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“Greying population”: Economic, social, and ethical appreciation of old age*

Abstract

As the population is growing older, sociologists and economists are becoming more interested in analyzing this phenomenon. There are two paradigms for interpreting old age. The first one points to excluding old people from social and economic life. It is argued that there should be a balance between activities and possibilities of old people. The other paradigm points to the social, political and economic activities of old people until the end of their lives. It emphasizes their life experience and competencies.

The article presents new processes and socio-cultural phenomena that refer to seniors. Some of them are negative like ageism, social isolation, deprivation, the uncertainty of fate and existence. Others are positive and described as “the cult of age” like the dynamic expansion of the grey people industry, development of health care and consumer projects for the elderly. The article argues that the sense and dignity of life of the elderly should be defended, as it is the main motivation and reason for living.

Keywords: the elderly, gerontology, ageism, population greying

JEL Classification: J14, J17, J26, Z13

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1. Introduction

Due to the ongoing process of society ageing, also called population greying, there is a growing interest in old age as a social and economic phenomenon. Gerontology as a branch of science dealing with the processes of ageing and old age ailments is joined by new subdisciplines analysing old age in a wider context of demographic, cultural, social and economic processes (e.g. geragogy, social gerontology, gerontopolitics). In research and social policy, we come across two paradigms of interpreting old age (Adamczyk, 2000). The first one points to the exclusion of the elderly from social and economic life, their withdrawal from and ending professional activity. It is believed here that potential activities should be tailored to one’s capabilities in old age and to give them a chance for peaceful senescence. The second paradigm emphasises the social, political and economic activity of individuals in old age. It is highlighted here that the elderly can further participate in their professional life or replace it with new social roles, emphasising their competences and life experience. These two attitudes to old age ask different existential questions and differently approach defending the sense of meaning in the life of an elderly individual.

The goal of the article is to present new socio-cultural processes and phenomena affecting the elderly. Among them there are negative ones, resulting from ageism, such as social isolation, deprivation processes, loss of sense of meaning in life, uncertainty regarding the future and suffering. We also present positive processes and phenomena, described as the “cult of the old”, i.e.: dynamic development of the grey people industry, developments in healthcare, consumer projects targeted at the elderly. The author of this work hypothesises that we should defend the sense of meaning and the dignity of elderly individuals. The need for the sense of meaning in life is a fundamental motivation and reason to live. “Greying population” creates new challenges for the economy, politicians, social care, and medicine.

The titular appreciation should be understood as restoring value to the grey population, which it was systematically losing in the second half of the 20th century. That time saw many negative processes which lowered the quality of life and social status of the elderly. In the 1990s in Poland, retiring was connected with marginalisation and worsening of the already difficult life circumstances of the elderly, sense of loneliness and the loss of the sense of meaning. In mass culture and the ideology of consumptionism we saw the rise of the cult of youth, which consequently depreciated the social status of the elderly. A basic goal of social policy, the mass media and many other subjects, is to appreciate the reality of the life of the elderly and to change the way old age is perceived. The elderly are an important part of the society and they can contribute many practical and symbolic values, which are useful in fostering younger generations and maintain and create new social bonds. They play a very important role in the economy, political decisions and choices.
2. Demographic data and the economy

All demographic data suggest that the population in the civilisation of the 21st century is ageing, which confirms all earlier tendencies. Let us consider the current state of affairs and demographic forecast. In 2001 the number of people of more than 60 years of age amounted to 600 million. A simulation predicts that in 2020 it will rise to a billion and in 2050—2 billion. The distribution of the elderly in different populations around the world is and will be varied. Rich societies, with a high standard of living, will be predominantly old; in many countries, the elderly will constitute at least a one-third of the whole population. These tendencies can be seen most clearly in Japan and the countries of the EU. Let us consider the population distribution in terms of age in a few European Union countries.

According to the UN criteria, a given society crosses the threshold of demographic old age when the percentage of people aged 65 and more reaches 7% of the entire structure of the population. International organisations use different indicators showing the tendency for the global population to age. The relationship between the population of people over 65 and those in productive age is measured by the elderly dependency ratio. It shows a clear tendency for the societies to age. It is interesting to analyse the data showing the ratio of people over 65 years of age to 100 people aged 15–64. For example: in Japan, in 2000 this ratio was 25, and in 2050 it will be 72; similarly, in Greece it is 26 and will rise to 62, in Germany 24 now to 49 in the 2050. The general tendency is that the better developed a country is, the greater the ratio of people aged over 65 to those in the productive age (United Nations Population Division, 2003).

Poland is not a demographically old society in Europe. However, all the data suggest that we are quickly becoming one. We reached the 7% threshold in 1967. In the second half of the 20th century, the average life expectancy of women rose by 14 years and 11 years for men. It is predicted that in 2020 there will be 9.5 million people aged 60 or more (24% of the whole population). The number of the oldest group, aged 80 and more, will also go up from 740 thousand in 2002 to 1.4 million in 2020. When it comes to the elderly dependency ratio, it was 18 in 2000 and it is predicted to rise to 50 elderly people per 100 people in their productive age.

The demographic tendencies of the Polish society to age bring about specific economic issues. Among the factors limiting professional activity among the elderly we can name: (1) unemployment and the processes of replacing older workers with younger ones; (2) relatively high cost of employing older workers; (3) the structure of pension systems, encouraging employees to retire early; (4) changes in the character and organisation of work; (5) introduction of modern technologies, requiring older workers to gain new skills; (6) unprofitability of training older workers; (7) psychological traits of the elderly, old age processes (health condition, cognitive abilities, the sense of meaning, motivation for work, exhaustion from work); (8) characteristics and social interactions (relatively lower level of education, problems with adapting to new conditions, aversion towards older workers) (Halicka & Halicki, 2002).
Tendencies on the job market caused new socio-economic divisions, due to which the elderly were eliminated from the job market, increasing the number of the so-called early pensioners. The professional marginalisation of the elderly and compulsory retirements increased social poverty and lowered general life quality. Recent events made political and economic decision-makers anxious because they were interpreted according to the following pattern: the higher the percentage of the elderly, the greater the burden associated with the functioning of the pension system, health and social care, and fulfilling other various social benefits that the elderly were legally entitled to. In some European countries, the pension system is based on the redistribution of the funds generated by the young workers. A reform of the pension system in Poland introduces the principle of capital accumulation, however, its first beneficiaries will be the thirty-year-olds on the present time. Because many ageing societies are in a similar position, globally various initiatives are undertaken to protect and defend the well-being of elderly workers in the job market. Within this international debate on employment of the elderly, we should mention the Second World Assembly on Ageing organised by the United Nations in Madrid in 2002. During the summit, a new strategy regarding the elderly on the job market was proposed. Key elements of the project can be summarised as follows:

1. a gradual and gentle transition from professional activity to inactivity and providing the elderly with opportunities for keeping their jobs for as long as they need;
2. preventing discrimination against the elderly in the job market;
3. facilitating the participation of the elderly in life-long learning, providing them with wider job opportunities;
4. including the elderly in the job market based on new information technologies;
5. equal treatment of women and men within pension systems by, e.g. evening their retirement age.

The European Union promotes active social policy towards the elderly on the job market (European Commission, 2003). Instead of early retirement, the elderly will be encouraged to remain professionally active. It is planned to raise the employment factor of people aged 55–64 to 50% by 2010. In 2002, this ratio in EU countries was 38.7%. It is also suggested to rise the effective retirement age by 5 years to 65.4 years. For the EU in 2002 it was 60.5 years. Poland is in a very difficult situation if it wants to fulfil EU recommendations any time soon. In our country, the employment factor of people aged 55–64 was 30% in 2002, 22% of which were women and 40% men (Szatur-Jaworska, n.d.). So, we have a long way to go, even more so because in Poland there is no comprehensive social policy program that would meet the criteria set by the EU and the expectations of the elderly. According to many scholars investigating the issues of ageing societies, social policy actors do not play an important role in shaping and organising the world of the elderly. Instead, they focus on immediate solutions, rationing social and medical services, and allocating resources, which are always insufficient (cf. Bledowski, 2002; Szatur-Jaworska, 2000).
These steps to extend the time of professional activity of the elderly may not be effective due to a stable decrease in demand for jobs in the 21st century. A popular futurist formula “20:80” suggests that the needs of an economy can be satisfied by effective employment of just 20% of the professionally active population. If these forecasts come true, the most injured will be the elderly. However, at the beginning of the 21st century, as there is a demand for work, many countries have raised the retirement age. There is also a demand for “everyday life jobs” (e.g. small repairs, pet care, official and legal matters), which are done free of charge within self-help groups and a popular principle of mutual service exchange.

Positive changes are taking place in the global economy that are raising the purchasing power of the elderly and a whole grey people industry is being created. The most rapidly developing area is the job market providing for the elderly: medicine, pharmacy, plastic surgery, rehabilitation, cosmetology, tourism. Pharmaceuticals skilfully cater for the older population by developing and marketing drugs are designed for this group. Also apparent is the cooperation between the grey people industry and the mass media to promote a healthy lifestyle, a mindset of vitality, and consumption for pleasure. The fact that business has noticed the consumption potential of the elderly results in new economic projects such as, e.g. creation of sun cities, chain stores adapted to the needs of older customers, entertainment centres. The economic potential of the elderly is estimated to amount to 20 trillion dollars. In the USA, the elderly spend $525 billion a year on healthcare. According to Thurow (1995), research, pensions systems in Western Europe will cost 50% GDP. All these economic phenomena must be met with a favourable social atmosphere towards the elderly and elimination of their discrimination. There remains much to be done in this field.

3. Ageism

Ageism encompasses biases, stereotypes, and discriminatory practices towards the people over a certain age (Nelson, 2002; Szukalski, 2004). In scientific literature, we also find the term gerontophobia to describe a fear of old age and ailments and social reactions that accompany it. The term ageism was introduced in 1969 by Robert Butler at the opening of the National Institute on Aging, dealing with issues of unequal and harmful treatment of the elderly (APA, 2002). The issue is highly relevant in Poland, where symptoms of age discrimination are widespread. On the website of Stowarzyszenie Akademii Rozwoju Filantropii w Polsce we can find a questionnaire with a template for sending information about age discrimination. Among the areas of discrimination there included we find: the job market and employment, education, healthcare and social services, media and advertising, transportation, an active participation in the social life and decision making. According to this organisation, discrimination is when someone is treated unfairly due to their age. However, we do not know when we become “too old”. The
threshold has shifted depending on the needs of other people and institutions. For some, it can be 60 or 70 years of age, for others there can be discrimination in their 50s, e.g. in the job market.

Unfortunately, even the Internet can be used to sow hatred and escalate the negative attitude of the young towards the elderly, disabled, or homeless. The media described a case of harassment of an elderly homeless by the students of a secondary school in Opole. According to a commentary by a psychologist, it was a symptom of extreme prejudice, lack of empathy, and poor education as these youths ignored all moral norms (Wodecka-Lasota, 2006, p. 2). In that case, we saw the negative stereotyping of an older person in action: indolent, sickly, jobless and penniless. Moreover, he was viewed as a socially isolated individual who could be mocked and ridiculed. The event became more dramatic because the youths perceived the social helplessness of an old person as “good fun”.

Social psychologists assume that an older individual is a carrier and co-creator of stereotypes and will confront the simplistic, negative, and reluctant attitudes. In cultural orientation, the stereotype of an old individual is treated as a cultural model, transmitted within the process of socialisation, and an individual reproduces it in various social interactions (Bokszanski, 1997; Macrae, Stangor & Hewstone, 1999). These can pertain to an individual as well as a social group. A traditional interpretation assumes that negative affect towards an elderly person is a result of the generalisation of the entire group of the elderly. The attitude towards the elderly consists of beliefs, affect, and behaviour. It can be seen on many levels of social relations, and it can also be experienced differently by individual participants in such interactions. Prejudice can take various forms of aggression or frustration (Nelson, 2003). Aversion stems from the necessity to spend time with or take care of the elderly, e.g. sharing a flat with them, working in social care institutions, sharing means of public transportation. Thus understood, an elderly individual is an obstacle, a source of disturbance in realising and achieving one’s life goals, taking actions, or experiencing pleasure. Negative emotions come into play, such as: anger, fear, anxiety, impatience, which can lead to aggression towards the elderly. Aggression means acts of hostility, dealing harm, violence or extremely vehement behaviour. It can take the form of verbal aggression when one’s words are used to deprecate and humiliate the elderly and label them negatively. Physical aggression leads not only to emotional damage but also battery and bodily harm. Both types of aggression occur in families, public institutions, social and healthcare facilities, and nursing homes—repositories created to cater to the needs of the older people and safeguard their well-being. The elderly face oppression only because they are old, infirm and in need of help.

4. The need for social appreciation of old age

The above information about the discrimination towards the elderly suggests that there is a need for a radical change in social thinking and the attitudes about the old age. It is necessary to ennable old age in the system of youth education, cul-
Undoubtedly, a crucial issue regarding social appreciation of the elderly in Poland requires creating an active social policy to meet the expectations of Poles and international standards, especially those of the EU. The policy of the state assumes combating the rising level of poverty and the decrease in life quality resulting from withdrawal from professional activity. On the job market, with high unemployment, amounting to 18% in 2006, most affected are the elderly, whom nobody wants to employ and nobody wants to support in staying in work. They become the so-called early pensioners, redundant individuals, left on their own, whose quality of life significantly deteriorates. Along with their passing onto another stage of old age, they become clients of social and health services. When evaluating the quality of life of the elderly, we should take into consideration many factors of health-related, economic, social, psychological and cultural nature. Different measures of their quality of life are used with regard to its four fundamental dimensions: physical, psychological, social, and environmental. The European Council launches a number of initiatives for more equality and the betterment of lives of the old and the disabled.

Most programmes are directed to ameliorate health-related issues experienced by the elderly, which is treated as a necessary condition for achieving satisfaction in other areas of life. The WHO project *Health for All in the 21st Century* presents very optimistic ideas about the health of the elderly. Target 5 of the declaration reads (“Zdrowie 21,” 2001, p. 75):

1. people over 65 should have the opportunity of enjoying their full health potential and playing an active social role;
2. there should be an increase of at least 20% in life expectancy and in disability-free life expectancy at age 65 years;
3. there should be an increase of at least 50% in the proportion of people at age 80 years enjoying a level of health in a home environment that permits them to maintain autonomy, self-esteem and their place in society.

To realise these goals, various individuals and institutions need to cooperate to create a system of facilitating autonomous life for the elderly. A key thing here is to integrate these programs. One example is the American Program of All-inclusive Care for the Elderly (PACE) That Enables High Quality Services At A Low Cost (Szczerbińska, 2004, pp. 20–28). It is based on integrated action of various forms of medical care and socialisation activities to decrease a sense of isolation and marginalisation of the elderly.

In 2003, the Second European Conference of Ministers responsible for Integration Policies for People with Disabilities, held in Spain, dealt with the issue of disability. Its participants formulated directives for social policy towards the disabled. Special attention was devoted to: the necessity to improve the quality of life of the disabled and their families, protection and popularisation of human rights, fundamental freedoms and the dignity of life. Because in Europe the number of the elderly is growing, each created strategy should include institutional and practical solutions for improving the quality of life of the elderly and the disabled. The
emphasis was put on preserving a good quality of life in old age and lessor dependence on support services. The key to achieving this goal was in improving the health of the disabled and their participation and integration in the job market.

Another important element of social policy towards the elderly is the issue of gender equality and the status of elderly women. Because women live on average 10 years longer than men, they are more affected by adverse old age circumstances and social reactions to their fate. European institutions shape an active policy of supporting women in terms of their health and create programs to counteract discrimination and social exclusion. Despite the fact that Poland has an extensive system of social support, women are more affected by poverty than men. The problem of poverty among elderly women is especially dangerous because they often live in solitude, without any means for their basic needs or medicines. In the past, early retirement opportunities for women were seen as a privilege, nowadays it turns out that early retirement has negative financial consequences, aggravating their poverty and misery (Puzewicz-Barska & Tarasiewicz, 2004). Especially difficult is the time of advanced old age or serious illness. Patients are then in need of 24-hour medical care in stationary and at-home palliative and hospice care units. Because the contracts signed by the National Health Fund are small, the operation of these units is based to a large extent on the work of volunteers, who go to great lengths to selflessly support those in need. However, these institutions lack professionally trained staff to provide long-term care. State care institutions cannot cope with the demand for integrated care for the elderly. Many commercial institutions and healthcare centres have emerged. However, the cost of care at the private institutions is beyond the means of most that need such care (cf. Agencja Promocji Inicjatyw Społecznych, 2003). Concerns were also raised regarding the quality of service in nursing homes. Legal and administrative standards were not observed in terms of the conditions these institutions should provide and the professional competence of their owners was questioned. The media reported cases of harassment and humiliation of patients in private care institutions, which were generally outside administrative control. There is a need for creating mechanisms of control of institutions operating in this field. Most importantly, commercial activity providing services for the infirm, in need of care and support should be run according to the principles of business and social ethics. A good solution for maintaining a decent quality of service are the certifications awarded by Stowarzyszenie Domów Opieki i Pensjonatów dla Seniorów (Nursing Home Association). Information about the Association recommendation can help rationally choose the institutions that will meet the expectations of their clients and their families.

