the President of the Republic of Belarus of 1 September 2010 No. 450 "On licensing of select activities").

The Law on competition does not define an "income-generating" activity. As the meaning of the term "income" in Russian [3, p. 95] suggests, an income-generating activity results in the receipt of cash or other material assets. As T.V . Soyfer rightly observes, the income-generating nature of an activity does not necessarily mean profit as its goal [32, p. 28].

Similarly, a non-commercial organisation should be understood as an economic (or market) entity when it is engaged in an activity that does not bring a profit and also when it is unprofitable. Similarly, the systematic receipt of an income is not necessary for an activity to be "income-generating": even a single receipt of an income – as a transaction or donation – is sufficient [33, p. 42].

As demonstrated, only an individual engaged in legal entrepreneurial activity (e. g. registered as an entrepreneur) can be found a violator of unfair competition ban in general, or misrepresentation, in particular.

The act also can be recognised by MART as a misrepresentation if it is aimed at obtaining a business advantage or benefit, i. e. the act may be able to result in it. The perpetrator's intent is not taken into account.

Entrepreneurial activity is defined in part 2 of para 1 of art. 1 of the Belarusian CC[16]. Part 3 of the latter paragraph lists the activities excluded from this notion: crafts, agricultural and ecotourism services, production of goods in the household farms by citizens of the Republic of Belarus, processing and marketing of such goods, advocacy activity, services of a notary, services of an arbitrator, services of a mediator, work within a research team, etc. Therefore, no misleading statements made in the context of any such activity may constitute unfair competition.

The term "advantage (benefit) in entrepreneurial activity" is not defined in domestic legislation. However, part 2 of art. 5 of the Law of the Republic of Belarus of 5 January 2013 No. 16-3 "On commercial secrets" provides a comparable term "commercial benefit" that refers, in particular, to the receipt of extra revenue, cost savings, maintaining a market position.

Paragraph 11 of the Recommended practices states an advantage in entrepreneurial activity gained by an economic entity (economic entities) as a result of unfair competition may amount to extra profit, resulting, *inter alia*, from lowering production and marketing costs, as well as from increasing own sales due to lowering competitor's sales; increased demand, not resulting from own investments, but from prominence of competing brands, trademarks or goods.

MART recognises the act as a misrepresentation if it causes actual or potential loss to competitors or damage to their business reputation.

Competitors are economic entities selling and (or) buying goods[17] in the same commodity market[18] (para 7 of art. 1 of the Law on competition).

The Recommended practices refer to the nature of the losses or damages. The proof of loss and damage and problems in their estimation have already been addressed in earlier publications [19; 21], so they do not need to be covered in this article.

[16]According to it, entrepreneurial activity is an independent activity of a legal or natural person pursued in the civil-law transactions in their own name, at their own risk and subject to material liability, intending to generate systematic profit from the use of property, sale of the goods produced, processed or otherwise acquired by the said persons for resale, as well as from performing works or offering services where such works or services are intended for sale to other persons and are not applied for own use.

[17]Goods are all kinds of objects of civil rights, as well as works and services, including financial ones, that are intended for selling, exchange or other introduction into civil-law transactions (para 14 of art. 1 of the Law on competition).

[18]A commodity market is a sphere for the circulation of a good having no substitutes or interchangeable (analogous) goods on the territory of the Republic of Belarus or its part, as determined from consumers' economic, technical and other feasibility or expediency to purchase the good in a certain territory, or the lack of such feasibility or expediency outside its territory (para 15 of art. 1 of the Law on competition).

Unlike the Paris convention, art. 26 of the Law on competition "… speaks of misrepresentation as a completed act"[19]. Therefore, misrepresentation can only be established if the act has taken place. In our opinion, the text of the above article should be changed to include both actual and potential misrepresentation, to increase the preventative function of the legislation on unfair competition.

