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INTEGRATING VALUES OF THE NATIONS OF CENTRAL AND EASTERN EUROPE WITHIN THE COUNCIL OF EUROPE AND THE EUROPEAN UNION

Introduction

I would like to present a reflection on the values integrating the nations of Central and Eastern Europe within the Council of Europe and the European Union. The reason is that this year marks the 70th anniversary of the Council of Europe and the European Convention on Human Rights and the 20th anniversary of the EU Charter of Fundamental Rights. These anniversaries cause some reflection and assessment of the impact on the integration of Central and Eastern Europe into Western Europe, and of common European values. The paper uses a method of collecting various observations, analysis, synthesis and drawing conclusions from literature sources. The observation concerned both the subject and meta-objective level, i.e. discourse on the above mentioned topic.

The goal that guided the nations of Central and Eastern Europe in their accession to the Council of Europe and the European Union is undoubtedly the need for peace, freedom, security, justice, prosperity, democracy and faith in fundamental human rights such as human dignity and value. Moreover, account has been taken of the fact that they will operate in a large internal market and free competition, that there will be continuous development integrating the economic, social and environmental system as well as scientific and technical progress. This will be enhanced by an increase in respect for justice, social protection and the protection of children's rights. There will also be economic, social and territorial cohesion

and solidarity between Member States. It has been recognized, within the context of cultural and linguistic diversity, that there will be protection of national identity when developing Europe's cultural heritage.

The notion of "goal" is understood in different ways. J. Kagan [Kagan 1972, 54] defines goal as a cognitive representation of a future event that a person believes will serve him well. This aspiration is subjective, personal, own, internal and intimate, placed in time rather than in space. The goal is future-oriented, thus achieving it requires a turn of thoughts and actions towards the future and the creation of a cognitive representation of the predicted states.

E. Klinger described the goal as an object or event that engages the pursuit [Klinger 1977, 14]. T. Tomaszewski [Tomaszewski 1977, 56] defines a goal as a predicted final situation. J. Nuttin [Nuttin 1980, 87], on the other hand, defines the goal in the context of an imagined change in the environment of the individual, which the action of individual is aiming at. This change is directed towards optimized functioning in the environment.

Previous territorial divisions in Europe and legal systems associated with them have been conducive to the creation and consolidation of separate legal cultures. People from Central and Eastern Europe longed for a new philosophy of restoring social order, allowing them to act for the common good, strengthening the order and harmony of social life, and uniting the state and European community.

People from Western Europe often have no real understanding of how much harm was done by communist totalitarianism in Europe. The devastation has reached the personalistic layer, the man himself. *Homo sovieticus*, this one-dimensional man, has become deeply embedded in many hearts, souls and intellects, adopting the attitude of a receptive man. The man cannot get rid of his biography completely. In terms of his biography, he will continue to think, look at others, judge the events in the world through a somewhat narrow circle. In the Western countries, freedom has turned into a flimsiness and has been detached from the truth and solutised. The only authority for man became "my own self, my own freedom." Very often we are confronted with practical materialism and consumer thinking aimed solely at success.

The survey, which was conducted in 2006 by the EU's opinion polling centre, reveals that EU citizens consider human rights (39%), peace (38%) and democracy (37%) to be the values best represented by the Union. The market economy is an important value of the European Union for only a quarter of respondents (26%). The following places are indicated: the rule of law (18%), respect for human life (17%), economic prosperity (17%), equality (13%), individual freedom (12%), solidarity and support for others (12%), respect for other cultures and religions (12%), environmental protection (10%), tolerance (9%) and cultural heritage (6%). As many as 5% of the respondents were not in favour of any of the indicated values.¹

The discussion on respecting the diversity of Member States has accompanied both the European Council and the European Union since the signature of the first treaties. As the European integration has deepened and broadened, the problem has not lost its value. On the contrary, now it is taking on a new shape.

1. Need to unite Europe

Nowadays it can be stated that for Europe there is no other alternative than reunification, although reunification can take place according to different scenarios and constitutes a process. In building the unity of Europe it is possible to notice that there are proposals to create lasting unity only at the level of utilitarian and pragmatic solutions without deeper references to axiology. Instability of the structures of earlier Europe, which were based on a false anthropology that ignored man, is forgotten. It is materialistic reductionism that programmatically ignored the rich layer of human spiritual life.

The classical concept of social justice was attempted to be replaced by the so-called socialist justice within Central and Eastern Europe. Voluntarism, situationalism or tactics changed *hic et nunc* the basic principles

¹ TNS Opinion for the European Commission – Eurobarometer 65.3 The Eurobarometer survey was conducted on a sample of 29335 inhabitants of the 25 EU Member States in two countries awaiting accession (Bulgaria, Romania) and two EU candidate countries (Croatia, Turkey), as well as in Cyprus by *face-to-face* interviewing in the period 5.05.06-5.06.06, http://ec.europa.eu/information_society/policy/ecom/infocentre/documentation/studies_ext_consult/index_en.htm [accessed: 26.07.2021].

of social life and they were to have a fundamental role in the new hierarchy of values.

The foundation of European unity cannot be based on faith in the magical power of institutions and organizations. Modern man is particularly sensitive to the observance of justice. It is the observance of these principles that brings people closer together. It encourages people to take action for the common good, strengthens social order and harmony of social life, and unites the community. Unfortunately, it is noticeable that the level of political debates has decreased, in which ideological differences are revealed and exposed, and less scientific approaches to the theory of cognition and practical application of cognitive results. Knowledge is often colloquial, ideological current over scientific knowledge. It is easier to find examples of questionable ethical language behaviour than their exemplary relationships. Both the public debate and politics reflect the relationships of the participants, both in the language and political opponents. In many cases the principles of dialogue and conditions for effective communication are violated. It is known that in order to reach a communication agreement, a prior dialogue agreement is needed. Without a dialogue agreement, a communication agreement is not effective. Dialogue can be a litmus test of the political life of a community. According to M. Buber, dialogical relations in the social and political dimension are such relations in which "one really has to deal with people" [Buber 1992, 227].