An important element of social appreciation of old age should be the quality of interpersonal relations and intergenerational communication. A consequence of social alienation in global civilisation is the separation of its participants, the breaking of bonds based on face to face contacts, replaced with anonymous media communication. Young people have better skills in using modern means of communication, therefore the elderly lose their authority, the role of a sage and counsellor. The young address their questions elsewhere. Contrary to these tendencies,
it is worth applying the concept of gift to explain these relations. The elderly must
not be treated as a problem by younger generations, they should be included into
the system of intergenerational bonds. An elderly individual has vast experience,
interesting observations and biography, which can be of use to other members of
their family. It is here, in the intergenerational discourse, that worthwhile values
are created. In Tischner’s philosophical anthropology we can find a justification
for why meeting another man is one of the most important human experiences. To
understand another person, it is necessary to talk to them, become interested in
their personality, stay open to their problems. Such a meeting also means giving
them a hand and achieving immediate clarity of the drama participants. Many
philosophers emphasise that man is a being who, in order to live, needs hope and
meeting the Other. Elderly individuals especially need love, care and truth. At the
last stage of life, this dialogue is needed by both sides of the relation: the elderly
and dying, and those who remain with the sense of losing their loved ones. There-
fore, engaging in a dialogue with the old, suffering, and dying is our moral obliga-
tion.

5. Theological and ethical appreciation of old age

Undoubtedly, the best intellectual basis for the appreciation of old age in the con-
temporary world are the words and the last stage of life of John Paul II. The mean-
ing of existence, from its beginning to the end of its biological duration, always
was the central point of interest of Pope’s moral theology. Metaphysical and per-
sonal dimension of existence are emphasised in several Vatican documents: “life
comes from God; it is his gift, his image and imprint, a sharing in his breath of
life” (John Paul II, 1998a, Chapter II, 39, p. 73, 1988b). The beginning of life, its
development and dawn lead to the old age—the third and the final stage of the
mystery of human existence. According to Christian theology, each individual is
special and unique, has the dignity of a conscious, free, and a creative subject. Life
encompasses both our divine, in a way transcendental origin, and a specifically
understood social relation with others. Man is created in God’s image and after
His likeness and achieves the fullness of their personal existence through authentic
communion with others. It has consequences for old age. Man, in this life should
come to terms with the natural process of ageing and dying. The culmination of
earthly existence is the promise of an eschatological way of joining God. The
Holy Father, through his attitude in the last years of his life, expressed his solidari-
ity with all the suffering and taught us that despite our biological imperfection we
can affirm life with every action we take. Old age and dying are inherent elements
of human existence, therefore, these deserve special care and consideration. The
Pope emphasised the primacy of a dying individual and their right to death with
dignity. He opposed all attempts to instrumentalise human death. Healthcare
workers are supposed to serve life in all its stages, “especially at the time of weak-
ness and illness”. In its most recent interpretations, the principle of the sanctity of
human life, its protection and promotion does not exclude the right to dignity in death and to discontinuation of extraordinary treatment, if such is the will of the suffering and dying individual. If they cannot be helped in any way, we should accept their imminent passing (Bołoz, 2002).

Ethical appreciation of old age should include the element of axiological affirmation of the person and their moral responsibility for themselves and others. A chance for all people is to live in a community where an elderly individual is treated in a positive way as a rule, causes propulsive reactions, and where all its members act pro publico bono. People, regardless of their age, make various decisions, for which they should be held accountable. It can be said that the sense of responsibility increases with age until its decline in senescence. Responsibility is usually understood as readiness to be held accountable for one’s choices and actions. The elderly are free from responsibility for themselves as long as they are intellectually and physically fit. It gets worse when the physical quality of their life is low and they have to be supported by others to organise their daily lives and realise their basic needs. A society which is well organised and performs its duties towards the elderly should be valued higher in terms of its organisational and moral development. The sense of responsibility for the elderly should be both of legal and moral nature. An elderly person seeks support from others. The support can be material, informational, psychological, and can be expected from individuals as well as the state. Being morally responsible for our own existence, we also serve other people better. The concept of humanitas is the foundation of solidarity with the elderly, the weak, and the suffering. Peaceful cooperation and coexistence of people of different ages are possible and necessary for the sake of all the participants of social interactions that respect the dignity of human beings.

6. Conclusions

The need for creating a new axiology of old age, based on the idea of “adding years to life,” was suggested in international agreements. The appreciation of old age can be successful if it becomes a joint effort of various institutions and actors. Most of the EU health programs are based on the need to coordinate health and social services in local communities, which can best assess the needs and abilities of the elderly.

There are several important stages in appreciating old age. The first stage pertains to raising awareness about the value of old age and the role of the elderly in public life. It is about making all people realise the economic, political, and social importance of people in old age. The second stage involves healthy ageing, including especially prevention and holistic treatment of health as physical, psychological, and social well-being. The third stage involves engaging local communities in creating an infrastructure that would be friendly for the elderly and their caretakers. Local authorities and administration should make decisions facilitating the improvement of their quality of life and ensure their implementation. The fourth
stage means helping all members of the community realise that the elderly have a potential that requires special care—they contribute their experience and wisdom, take care of their grandchildren, often financially support the young. Successful socialisation for old age should pertain to both the elderly and the young. The young should learn proper behaviour towards the elderly and how to support them in various ways, they ought to voluntarily help those in need, the suffering, and the elderly. A mature individual should be ready to enter old age, so their socialisation should involve learning how to be old, how to deal with advanced old age and, eventually, death. Because socialisation alone is not enough, to combat negative stereotypes and the symptoms of ageism, especially among the young, we should develop a system of gerontological education, teaching respect for old age. The demographic changes of the modern world confirm the important role of elderly individuals as consumers of goods and services, loyal political supporters, participants of Universities of the Third Age, and loving grandparents. In pointing to the need of appreciating the elderly as a subject and object of a social action, let us not forget that we probably would all wish for cheerful ageing for ourselves.

References


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The ageing of society in the context of dominant assumptions of contemporary economics and culture

Abstract

Current demographic trends indicate that the process of ageing is more and more advanced in Western societies. While the available literature addressing this issue concentrates most often on developing effective tools for socio-economic policy, this paper aims at exploring the dominating assumptions of economics and culture to find how they may influence the demographic process that was mentioned. The purpose of the analysis undertaken here is to verify the thesis which claims that basic anthropological assumptions present in neoclassical economics and modern culture somehow ignore or underestimate such essential aspects of human life as old age and the helplessness or weakness connected with it.

The conclusions of the paper indicate that there is a need for intergenerational balance within society, which, e.g., facilitates socio-economic development. Some of the most important factors influencing this may or may not be present within the economic theory and culture it is based on. It means that without the adequate vision of man and the phases of human life, the process of building a mentally healthy and vibrant society where everyone has his or her place is hardly possible.

Keywords: ageing, pensioners, sociodemographic shifts, cultural context, economic thought

JEL Classification: J11, J14

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1. Introduction

The goal of this article is to analyse the role that economic theory—and, more broadly, culture—plays in perceiving social phenomena and making decisions that pertain to them. This work focuses on the importance of theoretical assumptions regarding human beings—especially old age—for the functioning of socio-economic order. Undertaking such an analysis seems even more interesting and significant if we consider that the issue of ageing communities is becoming more and more topical and deserves thorough investigation.

We are going to analyse, then, to what extent the claims within the dominant economic theory—treated here as one element of culture—support the proper understanding of ongoing processes and how they influence an effective solving of problems that arise along with it.

In the available literature, the connections between the ageing of society and socio-economic policies are the domain of interest of scholars in areas such as demographics, economics, or sociology. Therefore, the main perspective I have adopted will refer to cultural studies, which provides a broader cognitive framework for reflecting upon the concept of old age and its status in economic theory. When going through the growing body of research and analyses on population ageing, we should note that by focusing on providing solutions from the field of socio-economic policy they deal less often with the question of assumed anthropological adequacy, i.e., the way they perceive people as subjects of social life. This work is an attempt to fill this gap.

Therefore, I present here a hypothesis that proper understanding and reacting to the process of society ageing, also adequately managing it, requires, on the one hand, extending or even going beyond the perspective of neoclassical economics and the _homo oeconomicus_ model it utilises. On the other hand, it calls for a critical analysis of cultural claims that facilitate the rise and solidification of the age structure that is undesired from the viewpoint of socio-economic development.

2. Old age as a natural stage of human life and a component of social order

When analysing old age, we should first define how we understand the term, which, after all, refers to universal human experience.

It should be noted that old age in itself is not a problem, because it is an objective process that is an integral part of human life. However, it is connected with certain difficulties—both for the individuals and for society as a whole. And so we speak not only of ageing individuals but also of an ageing population (cf. Jurek, 2012, p. 17). This results in old age becoming—especially in recent years—an important challenge for socio-economic policy but also, and in a way because of it, a popular research topic (cf. Golinowska, 2008, p. 27).
Returning to the definition of old age, we can see it is an uneasy task, which is evidenced by the subject literature. Łukasz Jurek (2012, p. 19) writes that so far there has been no univocality on the matter of a universally accepted threshold of when old age begins. He notes, however, that most scholars assume that the proper criterion for qualifying anybody as old is between 60 and 65 years of age.

A different author writes about three approaches to defining old age. The first of them, described as subjective, refers to how an individual evaluates their activity on the job market and their state of health. The second stance, called the functional approach, uses objective data such as employment status, entitlement to social benefits or mental condition. The third approach uses the criterion of age, which entitles individuals to a pension or other benefits resulting from the number of years they have lived (cf. Zaidi, 2008, p. 28). To complete this list, we should consider defining old age as the stage in our lives when our weakness and dependence can be seen much more clearly than in our productive age. In such a definition we avoid, on the one hand, purely formal or numerical limitations and, on the other, the subjectivity of a given individual’s perspective.  

From among the presented approaches we shall adopt here the last presented understanding of what old age is because it presents us with the most objective perspective on the topic. At the same time, I do realise that it is not perfect and that other approaches can be justified and useful.  

When it comes to understanding old age, we should explain a few matters. First, old age is here recognised as a natural stage of human life, which means that it is an indispensable consequence of living (although it does not always occur if death comes earlier) and thus an inescapable perspective in human existence. As such, it should be seen as an important element related to the functioning of the socio-economic order. Second, old age—not unlike childhood—clearly presents a fundamental characteristic of human relations that cannot be properly described in purely economic terms. This is because it shows that in a society there always will be a space of asymmetric relations—ones in which there is no equality in the contributions or potential of its participants—which are fundamentally different from the symmetrical relations of market partners (cf. Morse, 2001, p. 25). Chantal Delsol (2006, p. 142) writes about how the latter outnumber the former in human life:

Avoiding the inequality between giver and recipient breaks the relationship between them. [...] Equality is maintained, but at the cost of a broken relationship. In the realm of human bonds only genuine friendship implies equality. All other relationships are unequal, that is, they entail giving that sometimes goes unreciprocated.

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1 In a way this definition of old age is reflected in the social benefits system, where, on the one hand, we have pensions granted according to age or number of years in work (which can be understood as exhaustion of energy necessary for professional activity), on the other we have disability pensions granted in special circumstances to people (regardless of their age) who for some reason suffer from weakness or lack of independence.

This means, in turn, that economics as a discipline specialising in interactions of a symmetrical nature cannot explain the character of a wide range of phenomena and practices that are not commercial in character. The term “non-economic” was not used here on purpose so that we do not associate with economics only such practices that pertain to the money-goods exchange governed by market rules. As a result, we can still see areas associated with, say, running a household, where we can recognise many acts of an economic nature since they aim to satisfy specific human needs with the available means and material resources.

It seems, therefore, that by directing our attention to the phenomenon of old age—and the accompanying sense of human helplessness—we gain a chance to restore a real shape to the subject of socio-economic processes, which, although officially called human, apparently lost its human form and attributes. This is what we are going to investigate.

3. Economics and old age—who is the “protagonist” of neoclassical economic theory and what is his logic?

Now, we would like to look at the subject of economic practices and do so in a way that economics itself sees them. First of all, we intend to prove that the model of human beings most often adopted in economic sciences lacks fundamental characteristics that connect them with the phenomenon of old age. It is worth analysing the origin of the “economic man” who—despite being criticised in recent years—still seems to be a focal point in economic thought. Janusz R. Sobczyk (2008, p. 140) writes about the beginning of the concept of homo oeconomicus:

closest to its cradle stood those responsible for this deceitful conceptual juggling: A. Smith (classical economics), J. Bentham (utilitarianism), J. Mill and J.S. Mill; behind their backs was the entire tradition of English philosophy: empiricism (F. Bacon), mechanistic ontology (I. Newton), sensualistic epistemology (J. Locke), associative psychology (D. Hume) and naturalistic ethics of egoism and hedonism (T. Hobbes). In this way, the newly created concept, an intellectual product of a typically British mentality—still in the form of a nameless idea, or, if you will, a silent assumption, became the matrix of burgher ideas on the nature of man, the market and economy.

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3 We should mention here the contribution made by, among others, Gary S. Becker, who by applying economic tools to behaviour not usually associated with this discipline, to an extent was able to draw our attention to matters not very well analysed before, such as the importance of families for the functioning of the economy.

4 Primarily, it pertains to neoclassical economy, which more or less since the 1970s has dominated economic theory and still seems to be its mainstream (cf. Stankiewicz, 1998, pp. 390–391, 416–423).

5 We should, of course, mention the concept of the “sociological man”, which is a mostly successful attempt to elaborate and develop the way we think of human beings. Although it became quite popular in sociology, it seems that in economics the dominant way of looking at people is through the lens of the “economic man” paradigm (cf. Morawski, 2001, p. 33).
The description above seems important insofar that it shows which philosophical concepts, including ethical and anthropological, can be found in the “character” of *homo oeconomicus*. Frank Knight defines the term further (1951, p. 282 as cited in Chmielecki, 1999, p. 260):

economic man is not a “social being”, economic individualism rules out society in the properly human meaning of the term. Economic relations are presented here as impersonal. Social structure, as seen by the economic theory, is a number of Robinsons interacting with each other solely through the market.

As a matter of fact—as we have observed—the experience of fragility, defencelessness and helplessness is an immanent part (although to a varied extent) of human life and it is not limited to just childhood or old age. It means, then, that its asymmetrical character should be treated as a basic trait of the human condition. It does not mean, however, that only asymmetrical relations should be claimed to be truly human.

In order to present it properly, it is worth showing the issue in the form of two logics: of giving and contract. The first one, according to Chantal Delsol (2006, pp. 144–145), in a way conditions the creation of society. She writes that:

| every human relationship begins with a need that one is willing to see filled. |
| This is not a matter of finding a permanent solution for an abnormal or unjust situation with the goal of achieving self-sufficiency or „normality”. The first condition of a “society” is the acknowledgment of our constitutive insufficiency. |
| I cannot build relationships if I do not recognize my own need, conceived not as an exceptional circumstance or an injustice awaiting redress, but as a substantial quality. This sense of finiteness is what creates a common world and at the same time gives it meaning. |

The quote above might look very serious, but maybe in it we can find an explanation for what is in various works called the erosion of social bonds (cf. e.g. Bellah, Madsen, Sullivan, Swidler & Tipton, 1996, p. XI.), which can be facilitated by the proliferation of symmetrical relations and the logic of contract that it entails.

As far as these two logics go, it seems that nowadays the idea that the logic of contract is more effective and useful in everyday life seems to be the dominant one. In such a perspective we can see an assumption that these two logics are somewhat in opposition to each other. In reality, however, they are complementary elements, not alternatives, in the same way as, e.g., the sphere of family life should not be treated as the opposite of the sphere of market exchange. It is well understood by Luigino Bruni (2008, p. X), who writes that “[…] contract (self-interested exchange) and mutual gift are surely two different forms of reciprocity, but these are both forms of reciprocity that are essential in a good society.”