It is not specified in art. 1029(3) of the Belarusian CC or art. 26 of the Law on competition who the recipients of misleading statements can be, or how their views could be assessed. Nor are these questions addressed in the Recommended practices. Under such provisions, as in the Federal Law of the Russian Federation of 26 July 2006 No. 135-ФЗ "On protection of competition" (art. 14.2), "…misleading acts are based on a subjective and not objective criteria, what makes it possible to find anyone to be misled to some degree, including consumers, competitors, contractors of the perpetrator of an illegal act that meets the features of misrepresentation" [34, p. 34]. This observation seems reasonable, as misrepresentation may target – and reach – different subjects. Conversely, a literal interpretation of the above norms gives grounds for establishing misrepresentation even when only a small number of persons, if any, have been misled. In our view, this is an untenable situation, because it obliges producers to anticipate the reactions of every buyer, including the naive, sufferering from mental or physical disabilities and those with other limitations who could be more inclined than most others to misperceive commercial communications. Following such an interpretation, an unreasonable and unrealistic demand will be imposed on a trader. In practice, MART uses sample polling of consumers or competitors[20] – which it conducts itself or commissions a third party to aid it in establishing whether an act of misrepresentation has taken place. In some cases of suspected misrepresentation, MART bases its findings on potentially misleading statements exclusively on the professional judgement of its own experts[21]. In our view, the Recommended practices, and, a possible future resolution of the Supreme Court of the Republic of Belarus on adjudication of Belarusian courts in unfair competition[22] should establish a threshold of at least 20–25 % of consumer[23] respondents in sample polls who find an indication or statement to be actually or potentially misleading.

If MART finds that a specific act constitutes misrepresentation in the meaning of the Law on competition, it shall take the decision on the establishment of a fact of violation of antimonopoly legislation and may issue a prescription, obliging a violator to take certain actions or to refrain from it, e. g. to discontinue the dissemination of the information found to be misleading or delete misleading statements or indications. It may also take further action to end and (or) prevent the breach of antimonopoly law, including referring the case materials to law enforcement agencies, filing a lawsuit with a court etc. (subpara 4.4 of para 4 of art. 40 of the Law on competition). If MART finds that the antimonopoly law has not been breached, it indicates it in a formal decision and takes no further action. Decisions of MART may be appealed in the Supreme Court of the Republic of Belarus (art. 48, 100, 229 of the Code of Economic Procedure of the Republic of Belarus of 15 December 1998).

Article 48 of the Law on competition states that any violation of the anti-monopoly legislation entails liability in accordance with legislative acts. Administrative sanctions are established by the Code of the Republic of Belarus on Administrative Offences of 6 January 2021. Article 13.33 provides an open list of actions, all covered by the Law on competition, which may be qualified as unfair competition: intentional misuse by an entrepreneur or legal entity of others company name, trademark (service mark), or geographical indication, *inter alia* by commercialisation of goods with illegal use of the results of intellectual activity, means of individualisation of participants of civil turnover or of their goods. Because the code does not define unfair competition, and art. 48 of the Law on competition is referential, examples of unfair competition – including by misrepresentation – should be drawn from the Law on competition.

Article 13.33 of the Code of Administrative Offences provides that acts of unfair competition are punishable by fines. The amounts and the procedures for estimating them depend on the status of the offender: for individuals – fines vary from 20 to 100 base amounts, for entrepreneurs, from 100 to 200 base amounts. The fine for a legal entity is up to 10 % of the annual sales during the calendar year preceding the detection of the breach in the market where the breach occurred, or during the part of that year if the offender did not sell the goods (works, services) for the whole year. In all cases, the amount of

[19]Article 1029(3) of the Belarusian CC uses language similar to art. 10-bis(3(ii)) of the Paris convention. Also see: *Losev S. S.* Institute of protection against unfair competition: new in the legislation [Electronic resource]. URL: https://etalonline.by/document/?regnum=u01801197&q_id=0 (date of access:16.03.2022) (in Russ.).