For E. Levinas [Gadacz and Migasiński 2002, 24; Kowalska 2006, 37; Levinas 2012, 77] the essence of dialogue is to reach the level of ethical responsibility. In the dialogical dimension, ethical bonds are of primary importance. Therefore, dialogue is a special way of being a political community.

Referring to culture, the importance of cultural products in the field of painting, music, literature, theatre or film is most often emphasized. However, it is treated as a set of beliefs defining basic: ideas, values, concepts, rules of conduct, ways of organizing societies [Kowalczyk 1996, 18-27].

Nationality, national idea and identity, etc. is a permanent dimension of human existence, a factor that can provide members of the national community with a sense of security, rootedness, feeling of belonging, and

can mobilize for creative activities. The nation grows out of the family and feeds spiritually on those contents which belong to the family mystery. There is also a source of identity that it wants to affirm in its culture. Culture is something that expresses a person and allows him to be fully yourself. The same applies to a nation: a nation lives by culture, sharing in its spiritual interior the values that come from the depths of human mystery.

The law, which is a social phenomenon, is also a product of culture. The law as a cultural phenomenon represents countless ties intertwined with other cultural creations and values, including social norms. Culture is a factor in the sustainability of a nation, and “the law – along with other normative systems – cannot start anew at some point” [Kojder 2001, 318-19]. Europe as a cultural community does not only mean a space where people use one cultural code. According to G. Radbruch culture is a “value-oriented reality” [Radbruch 1938, 3].

In the words of M. van Hoecke, “culture is tied to tradition, which is shorter or longer lasting, during which it is created, developed and consolidated. [...] legal culture is generally based on a long-lasting tradition, and its aim is to remain unchanged as long as possible” [Hoecke 2007, 82-83].

“Social views and norms serve to achieve the goals set by nations, social groups or individuals. Political culture matters from the social life point of view. Certain patterns of behaviour are included in different ideas and norms. Knowledge of these views and rules is important from the point of view of anticipating behaviour in specific situations, both those in power and those governed” [Oniszczyk 2008, 248]. It is necessary to agree with the view expressed by J. Oniszczyk that values are included in culture and expressed in certain people’s goals.

The axiological basis of Europeanization of legal systems is pointed out by T. Passionate drawing attention to the premises of this system [Biernat 2011, 331]. A value is a feature that constitutes an outstanding value of something or someone, validity, meaning or a set of features considered good, worth realizing, i.e.: spiritual, moral, religious values [Polański 2009, 833]. Values regulate the satisfaction of needs, which determine on a general level what is important for the proper functioning of a person, social groups, or a given nation. The system of values determines the choice of distant goals and ways to achieve them. Therefore, it is important in

the process of shaping preferences for life goals and in the planning process. The goals that come out of values define the needs and indicate how to meet them. Life goals are a continuum of motivational values [Swartz and Rubel 2005, 1010-1028]. Values motivate to act, but in a different way than goals. Values are worthy of desire, and goals are the real dimension of what is desirable [Roccas, Sagiv, Swartz, et al. 2002, 789-801].

Goals have a high cognitive value, because they appear to be structures that belong more to a person than observable behaviour. They are the result of life experiences, traditions, thoughts or reflections. They regulate the behavior of the individual, giving order and meaning to life. They help to make the future real and to discover own competences. Goals are the category of motives that stimulate global and long-term actions [Zaleski 1991, 10-11].

According to R. A. Emmons, life goals are an important component of human motivation to act. They are the imaginative or anticipatory effect of behaviour, to which a person aims and which drives aspirations. These aspirations not only provide information about what an individual is going to do, but are also an indicator of who he is. Therefore, goals are one of the key determinants of human identity. Besides, life goals are very personal and reflect the individual's subjective experiences, values and commitments, and the important feature of these is that they always refer to potentiality and not actuality. A person, in achieving individual goals, is never fully satisfied and constantly strives for something [Emmons 2005, 731-45].

It is important that each person, each social group has a so-called future-oriented time perspective, i.e. the ability to think ahead and anticipate the consequences of future action.

It is the values enshrined in the Constitution, in the Treaties that allow for the creation of life plans, and imagining yourself in the future allows the person to achieve a sense of exertion and autonomy as well as to shape the ability to manage his life and development. The cultural interweaving of different factors in lawmaking and application means searching for broader cultural patterns that can be accepted by individual nations and communities.

Our understanding of the world itself changes the conditions of a changing world. Throughout our real world, situations, and with them opportunities, tendencies, are constantly changing. This also applies to our desires, preferences, hopes, motivations, fantasies, dreams, hypotheses and our theories. Wrong theories change the world, although our correct theories can usually have a better effect on them.

Living according to reason is a demanding and therefore difficult life. A rationally justified hierarchy of goods makes hard demands and demands that they be fulfilled. Living according to reason also requires a cognitive effort, without closing our eyes to values and their hierarchy. In particular, it does not allow for the reduction of higher to lower values. However, all this is combined with effort and hardship. As many authors of the subject emphasize, the values promoted and protected by the Council of Europe were not created by it in a cybernetic way, but are the result of centuries of development of the European nations [Jaskiernia 2009, 145; Halizak 2006, 495].