Certainly, the presence of the two logics discussed here means that social interactions cannot be reduced to simply “some providing for others” or just calculations based on the principles of equivalence. Clearly, choosing one of these paths
might seem a simple solution, but in truth, it is a trap. Despite that, it seems that historical records abound in examples of such social arrangements. While cases of utopian attempts to make everything free are evidently irrational and ineffective, the illusion that social order can be based solely on the logic of contract further gains supporters. In this perspective, it seems especially appealing to accept the argument according to which a relatively simple market mechanism—as a leading example of contractual logic—is a sure and the easiest solution of problems within society. However, we should remember here about the idea by Rocco Buttiglione (2005, p. 349), who writes that “[...] a contract [...] is possible only in a situation where there exists a relative balance of power.” As a consequence, we can say that in a situation of imbalance we first need a gift, thanks to which it will be possible to introduce contractual logic. In a similar vein, we can understand the claim by George Gilder, who writes that “capitalism starts with giving” (Gilder, 1993, p. 21). It can be seen very clearly in the process of human development; before people become fully mature and independent members of a society, capable of playing various roles in it, including, e.g., professional roles, people have to get support. This can come in the form of means for living and growing in the biological sense, and competencies and skills in the process of socialisation, among others.

The issues presented above prove that economics is insufficient for explaining how societies work—even the so-called industrial or consumption societies, where the economic dimension seems to play a crucial role. This is so because it fails to provide adequate anthropology that could grasp human experience in its entirety. In this same context, the problem discussed here can be reduced to the absence of asymmetrical relations in the economic perspective, because these relations are no less important for society; indeed, in many aspects, they should be considered more so.

Returning to the way humans are perceived by the dominant economic theory, we should say a few words about how they are characterised. A trait that can be seen very clearly—which can, of course, be associated with its “model nature”—is their abstract, in a sense, ahumanist character. It is evidenced by their asexuality, which means that a dimension as important as sexuality is ignored, and with it, various significant tasks and social roles, such as parenthood. Together with it also disappear basic relations and generational dependencies, which we cannot omit while discussing the question of old age. From it stems a certain atemporality of the economic man—he does not belong to any generation, does not age, is not engaged in any human relationships, even as basic as being a child to their parents. His ahumanist character means that they also cannot change, which leads to the conclusion that he is not affected by the passage of time, which is connected with the inescapable nature of the processes and changes that pertain to old age.
We are going to try and show these paradoxes by juxtaposing family and market relations as spheres depicting the differences between the two discussed earlier logics and the ways of treating other people that are peculiar to each of them. It can be seen in Table 1.6

Table 1. Family Relations vs Market Relations

<table>
<thead>
<tr>
<th></th>
<th>Family</th>
<th>Market</th>
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</thead>
<tbody>
<tr>
<td>The dominant characteristic of the relation</td>
<td>Personal</td>
<td>Material</td>
</tr>
<tr>
<td>The temporal horizon of the relation</td>
<td>Long-term relations</td>
<td>Short-term relations</td>
</tr>
<tr>
<td>The relationship of the parties</td>
<td>Asymmetrical</td>
<td>Symmetrical</td>
</tr>
<tr>
<td>Gratification</td>
<td>Postponed or no gratification</td>
<td>Immediate/less often postponed</td>
</tr>
<tr>
<td>The dominant logic</td>
<td>Gift</td>
<td>Contract</td>
</tr>
<tr>
<td>The final perspective</td>
<td>Personal</td>
<td>Individual</td>
</tr>
</tbody>
</table>

Looking at the comparison above, we should ask an apparently trivial question of whether economic man, crafted primarily for market relations, can cope on his own in old age. It seems obvious that he will not.

Despite it being so evident, we still do not fully realise it. Even if we witness in economics not only discussions and proposals of changes but also specific ideas for changing our understanding of how humans manage their lives in society, it should be noted that many administrative and legal economic solutions reflect a paradigm in which individuals are not unlike Robinson Crusoe in their actions. The problem is that nowadays—in the face of demographic shifts—they grow old, and hence the question of whether they can cope as well as they have done so far is becoming more and more urgent, and we do not even know if we can realistically expect that to happen.

4. Cultural status of old age

In the light of the analyses presented above regarding people seen as subjects of socio-economic practices and processes, it is worth asking why this anthropological model dominates in our understanding of the world, not only in economic terms. Perhaps it could be more useful if it was treated purely as a model. Maybe it is so widespread because it was assumed that, firstly, it would always be used with the awareness that it is just an anthropological reduction, and secondly, that such an inadequate simplification would have no serious ideological consequences (cf. Nowak, 2007, pp. 28–29).

In order to resolve these questions, it seems necessary—and it has already been done to a large extent—to analyse the role that economics plays as a theory explaining human actions. It has been done so primarily in the economic sphere

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6 It is important to remember, however, that the market here is not treated as a synonym for the whole economy, which is a much wider domain.
but also—for some time now—in other domains, which it has brought its apparatus to (to the irritation of some) (cf. Lompart, 2007). However, in order to fully grasp the importance of economic theories, we should begin with a much broader perspective of culture. We define it here as an immaterial sphere consisting of symbols, values and ideals (cf. Krzysztofek, 1991, p. 17). Like Samuel P. Huntington, we can claim that “[…] we define culture in purely subjective terms as the values, attitudes, beliefs, orientations and underlying assumptions prevalent among people in a society” (2000, p. XV).

It turns out that adopting a cultural framework is necessary because economics is not an autonomous discipline in the sense that it is not independent of the currently dominating paradigm in culture. It is worth mentioning a fragment of David Throsby’s (2010, p. 22) analysis, where he writes:

The formal precision of modern economics, with its theoretical abstraction, its mathematical analytics and its reliance on disinterested scientific method in testing hypotheses about how economic systems behave, might suggest that economics as a discipline does not have a cultural context, that it operates within a world that is conditioned by, nor conditional upon, any cultural phenomena. But just as the radical critique of contemporary economics has argued that the sort of economics described above cannot be value-free, so also can it be suggested that economics as an intellectual endeavour cannot be culture-free.

I will concentrate on culture, firstly because specific theories, including economic ones, reflect in their assumptions cultural claims. Secondly, by referring to the anthropology of economic man, we have shown the way reality is perceived that currently dominates in culture and is reflected in economics.

Therefore, I assume that the problems analysed here—with special emphasis on the issue of old age—are rooted in culture, which has changed radically in the past few decades. In the context we are interested in, we will devote special attention to aspects of identity related to age and intergenerational relations.

Analysing current socio-cultural reality, we might get the impression that Manuel Castells described as social arrhythmia. It is—especially if contrasted with the past—a phenomenon that forces us to think and search for adequate models for action. Castells (2007, p. 444; cf. Berger & Luckmann, 2010, pp. 77–79) writes:

The current organisational, technological and cultural events, characteristic of a new, emerging society, heavily undermine this ordered cycle of life, without replacing it with any alternative sequence. I suggest a hypothesis that network society is characterised by a collapse of rhythms, both biological and social, related to the concept of the cycle of life.

A matter discussed by Castells, especially important for the analysis at hand, is the collapse of rhythms that pertain to the life of an individual but also affect their personal relationships, also in the intergenerational perspective. It means that the traditional and natural cycle of life, resulting from objective biological factors, is becoming more and more a subject to individual manipulation. It is surely facili-
tated by various scientific and technological achievements, which, although providing an illusion of control over inescapable physiological processes or hope for slowing them down, cannot stop nor reverse them.

When it comes to the direction of this struggle, the desired effect is clearly to prolong or even preserve youth, which in a way is connected with the perennial human desire for immortality and perfection. However, a particular characteristic of our era is that people have at their disposal a wide range of means for attempting to realise such aspirations.

We live in an era that, according to Robert J. Samuelson, is characterised by agelessness, which can be defined as abstracting from age or ignoring it. The author, quoted by Benjamin R. Barber (2003 as cited in Barber, 2009, pp. 12–13) in the book Consumed, states:

We live in an age when people want to behave their age less and less. The younger (or many of them) want to be older, the older (or many of them) want to be younger. We have gradually destroyed the traditional stages of the cycle of life by shortening childhood, after which come several not very well-defined intermediate stages. Youth [...] starts before puberty and for some lasts until the end of life [...] Denying one’s age is a common practice.

When analysing this issue, Barber refers to the concepts of infantilisation and adultisation, which clearly show the consequences of upsetting the cycle of life connected with the social arrhythmia mentioned above. On the one hand, these terms mean a tendency to treat adults like children, and on the other, to behave towards children as if they were already independent and mature. An area where it is especially evident is the market, where products and services once reserved for specific age categories are addressed to those outside of the target age groups. From the economic perspective, it is certainly supposed to result in broadening the group of consumers and, as a consequence, increase the market share and profits. From a cultural perspective, however, it leads to homogenisation and the disappearance of distinctions fundamental to the functioning of social order. As a result, objective—and in a way universal—generational differences and the roles and duties they entail are replaced by an individually and purely subjectively shaped individual identity. In consequence, age, which to a larger extent used to define one’s place in the age structure and specify one’s social role, is more often perceived in the current cultural context as a voluntary element that one is free to treat according to subjective preferences.

It is one of the consequences of the power that individualism has been given in our contemporary culture. It weakens the connection that an individual has with basic groups (such as their family) and other communities, including their societies. Absolutising the individual dimension is, however, a fake promise and, paradoxically, as Ulrich Beck writes, the individual “[...] is losing importance and is simultaneously given an illusory status of the world’s co-maker” (Beck, 2002, p. 205). It means a specific crisis of that which is common, which is an element of the world of life and the community of values and ideals connected with it, which are elements of culture. As a consequence, the place of a universally perceived,
created and experienced reality is taken by a multitude of alternative worlds, whose reality can be contested. It is partially confirmed by the popularity of mass media, especially of programs offering access to unreal worlds. Alvin and Heidi Toffler (2007, p. 14) wrote:

 […] To escape—or at least forget—what appears like chaos, millions turn to television, where “reality TV” fakes reality. Thousands form “flash mobs” and gather to beat one another with pillows. Elsewhere, players of online games pay thousands of dollars in real money for nonexistent, virtual swords that their virtual selves can use to win virtual castles or maidens. Irreality spreads.

So, we are dealing with a culture that in various ways tries to distance itself from reality. This leads us to the conclusion that we are facing a widespread and powerful cult of youth because youth is what we typically associate with carelessness, fun, and indifference to objective conditions and limitations. And these are the areas that our contemporary culture likes so much.

The protagonists of the thus characterised contemporaneity are young, healthy, beautiful, intelligent, rich individuals. They are not old, ill, poor or weak. This allows us to describe the currently dominating way of perceiving and valuing the world as a culture of the strong, which—in the ethical dimension—bears the hallmarks of social Darwinism. This problem is presented in an interesting way by Edwin Black in his book War Against the Weak (2004). He shows how the events of the 20th century, especially the genocide of World War II, are ideologically rooted in 19th-century eugenics and last in some form in the 21st century, when the value of human life becomes a thing of a purely individual decision or a matter that the majority can decide on. Black (2004, p. 47) writes:

Now social planners were rallying around the notion that in the struggle to survive in a harsh world, many humans were not only less worthy, many were actually destined to wither away as a rite of progress. Supporting the weak and the needy was, in essence, an unnatural act.

Our contemporary culture is, in fact, regressive because it takes humans back to nature, where strength and adaptability are fundamental regulators. It results in making human being a specimen and no longer a person.

It is well illustrated by the situation of children in general, especially unborn children. Buttiglione (2005, p. 349) writes about this in the context of logics presented above:

we clearly see here a model of a subject that is completely devoid of power and, therefore, excluded from the contract. The question of legalising abortion—regardless of its objective moral gravity—is also a touchstone of the anthropology and self-awareness of the nation, it is a touchstone of the quality of justice that the nation intends to rest their existence on […] The same goes for the old. An old person gradually loses strength and thus—according to the concept of
conventional justice—loses rights. In the final stage of their lives, they are completely devoid of strength as well as rights. A sick and disabled person is in a similar situation.

These remarks allow us to claim that the current cultural paradigm affects the status of the old in society and the way we perceive old age in general.

5. Conclusion—what future does an ageing society have?

In conclusion, we can say that the fate and future of ageing societies will be mainly influenced by cultural premises, including, among others, anthropological, ethical and those included in economic theories, and to a lesser extent by currently possessed material resources. It means that the theoretical background is crucial. It seems especially important in the context of the pragmatic lifestyle which nowadays is widespread and popular.

To a large extent, this seems to be the way in which current welfare mechanisms work. They are characterised—despite their obvious differences—by a conviction that providing basic means for existence is the key to social order and progress. Unfortunately, it is not the case. When it comes to the topic at hand, welfare states seem too centralised to address the problem of old age effectively. This is because old age is a complex and unpredictable matter to manage within a state’s macrostructures, which do not handle non-standard and non-routine circumstances well.

Another problem of the welfare state is the influence it has on the status of care work—indispensable in the case of children and the elderly—which is becoming depreciated. This is because the state, by “taking over” the task of providing care and social safety, gives the false impression that the natural connection between how families work, performing procreative, socialising or care functions, and generating resources for social security has weakened. As a result, the general public becomes convinced that taking on family roles and duties, especially those related to care and upbringing, is not necessary from the perspective of how the state and society operate. Because of this and the fact that caring and fostering are demanding and, unfortunately, hardly ever paid, they have a low cultural status. This, in turn, sends an important message to generations entering adulthood and leads to this kind of work not being very popular, which aggravates the demographic and economic crisis of many welfare states.

We are facing a situation where the dominant shape—especially in Western civilisation—of culture emphasises individuality and subjective autonomy on the one hand, and, on the other, strengthens the passivity of its citizens, who assume

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7 An example of this can be the issue of effectiveness of state financial incentives for increasing women’s fertility rate in various countries.

8 The quotation marks used here mean that the state does not have “its own” money, but it finances its enterprises using resources created by its citizens, who have to a large extent become mature members of the society thanks to free care and fostering work done in families.
that the state will take care of them in every circumstance, including their old age. As far as its condition and competitiveness go, it is becoming clear that the West is giving way to other civilisations. An important consequence of this is the ageing of the society. Obviously, steps are taken to maintain the socio-economic order, but their perspective is rather short-term.

In such circumstances, some countries have for years now supplied their population with immigrants, who, in turn, were able to support the basic “life functions” of society. However, such a strategy results in a more or less fundamental cultural transformation, which shows more and more clearly how barren a culture is that does not respect the fact that for the intergenerational contract to work well we need balance between generations, which helps society develop and engage and utilise the potential of each generation in the most effective and adequate manner.

An alternative, which is sometimes treated as an inescapable perspective and, to some extent, as an attempt to adapt to our current demographic trends, is the greying economy. However, it is an idea for a short-term adjustment rather than a comprehensive and adequate solution to the growing problem. Of course, we can emphasise the necessity to meet the demand for goods and services by the elderly, but from the viewpoint of serious long-term social policy, we should ask what should be done in the context of a society that is seriously shrinking.

Therefore, we should consider whether building a greying society—without analysing thoroughly the cultural context we mentioned above—would not be just an attempt to make the elderly as strong and fit as possible, rather than carefully recognising and accepting the uniqueness and meaning of old age in the social order. To expect that in the new context all elderly people will be able to adjust to new challenges, such as longer professional activity, is far from rational.

So, it seems justified to say that the greying economy is not the right solution to the problem of the rising demand for specific goods and services for the elderly, although, due to the ageing of society, such an economic model will, in some way, emerge in the short term. The very concept itself cannot offer any appropriate remedy because it would need an appropriate social philosophy. Such a system would have to be rooted in a culture that would respect the objective characteristics and attributes of human life in the personal dimension, joining and revealing as indispensable and mutually complementary the individual and collective aspects of human existence. Here, we can recall the words of the economist Jennifer Roback Morse (2001, p. 27), who writes:

societies do much better if they face facts rather than ignore them. In particular, political philosophies and their accompanying social philosophies need to address the limits of human power. We are all completely incapacitated in infancy, and even adults at the height of their capacities are far from omnipotent. If philosophies and the societies built around them ignore either of these truths of human helplessness, negative consequences will follow.
The problems discussed here surely deserve a deeper and more thorough analysis, especially because our work shows, to some extent, how multidimensional and complex they are. It seems that further investigation may be necessary not only to harmonise our current tensions and the challenges they present us with, but also—which seems even more important—to search for such cultural solutions that would facilitate the consistent development of societies. It will be possible only when certain principles are observed, such as the fundamental rules governing human life that show the objective importance and meaning of each stage in human life both in the individual and intergenerational dimension in the context of the entire society.