[20]The decision of the Ministry of Antimonopoly Regulation and Trade of the Republic of Belarus No. 227/79-2019 [Electronic resource]. URL: https://mart.gov.by/files/live/sites/mart/files/documents/Комиссия%20МАРТ/Решение%20от%2029.08.2019_Шлык%203.Л.%2C%20Иванченко%20Н.А..pdf (date of access: 16.03.2022)(in Russ.) ; the decision of the Ministry of Antimonopoly Regulation and Trade of the Republic of Belarus No. 169/20-2019 [Electronic resource]. URL: https://mart.gov.by/files/live/sites/mart/files/ documents/Комиссия%20МАРТ/04.03.2019%20ООО%20КроносСтройИнвеста-М%20(%20169-20-2019).pdf (date of access: 16.03.2022).

[21]Ibid.

[22]For the time being there is no such a resolution.

[23]According to para 11 of art. 1 of the Law on competition, a consumer is the physical person or legal entity intending to order, acquire or use goods or ordering, acquiring or using goods if in the latter case goods, including the component of other goods, is subject of the made or being made civil-law transactions.

the fine may not be lower than 400 base amounts. Under para 2 of art. 4.6 of the code, the imposition of an administrative penalty on a legal entity for a breach of antimonopoly law, including misrepresentation, does not exclude the liability of an officer of that entity responsible for the breach. However, it also follows from this provision that an entity will not be held liable if it has adopted and implemented an antimonopoly compliance management system (defined as a set of legal, organisational and management measures to ensure compliance with anti-monopoly law and prevent breaches, including a corporate antitrust compliance programme or policy[24]).

The right to draw up protocols on the mentioned administrative offense rests with the officers of MART (subpara 35 of para 1 of Art. 3.30 of the Procedural and Executive Code of the Republic of Belarus on Administrative Offenses of 6 January 2021). In general, the administrative process is launched at the request of the injured party or a legal representative thereof. The request for bringing an offender to administrative liability may be submitted to the MART either together with the complaint on violation of anti-monopoly legislation concerning unfair competition or separately[25].

Independent of the injured party, an administrative proceeding may be initiated by the prosecutor or, on his written instruction, by MART, if the suspected breach has resulted in significant harm to the interests of the state or society or if the injured party is materially dependent on the alleged perpetrator or subordinate to it, and therefore cannot bring the case itself (art. 4.4 of the Code of the Republic of Belarus on Administrative Offences). However, the perpetrator may be relieved from administrative liability if it has reached an amicable settlement with the injured party or a legal representative thereof (art. 8.5 of the Code of the Republic of Belarus on Administrative Offences).

Administrative cases of unfair competition (including misrepresentation) are heard by a judge of economic courts of regions or Economic court of Minsk City (para 2 of art. 3.2 of the Procedural and Executive Code of the Republic of Belarus on Administrative Offenses).

Article 1030 of the Belarusian CC, titled "Civil liability for unfair competition" provides the following civil remedies to the injured parties: ordering the perpetrator to cease illegal acts, refute the disseminated information and acts of unfair competition and pay damages[26]. In our view, this provision cannot be considered in isolation, to the exclusion of other civil remedies (while taking into account the non-contractual nature of unfair competition) such as self-defence, or compensation of moral harm (see art. 11 of the Belarusian CC). A different reading would contradict the principle of equality among civil-law subjects (para 5 of part 2 of art. 2 of the Belarusian CC). To enhance legal certainty, we suggest that art. 1030 of the Belarusian CC should be supplemented with the full list of the civil remedies available in cases of unfair competition.