There is a crisis of values in Europe, and this crisis does not concern values, but the human experience of them. It is a man who is lost in not being able to read them, understand them – it is a crisis of humanity. We have lost our sensitivity to values, we have lost their taste. We are especially lost in reading their proper hierarchy. This applies to the axiological structure of man, which can lead to the collapse of moral power in individual nations – countries. Therefore, we have a common task within the Council of Europe and the European Union, to form a sensitivity of conscience, to introduce people into an objective hierarchy of values, because the axiology that unites the east and west of Europe is very extensive. The attitude of dialogue is something necessary for us. In such situations we need distance, we need sense, wisdom, and total concern for responsibility for Europe, for the world of culture and for the world of the human person. Immediate conditions resulting from party or ideological sympathies cannot hide this value from us. Together we must learn the path of democracy, freedom and social justice that we are to follow in a united Europe. V. Possenti notes progressive nihilism and introduced the concept of “legal nihilism” as the latest form of modern nihilism [Possenti 2006b, 654-55]. According to this author, the vacillation of regulations, the existence of non-legal areas, the instrumentalism of law which translates into

instrumentalizing the addressees of law are the main features of this nihilism [Idem 2006a, 485-512]. V. Possenti, by characterizing legal nihilism, distinguished its features and causes of crisis: complete separation of legal problems from the problem of justice, in the sense that *ius* and *lex* are self-centered, self-reliant and completely eliminated from justice; treating the law as an expression of power; identifying the law as such with the established law; denying the existence of the natural law, i.e. denying something right and something unjust by nature; recognizing that the law and acts of law do not constitute an act of ordering, at the level of ratio, but are only of will; recognizing that laws do not belong to man by nature, but are decrees of tolerance that can always be revoked: the authority approves them, the authority can abolish them [Possenti 2006a, 509].

2. Integration of nations and national identity

Integration is an individual matter of each nation and state, it is the result of national philosophy and its history. The concept of “nation” is a legacy of Polish history and philosophy of the 19th century, associated with the term “community,” “society” [Bartnik 1991, 181; Kuderowicz 1992, 174-82; Wiśniewska-Rutkowska 2002, 114]. The term “national” means: referring to a nation, typical for that nation, belonging to it. Examples: flag – national, tradition – national, culture – national [Polański 2009, 493]. It should be assumed that “national values” are a set of characteristics, distinguishing a given nation, of particular importance, which a nation accepts and considers to be exceptionally important and valuable.

Referring to the characteristics of a nation, the following should be indicated: language, common history, culture, tradition, religion, national identity, national character, but also the *acquis communautaire*: system, economy.

National, cultural and religious diversity characterizes the contemporary world and is not a “foreign and unknown” phenomenon. One of the specific challenges in the issues of social life and economy is the so-called globalization process. Every nation values this process in the context of criteria developed in the social morality of the nation and resulting from tradition, customs, the system of values (showing) resulting from national character, national identity.

A. Smith notes: “The concept of national identity is both complex and highly abstract. The diversity of cultural identities, present and past, is reflected in the various dimensions of our concepts of nationality. It generally defines a nation as a certain population inhabiting a historical territory, having common memories and myths of origin, a uniform mass culture, a common economy and territorial mobility, and common rights and duties for all members of the community” [Smith 1992, 60]. This definition proves that the concept also refers to other types of cultural identities, which enables to combine them with other types of collective identity (e.g. class, region, religion). A. Smith points out that national identities are generally multidimensional, but their components “combine national ideology into a powerful vision of human identity and community” [ibid., 61]. It should be noted that the concept of national identity is clearly related to national stereotypes. National identities are the social constructs that permeate a nation’s life, thus they depend on national stereotypes relating both to own nation and to other nations, especially neighbouring ones.

The concept of national identity may include the idea of a mission, which assumes that a nation plays an important role in the world’s history, that it is a carrier of values in the modernization process, or that it has a mission to restore its former values in the world. National stereotypes have a significant function, expressing a community of values by contrasting “our” values and customs with “foreign” values and customs. Referring to P. Włodkovic and the Republic of Both Nations, it should be stated that Polish identity grew on the basis of the culture looking for a subject, but in the situation of its coexistence with other national or ethnic subjects, respect for its own subjectivity with an open and dialogical attitude towards the subjectivity of others, which should be considered a valuable cultural heritage of the former Republic.

People of Central and Eastern Europe not only have an awareness of belonging to a nation, but they also feel attached to it and show solidarity with this community. This emotional relationship or engagement is diverse (members of different nations react differently) and can change significantly in different historical periods. The sense of relationship and solidarity depends both on the nature of international relations prevailing in a given period and on the dynamics of relations within the nation. In international

relations, the notion of foreigners is closely related to the notion of our own nation or country, to how we see our own “national identity.”

Referring to national identity [Hoffmann 1993, 17] it is always necessary to look at the relationship between society and the state. Some nations closely associate national identity with the state, while others do not value the state very much as the foundation and guarantor of the nation. History provides us with numerous examples proving that international relations depend on perceptions of “others,” which are a function of our own national or cultural identity.

The European identity is a weak “social construct” compared to most of the individual European national identities, as elements of relatively strong national identities such as “difference,” “belonging,” “solidarity,” “community of life chances.” For many people, ethnic and religious identities either remain the former collectives that give meaning to their existence, or now they are acquiring this function.

W. Piwowarski indicates that: “Its [European culture] has been influenced by four great legacies, namely: Judaism brought moral precepts and prohibitions and the idea of social justice; the Greeks – a universal value of truth, understandable to all people; the Romans – an idea of universal law, meaningful to all humanity; Christianity – the ideal of human brotherhood and faith in a single God who loves and salvages” [Piwowarski 1993, 6].

K. Pomian notes that Europe is not a political entity, but lives in the form of ideas, as a program and as a dream, as a transnational and inter-confessional community, as a form of intellectual life, even as a form of culture. The author has singled out eight fundamental values that are the basis of integration processes in Europe: peace, entrepreneurship, prosperity, democracy, secularism, freedom, equality before the law [Pomian 2002, 64-66].