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starzenia się społeczeństwa. Warszawa: Komitet Prognoz “Polska 2000 plus” przy Prezydium PAN.


Abstract

Corporate social responsibility is a concept responding to climate change, environmental problems and the needs of stakeholders. Business makes an effort to act in the changing conditions, thus adapting to the expectations of the stakeholders and following the principles of sustainable economic development and social responsibility. One of the changes taking place in the current economic and social world is the change in the demographic structure of the population. The subject of the ageing population is often discussed, usually as a negative aspect in the context of changes in the pension system, health care costs or the employment conditions of older people. The principles of corporate social responsibility, such as social inclusion, anti-discrimination, and facilitating access to products and services create the basis for the development of the economy, focused on the use of the purchasing potential of older people. Thus, the perception of the demographic changes in this context becomes the ground for the formation of perspective solutions and the development of the silver economy. This model of the economy can be understood as a system which is based on adapting the production and distribution of products and services to older people. The main aim of this article is to present the challenges for companies in terms of the problems connected with an ageing population, as well as to present the main features of the concept of the silver economy in the context of corporate social responsibility. Moreover, considering the development of the silver economy, characteristics of older people as consumers should be taken into account. In this context, there are many stereotypes associated with the activities of the elderly. The article also notes the profile
of potential customers of the silver economy, with a particular emphasis on the approach of the elderly to innovation, tradition and a broadly understood sense of security.

**Keywords:** ageing, senior citizens, corporate social responsibility

**JEL Classification:** J14, M14

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### 1. Introduction

Demographic structure and the shape of the population regarding gender and age have a big influence on socio-economic life, culture and politics. A significant improvement in the conditions and quality of life, and innovations in medicine and healthcare have led to a decrease in mortality and, consequently, to increased life expectancy in the population. Beside these factors, the ageing of society is also affected by income, quality of social care, proposed family models or the quality of education. The economic dimension of society ageing is often highlighted. Demographic transformations result in a modified consumption structure, decreased professional activity, modified workforce structure or increased spending on supporting a growing number of people of post-productive age (Dragan, 2011, p. 4). The increased number of the elderly is connected with the need to provide them with institutionalised care, especially necessary for those with a low level of independence. The process of population ageing is a global phenomenon and seems one of the most important challenges that the entire European Union is facing. It is estimated that in 2030, for every four people in their productive age there will be no fewer than three pensioners (Mering, 2012, p. 40). This necessitates increased spending on pensions, which will result in a decrease in investment and slower economic growth.

The ageing of society is discussed mainly as a process with negative consequences for economic growth and as a burden for the state’s budget (Dragan, 2011, p. 5). However, we should note the development of the concept of corporate social responsibility and the growing awareness regarding the role of entrepreneurs in solving social and environmental issues. CSR creates conditions for and presents good practices regarding the active inclusion of the elderly in the socio-economic life of society. Changing business models to become more ethical and responsible makes companies more willing to act in domains such as fighting social exclusion, diversity policies in employment or providing goods and services that help solve social problems.

The main goal of this article is to define and analyse the challenges that companies are facing in ageing societies in terms of their social responsibility. This analysis focuses on the premises of corporate social responsibility, which are a foundation for creating an environment that would be friendly to the elderly.
Based on selected resources and documents on CSR, we find solutions which, if applied by companies, can mitigate the negative economic consequences of demographic changes. We also characterise the sector of the silver economy, whose main goal is to coordinate the requirements of business and economic growth with the needs of ageing communities. Our goal is to verify the relationship between the concept of CSR and the silver economy. We will use a practical example of business actions directed at the elderly.

2. Ageing societies

The dynamics of society ageing is different in different parts of the world, and its severity depends on their stage of social and economic development. Table 1 presents changes that took place in the Polish population structure in the years 1990–2015. The data clearly show that the percentage of the population below 20 years of age was highest in 1990, when it reached 31.8%, and decreased gradually until 2015, when it was 20.1%. In the case of the population aged 65 and older, the situation was the reverse; in 1990 the percentage of people aged 65+ was 10.2% and gradually increased to reach 15.8% in 2015. The changes in population structure in pre-productive, productive and post-productive age show similar patterns. Since 1990, the percentage of the population in pre-productive age continuously decreased—from 29% to 18% in 2015, and the percentage of the population in post-productive age rose—from 12.8% in 1990 to 19.6% in 2015. The percentage of people in productive age also grew continuously and reached 62.4% in 2015. It means that in 2015, for every working person there was more than one person of non-productive age (~1.66).

Table 1. Changes in population structure in Poland between 1990 and 2015

<table>
<thead>
<tr>
<th>Year</th>
<th>Under 20 (in %)</th>
<th>65 and older (in %)</th>
<th>Pre-productive (in %)</th>
<th>Productive (in %)</th>
<th>Post-productive (in %)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>31.8</td>
<td>10.2</td>
<td>29.0</td>
<td>58.2</td>
<td>12.8</td>
</tr>
<tr>
<td>1995</td>
<td>29.7</td>
<td>11.3</td>
<td>26.6</td>
<td>59.6</td>
<td>13.8</td>
</tr>
<tr>
<td>2000</td>
<td>27.8</td>
<td>12.4</td>
<td>24.4</td>
<td>60.8</td>
<td>14.8</td>
</tr>
<tr>
<td>2005</td>
<td>23.7</td>
<td>13.3</td>
<td>20.6</td>
<td>64.0</td>
<td>15.4</td>
</tr>
<tr>
<td>2010</td>
<td>21.5</td>
<td>13.5</td>
<td>18.8</td>
<td>64.4</td>
<td>16.8</td>
</tr>
<tr>
<td>2015</td>
<td>20.1</td>
<td>15.8</td>
<td>18.0</td>
<td>62.4</td>
<td>19.6</td>
</tr>
</tbody>
</table>


The above data confirm that Polish society is ageing. Table 2 shows predictions about life expectancy for men and women in the years 2020–2050. The table also presents data for 2013 and 2015. We can see that the predicted average life expectancy for men and women will steadily grow. It is estimated that in 2030, men will live on average four years longer and women three years longer than in 2015. According to the estimate for 2050, life expectancy for men will be 82.1 years and 87.5 years for women, so nine years longer than in 2013 for men and
more than six years longer for women. It is worth noting that, according to the predictions, the difference between the average life expectancy of men and women is going to decrease, which means lower excessive mortality for men.

Table 2. Life expectancy of men and women in the years 2013–2050

<table>
<thead>
<tr>
<th>Years</th>
<th>Men</th>
<th>Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>73.1</td>
<td>81.1</td>
</tr>
<tr>
<td>2015</td>
<td>73.4</td>
<td>81.2</td>
</tr>
<tr>
<td>2020</td>
<td>74.6</td>
<td>82.1</td>
</tr>
<tr>
<td>2025</td>
<td>75.9</td>
<td>83.0</td>
</tr>
<tr>
<td>2030</td>
<td>77.3</td>
<td>84.0</td>
</tr>
<tr>
<td>2035</td>
<td>78.4</td>
<td>84.8</td>
</tr>
<tr>
<td>2040</td>
<td>79.5</td>
<td>85.6</td>
</tr>
<tr>
<td>2045</td>
<td>80.8</td>
<td>86.5</td>
</tr>
<tr>
<td>2050</td>
<td>82.1</td>
<td>87.5</td>
</tr>
</tbody>
</table>


Such projections regarding the age structure of the population present certain challenges to the Polish economy. On the one hand, longer life expectancy and society’s ageing generate burdens for the economy. On the other hand, we should bear in mind the increasing well-being of society and take advantage of the potential and abilities of the elderly. It has been observed that we should pay more attention to increasing the employment of people over 50, health-promoting and digital education, developing care services, creating safe and functional housing, and providing access to means of public transport.

The elderly are perceived as having low economic status or as being most susceptible to poverty. It should be noted, however, that although they do have lower incomes (usually from pensions), they also spend less than salary workers with higher incomes (from employment). Pensioners usually do not spend money on (Jurek, 2012, p. 158):

1. supporting offspring—their children (if they have any) are already mature and financially independent,
2. financial obligations (e.g. mortgage)—pensioners usually already own their house or flat equipped with necessary amenities,
3. work-related goals—commuting, education.

In 2015, the average household income for pensioners was 1366.47 PLN per person (pensioners’ income—1433.24 PLN, disability pensioners’—1063.77 PLN). In comparison to the previous year, their real income in 2015 grew by 4.5% (in pensioners’ household by 3.9%, in disability pensioners’ by 4.6%). It should be noted that the average income of pensioners’ households was 95.37 PLN higher than the average of all households in Poland, which was 1337.87 PLN (Central Statistical Office, 2016a, p. 31). Chart 1 shows the percentage share of specific spendings in pensioners’ households per person in 2015. The total average spendings in pensioners’ households in 2015 amounted to 1180.53 PLN per person (Central Statistical Office, 2016a, p. 78). Expenses on food and non-alcoholic drinks, and housing, including
bills, were the biggest share and amounted to 26.6% and 23.1% respectively. By comparison, all households’ average spendings amounted to 24% of income spent on food and drinks and 20.1% on housing. The bigger share of spendings among pensioners is connected with the lower density of their households. Much less money in pensioners’ budgets was spent on clothing and shoes (3.5%), stimulants, i.e. alcoholic drinks and tobacco (2.4%), restaurants and hotels (2.8%) or education (0.2%). However, they spent more on health (8.1%). A large share of the budget spent on, among others, medical and pharmaceutical products and medical equipment is peculiar to pensioners’ households (in all households these spendings amounted to 5.3%). Much less money was spent on transport (5.6%), communication, including the Internet (4.6%) and culture and recreation (5.2%).

![Chart 1. Average monthly spendings per person of pensioners’ households in 2015](image)

*Note. Adapted from “Pensions and disability pensions in 2015,” by Central Statistical Office, 2016, Warsaw, p. 78*

Pensioners spend around 25% of their budgets on the consumption of goods and services connected with culture and recreation, education, transportation, clothing and shoes, restaurants and hotels. It shows that despite this group’s specificity, pensioners still have large purchasing potential. It should also be noted that they are a group with a stable monthly income from pensions.
3. Challenges for CSR in ageing societies

CSR is a concept that assumes the “responsibility of companies for the effects they have on society” (European Commission, 2011, p. 6). A holistic approach to corporate social responsibility is expressed in ISO 26000, which delineates the scope of companies’ actions within social responsibility. Its key areas are organisation governance, human rights, fair operating practices, consumer issues, social involvement and the development of local communities (International Organization for Standardization, 2014, p. 9). The idea of corporate social responsibility highlights that companies are responsible for the environment they operate in, considering the effects of their actions on the natural environment and society. It is important to contribute to sustainable development by means of following good practices in the mentioned areas. Among the most important matters in the face of an ageing society, we can name practices that are connected with creating jobs, employment policies, respect for social justice, providing appropriate goods and services, honest information policies and market education, and enabling access to goods and services for sensitive consumers and the socially underprivileged. Business practices based on such assumptions can positively affect the solving of problems related to demographic changes and increasing life expectancy. The private sector in ageing societies faces a number of challenges. According to how they work, we can divide them into internal, which pertain to the organisational rules and management forms within the company, and external, which are legal and institutional regulations and the directions of socio-economic development. Companies’ internal challenges in the face of society ageing include primarily (Klimczuk, 2013):

(1) harmonising the needs of the elderly with the needs of employers,
(2) adapting workplaces to the needs of the elderly,
(3) realising the experience and potential of older employees,
(4) combating stereotypes related to employees’ age (intergenerational differences and conflicts),
(5) age management,
(6) adapting companies’ offers to the needs of their clients and more effective ways of reaching out to the elderly with new technologies.

Some of the internal challenges include (International Organization for Standardization, 2014, p. 9):

(1) combating the negative stereotype related to old age,
(2) realising the diversity of consumer habits and behaviours of various generations,
(3) overcoming barriers related to ageing and activity in old age,
(4) adapting companies to their environment and their responsibility towards ageing societies,
(5) promoting good practices towards older employees seen as communicative and experienced.
Any business that operates based on ethical values and the rules of social responsibility will aim to take actions directed at including the ever-growing number of the elderly in social life and will also attempt to cater for their needs as consumers. For this reason, companies can approach the issue in a twofold manner. Firstly, appropriate practices conducted by companies can result in the professional development of the elderly. A suitable company policy regarding the employment of people over 50 can increase the numbers of professionally active elderly citizens, simultaneously helping the company develop due to how experienced such employees are. They can also be a valuable source of know-how and skills-training for younger employees. Secondly, companies can provide goods and services specially targeted to the elderly to meet their needs. They can include many areas, such as housing adaptation, i.e., products and services that facilitate everyday life, including those based on new technologies and IT, medical products, financial and insurance services, as well as goods and services related to leisure time, travelling, entertainment, culture and many more.

Taking responsibility and adopting such an approach by the business sphere to the challenges resulting from demographic changes creates a new sector in the economy—the so-called Silver Economy.

4. The Silver Economy and the silver market

The silver economy is understood to be the sum of economic chances that appear because of increased consumption expenses related to society ageing and specific needs of people over 50 years of age (Bran, Popescu & Stanciu, 2016, p. 131). It is then a comprehensive form of adaptation of business and economic development to ageing societies. The term Silver Economy is used interchangeably with silver market. It is the market of goods and services targeted to wealthy individuals aged over 50 as well as trade agreements between business entities that let them adapt to an ageing workforce. It is emphasised, however, that the silver economy should not be treated as a separate market sector but rather as a set of goods and services in many already existing sectors (Niewiadomska & Sobolewska-Poniedziałek, 2015, p. 84). Nevertheless, it is possible to name several silver market sectors. The most important of these areas are (Klimczuk, 2013):

(1) information technologies used in in-patient and outpatient treatment,
(2) an elegant lifestyle, adjusting housing and life-facilitating services, including those based on IT,
(3) popularising independent life, also with increasing support from IT,
(4) gerontological areas important for health economy—technologies enhancing hearing, sight, prosthetics and orthopaedics,
(5) education and culture,
(6) mobility and promoting its elements, e.g. road safety,
(7) leisure, travelling, communication and entertainment,
(8) fitness and wellness—increasing awareness of a healthy lifestyle,
clothes and fashion—an attempt to facilitate social integration,
insurance services—connected especially with risks characteristic of old age,
financial services—protecting capital, keeping wealth and preventing the loss of savings.

Most of these areas are based on new technologies and assume that steps will be taken to adapt to the needs of people of various physical conditions and different ages. Therefore, the concept of the silver economy is based on designing universal goods and services that would contribute to the social integration of all groups. It is important that the silver market is not based only on marketing targeted to the elderly to increase consumption of selected goods. It should genuinely contribute to creating goods and services that are intergenerational in character, and so avoid ageism. Many works emphasise the key importance of gerontechnology as an element of the new silver economy. Gerontechnology is described as a new research and development perspective, related to research on technologies created for ageing societies. The model is based on the body of knowledge about human biological and psychological development and involves interdisciplinary work in accordance with the idea of sustainable development (Klimczuk, 2011, p. 64). Using gerontechnology means paying attention to equality in access to innovative technologies in the social dimension, supporting the implementation of facilities in everyday life.

According to the rules of the silver economy, the elderly are perceived as an active, productive and socially useful group. This highlights the profits of utilising the professional experience of older groups in the society. Taking action within the scope of the silver economy in Poland can be a positive economic stimulus that can result in the expansion of goods and services offered to the elderly, especially those who have appropriate financial means to participate. It should be noted, however, that adopting an appropriate attitude to the silver economy means letting go of the stereotypes about the elderly. The success of the silver economy implementation may depend on correctly perceiving the target groups of silver market segments. It is assumed that most of the goods and services offered by the silver economy are based on new technologies. However, we might get the impression that marketing practices used towards the elderly are based on a deeply rooted stereotype that assumes, among others, their lack of willingness to familiarise themselves with innovative solutions and their attitude to life being based on tradition and old habits. According to this stereotype, people over 50 are treated as a group with low consumption potential, characterised by a passive lifestyle, with very limited financial resources. Moreover, the elderly are very often seen as ill, weak, with few passions and little will to live (Badowska & Rogala, 2015, p. 13). Because of this, they are often attributed with low expectations regarding the goods and services they buy. The modern elderly are, however, a much more diverse and complex community. Factors that influence the honest representation of elderly consumers include a wide range of characteristics such as age, where they live, their physical condition, income, accumulated material resources or social status. Developments in healthcare result not only in longer life expectancy but they also
affect the quality of life. The modern elderly are not always seriously or chronically ill. In the age group of people over 50, there are more and more individuals who are active and willing to develop. More and more often the elderly want not only to actively participate in social life but also follow the development of technologies. Because of it, they are learning to shop online, set up accounts on social media platforms and actively use the Internet. The elderly are not only mature individuals but also mature consumers. Contrary to their appearance, they are demanding clients, often valuing the quality of offered services, elegance, class and comfort much more than younger consumers.