MART has no mandate to apply civil liability measures in cases of unfair competition. A party injured by misrepresentation (art. 1030 of the Belarusian CC does not specify who can seek civil remedies for unfair competition) may file a suit in a state court or a court of arbitration. Where the parties to a dispute over the alleged misrepresentation are legal persons and (or) entrepreneurs, a pre-trial settlement procedure must be completed before going to court (part 2 of para 2 of art. 10 of the Belarusian CC). This includes sending a letter of complaint (with a formal proposal to settle the dispute amicably), waiting for a response (or the expiry of the period allowed for the response, whichever comes earlier). It is fixed in annex to the Code on the Economic Procedure of the Republic of Belarus, part 1 of para 12 of the Resolution of the Plenum of the Supreme Economic Court of the Republic of Belarus of 27 May 2011 No. 6 "On certain issues of adjudicating cases in an economic court of first instance". The court will leave the case without consideration unless the plaintiff has complied with this procedure (para 5 of art. 151 of the Code on Economic Procedure of the Republic of Belarus). The fact of misrepresentation does not need to be established by MART ahead of time: "stand-alone" actions are permitted. However, even where this authority finds that misrepresentation has occurred, the fact still has to be proven in court, because the findings of MART have no prejudicial character (art. 182 of the Code on Civil Procedure of the Republic of Belarus of 11 January 1999, art. 106 of the Code on Economic Procedure of the Republic of Belarus). Still, the injured parties seeking to restore the rights and legitimate interests infringed upon by misrepresentation are advised to first approach MART, as that "… can greatly facilitate the proving process in a court…" [19, p. 87].

Similar to MART, courts must also apply the definition of unfair competition and misrepresentation, as provided in art. 48 of the Law on competition. It should also be remembered that the available jurisprudence on misrepresentation numbers only a handful of court

[24] *Abramov V. Yu*. Guidance on the application of compliance control in various areas of economic activity: a practical guide [Electronic resource].URL: https://login.consultant.ru/?returnUrl=req%3Ddoc%26base%3DPBI%26n%3D266264%26dst%3D100671&cameFromForkPage=1&demo=1 (date of access: 16.03.2022) (in Russ.).

[25] On the beginning of the administrative process under art. 13.33 "Unfair competition" of the Code of the Republic of Belarus on Administrative Offences [Electronic resource]. URL: http://mart.gov.by/activity/antimonopolnoe-regulirovanie-i-konkurentsiya/razyasneniya-deystvuyushchego-zakonodatelstva/o-nachale-administrativnogo-protsessa-po-state-13-33-nedobrosovestnaya-konkurentsiya-kodeksa-respubl/ (date of access: 16.03.2022) (in Russ.).

[26] A detailed analysis of problems of application of these civil remedies is already provided in certain publications [19; 21; 35].

decisions[27]. There are no published decisions of arbitration courts on these cases. This allows to suggest that, for whatever reason, seeking redress with state or arbitration courts is not a common mechanism for economic subjects to protect their rights from unfair competition, including by misrepresentation.

Conclusions

From the analysis above, the following conclusions may be drawn.

1. The Republic of Belarus has fully implemented its international obligations concerning legal protection against unfair competition by misrepresentation. There is no need to align any further provisions of its domestic legislation prohibiting misrepresentation with those of the Treaty on the EAEU and the Paris convention.

2. To strengthen the preventative function of the legislation on unfair competition, art. 26 of the Law on competition shall be changed to cover both actual and potential misrepresentation.

3. To balance public and private interests, the Recommended practices for determining violations of antimonopoly legislation concerning unfair competition and the forthcoming Resolution of the Plenum of the Supreme Court of the Republic of Belarus on adjudication of Belarusian courts in unfair competition should institute a 20–25 % threshold for the number of consumer respondents in sample polls judging commercial allegations and statements to be actually or potentially misleading.

4. To enhance legal certainty, art. 1030 of the Belarusian CC should contain a full list of civil remedies available in unfair competition cases.

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Электронный учебно-методический комплекс (ЭУМК) по дисциплине «Введение в теорию международных отношений» предназначен для студентов учреждений высшего образования по специальности 1-23 01 01 «Международные отношения». Теоретический раздел ЭУМК предполагает изучение таких тем, как сущность современных международных отношений, основные исследовательские школы в теории международных отношений (ТМО), система международных отношений, субъекты международных отношений, интеграция и дезинтеграция в международных отношениях, конфликты в международных отношениях, внешняя политика в предметном поле ТМО, новые вызовы и угрозы в современной системе международных отношений. В практическом разделе приведены список рекомендуемой литературы, примерные задания для семинарских занятий и УСР, материалы для самостоятельной подготовки, примерный перечень вопросов к экзамену и другие вспомогательные материалы.

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