It should be mentioned that on 5 May 1949 in London, ten European countries: Belgium, Denmark, France, Italy, Ireland, Luxembourg, the Netherlands, Norway, Sweden and the United Kingdom signed the founding act of the Council of Europe, which aimed to proclaim and protect human rights, democracy and cooperation in economic, educational and cultural fields [Balicki 2006, 63-64]. Introduction to the statute of the Council

of Europe expresses the main idea of this organization, which is to protect „the spiritual and moral values that constitute the common heritage of their nations.²

R. Schuman wrote in his book *Pour l'Europe*: We shall not and never give up our homeland, we shall not forget our duties towards it. But we increasingly understand that above the homeland there is a common good, more important than the national interest, a common good on which the individual interests of our countries are based and in which the individual interests of our countries meet [Schuman 1964, 38]. R. Schuman, as well as K. Adenauer and A. De Gasperi, was convinced that the unification of Europe should be based on Christian values. They claimed that the future Europe “needs a soul,” i.e. lasting values and moral norms [ibid., 75-76]. According to the adopted naturalistic viewpoint, characteristic of the representatives of humanism, human dignity or the dignity of a person who is not an empty phrase was defined. The Charter of the United Nations in paragraph 2 of the introduction emphasized “the dignity and value of a human person,” this also applies to the authors of such documents as: The Universal Declaration of Human Rights of 10 December 1948, International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights of 16 December 1966 as well as the Convention for the Suppression of Discrimination in the Field of Education of 14 December 1960, the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965, the Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1985, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 or the Convention on the Rights of the Child of 20 November 1989. No definition of this concept can be found in any of these instruments. As the only constitutional value expressed in the Constitution of the Republic of Poland of 1997 is the dignity, which was expressed by the legislator as natural and inalienable (preamble and Article 30). These two characteristics indicate that dignity is not a value created by the Constitution but it is recognized. Indecency and non-transferability indicate that dignity is a source of rights irrespective of human action and not only

² Council of Europe Statute of 5 May 1949, <http://isap.sejm.gov.pl> [accessed: 17.10.2019].

legislative action. The recognition of inviolability in a normative sense is indicated by Article 30 of the Constitution of the Republic of Poland addressed to public authorities as an order to respect and protect dignity. Simultaneously, it is a recognition that its subject should never be treated as a means to realize other values, that the attribution of each person to his individual purpose must not be neglected. An analysis of the individual constitutions in selected Central and Eastern European countries shows a variety of approaches to dignity. Dignity is also mentioned in the constitutions of Western European countries: Spanish, German, French, Greek, Irish, Swedish (the inviolability of human dignity is stated in their first articles).

The nations of Central and Eastern Europe have united with Western Europe and there seems to be a common consensus that the dignity of human person, as the highest law, is beyond all doubt. As a supreme value, human dignity has become the natural inalienable right of every human person and all the resulting rights fought for in this region of Europe. Accession to the Council of Europe and the adoption of the European Convention on Human Rights of 1950 ensured respect for certain common values and the model of European society, respect for human dignity, freedom, democracy, equality, the rule of law and human rights. Society is based on pluralism, non-discrimination, tolerance, justice, solidarity and equality between men and women. This includes not only civil and political rights as enshrined in the 1950 European Convention on Human Rights, but also additional areas such as social rights of the employee, environmental protection, the right to good administration or greater solidarity. Only countries which respect these values could join the European Union.

Personal dignity has become the foundation of universal human rights, such as the right to life, the right to physical integrity, the right to a court of law, considered to be the highest value before and even against power. In accordance with the Charter of Fundamental Rights of the European Union, human dignity has acquired its own normative content.

In turn, B. Skarga emphasizes that what constitutes the essence and distinctiveness of European culture is the respect for the dignity of another human being affirmed by Europeans [Skarga 2004, 23].

According to Ch. Millon-Delsol, European identity is not the universality of human rights, which belongs to all nations as a promise of the realization of dignity of all people, but to show the foundations of this universality – the primordial certainty of the unity of mankind and the anthropology that results from it. Such an approach can be found according to it in St. Paul [Millon-Delsol 2004, 26]. Ch. Millon-Delsol warns against the possibility of losing human rights if we do not take care of their foundations and therefore calls for the defence of roots within the philosophy of dignity. Although the ontology of equal dignity applies to all people, it is inscribed only in the foundations and primary myths of Western culture [ibid., 27].

The most important slogans of the concepts of analyzed documents of the Council of Europe and the European Union show that while human dignity is articulated directly in them, the principle of the common good can only be indicated in an indirect way. No official EU document contains the term common good.

We know from history that with the change of philosophy of the concept of man there was a change of systems, law. Where there is no place for the truth about man and his personal dignity, reasonableness, sense of life and vocation, there is no authentic freedom, human freedom is responsible freedom. The freedom of a human being – the person – always has a social and communal dimension. Today to defend an authentic understanding of freedom is to defend man [Stadniczeńko 2004, 58].

It is important to point out that it is the respect for the national identities of the Member States that is one of the fundamental principles on which the EU is based, as provided for in the EU Treaty (Article 4(2) TEU)). Reference to national identities is also made in the preamble to the Charter of Fundamental Rights, which underlines that the EU respects the diversity of cultures and traditions of the nations of Europe as well as the national identities of the Member States and the organization of their public authorities at national, regional and local levels.³ The CFR states that the EU respects cultural, religious and linguistic diversity (Article 22 of the CFR). The reference to diversity of cultures and traditions of the nations of Europe shows that the EU is based on individual, diverse

³ Para. 3 of the preamble, Charter of Fundamental Rights of the European Union, OJ EU C 83/02 of 2010.

countries which have their own distinctiveness as well as their own culture and traditions. This is a kind of added value for the EU as a whole.