5. The Silver Economy and CSR in practice

It is highlighted that among the sectors of the silver market, clothing and fashion contribute to the social integration of the elderly. Examples of socially responsible actions of companies in this area are not common. However, in a poll commissioned by Allegro (one of the largest e-commerce platforms in Central and Eastern Europe), it was found that it is the elderly (aged 64 or more) who are one of the most active groups when it comes to following fashion in Poland (Mobile Institute, 2015, p. 16). We can also find isolated cases of fashion and clothing initiatives targeted to the elderly. One of them was undertaken by Kamil Owczarek and Michał Gilbert Lach, designers and owners of the brand Bohoboco. In one of their campaigns advertising their summer collection, they cooperated simultaneously with a young model, Magdalena Jasek, and a mature actress, Helena Norowicz—the age difference between them was 60 years. In the campaign photos, the clothes are presented by both models. In this way, the company overcame the stereotype that fashionable clothes are designed only for young people and it also emphasised that in modern fashion, age differences should be disappearing. By doing so, the brand declared their protest against discriminating against and excluding the elderly from the consumption of clothes. The designers themselves underlined that their clothes can make any woman feel good. By hiring an 81-year-old actress, the company highlighted their departure from the image of the common archetype of a young, slim model with perfect skin. Moreover, the company also claims that the clothes they designed are comfortable and look good on people. In the case of the elderly, the comfort and safety offered by appropriate clothes is very important.

Such practices implement the premises of the silver economy and the idea of CSR. In the mentioned case we can clearly see intergenerational differences even at the early stage of designing the product and adopting the directives of the silver economy in an already existing sector. The clothes offered by the company can be worn by young and old individuals. Therefore, it can be seen as a socially responsible practice, which emphasises generational diversity, fights the social exclusion of the elderly and shows equality between the role of the young and the older model.
6. Conclusions

The ageing of society is a challenge to the economy, especially for the private sector. It is necessary to support the professional development of the older part of society and to create intergenerational goods and services, also targeted to the elderly. The silver market is a response of businesses and the economy to demographic changes connected with growing life expectancy. The silver economy emphasises the importance of the elderly as consumers and defies ageism, i.e., age discrimination. Practices within the silver economy paradigm meet the requirements of CSR—both concepts are based on the same premises and complement each other. Both CSR and the silver economy assume economic growth and respect for ethical principles towards their stakeholders. Therefore, breaking barriers and stereotypes associated with the elderly is a vast area for development. One of the values at the foundation of CSR is honesty and transparency of actions. These qualities are especially important for creating businesses targeted to the elderly. The elderly—a growing group of stakeholders—expect honest information, without any small print. A key to success of silver economy enterprises is not only appropriately designing goods and services targeted to the elderly but also building their image using language that is familiar to them, on the basis of ethical practices, honesty and transparency. The development of the silver economy based on the concept of CSR can result in changing business strategy to a more competitive one by focusing on one of the market niches. Better adaptation to consumer needs and credibility-building communication can lead to a better return on investment. Changing business attitudes and adapting the silver economy can be stimulating for economic growth and neutralise the negative socio-economic consequences of society ageing.

References


THE SILVER ECONOMY IN THE CONTEXT OF… 43


Activities in the space that formalizes social responsibility from the perspective of completed research*

Abstract

Lately, the subject of responsibility has gained importance in the context of the economic crisis. In economy, it took the form of social responsibility. It concerns activities additionally undertaken by organizations in order to establish correct relations with their employees and society, as well as with regard to the natural environment.

Therefore, a very important role is played by the ethos of the undertaken socially responsible actions. To a large extent, it is reflected in the ethical dimension. Thus, in enterprises, codes of ethics have become a base of axiology in the building of the organizational cultures. Unfortunately, Polish companies—as shown in the paper—still attach a lesser role to the ethical dimension of business.

Keywords: social responsibility, ethos, ethics

JEL Classification: M14

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1. Introduction

Modern enterprises face new challenges resulting from complex globalization processes. Especially, these changes are noticeable in the field of management and are revealed in the perspective of the necessary innovative activities. The previous model of running a business, Taylor’s model, is gradually being lost in order to take on new challenges resulting from the liberalization of economic activities. It turns out that nowadays ethics becomes the category that must be reckoned with. Formerly, the driving force in companies to increase work efficiency was simply discipline. Currently, it has been replaced by ethics, which is a parameter shaping innovative working methods. The tendency to perceive a human being as a “human resource” that can be freely used, depending on the current needs or priorities of the company, is already being accused. The new paradigm of economic success is based mainly on the human element, its individual potential combined with the potential of other people. Today a person in a given enterprise must be treated as a fundamental asset. It is connected with a change in the ways of management—the most important investment is an investment in a human being that enables him to develop through a wide range of training courses, as well as participation in earned profits. The priorities of companies are gradually changing because if they want to count on market competition, they must promote and present their “economy with a human face” to a wide audience. In this way, the principles of ethics begin to visibly penetrate into the rules of organizing the work of enterprises, as well as the ways of its management.

The previous management methods had the structure of a pyramid and were based largely on governments of authority. Meanwhile, a search for ways to strengthen the initiative of the employees themselves, develop their attitudes toward creativity and autonomy takes place more and more often. In this context, an increasingly important role is played by the attitude of responsibility manifested not only in the activities of the board but also employees, as well as the entire company, which should face responsibility for near surroundings, as well as those far away.

2. The organization and its social responsibility

The issue of responsibility, which began to be seen in the management perspective, was not an exception. It turns out that in the last few decades (and over a dozen years from the perspective of our country), the category of social responsibility has become more and more important in a global perspective. It also involves many important changes which occur in the widely understood business environment. It turns out that, on the one hand, there is a constantly growing tendency to multiply profits, which has recently been expanded to the limits of market opportunities, even at the expense of the exclusion of ethics. On the other
hand, self-limiting actions are beginning to appear in this quest, at the same time undertaking far-reaching responsibility for the consequences of making profits through all possible means. One of the ways to overcome these abuses in business was to promote the previously mentioned action manifested in the form of social responsibility. Initially, it was generally associated with business activities (Corporate Social Responsibility, CSR), and over time began to emphasize its special dimension in the activities of an enterprise, company or organization operating in the socio-economic area.

The reasons for the development of such an idea are different. However, we can especially point to the twentieth-century specific reflection on the idea of responsibility, which was based in the development of the philosophy of dialogue, increased reflection on business ethics and the spread and consolidation of democracy (Filek, 2006, pp. 6–7). In this context, it is worth noting that a common element for these three categories is the human being. In the first case, it appears as a subject of mutual dialogue, that is, meetings and reciprocal communication between at least two people, which bears the opportunity of mutual enrichment, but also the responsibility for both the communicated content of the message and its reception and impact on the recipient’s behavior (Stachewicz, 2006). The necessity of regulating the economic activities of man in a moral perspective has become, among others, the reason for the development of theories aimed at normalizing ethical business rules, thereby an indication of the differences between good and bad behavior in the choices made by the general homo oeconomicus (more on this topic in Celary & Polok, 2013). It turns out that from this perspective, his aspirations cannot focus solely on maximizing the economic profit that could be realized in the context of technical, pragmatic or utilitarian activities. The personalistic point of view is also indispensable here, in which we can also see a man understood as a person who takes responsibility for his actions precisely for other people, because the essence of an economy is man (Gałkowski, 2002, p. 26). Finally, in recent decades, we see a worldwide trend aimed at implementing and stabilizing democratic ideas. When one looks at them again, one needs to see the person and the importance of mutual interpersonal relations. It must be based on responsibility for universal human values, otherwise, “history tells us that democracy without values is easily transformed into open or thinly disguised totalitarianism” (John Paul II, 1991). As one can see, the sources of social responsibility are extensive but largely centralized around the responsibility for the person.

The economic dimension of social responsibility which appears here plays an important role in the activities of individual companies. Their management is obliged to take such decisions and actions that contribute to both the care of the interest of the entire enterprise and the multiplication of social welfare (Davis & Blomstrom, 1975, p. 6). Additionally, the legal dimension is also important, focusing on compliance with the rules of positive law. The third dimension, which is the ethical aspect, should also be attached to this. In this case, the aim point is to stop the activities that may bring about negative social effects and, at the same time, the use of those that strengthen their commitment to creating and spreading the standards desired by society.
In this context, it is necessary to note that various types of organizations cannot be separated from the environment in which they operate. They should create a kind of dialogue with their surroundings, as a result of which the reasonable aspirations of all parties in this mutual relationship will be satisfied. The area in which this dialogue takes place is determined by economic, legal, ethical and also philanthropic principles (Carroll, 1979, 1991).

Therefore, in order to include social responsibility in a way that is unambiguous, it should be understood as a voluntary and conscious operation of the organization, focused on contacts with various types of stakeholders, both internal and external, taking into account social, cultural, economic and ecological aspects, and based on compliance with ethical rules implemented in an integrated and consistent manner. There are basically three main components, i.e.: voluntary action, including them in the entire organization’s strategy, as well as the need to interact with stakeholders.

In the context of the first element, it should be noted that social responsibility cannot be perceived only as an obligation to comply with statutory norms resulting from actions implemented in a specific legal system. Being responsible does not only mean fulfilling all formal and legal requirements but is based on voluntary involvement. Therefore, it is not a restrictive responsibility but a positive one (Filek, 2004, p. 111). Social responsibility cannot be enforced by any legal regulations the state can only encourage organizations to implement this idea.

Introducing social involvement into an organization’s strategy becomes the second condition for the implementation of social responsibility. This criterion is related to the attitudes that enterprises can take towards social problems (Stoner, Freeman & Gilbert, 2001, p. 115). The lack of commitment and pro-social actions today is already badly perceived by the environment near and far, which results in the ignorance of such a company, its rejection, and in extreme cases—a boycott (Górski, 2014). That is why it is so important to emphasize the proactive attitude in the enterprise, ensuring its sustainable development related to real inclusion in solving social problems.

The above-mentioned third element of the concept of social responsibility manifests itself in the fact that today is increasingly moving away from the traditional perception of an enterprise as an autonomous organization, by definition ignoring any social aspects, even in an environment in which it pursues its interests. At present, the idea of pointing to the necessity of combining the benefits of both the given organization and the environment in which it exists is increasingly stronger (European Commission, 2001, pp. 8–15).

It should be noted that the activities carried out in the framework of social responsibility—especially in the context of various enterprises—relate primarily to employees and include investments in human capital. This is primarily about workplace health and safety, respect for human rights and the elimination of various forms of discrimination. While, corporate social responsibility in the external dimension applies to the local community, partners and suppliers, customers,
public authorities, as well as the natural environment. It is worth emphasizing that a necessary condition for the proper functioning of a company is a dialogue with every stakeholder group, which must be carried out on a transparent basis.

The implementation of social responsibility contributes to achieving success conditioned by long-term and sustainable development, resulting from the inclusion of three fundamental dimensions in its activity: economic, ecological and social. None of these should be omitted because only their harmonious combination produces the desired effect (Rok, 2000). The concept, therefore, assumes that organizations undertake socially responsible activities to help create a rational and fair business, a better society, and a cleaner environment, all in a voluntary way and going beyond legal expectations.

3. Elements of ethos in social responsibility

Each organization develops its own, individual way in which it wants to be socially responsible. It depends on its structure, size, the character of the activity, as well as its historical existence. Basically, two main groups of mechanisms can be distinguished (Nakonieczna, 2003, pp. 287–288):

1. Formalizing—consisting in setting rules of conduct, developing codes, taking actions for transparency in business, adopting standards regarding social responsibility or submitting to assessments and audits,

2. Participating—in the form of participation in all types of actions from the company’s own programs (educational, ecological) through sponsorship or participation in programs and actions organized by various associations, foundations and non-governmental organizations to participate in discussions about the future of humanity at the global level (active participation in conferences organized by the UN, OECD, summit meetings, etc.).

From the point of view of this study, the formalizing aspect seems to be the most interesting. It results from a certain social and organizational culture in which a specific ethos of action appears, leads directly and having a real impact on the vision and the shape of realized social responsibility. This culture is a specific “set of norms and values shared by all employees of the organization [...] affecting their ways of thinking, feeling and behavior, and assimilated in the processes of adaptation to the environment and internal integration of the enterprise” (Schein, 1986, p. 12). In this culture, there are appropriate ideas and behavioural patterns according to which members of a given organization should proceed (Daft, 1995, p. 333; Lorsch, 1986). The ethos of conduct that arises in a given culture affects a concept of social responsibility and manifests itself in determining the appropriate mission of the organization, taking into account the social and ethical approach. It has its reflection in various codes, standards of responsible behaviour, as well as the declared and implemented area of axiological activity.
The implementation of ethos also takes place in a certain space of defined activities, as well as with the help of specific methods and tools. In the case of social responsibility, one can point to the characteristic activity manifested through:

(1) activities for the local community in which the organization functions (supporting local institutions, creating programs stimulating children and youth activity, environmental and investment activities). This is done by means of various social campaigns, where the attitude of society is influenced by the media. Their goal is to help those in need (e.g. to transfer some of the profits to social or environmental needs) or to increase social awareness on a specific topic (e.g. environmental protection, consumer education);

(2) activities taking into account employee needs. They are connected with various investments in the development of employees through programs raising their qualifications (courses, training), integration programs, or equalizing opportunities (flexible forms of employment, assistance for the elderly, and the disabled). Employee volunteering is a special form here, consisting of the voluntary work of employees of a given organization for pro-social initiatives;

(3) production and trade activities. They manifest themselves, for example, by labelling products as ecological or pro-social. In this way, the consumer is informed about the health aspects of the product or its impact on the environment. A separate status has information on the implementation of Fair Trade, i.e. trade based on fairness, transparency and respect of producers, as well as guaranteeing the observance of human rights throughout the production and trading process. At the same time, production companies are obliged to provide reliable information about the composition of products and the content of individual components;

(4) system and management activities. They cover several different aspects. One of them is social reports, in which the public is presented the way of managing the organization, its strategy, goals, results of activities, all in specific reporting periods, enabling the comparison of the achieved results. Such reports should take into account the interests and needs of a wide group of stakeholders. Another solution is supply chain management, in which at each stage of supply the company cares about introducing appropriate standards for contractors. Finally, one should point to the implementation of various systems of transparent and effective management systems (e.g., Quality Management System ISO 9000—quality management system, Environmental Management System ISO 14000—environmental management system, Social Accountability SA 8000—social responsibility management);

(5) activities aimed at environmental protection. The point is to apply appropriate environmental policy, sensible management of raw materials and waste, the creation of ecological technological processes or services, as well as environmental education of employees and clients.
The ethos of social responsibility also appears at a strictly moral level of action. Already in the middle of the last century, attempts were made to formulate basic ethical principles that should be observed in conducting business operations. Thus, ethical codes were created and standards for responsible business were developed at the level of industry, regional and national organizations to supplement the existing national and international regulations. These standards, however, implemented higher requirements than those that defined positive law (Rok, 2004, p. 11).

Essentially, ethical codes contain a set of principles, rules in force in a given environment and a set of restrictions. It is good if these principles are rooted in employee value systems and in the organizational culture of a given company or organization (Zbiegień-Maciag, 1996, p. 105). Many of them take the form that emphasizes the most important principles of general ethics (Pietrzkiewicz, 1997, p. 81), and solidify them in the subjective and objective aspect. Thanks to them, cases of lies, corruption, embezzlement and other bad practices are reduced. There is a limitation of situations in which there is a conflict of interest. The trust of customers, contractors and partners is increased, the credibility of the staff and the loyalty of employees are enhanced (Lewicka-Strzalecka, 1999, p. 163). The proper functioning of the code of ethics establishes long-term guidelines for proper conduct in a given market entity (Filek, 2004, p. 59).

Ethical codes also underline the culture of behaviour and the ability of employees to adapt to a specific situation. Emphasis is placed on the ethical competence of employees in connection with the responsibility for work, strengthening the motivation of people to do the right thing, which results in work efficiency and economic performance. In addition, the codes help in resolving conflicts of interest (Filek, 2004, pp. 342–343).

In implementing the ethos of social responsibility, attention should also be paid to its axiological dimension. Different values appear there, but among the fundamental ones are: justice, equality, solidarity, and mercy. The first two are important features of all processes of distribution of goods and services. In addition, justice plays an important role in the area of reward and penal action regarding both legal and ethical principles. Moreover, it is invaluable to use it in all processes of redistribution, especially in the case of their lesser social acceptance (more about this kind of justice in Kapias & Polok, 2007, pp. 84–85). In turn, solidarity and mercy direct the attention to the more human face of interpersonal relations that take place within individual organizational activities. Thanks to them, there is a certain balance between the material and spiritual dimensions of actions taken by individual people within a given organization. In particular, it is manifested in the space of activity of religious, educational, culture-forming, family institutions, etc.

4. Selected research aspects of the ethos of social responsibility

The ethical issues of social responsibility became, among others, an element of several years of scientific research conducted by the research team of the Department of Public Management and Social Sciences of the University of Economics
in Katowice. They concerned the scope of knowledge and how to implement social responsibility in various types of organizations in Poland. For this purpose, a thesis has been formulated that social responsibility takes place in Polish realities and occurs in various organizations, but the degree and quality of its implementation are quite diverse and still requires a lot of effort to bring the desired results. Therefore, empirical research was carried out in the form of questionnaire surveys, which included questions about the level of knowledge of the principles of social responsibility, the scope and effectiveness of projects undertaken in this area, and the implementation of ethical activities (e.g. in the form of ethical codes). Some of the results will be presented below.

Table 1. Does your organization have a social responsibility strategy developed in the form of a document?

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Percentage of valid</th>
<th>Cumulative percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>28</td>
<td>35.0</td>
<td>35.0</td>
<td>35.0</td>
</tr>
<tr>
<td>No</td>
<td>22</td>
<td>27.5</td>
<td>27.5</td>
<td>62.5</td>
</tr>
<tr>
<td>I do not know</td>
<td>30</td>
<td>37.5</td>
<td>37.5</td>
<td>100.0</td>
</tr>
<tr>
<td><strong>Altogether</strong></td>
<td><strong>80</strong></td>
<td><strong>100.0</strong></td>
<td><strong>100.0</strong></td>
<td></td>
</tr>
</tbody>
</table>

*Note. Adapted from empirical studies conducted by the Department of Public Management and Social Sciences of the University of Economics in Katowice in 2013.*

About 1/3 of respondents indicated that they had a social responsibility strategy in their organization (35%), ignorant on the subject—(37.5%), not having one— (27.5%).

Table 2. Does your organization take actions to implement ethical standards?

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Percentage of valid</th>
<th>Cumulative percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>No implementation</td>
<td>10</td>
<td>12.5</td>
<td>12.5</td>
<td>12.5</td>
</tr>
<tr>
<td>Low implementation</td>
<td>11</td>
<td>13.8</td>
<td>13.8</td>
<td>26.2</td>
</tr>
<tr>
<td>Implementation takes place on an average level</td>
<td>23</td>
<td>28.8</td>
<td>28.8</td>
<td>55.0</td>
</tr>
<tr>
<td>Significant implementation</td>
<td>23</td>
<td>28.8</td>
<td>28.8</td>
<td>83.8</td>
</tr>
<tr>
<td>Very strong implementation</td>
<td>13</td>
<td>16.2</td>
<td>16.2</td>
<td>100.0</td>
</tr>
<tr>
<td><strong>Altogether</strong></td>
<td><strong>80</strong></td>
<td><strong>100.0</strong></td>
<td><strong>100.0</strong></td>
<td></td>
</tr>
</tbody>
</table>

*Note. Adapted from empirical studies conducted by the Department of Public Management and Social Sciences of the University of Economics in Katowice in 2013.*

1 Organizations possessing various types of ISO certificates as well as representatives of dynamically developing small and medium enterprises in the Silesian voivodeship, awarded in 2011 with the Gazele Biznesu prize, were selected for research.

2 The entire research work was published in the book edited by Kapias entitled *Społeczna odpowiedzialność w przestrzeni publicznej. Strategie i społeczne znaczenie* (2014).
The issue of implementing ethical standards has gained greater recognition. Only 12.5% of respondents said they did not implement them at all. The low and average level indicated a total of almost half—42.6%, and 45% of respondents said that they were heavily or very strongly involved in such projects.

Table 3. The level of the ethicality of Polish business is:

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Percent</th>
<th>Percentage of valid</th>
<th>Cumulative percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very low</td>
<td>9</td>
<td>11.2</td>
<td>11.2</td>
</tr>
<tr>
<td>Low</td>
<td>34</td>
<td>42.5</td>
<td>53.8</td>
</tr>
<tr>
<td>Medium</td>
<td>32</td>
<td>40.0</td>
<td>93.8</td>
</tr>
<tr>
<td>High</td>
<td>4</td>
<td>5.0</td>
<td>98.8</td>
</tr>
<tr>
<td>Very high</td>
<td>1</td>
<td>1.2</td>
<td>100.0</td>
</tr>
<tr>
<td>Altogether</td>
<td>80</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Note. Adapted from empirical studies conducted by the Department of Public Management and Social Sciences of the University of Economics in Katowice in 2013.

In the opinion on ethics in Polish business, pessimistic voices prevail. 80% of respondents indicate its low or medium tone, but as much as 11.2% suggest its minimal influence. Only a small portion few percent of respondents consider its significant impact.

Table 4. The use of ethical codes by organizations is:

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Percent</th>
<th>Percentage of valid</th>
<th>Cumulative percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very low</td>
<td>10</td>
<td>12.5</td>
<td>12.5</td>
</tr>
<tr>
<td>Low</td>
<td>34</td>
<td>42.5</td>
<td>55.0</td>
</tr>
<tr>
<td>Medium</td>
<td>27</td>
<td>33.8</td>
<td>88.8</td>
</tr>
<tr>
<td>High</td>
<td>8</td>
<td>10.0</td>
<td>98.8</td>
</tr>
<tr>
<td>Very high</td>
<td>1</td>
<td>1.2</td>
<td>100.0</td>
</tr>
<tr>
<td>Altogether</td>
<td>80</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Note. Adapted from empirical studies conducted by the Department of Public Management and Social Sciences of the University of Economics in Katowice in 2013.

More than a half of the respondents indicated a limited range of application of ethical codes; only 11.2% for high and very high applicability.

5. Conclusions

Responsibility is basically a philosophical category. Therefore, its greatest significance appears in the ethical space. Without responsibility, it is impossible to properly judge moral behaviour or make a fair assessment. This problem is particularly important in the face of an indication of the value of freedom. The fall of twentieth-century totalitarian systems contributed to the extraordinary outbreak
and spread of the idea of freedom. However, a new problem appeared—those pertaining to the proper use of freedom. Often it turned out that man, shedding the oppressor’s yoke, became overwhelmed with unlimited freedom, forgetting about the responsibility that lays on him for his actions. Contemporary man often confuses freedom with playfulness—hence the attitude of responsibility plays an important role.

Similar problems also appear in the public space, where different types of organizations have more and more influence and opportunities, thus forgetting the consequences of the decisions they made. This is why the contemporary concept of social responsibility is becoming so important, especially in its ethical dimension. It turns out, however, that ethical issues in Polish enterprises are still a phenomenon akin to UFOs—many think they have seen it, but it is difficult to find unambiguous evidence. Even the studies presented earlier show that the broadly understood work ethos is desirable, and even happens that it is legally required. However, the conviction about its actual impact is manifested by considerable doubt. This is why social responsibility plays such an important role, which can change mutual relations in particular professional, business or economic environments. How meaningful are the words of John Paul II (1987) who wrote in this context:

The exercise of solidarity within each society is valid when its members recognize one another as persons. Those who are more influential, because they have a greater share of goods and common services, should feel responsible for the weaker and be ready to share with them all they possess. Those who are weaker, for their part, in the same spirit of solidarity, should not adopt a purely passive attitude or one that is destructive of the social fabric, but, while claiming their legitimate rights, should do what they can for the good of all. The intermediate groups, in their turn, should not selfishly insist on their particular interests, but respect the interests of others.

It turns out, then, that the desired ethos occurs when the correct interpersonal relations are implemented, where mutual actions result from the affirmation of the other person and the desire to realize the common good.

References


Controversies over the moral justification for patent protection in biotechnology*

Abstract

This paper discusses the controversies over the moral justification for patent protection in biotechnology. Special emphasis has been put on the controversy over the moral justification for patent protection of stem cells. By referring to arguments for (1) human dignity and (2) patentability criteria, the moral justifiability of patent protection of stem cells is in serious doubt. A whole section of the paper is devoted to the moral issues linked to patent protection in biotechnology and their political and economic significance. An attempt is made to solve some of the discussed problems, i.e., the introduction of decision criteria based on the system of values shared by the members of a given society.

Keywords: moral justification, patents, biotechnology

JEL Classification: K11

1. Introduction

Patent laws have been broadly discussed since at least the 1750s (Karbowski & Prokop, 2013; Machlup, 1958). Many arguments in favour of and against patents presented at that time are still used today. In the 18th century it was believed

* The article is an updated version of the paper published in Polish in the Annales. Ethics in Economic Life, 20(1), 83–94.
that the inventor had the right to a patent because of moral reasons founded in natural law (Sterckx, 2006, pp. 249–265), or because of practical reasons, for the sake of their society (Machlup, 1958). Considering the directions that the discussion has taken until the present day, we can distinguish four fundamental stances regarding the inventor’s right to patent protection (Machlup, 1958):

1. natural law,
2. a reward in the form of a monopoly,
3. stimuli coming from extraordinary gains,
4. remuneration for revealing a secret.

Within natural law, it was argued that each human being is a natural owner of their ideas. Using others’ ideas without consent should be considered theft and we should be legally protected against it (Karbowski & Prokop, 2013). Monopolising the market as a reward assumed that in the name of social justice each man should receive payment for their services, proportional to the benefits that their society received. It was argued that the best way to realise this duty was to grant the entrepreneur a temporary monopoly in the form of exclusive rights to their invention. Another position was based on the assumption that economic progress is socially desirable and inventions and their industrial applications are at the core of this process. Thus, understood progress, however, cannot be effectively achieved if inventors and investors do not have a prospect of (stimuli in the form of) gaining extraordinary profits. Furthermore, it was argued that the easiest and the cheapest (most effective) way for the society to provide a proper system of economic stimuli for inventors and investors would be to grant them a temporary monopoly in the form of exclusive rights to their invention. The approach based on remunerating anybody who would reveal a secret assumed that the inventor and the society engage in a form of a transaction, in which the inventor reveals their arcane knowledge in exchange for temporary protection in the form of exclusiveness of its application. It was believed that if such a transaction does not take place, economic progress would slow down because we would have to wait longer for new technologies to spread. Quite often technological secrets would be lost on the death of their keepers. So, the society should care about negotiating a proper price for which the inventor would agree to reveal their secret for the sake of the whole society. The best way to achieve this would be to offer the inventor exclusive rights (a patent) in exchange for publicising their invention (Karbowski & Prokop, 2013).

We should note that the issue of patenting inventions is not ethically neutral and many scholars in this field directly base their argumentation on moral grounds. According to Peter Drahos (1999), all regulations can be considered ethically neutral if (1) they do not affect the realisation of subject A’s interest or (2a) do not hinder or (2b) do not facilitate the realisation of subject A’s interest (a) to the benefit of/ (b) at the expense of subject B. Because the essence of patent-

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1 It is worth noting that all these positions are harshly criticised by some participants of the international debate on patent laws. Specific arguments are presented by, e.g. Sigrid Sterckx (2006), Michele Boldrin and David Knudsen Levine (2013).
ing is to (temporarily) exclude others from using\textsuperscript{2} the patented invention, it is difficult to argue that patenting does not affect the realisation of specific subjects’ interests. As a consequence, it is also difficult to treat the matter of patent laws as a question devoid of moral qualities. This claim, despite not sounding very revolutionary, surprisingly causes adverse reactions among many participants of discussions about patenting or (at least) surprises them. Quite a few participants of this debate (held within and between the fields of, among others, economy, law, and technology) are convinced that (or so they declare) patenting an invention is a morally neutral act (Devaiah, 2010, pp. 14–17; Drahos, 1999; Grubb, 2004; Sterckx, 2006).

Historical connections between patent laws and morality have been seen for many years. Even historical regulations of patent issues (e.g. the Australian Statute of Monopolies from 1623, the British Patents Act from 1883) included clauses according to which a special state institution could refuse to grant a patent if using it would violate social moral norms (Drahos, 1999). Nowadays, similar clauses—rules accepting the possibility of not granting a patent for an invention if it violates norms of the so-called public morality (Warrington, 1964, p. 1326)—are present in the legal codes of the EU, USA, Australia, New Zealand and India (Devaiah, 2010). The relationship between patent laws and morality can be very clearly seen in biotechnology. Although the human body and its tissues cannot fall under patent regulations due to moral and legal reasons,\textsuperscript{3} it does not protect biotechnology from moral dilemmas. And so it seems more and more controversial (Devaiah, 2010) to patent biological materials of human origin that are not human organs or tissues, such as stem cells, isolated genes, or DNA. The debate on the moral and legal justifications of patenting such “incomplete” human biological materials has been gaining momentum in recent years, somewhat commensurately to the rapid development of biotechnology (Khachiauri, 2012; Resnik, 2007).

The goal of this paper is to present and discuss the controversies related to the moral justification of patent protection in biotechnology. Special emphasis was put on controversies over moral justification of patenting stem cells. Research on stem cells (Inoue, Nagata, Kurokawa & Yamanaka, 2014; Puri & Nagy, 2012, pp. 10–14; Yamanaka, 2012) is currently viewed as one of the most promising areas of progress in medicine and biotechnology.\textsuperscript{4} It is worth noting that in 2012 John Bertrand Gurdon and Shinya Yamanaka were awarded a Noble prize (Physiology or Medicine) for their research on stem cells.

\textsuperscript{2}Using understood legally, with all legal limitations of patent protection. Cf. e.g. the bill from 30 June 2000 r. (Prawo własności przemysłowej).

\textsuperscript{3}Entire human tissues and organs do not fall under the so-called patentability criteria, according to which the subject of the patent is new (is not a part of technology—novelty criterion), does not stem from current technology in any obvious way (non-obviousness criterion) and can be industrially applied (utility criterion) (cf. Devaiah, 2010; Looney, 1994; Oman, 1995, p. C42; Resnik, 2004).

\textsuperscript{4}Research on stem cells lie at the foundation of the so-called regenerative medicine, which is supposed to offer non-pharmacological treatments to many diseases. For details on the role of biotechnology in regenerative medicine cf., e.g. Kamieniarz et al. (2006).
The following part of the paper presents moral dilemmas related to patenting stem cells. Then, in part 3, we discuss moral problems connected with patent laws in biotechnology in a wider economic and political context. That part also includes a proposal of a solution (or moving towards a solution) to certain moral issues discussed here. The paper ends with a summary and conclusions.

2. Moral problems related to patenting stem cells

Stem cells are cells that are capable of division—self-renewal over a long period of time, sometimes throughout the entire lifespan of the organism (Sikora & Olszewski, 2004). Stem cells, when exposed to certain stimuli, can differentiate and give rise to many types of cells that compose our bodies. A stem cell is (1) multipotent when it can differentiate into more than one type of derivative cells, (2) pluripotent when it differentiates into all types of mature cells coming from three germ layers (Alison, Poulsom, Forbes & Wright, 2002; Blau, Brazelton & Weiseman, 2001; Sikora & Olszewski, 2004), (3) totipotent when it is capable of giving rise to a whole organism and the placenta (Cogle et al., 2003; Sikora & Olszewski, 2004).

Most likely, the most morally dubious is research on and patenting pluripotent stem cells because they are special due to their origin—some of them are embryonic stem cells, originating from the earliest stage of the embryo, i.e. the blastocyst. These cells can differentiate into all three germ layers and the tissues originating from them (Bishop, Lee & Polak, 2002; Sikora & Olszewski, 2004).

According to Salome Khachiauri (2012), the sources of moral controversies related to patenting stem cells are rooted primarily in the belief that the human embryo has special cultural significance. The proponents of such a stance argue that granting somebody/something (a subject, a company) exclusive rights (in the form of a patent) to stem cells means in fact objectifying the human embryo, lowering its status from a person to a thing, or rather to an economic resource, which is subject to market exchange and instrumental treatment.

It may seem morally dubious to provide certain subjects with property rights to living matter, especially coming from human beings (Khachiauri, 2012). Granting property rights to the human body has been explicitly banned and these prohibitions were clearly stated in many legal systems (Bahadar & Morrison, 2010) as contradicting the concept of human dignity (Resnik, 2007).