The Court of Justice underlined that the EU respects the national identities of the Member States,⁴ which is a legitimate objective respected by the Community legal order.⁵

The literature points to two dimensions of the concept of national identity: institutional and ethical. The first refers to the state system and the second to the structure of fundamental rights and the office of law. Each state is based on values that can be specific to it and closely related to the culture of a given society [Arnold 2009, 56-58].

The connection between national identity and constitutional identity can be observed in the jurisprudence of the Constitutional Courts of the Member States. Also the Constitutional Tribunal of the Republic of Poland indicated the relationship between national and constitutional identity, claiming that constitutional identity is related to the concept of national identity, which also includes tradition and culture.⁶ “[...] In view of the Constitutional Tribunal, the sovereignty of the Republic of Poland and its independence, understood as the distinctiveness of Poland’s state existence within its present borders, under the conditions of membership in the European Union on the terms set out in the Constitution of the Republic of Poland, means a confirmation of the primacy of Polish Nation to determine its own fate. The normative expression of this principle is the Constitution, and in particular the provisions of the preamble, Article 2, Article 4, Article 5, Article 8, Article 90, Article 104(2) and Article 126(1), in the light of which the sovereignty of the Republic of Poland is expressed in the non-transferable powers of the organs of state authority, constituting the constitutional identity of the state [...]”.⁷ It stressed that the notion of constitutional identity should be understood as the values on which the constitution is based. The notion of “constitutional identity”

⁴ Judgment of the CJ of 22 December 2010 in Case C-208/09 *Ilonka Sayn-Wittgenstein v. Landeshauptmann von Wien*, OJ EU C 83 of 2010.

⁵ Judgment of the CJ of 2 July 1996 in Case C 473/93 *Commission v Grand Duchy of Luxembourg* [1996] ECR I-3207.

⁶ Judgment of the Constitutional Tribunal of 24 November 2010, ref. no. K 32/09.

⁷ *Ibid.*

thus determines the area of exclusion from the scope of competences delegated to those areas, which constitute the foundation, the basis of the Polish state system. In the opinion of the Constitutional Tribunal, the scope of competences that are not transferable includes: fundamental principles of the Constitution, provisions concerning the rights of the individual determining the identity of the state, protection of human dignity and constitutional rights, the principle of statehood, the principle of democracy, the principle of the rule of law, the principle of social justice, the principle of subsidiarity, as well as the requirement to ensure better implementation of constitutional values and the ban on transferring political power and competence to create competences.⁸

It follows from the above that “constitutional identity” is an integral part of the concept of “national identity.” The first concept focuses on the constitutional *acquis*, it is an expression of the legal culture and the achievements of political thought of a nation, which has been shaped with the history of a particular nation. The second focuses on specific values that are valuable for a given nation, which it considers as an element distinguishing it from other nations. These concepts together determine the place of the state and the nation in international relations.

In 2001, the Treaty of Nice was signed (in Brussels), which set out the principles of the Communities’ operation after the accession of new members of Central and Eastern and Southern Europe.

In the documents published by the European Union, it is noticeable that the subject matter of its interests and postulated competences has expanded. Initially, it was only an economic domain, then a social and political one, but nowadays there are postulates concerning already moral, ethical and ideological policy. This tendency is questionable, as it may threaten the ideological identity of individual nations. There is also a second trend in the politics of European Union leaders. Initially, Member States had the deciding vote, but over time, more and more decision-making areas are reserved for the central body of the EU – the European Commission, which legally acts as the “European government.”

⁸ Ibid.

A threat to state sovereignty and cohesion can occur when the EU establishes direct relations with cross-border regions or voivodeship governments without the state level.

The future of the nation states is the subject of heated debates. For some, the nation state is still the only organizational structure within which the idea of people's sovereignty can be implemented, while others point out that challenges related to the integration of global economic markets, environmental or military security force the transition to new, transnational forms of governance. They refer to this new formula as "shared sovereignty," which consists in the voluntary relinquishment of a part of sovereign power by nation states. The various forms of integration of the nation states' legal systems have entailed significant changes both in the area of lawmaking and application. The traditional model of constructing a system of law defined as monocentric has been replaced by the polycentric or multicentric model.

According to E. Łętowska, the contemporary phenomenon of multicentricity in the legal system can be justified both by internal (national law) and external conditions. A number of different centres of important decision-making positions have appeared in national law [Łętowska 2005, 3].

3. Self-determination of nations and their axiology

An interesting aspect of the process of European unification in the phase after the so-called Autumn of Nations, i.e. after 1989 and the collapse of the Soviet empire in 1991, are the political transformations in the former socialist countries, including the choice of the basic canon in the political system, defined in the form of republican democracy.

It was as a result of the collapse of the Union of Soviet Socialist Republics in the 1990s that a multinational empire collapsed, allowing many nations to establish their own nation states in Central and Eastern and Southern Europe. D. Dudek writes that "After the breakthrough of 1989-1991, all the post-socialist states did not so much retain their current form, but adopted anew, this time not the nominal, but the actual (with some reservations) form of the republic; these include Poland and its closest neighbors: The Czech Republic, Slovakia, Ukraine, Belarus, Russia, Lithuania, Latvia and Estonia, and slightly further afield: Hungary, Bulgaria,

Romania, Moldova, Bosnia and Herzegovina, Croatia, Serbia, Montenegro, Slovenia, Macedonia and Albania, not to mention the Asian countries, on the ruins of the former Soviet republics” [Dudek 2011, 313ff].