Many critics of stem cell patent protection also quote this argument “from human dignity”. According to Khachiauri, human dignity in the context of the aforementioned debate should be understood after Immanuel Kant (Senser, 2009) as an “absolute inner value all human beings possess.” Kant assigned the following attributes (qualities) to this value: absolute character, inherence (in the human being) and unconditionality, which, when taken together, made the value of the human being in
CONTROVERSIES OVER THE MORAL JUSTIFICATION…

this concept independent from anything else (Khachiauri, 2012). Kant clearly stated that human dignity is an immanent quality of human beings from the moment of conception (Rothhaar, 2010).

At this point, it is worth noting that Kant distinguished between inherent human dignities possessed by each individual from the moment of conception moral human dignity. While the former characterises to the same extent each human being, the latter can be different in different individuals, depending on their moral choices (Andorno, 2009; Khachiauri, 2012). In the light of Kant’s ethical philosophy, we can try arguing that the human embryo does not possess moral dignity, but we cannot legitimately say that the human embryo is not characterised by human dignity.

Some bioethicists, based on Kant’s work (2014), reach for one of the formulations of his categorical imperative, that is—act in such a way that you treat humanity, whether in your own person or in the person of any other, never merely as a means to an end, but always at the same time as an end. Next, on the basis of Kantian understanding of human dignity and the presented above formulation of the categorical imperative, they argue that the status of any human being, regardless of their circumstances, cannot be reduced to a means to an end, and this is what they believe happens in research on and patenting embryonic pluripotent stem cells (Khachiauri, 2012). It is difficult to imagine that (1) an end of an embryo is to devote itself or a part of itself to creating a novel biotechnology treatment within the so-called regenerative medicine, and it is even more difficult to imagine that (2) this embryo would want its own cells to be patented. One thing appears to be certain—the embryo is defenceless against any and all potential abuses (Holland, Lebacqz & Zoloth, 2001).

The presented above argumentation is relatively complex, uses philosophical concepts from Kantian and, possibly, Christian doctrine (Resnik, 2007). We should note, however, that the lack of justification (moral and legal) for patenting stem cells can be shown in a much simpler way. The structure of patent protections systems is based on a fundamental principle that a patent can be granted only for an invention, and not a discovery. The advocates of patenting stem cells argue that stem cells when properly harvested (from a human being) and properly prepared (isolated, purified) become inventions because in such a “processed” they do not exist in nature. Consequently, the advocates believe that the “processed” stem cells can be patented. We should note, however, how weak an argument this is. Following this line of thought, we can claim that a piece of rock (created by nature) found by a river, after its removal and cleaning (according to geological recommendations), becomes an invention and the person who removed and cleaned it is its inventor. Such a reasoning clearly contradicts the criteria of patentability, i.e. this piece of rock, even if it is covered with a unique natural pattern (and perhaps meets the condition of novelty), underwent obvious preparation (removal, cleaning, etc.) and, therefore, cannot be defined as an invention.

We can argue in a similar fashion when it comes to stem cells. They were created by nature, they are naturally unique, but subjecting them to standard “biotechnological processing” does not make them inventions and, therefore, they
cannot be patented in the light of the currently functioning world of legal regulations. Taking advantage of inadequacies of patent law (and patent offices) by patent applicants in some countries in order to gain exclusive rights to stem a cell is, economically speaking, an example of rent-seeking behaviour (Krueger, 1974) and a seriously dubious moral behaviour from the perspective of ethics.

3. Ethical problems related to patent protection in biotechnology in a broader political and economic perspective

Drahos discusses two distinct long-term (at least several decades in duration) global tendencies within patent laws: (1) systematic broadening of the scope of the so-called patentability (extending the boundaries delineating the set of things that can be patented) and (2) systematic narrowing of the role or morality as a decisive criterion in granting patent laws. According to Drahos, the employees of patent office consequently present pro-patent attitudes, i.e. in unequivocal, problematic situations it is easier to convince them to grant a patent than to reject the application. In psychological terms, it can be assumed that Drahos describes a certain motivational asymmetry of patent office employees. To achieve the same effect in terms of magnitude but with an opposite vector (“+” for granting the patent, “–” for rejecting the application), weaker arguments can be used to justify granting the patent than to justify the rejection of the application.

According to Drahos, the reasons for such a bias (see tendencies 1 and 2 in the previous paragraph) in patent regulations can be found in the structure of the global competition of national economies. Drahos calls this special structure of international competition a structural problem. What is this problem about, then?

Well, the influx of foreign investments is an important factor in the development of national economies (Wiśniewska, 2008). Foreign investments are an important source of know-how. However, foreign investors expect their own technologies to be protected against their unauthorised use by domestic competitors. Therefore, high standards in patent protection are considered to be a competitive advantage of a given national economy. Drahos sees the USA, the EU, and Japan as three main actors in global technological competition, arguing that these three political entities control most important patent systems—the American, European, and Japanese. Certainly, these political entities compete with each other (politically and economically); also using the quality of the industrial property protection systems they are in control of. Weakening the patent protection of inventions would be to their disadvantage because lowering the standard of industrial property protection in any one of these economies would significantly decrease the amount of foreign investment in that economy. Such a structure of global technological competition between these three main actors creates strong stimuli only for increasing the standards of patent protection, not for lowering them. As a result,
over time, patent systems expand in these economies, which at least partially explain the occurrence of the aforementioned two tendencies and their negative consequences.

It is also worth noting that the companies are interested in acquiring as many patents as possible. Such behaviour is primarily motivated not by their willingness to protect their technologies against potential imitators but rather to increase their price on the capital market. The number of patents in a company’s portfolio is an important economic variable (Liberda, 2008), which is considered when evaluating the worth of the company by the capital market. It can be said that patents (an element of companies’ assets) play the role of a signal for the participants of the market, a signal contributing to the increase of companies’ value and, consequently, to increase their capacity to accumulate capital (Drahos, 1999). The latter is especially important for biotechnological companies, which usually exhibit a high rate of growth and a relatively high demand for capital (Chakma, Sammut & Agrawal, 2013).

Thus, companies only care about obtaining patents for its own sake, and to primarily to protect their inventions—can be of secondary or even marginal importance to them. Naturally, if companies are interested in acquiring the largest possible number of patents, their managers can indirectly (e.g. through speaking out at certain conferences or scientific seminars) or directly (through lobbying) exert pressure on a patent office so that it adopts a “liberal” attitude when deciding over the patent laws.

The problems described above that are related to patent protection in biotechnology are not easy to solve. As we can see, these problems are often entangled in various political, economic, or legal issues. However, it seems socially beneficial to steer away from the narrowing of the role morality by the patent offices in their decision making. Obviously, the moral criterion for making patent decisions should be proposed (designed) in accordance with the dominant system of values in a given society. Those criticising the introduction of such a principle argue that imposing the duty to adhere to moral criteria on patent experts can make the whole process of patent rights evaluation extremely arbitrary, coincidental, and subjective (depending on the whims of the experts).

Drahos does not believe these fears are grounded. A distinction between psychologically understood attitudes and values is needed. Attitudes are acquired evaluations of objects whereas values are standards for the assessment of goals, types of actions, events, and behaviours (Wojciszke, 2011). It seems that a general social agreement is more likely to be achieved in the domain of thus understood values than attitudes. Drahos argues further that by applying empirical methods we can quite effectively map the network of values shared by the members of a given society. Especially, we can map the network of social values related to the

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6 Examples of successful lobbying of biotechnological companies can be found in Peter Drahos work (1999).

7 The term “subjectivism” is used here in its colloquial meaning (it does not describe a philosophical stance).
issue of patenting in biotechnology. Values, unlike attitudes, are much more robust and are subject to much slower changes (if they change at all). It is one the reasons why introducing a criterion referring to and based on social values does not necessarily have to make the process of patent rights evaluation arbitrary and subjective.

Lastly, it seems that the (preferably well-coordinated) introduction of appropriate moral criteria into the systems of patent protection of all three major actors in the global technological competition (the USA, the EU, and Japan) could ameliorate the negative socio-economic consequences of the so-called structural problem (most of all the rising of industrial property protection standards, ongoing but unnecessary from the perspective of social well-being maximisation).

4. Summary

This paper analysed some of the controversies related to moral justification of patent protection in biotechnology. It concentrated on the controversies over moral justification of patenting stem cells. Using the arguments—(1) from “human dignity” and (2) “from patentability criteria”, the paper questioned the moral foundation for justifying patenting stem cells. Argument (1) comes from Kantian understanding of human dignity and the principle of promoting humanity, and states that the status of any human being, regardless of their circumstances and conditions, cannot be reduced to a means to an end, which is the case in research on and patenting of embryonic pluripotent stem cells. Argument (2) states that stem cells, even when “processed”, do not qualify as an invention and, therefore, cannot be patented. These cells are created by nature, are naturally unique and subjecting them to standard “biotechnological processing” does not make them inventions. Therefore they cannot be patented in light of current legal regulations.

It appears that a good solution would be to introduce a criterion for patent rights decision-making that would refer to and be designed on the basis of the axiology of a given society. Values are more durable than human attitudes and change much more slowly (if at all). Moreover, such an understanding of values functioning in a given society can be effectively mapped using empirical methods, which are able to ensure intersubjective falsifiability of the claims they produce. Of course, the presented above evaluative stance (proposed by Peter Drahos) is not complete. It would be reasonable to complement it in further research with, e.g. the ideas of Juergen Habermas (2003) and Thomas Lemke (2010).
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Controversial advertising of medicines. A comparison between Poland and the United States*

Abstract

For many years, the subject of aggressive marketing campaigns conducted by pharmaceutical companies has been raised in Poland. Drug ads are everywhere, on television, the radio, magazines and on the Internet. Therefore, it is extremely important is to ensure both their legal and ethical dimension.

This article will present the differences between direct-to-consumer advertising of medicines in Poland and in the US. The dissimilarities result mainly from differences in legislation. In Poland, the law is much stricter than in the US. For example, in the United States companies are allowed to advertise prescription drugs directly to patients. In the whole of the European Union, and thus in Poland, it is strictly prohibited.

The article will also present other regulations existing in Poland and in the United States and it will compare them. It will offer examples of violations of the law and ethics in the advertising of medicine in both countries. Lastly, it will briefly outline the negative consequences of unacceptable pharmaceutical marketing.

Keywords: pharmaceutical industry, advertisement, drugs, law, ethics

JEL Classification: I18, M31, M38

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1. Introduction

Drug advertisements addressed to the public have very different forms: from television and radio spots through leaflets in clinics to product placement in films and television series. Such advertisement can be defined as “a message created by the marketing department of a pharmaceutical company, which aims at information, persuasion and even involvement of people towards which it is directed in order to influence their attitudes, and then to behave in a desirable manner” (Diehl, Mueller & Terlutter, 2008, p. 100). Companies want to encourage customers to buy a given drug and attach them to their brand so that they can buy preparations from a given manufacturer in the future (Chaniecka & Czerw, 2013, p. 513).

The average American spends 16 hours a year watching TV commercials of drugs (Frosch, Kruger, Hornik, Cronholm & Barg, 2007, p. 6). Companies spend massive amounts of money on the promotion there, because the American drug market is the largest in the world. Compared to it, the Polish pharmaceutical market is small. In terms of size it takes sixth place in Europe, but first place in Central and Eastern Europe (PAIiIZ, 2013, p. 1). In Poland, therefore, investments in advertising are also worth making. In 2014, producers of over-the-counter drugs were the largest advertiser on Polish television (KPMG & IAA, 2015). Advertising influences consumer behavior, as shown by Zarzeczna-Baran’s and other researchers (2013, p. 82), 50.6% of respondents considered advertising to be a determining factor in the selection of over-the-counter drugs (OTC).

It is extremely important that the same large pharmaceutical corporations play the main roles in both Polish and American markets (Makowska, 2016, p. 12). It can be assumed that in a similar way they try to influence consumers by using various marketing tools. However, this is not entirely possible due to various legal regulations regarding drug advertising in both countries.

There are stricter laws in Poland because, in accordance with the rules imposed by the European Union, advertising of prescription drugs is not permitted (cf. Journal of Laws of the Republic of Poland 2008 no. 45 position 271, Pharmaceutical Law, art. 57). Advertising of prescription drugs is allowed in the USA; such advertising is called DTCA/DTC (direct-to-consumer advertising). In addition to the United States, it is legal only in New Zealand (Mogull, 2008, p. 106). The literature emphasizes that such advertising is a turn in the perception of the patient, because thanks to it he is treated as the partner of a doctor and a person who knows how to look after himself (Faerber & Kreling, 2012, p. 110). The advantages and disadvantages of such a solution are widely discussed in the literature (Stange, 2007; Ventola, 2011, pp. 669–674, 681–684). In Poland, as in the entire European Union, the patient can only receive information on prescription drugs from a doctor or pharmacist.

In the US there are big “pharmacies” (e.g. Rite Aid), where preparations of OTC drugs stand on shelves and you can reach for them yourself. However, the prescription drug must be dispensed by the pharmacist to the patient, which is why they are kept in the “back”.


In Poland, there are no such “pharmacy supermarkets” (although the most frequently used OTC drugs are available in grocery stores or petrol stations), and to buy most of the over-the-counter drugs you need to go to the pharmacy, where it will be dispensed from the counter by the pharmacist. The method of sale results in a significant difference in the access to medicines and may also translate into a different ratio of consumers to these resources.

It can be assumed that a stricter regulation regarding the advertising of medicines, a more difficult access to them, translates into greater consumer safety. However, it must be remembered that restrictive government regulations may cause people to stop wondering, do not undermine the legitimacy of advertising drugs feeling that they are well protected. However, when government regulations are weak and consumers know this, they may be more cautious about promoting pharmaceuticals.

The purpose of this article is to describe and compare the main legal regulations that apply to the advertisement of medicines to the public in Poland and the USA. Examples of violation of legislation and illustrations of violation of ethical rules that occur in both countries will be presented. Next, the consequences of inappropriate pharmaceutical marketing will be discussed.

2. Advertising of OTC drugs in Poland

At the time of the Polish People’s Republic, pharmaceutical companies operating in Poland were only state-owned. Pharmacies lacked medicine. “Own methods” for the production of expensive foreign medicines were developed (Szuba, 2003, p. 285). There was no need for marketing. This changed after the systemic transformation, which initiated changes in the Polish pharmaceutical market. The patients’ rights began to be respected and the foreign drug corporations began to enter the Polish market with their products and their ways of their promotion.

For many years, the promotion of drugs in Poland was prohibited by law (cf. Journal of Laws of the Republic of Poland 1991 no. 105 position 452, Act on pharmaceuticals, medical materials, pharmacies, wholesalers and pharmaceutical supervision, art. 4. point 2) and it was not until 1993 that advertising of over-the-counter preparations was allowed (cf. Journal of Laws of the Republic of Poland 1993 no. 47 position 211, The Act on Combating Unfair Competition, art. 29).

After the TV spot of a drug, the pharmacies experienced a real invasion on patients trying to buy it (Szuba, 1994, p. 386). With time, as consumers became sceptical, this marketing began to lose its importance. Nevertheless, it still plays a very important role, which is particularly evident in the fact that many people in the pharmacy—without remembering the name of the drug—instead of trying to remember it, they tell the pharmacist the content of the advertisement (Sudak, 2015).
In 2014, the value of the Polish market of over-the-counter drugs was estimated at 11.5 billion PLN, an increase of 2.5% compared to 2013 (Kula, 2015). Most—68% of expenditures—companies spend on advertising on television, then on radio—23%, while in magazines—6.3% (“Koncerny farmaceutyczne…,” 2017).

The currently applicable Act of September 6, 2001—Pharmaceutical Law—introduced provisions on the advertising of drugs to the public. First of all, it prohibits such publicity advertising, which concerns medicinal products issued only and exclusively on the basis of a prescription, containing psychotropic substances and intoxicants and placed on lists of reimbursed drugs. It also prohibits the advertising of medicines by well-known public persons, scientists, people who have medical or pharmaceutical training. It also suggests that the actor appearing in the advertisement has such education. The advertisements cannot include content that suggests that:

1. one can avoid visiting a doctor or surgery by taking a given medicinal product;
2. taking a given drug will significantly improve the patient’s health, and not taking it can worsen the condition of a healthy person;
3. the medicinal product is a food or cosmetic;
4. the effectiveness and safety of a given medicine results from natural origin.

In addition, advertisements cannot ensure that taking a medicine will always be effective and will not have any side effects, and the effect will be better or the same as treatment with another preparation or other method. The content of advertisements also cannot give a detailed description of the disease and its symptoms. It is also forbidden to advertise that contains information incompatible with the Summary of Product Characteristics.