The right of each nation to self-determination in its practical implementation has begun to be realized, which is an extremely complex and difficult problem, often even impossible under unfavorable circumstances. Both the UN Charter and in 1952 one of the UN Resolution 637 confirm the right to self-determination of peoples and nations. Other UN documents on this matter issued in 1966 are: International Covenant on Civil and Political Rights, which states in Article 1 that all nations have the right to self-determination. By virtue of this right they are free to determine their political status and to freely ensure their economic, social and cultural development. The International Covenant on Economic, Social and Cultural Rights also contains this statement. The logical conclusion of the principle of self-determination is the right of a nation to exist in its own country.

It should be emphasized that the interdependence of people is not only due to economic reasons but also to more fundamental axiological reasons. It is worth noting that it is the idea of human rights that has shown from within the classical paradigm of sovereignty and related international law. Particularly, it is the inclusion in the theory of international relations and international law of the ethical issues that have so far been overlooked [Childress III 2012] and the creation of a concept that reconciles national interests with international solidarity [Coicaud and Wheeler 2008], the shift of emphasis from state sovereignty to the problem of legal and international subjectivity of individuals and the international community as a whole [Conçado Trindade 2010].

Solidarity as a movement that emerged in Poland was a form of solidarity, which is one of the conditions not only for the continuation but also for the transformation of the social order. Solidarity can be defined as integration, redistribution, joint action, directive, norm, legal, moral and religious principle [Bamyeh 2007, 160; Kolers 2012, 365-83; De Beer and Koster 2009, 42]. It is important to point out that social integration – solidarity and solidarism – is not enough for a top-down legal decree, it is necessary to participate in the community, to create bonds between people, to build trust and to realize the common interest. It should be noted

that the term “solidarism” means a concept in which solidarity is at its centre. Solidarity arouses increasing interest in science [Wolfram and Kojima 2010] because it permeates contemporary international law in three dimensions: as an axiological basis of the international community, as an organizational (structural) principle of the international community and as a functional principle of the international community. The basic meaning of the term “solidarity” on the basis of semantics of the Polish language is “mutual support, cooperation, co-responsibility, resulting from the compatibility of views, aspirations and conduct” [Dubisz 2008, 1297].

Solidarity belongs to the nature of society, because it belongs to the nature of a person and as an expression of the human person is a public good. J. Nagórny wrote that “It is not enough to desire peace, it is not enough to point it out as a good of humanity, it is not enough to strive for it if it is not determined what true peace is and what its conditions are. Awareness of this truth has made it increasingly clear that the concern for peace in the world is related to respect for fundamental values, with respect for human rights and the rights of nations. [...] Thus the right to peace has taken on a very clear form. It is not a question of «some kind of» peace, but of an order and governance in social and international life as well as of a security for all, which is based on truth and justice, expressed in respect for freedom and reveals its fullest face in love. [...] The call for solidarity has revealed very deeply the truth that peace is «inflicted» on all people and that only in cooperation for peace can the right to peace be guaranteed to all. It seems that the awareness of this need for solidarity is increasingly permeating human consciences, living in a divided world” [Nagórny 2004, 237].

It should be mentioned that in Czechoslovakia in January 1977 a Charter 77 statement was published. Its signatories referred to the guarantees for the protection of human rights contained in the Final Act of the Helsinki Conference on Security and Cooperation in Europe. They demanded that it be respected by the communist authorities, pointing to the violation of obligations also assumed by the socialist bloc states. Charter 77 united people with different pasts, communists, supporters of “socialism with a human face,” independent intellectuals after committed Catholics. It was not a formalized organization but a citizens’ initiative. J. Potocka proclaimed that the beginning of history brings with it a loss of its previous meaning and

a new one is still in the process of formation. The constant task of philosophy is to shape the spiritual man who can and should take responsibility for freedom. This new sense of existence, faced by a man striving for freedom, is as J. Potocka points out – a way. It is something that must always be pursued and what is the space of responsibility that history imposes on each of us. Responsibility for the common good, which we do not choose but which we always face as a challenge, he wrote, among others, pointing to the need for a deeper philosophical reflection on the Charter and a personal understanding of its deeper ethical meaning. Among others, he noted that today's concern is that the causes of action do not lie solely or mostly in the sphere of fear and benefit, but in respect for what is in the higher man, in an understanding of duty, of the common good, of the need to take on both the nuisance, the misunderstanding and the obvious risks.

At the end of the 20th century, there was much more talk of so-called transnational, international, global solidarity, which consists in undertaking actions based on shared responsibility for the life and well-being of all people living on Earth, and even for the entire biosphere [Gould 2007, 148-64]. It began to indicate the need to abandon the implementation of solidarity based on paternalism and to lead to implementation using the subsidiarity of participatory dialogue and empowerment.

This idea led to the search for an alliance between individual nations during the political transformation of Central and Eastern Europe and to ensure democratic and efficient functioning of social, political and economic institutions as well as human rights protection. The advisory bodies of the Council of Europe were used to prepare the texts of the constitution and other regulations of a systemic and political nature.

Both political and legal facts determined the directions of Polish law changes at the turn of the 20th and 21st century.

Among the breakthrough dates for the process of changes in the Polish legal order after 1989 are the facts that Poland became a member of the Council of Europe and signed the Europe Agreement establishing an association between the Republic of Poland and the European Communities and their Member States in 1991. Poland recognized the competence of the European Court of Human Rights in Strasbourg and the European

Convention on Human Rights became a source of law (after its ratification) in Poland in 1993.

In 1994, Poland submitted its application for membership of the European Union; four years later, official negotiations began. An important date for Poland is April 2, 1997. It was then that the National Assembly passed a new Polish constitution. The Constitution was adopted by the Nation through a referendum and signed by the President of Poland on July 16th. It came into force on 17 October 1997. In 1999 Poland joined the North Atlantic Treaty Organization (NATO). In 2003, Polish people voted in a referendum to join the Union. The Accession Treaty was signed at the Acropolis. The year 2004, on May 1st, Poland became a member of the European Union. After ratification by all Member States and candidate countries, the Accession Treaty came into force.

Since 1989, the law in the countries of Central and Eastern and Southern Europe began to regain its autonomous value in a democratic and pluralistic political system, creating a framework for the freedom of action of social actors, providing them with the opportunity to participate in the decision-making processes of public and social authorities.

Breaking with the communist system and declaring the construction of a democratic state is a common competence of all Central and Eastern and Southern European countries.

The analysis of the constitutions of these countries shows that “The following principles should be included in the constitutions: 1) The states have a republican character, a democratic state under the rule of law, and only Russia determines that it is a federal state; 2) The supreme power belongs to the nation; 3) The public authorities act on the basis and within the limits of the law. This is an important guarantee also due to the fact that the Treaties of the UN and the Council of Europe are based on axiological rules accepted by democratic nations. They have created increasingly effective bodies to monitor the respect of international law and to rule on cases of violation of that law; 4) The Constitution is the highest established law; 5) The system is based on the division and balance of the legislature, executive and judiciary; 6) Recognition, respect and protection of human and civil rights and freedoms. [...] The analyzed constitutions show a number of typical features of post-communist countries, in which

the change of a system (as well as the restoration of independence) did not lead to the emergence of authoritarian tendencies. They are based on Western European human rights standards and adopt a parliamentary system. The specificity of the recent history with regard to these countries and the resulting situation is outlined in the constitutional provisions strongly emphasizing the sovereignty and independence of the state, as well as the issues of citizenship and language as well as human rights and freedoms. [...] In the texts of Constitution, there is a catalogue of fundamental rights, freedoms and obligations that corresponds to international standards and enables to distinguish between fundamental principles and detailed regulations concerning rights, freedoms and obligations. The primary duty of public authorities is to respect and protect human dignity. [...] Traditionally, from the point of view of the state, values have been attributed in law that are permanently useful to the human being and that serve to satisfy his biological, mental, social and material needs, which include: life, personal dignity, freedom, equality, health, security, justice, property, legal certainty, the rule of law, effectiveness, proportionality, and predictability of the law” [Stadniczeńko 2011, 9].

It should be pointed out that each constitution drafted in a given country has taken into account its own and relevant realities, initiating a process of political change, reshaping the legal and economic system, influencing social mentality, social and legal culture and emphasizing the realization of human rights. The main form of legal transformation in the countries of Central and Eastern and Southern Europe has been and is the passing of laws and numerous executive acts. In addition, many significant international agreements directly effective in the internal legal order have been signed.

As A. Kość emphasizes, the consensual experience of values resulting from shared experience within particular groups of people is to lead, in turn, to the formation of certain values in terms of the idea of values and in terms of the value of object. These above personal values are sometimes perceived as constituting the “spirit of a community group” and form a group system of values [Kość 2001, 202]. Society is interested in the law guaranteeing its values, because “by incorporating values and principles of valuation into the law, they share in the binding force of the law. They become like the *spiritus movens* of the legal order.” On the basis

of observation of the close connection between the law and the society's value order, even an assessment of "the reception of social value order by law" [ibid., 204-205] is derived.

From the beginning, the European system has been built in a way that clearly favors the bond based on law. A particular kind of "community of law" was being created [Biernat 2002, 145]. The term "community of law" is used to highlight the role of law as a basis for integration. The implementation of laws and values is visible in the countries of Central and Eastern and Southern Europe in characteristic development strategies, projects, contracts and coordination activities, as for example since 1993 within the Visegrad Group. The Visegrad Group is currently not an empty term. The Visegrad Group is worth a deeper reflection not only from the perspective of the Central and Eastern European idea.

Nations, the world of states that base their rule on values and law, are forced to effectively defend their way of exercising democratic power with an anachronistic world in which power still prevails over law and norms of human solidarity and respect for human dignity. T. Delpéch, presenting a strategic reflection on the future of the world, wrote: "It is not true that we are not able to predict the future, most often because we are going in the direction indicated by our thoughts" [Delpéch 2008, 159]. Particularly in times of crisis, the nations, countries of Europe should present the strength of unity in diversity – be strong traditions, wise experiences and open to action.

Conclusion

Joining the structures of the Council of Europe and the European Union of the nations of Central and Eastern Europe undoubtedly gives the integration process a different perception of Europe and its unification than before. The existing integration process, both on a European and global scale, should be based on generally accepted ethical and social principles. The most important of these are two principles: solidarity (common good) and subsidiarity (personalism). These principles are ontological, juridical and ethical: ontological, because they arise from the personal nature

of man and at the same time from the nature of social life, and the juridical nature requires that they be confirmed and sanctioned in the applicable law.

The obligations which are the work of a man are at the same time dependent on the level of his knowledge acquired through science and social practice, which is then used to make laws applicable at different levels of human development. In the world of obligations, it is not a necessity, but human reason, his wisdom and ethics that is to determine the balance between man and the surrounding reality.

A more comprehensive answer should still be sought, e.g. in terms of the problem of the nation's origin and national consciousness. These are, in fact, interdisciplinary issues, requiring, among others, further historical research. Questioning the importance of natural communities, i.e. family and nation, means the spiritual uprooting of man, because it deprives him of moral culture, ethnic identity, and support in the community of people close to him. The existing integration process must take into account two fundamental ethical principles: the inalienable dignity of the human person as the foundation of social life and the multiplicity and diversity of human national and ethnic cultures.

Human values have similar characteristics to social norms, which are specific standards determined by cultural factors. It is the values that determine the desired goals and ways of action, while standards only determine the desired ways of behaviour. Values form a certain system with individual elements ordered by their significance. The most important influence on the decisions and actions taken by a man have those values which are placed highest in the system of preferences [Rokeach 1973, 5]. When making decisions, the whole hierarchical system is not activated, but only those values that are related to a particular behaviour. Thus, the relative importance of particular values determines the functioning of a person. The values that are valued higher and more important for a given person, influence his actions because they are a significant category for his interpretation and justification. This, in turn, gives rise to human actions. Contemporary Europe must reread and understand man, his personal dimension.

History shows that nowadays we should avoid the easy use of labels: nationalism, imperialism, separatism, national liberation, patriotism.

The illusion in the space of high culture tries to prey on it and not create it, generate values. Moral relativism and ideologization of social and political life inevitably leads us astray. The man of Europe – the world needs authentic values, truth, love, solidarity, brotherhood, moral order and not the escaping modernity, contemporary times. The crisis in perception of values shows us the value of the nation, the state. Thus, in many countries a change of political elites may occur. Certain myths may fall, including the myth of technocratic optimism, the conviction that science will deal with everything at once, that there will be specialists who will solve these problems. By the way, the myth of globalism, the creation of transnational social, political, economic and cultural systems as a solution appropriate for modern times may collapse and the Aristotelian pointing to the state may be reinforced.

The nations of this region are sensitive to equality in relations between states that guarantee the preservation of their subjectivity and autonomy. There is still an ongoing study of the value not only of individuals, but also of entire nations. They lived in a system that rejected the category of a nation as a relic, and in its place proposed the graduation of class categories. Communist states destroyed not only people, but also nations – denying them the right to freedom and their own history and culture. These facts do not mean that Central and Eastern Europe ceased to function, but is only being transformed. Today we can reflect on it retrospectively and from a historical perspective, but also here and now. Undoubtedly, the Visegrad idea will fulfil its function.

The very value of democracy seems indisputable today, but the ways and conditions of its functioning in a situation of such rapid social, economic and cultural transformations on a national and global scale turn out to be problematic. Europe, faithful to its cultural and axiological tradition, and at the same time seeking an economic and political balance for other world centres of power, should become an association of free nations and states. R. Dahrendorf's reflection is instructive: "Democracy and autonomy do not create a happy couple. After all, anomy destroys freedom, even though the moral vacuum it creates will attract false deities and evil prophets" [Dahrendorf 1996, 9]. The freedom that we have and want to pursue in the future is extremely strongly conditioned by civic responsibility [Bator 2006].

A change in the content of regulation is undoubtedly correlated with changes in legal awareness – then legal institutions act effectively. If the addressees of standards understand their value for their lives and for social life – it is possible to count on consolidation of new rules. Such a multi-faceted reconstruction of the legal order (i.e. not only at the standards level, but also in the real and axiological aspect) encounters many difficulties in individual countries. There has been an axiological reconstruction of the foundations of legal system. The legal system has opened up to international law and EU law. Part of the society is not yet able to navigate through the complicated infrastructure of the state of law. The countries of this European region are undergoing a laborious reconstruction of the social civil fabric. It is a long-term process.

The essence is the decency of law application, the legal culture, and not the creation of new institutions, which, according to the essence of the principle of alteration, are liquidated as soon as the political option is changed, which only leads to a hindrance in achieving the goal. Today's situation forces to redefine what is important and what is most important. People pay more attention to the fundamental things, while the principal others begin to consider less important.

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Integrating Values of the Nations of Central and Eastern Europe within the Council of Europe and the European Union

Abstract

The author points out that the nations, countries of Central and Eastern and Southern Europe share a common goal and values, which after the collapse of the Union of Soviet Socialist Republics, have joined together in their efforts to join the Council of Europe and the European Union. These countries have been consulted on the constitutional law of the Council of Europe and European Union bodies. With great care, the creators of the Constitution used the individual provisions of the European Convention on Human and Citizen's Rights, which is a phenomenon occurring in the new democracies. The fundamental rights, freedoms and duties of citizens are formulated in a way that is free from the burdens of the previous historical period. The political culture of society, legal awareness, values and ways of thinking have a fundamental role in the transformation of each of these countries. The rate of change in the quality of life of a person and a community depends on how seriously values are taken into account.

Keywords: values, integration, nation, national identity, constitution, Central and Eastern Europe

Wartości integrujące narody Europy Środkowo-Wschodniej w ramach Rady Europy i Unii Europejskiej

Abstrakt

Autor wskazuje, że narody, państwa Europy Środkowo-Wschodniej oraz Południowej połączyły wspólnie wyznawane cele i wartości, które po upadku Związku Socjalistycznych Republik Radzieckich połączyły się w dążeniach do przystąpienia do Rady Europy i Unii Europejskiej. Państwa te korzystały z doradztwa w sprawach związanych z prawem konstytucyjnym organów Rady Europy i Unii Europejskiej. Z dużą starannością twórcy konstytucji wykorzystali poszczególne postanowienia Konwencji Europejskiej Praw Człowieka i Obywatela, co jest zresztą zjawiskiem występującym w nowych demokracjach. Podstawowe prawa, wolności i obowiązki obywateli są sformułowane w sposób wolny od obciążeń poprzedniego okresu historycznego. W procesie przeobrażeń każdego z tych państw zasadniczą rolę odgrywają: kultura polityczna społeczeństwa, świadomość prawna, reprezentowane wartości i sposoby myślenia. Od tego, na ile poważnie traktowane są wartości, zależy szybkość zmian jakości życia osoby i wspólnot.

Słowa kluczowe: wartości, integracja, naród, tożsamość narodowa, konstytucja, Europa Środkowo-Wschodnia

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