3. Advertisements of RX and OTC drugs addressed directly to customers in the USA

The history of advertising of drugs addressed to the public in the USA dates back to the beginning of the 20th century (they were then printed in newspapers and on posters). The first federal regulations regarding advertising appeared in 1906, they were detailed in 1938. In 1951, the governmental distinction for OTC and RX drugs was introduced for the first time. Previously, it was up to the drug manufacturer to decide whether it was sold with or without prescription. From that time on, medicines were to be issued based on prescription if they had harmful effects, were potentially dangerous, difficult to dose, and dangerous in receiving. In 1962, the Kefauver-Harris amendment was introduced, which required the medicine manufacturer to provide proof of the effectiveness and safety of the product before it was released into the market (it was the result of the tragedy caused by taking thalidomide) (Donohue, 2006, p. 670). Since 1972, the so-called OTC Drug Review has been taking place. Because over 300,000 over-the-counter drugs are sold on
the US market, it would be impossible to describe and classify each one, which is why it is done for certain classes of drugs (e.g. for painkillers). For each category, a monograph is published. It contains information such as acceptable ingredients, dosage, formulas and labelling. If the drug meets the recommendations of the monograph, it is considered safe and effective, and companies can create and sell it without additional approval by the Food and Drug Administration (FDA). Drugs that are not compatible with the monograph must be verified by New Application Drug Process (FDA, 2015a).

OTC advertising must meet the three basic requirements imposed by its Federal Trade Commission. First, the producer must prove before the ad’s admission that the claims used in the advertisement are objective and truthful. Secondly, the FTC considers how “real recipients” will react to advertising and how they will interpret it. Even if the ad uses “truthful assertions” but omits or suggests something that may lead consumers to misinterpret the facts, the FTC may forbid such promotion. Thirdly, the FTC may be against advertising that exposes the consumer to harm (Consumer Healthcare Products Association, 2015). OTC advertising must be true and not misleading. All the indications contained in the advertisement must comply with the approved indications: if the product is sold as compatible with the given monograph, its indications must be consistent with it (Blinkoff & Tabela, 2015).

Obviously, in the United States over the years, the advertising of RX drugs has been more controversial than OTC. The law authorizing the advertising of prescription drugs to the public has existed in the US since the 1980s. Paradoxically, what enabled DTCA development is the idea of “management of health care” (managed care), which was to reduce costs while increasing efficiency. The patient was to participate in the process of his treatment to a greater extent, and among other things, he had to participate in deciding what medicines the doctor prescribes to him. It was decided that thanks to RX drug advertisements, patients will demand more modern, newer, better-acting drugs, not those to which a pharmaceutical sales representative will convince a doctor during dinner (Kravitz, 2000, p. 221).

Because at the same time there were social movements that demanded more information about therapy for the sick, equalizing disproportions between the knowledge of the doctor and the patient, they were cleverly used by pharmaceutical companies in the fight to enable advertising of prescription drugs. The DTCA was supposed to educate patients, prepare for a conversation with a doctor, so patients themselves when talking about their illness, can co-decide on what drugs they would take (Donohue, 2006, p. 682).

Initially, companies were reluctant to use this form of advertising. Only 24 products were promoted in this way in 1985–1990 (Donohue, 2006, p. 680). It was believed that it could bring more damage and negatively affect the patient-doctor relationship. The main method of marketing was still the influence on doctors, which were massively visited by pharmaceutical sales representatives, leaving numerous gifts (Kravitz, 2000, p. 221). It was not until the early 1990s that DTCA commercials were aggressively developed. It happened thanks to, among others,
the spread of the Internet. In 1991, 55 million USD was spent on such promotion, in 1995—363 million (Donohue, 2006, p. 683), in 2009—4.51 billion, and in 2014—4.53 billion (Mack, 2015). This is more than it spent on the advertising of OTC drugs. For example, in 2009, it was 3 billion (Faerber & Kreling, 2012, p. 110).

FDA watches over correct prescription drug advertisements. There are three categories of DTCA: the product claim ad, the reminder ad, and the help-seeking ad. These three categories are subject to different legal recommendations and different requirements as to what they must contain (FDA, “Prescription Drug Advertising”).

4. Controversial advertising campaigns for OTC drugs in Poland—examples of violations of law and ethics

The Chief Pharmaceutical Inspectorate (GIF) deals with the control of pharmaceutical advertising campaigns in Poland (cf. Journal of Laws of the Republic of Poland 2008, No. 45, position 271). Manufacturers are increasingly complacent with the Polish laws because in 2007 GIF stopped advertising 115 times, in 2010—47 times, and in 2015 only 8 times (Chief Pharmaceutical Inspectorate, “Decisions and messages”). In addition, the promotion of drugs is promoted by the Committee of Advertising Ethics (KER), which reviews advertising messages in terms of compliance with the Code of Ethics for Advertising.

The ban on RX drug advertising is sometimes broken in Poland. For example, by the decision of the Chief Pharmaceutical Inspectorate of April 2012, the Kadefam was ordered to stop distributing the Menopause brochure. A guide for women whom the doctor prescribed for Cliovelle. In addition to informational and educational material for patients, this guide included advertising elements encouraging the purchase of Cliovelle, such as printing prominently on the information that when taking this product, there is no significant weight gain. The brochure also contained a promotional slogan and a graphic sign identical to that on the package of the drug intended for sale on prescription (Chief Pharmaceutical Inspectorate, 2012). The advertising of medicines should be very carefully distinguished from information on medicines. However, it must be remembered that the line between information and commercial text can be very thin, and it should be caught by the appropriate supervisory authorities. However, it cannot always be done.

Among the most frequent GIF complaints about advertisements, there are accusations of the use of words and advertising slogans that mislead consumers. An example of an advertising campaign, which was paused for this reason, is the Ibuprom Max Sprint produced by USP Zdrowie advertisement, which was broadcast in the form of TV commercials. GIF stated that the slogan: “Even such a sharp back pain does not ruin your plans” introduces consumers to error because it should present the product in an objective manner and inform about its rational
use. In the characteristics of this medical product, there is no treatment for acute pain, but only for pain with mild to moderate intensity. Another slogan: “Take the strongest and the fastest Ibuprom Max Sprint” could suggest that this drug works the fastest and is the strongest. This ad also contains a footnote with the content: “the maximum plasma concentration is reached within 32.6 minutes; for tablets within 90 minutes.” However, there was no indication of the source of this claim. In addition, this suggested to the consumer that the drug works three times faster than other painkillers (Chief Pharmaceutical Inspectorate, 2014).

In 2013 KER dealt with a similar case of the drug Teraflu produced by Novartis, because the TV spot contained the slogan: *Theraflu No. 1 for influenza in the world*. At the bottom of the screen, a lot of text as a reference to the footnote appeared, which no one would be able to read in a short time. KER’s adjudicating team stated that the ad was attributed to the product features in support of which the company did not provide sufficient evidence and using the slogan misleads consumers (Committee of Advertising Ethics, 2011).

Ads can also affect human feelings too much. In 2014, for this reason, KER considered consumer complaints about the advertisement of Polocard by Pfizer Trading Polska Sp. z o.o. The grandfather disappearing during this ad aroused the audience’s fears of death (Committee of Advertising Ethics, 2014).

Product placement is a very interesting form of advertising which is often used by manufacturers. For example, in 2011, GIF recommended the limited partnership “Teatr Kamienica” to remove the incorrect advertising of the product Acard from the play “I tak Cię kocham” [“I love you anyway”]. In the scenario, the phrase: “And let my heart remember Akard (Acard)” was spoken, the address of the drug’s producer, Polpharma, also appeared in the dialogue of the play (Chief Pharmaceutical Inspectorate, 2011).

A specific form of advertising is found in large campaigns aimed primarily at educating the patients. GIF tries to prevent this by using the google test. It is checked whether the average Internet user after entering the name of the educational campaign about the disease and its sponsor is able to identify the name of the drug (Michalski, Sławatyniec, Duczyńska & Kęska, 2013, p. 132). An example of a campaign in which both GIF and KER found violations was organized by GlaxoSmithKline (GSK) action on the prevention of cervical cancer. Its aim was to persuade women to do a Pap smear to detect the disease early. At the same time, GSK is the producer of Cervarix, a vaccine which prevents cervical cancer (Makowska, 2010, pp. 113–114).

It is important that the patients themselves report advertisements that will be inappropriate for them because the competent authorities are not always able to discover all the irregularities. Pharmaceutical companies also participate in pointing out errors in advertisements, which, if they want to weaken competitors, often point to their violation of the rules.
5. Advertising campaigns for drugs in the USA—examples of violations of law and ethics

In the United States, as in Poland, pharmaceutical companies advertising their products do not always comply with applicable laws and ethics. The FDA deals with the violation of regulations related to prescription drug advertising. One of its departments, The Office of Prescription Drug Promotion, sends warns to pharmaceutical companies when they violate the principles of drug marketing and advertising. In 2007, 18 such warning letters regarding promotional materials were sent, in 2010—46 letters, and in 2014—10 (Food and Drugs Administration, 2015b).

Federal Trade Commission (FTC) deals with monitoring the observance of regulations related to the marketing of OTC drugs. The FDA and FTC adopt the same definition of false and misleading advertising, although their interpretation in practice is slightly different. The FTC does not require giving so much information about the adverse effects that a drug can cause. It is also not necessary to provide accurate information about evidence (e.g. clinical trials) of the effectiveness of the drug. Thus, the false statements are common in OTC ads (Faerber, Kreling, 2012, p. 227).

In addition to government regulations, there are organizations such as the National Advertising Division (NAD), Council of Better Business Bureaus and National Advertising Review Board (NARB) that deal with consumer complaints about advertising.

Faerber and Kreling (2012, p. 229) investigating drug advertisements appearing on American television between January 2008 and December 2010 stated that up to 57% of the main statements used in them can be considered as misleading consumers.

The FDA in 2014 dealt with the case of Exparel produced by Pacira Pharmaceuticals, Inc. Exarel. It has been approved by FDA for use as injections for local anaesthesia and indicated for use in postoperative activities. The object of the study was printed drug advertisement and educational cards for medical personnel. The advertisement uses the sentence “Pain control, which lasts up to 72 hours,” although the study has not proven that the drug has been active for more than 24 hours. This statement was false and misleading. On the educational cards, it was suggested to use the drug in the case of colectomy and laparoscopic cholecystectomy, although it was not proven to be effective with them (off-label use). Instructions for using the medicine for the uses studied were used, not for the new ones indicated. The FDA demanded the immediate discontinuance of the distribution of these advertising materials (Food and Drugs Administration, 2014b).

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1 The educational cards contained information about the physician, patient characteristics, instructions for dosing the drug, other information and information about safety. Promotional material can be found under the link: http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/EnforcementActivitiesbyFDA/WarningLettersandNoticeofViolationLetterstoPharmaceuticalCompanies/UCM416514.pdf.
The FDA also makes sure that there is no lack of information on the adverse effects of the drug in advertisements. An example of a warning letter with such a thread sent in 2014 may be the one addressed to OptumInsight Life Sciences, Inc. on the drug Kapvay. This drug has been approved by the FDA as an integral part of the treatment of ADHD. Its use is associated with many risks, such as hypertension, bradycardia, excitement, fatigue, drowsiness, allergic reactions, sore throat, insomnia, nightmares, emotional disorders and others. In the telephone conversation script that the company’s sales representatives were to conduct with various health care providers, important information about the risk of taking the medicine was skipped. It is true that the interlocutor was informed that full information on the medicine may be sent to him by e-mail, or he may read them on the website and asked which of the two forms he prefers. Nevertheless, the FDA did not consider it sufficient. In addition, the producer was accused of using a statement in the marketing script: Kapvay, a drug for ADHD, which is misleading, because the FDA approved this drug only as one of the elements of the treatment of this disease. Weaknesses were also found in information on the use and dosage of this remedy reported during the interview. The generic name of the drug was also not given in the script, which is a violation of US law. The FDA demanded a written reply to the letter and discontinuation of advertising conducted in this way (Food and Drugs Administration, 2014a).

The pharmaceutical companies themselves report to the National Advertising Division (NAD) the doubts regarding the competitor’s advertising. In 2009, NAD alerted by Pfizer Consumer Healthcare dealt with the case of OTC drug Excedrin Extra Strength produced by Novartis Consumer Health, Inc. The ads used the statement that Excedrin works faster to relieve headaches than Advil, but the company did not provide any evidence. Ads using such an argument appeared on television and the Internet. Novartis did not want to give up so easily, because it had research conducted on a panel of 201 people confirming his advertising slogans and referred the case to the National Advertising Review Board, which in early 2012, like earlier NAD, ordered the company to stop its advertising (ASRC, 2012). In a study submitted by Novartis, no support was found for the general statements used in the advertisement. Novartis publicly stated that it disagrees with NAD and NARB, but he will comply with their recommendations. This case is an example of the efficient operation of self-regulatory organizations in the US (ASRC, 2012).

6. Conclusion

Advertisements often present drugs as “miraculous” remedies for everyday ailments. They work instantly and are able to solve all problems. Buying and applying them is even necessary for proper functioning.
American society is bombarded with commercials of pharmaceuticals, which is driving the gigantic profits of pharmaceutical corporations in this market. Although Poles are more “protected” from pharmaceutical marketing due to more stringent legislation, including the prohibition of the advertising of prescription drugs in our country, however, our society is increasingly seen as medicine-addicted (Sudak, 2015).

And while of course one can point to the good sides of drug advertising—raising the knowledge of consumers about the available preparations (you do not have to go to a doctor with every trifle), education about certain diseases, accustoming the ailments, even those which are shameful (e.g. excessive sweating, mycosis), encouraging a consultation with a doctor or pharmacist – they also have a lot of side effects. They are additionally compounded by the irregularities in the ads described above. Aggressive promotion of pharmaceuticals may lead to the medicalisation of society, pharmacologisation, self-diagnosis and self-treatment. Drug manufacturers are accused, inter alia, of not respecting ethical standards when cooperating with doctors; applying pressure on governments in particular countries to adopt beneficial system solutions for them; creating new diseases (e.g. meteopathy, restless leg syndrome); making even healthy people take medications.

Big pharmaceutical companies are lobbying for DTCA in the European Union as well (Arnold & Oakley, 2013, p. 505). They argue that such advertising plays a very important educational role regarding diseases and appropriate treatment (p. 506). So far, European leaders are resisting such argumentation. On the other hand, there are appeals in the US to prohibit the advertising of prescription drugs. Usually, the voices of opponents of this type of advertising are drowned out with the help of simple arguments to respect American freedom, and thus not to prohibit the producer from advertising their products (Ventola, 2011, p. 671).

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The importance of “disclosure” in relationships between physicians and pharmaceutical companies*

Abstract

The article raises issues of transparency in relationships between doctors and drug manufacturers. It indicates how important it is as a way for physicians and the pharmaceutical industry to regain public trust. The manuscript will define the concept of disclosure. It will discuss in detail The Physician Payment Sunshine Act from the U.S., which imposes a legal obligation on pharmaceutical companies to disclose their relationships with doctors and university hospitals. The article will also show the diverse regulation of disclosure in different countries of the European Union. The situation in Poland will be also described. In the summary, there will be a discussion about the importance of disclosure for patients and the advantages and disadvantages of such regulations for physicians and drug manufacturers.

Keywords: conflict of interest, disclosure, ethical standard, pharmaceutical industry

JEL Classification: I18

1. Introduction

The public is usually informed about the contacts of doctors with pharmaceutical companies by journalists who see different kinds of irregularities in these relations. Doctors and the pharmaceutical industry are often accused of unethical cooperation (Lizut, 2006, p. 4; Rabij, 2014, pp. 32–35). Medics receive gifts from drug manufacturers, go to sponsored conferences and have the opportunity to perform certain jobs commissioned for remuneration. All of this is meant to make them write out prescriptions for specific preparations. Entangled in various dependencies and cooperation with drug manufacturers, doctors may stop noticing that they have faced a conflict of interest, and will not always put the best interests of the patient above the interest of the drug producer. Often, they deny that pharmaceutical companies exert any influence on them (Wazana, 2000, p. 375; Orłowski & Wateska, 1992, pp. 270–271).

Such situations take place not only in Poland but in many countries around the world. Drug manufacturers are usually international corporations which use similar ways of impacting the medical community everywhere in the world (Kruczkowska, 2013, p. 8; Wazana, 2000, pp. 373–380). Most doctors in Poland maintain contacts with the pharmaceutical industry (Makowska, 2010), as is the case in other countries (Campbell et al., 2007, p. 1746; Lieb & Scheurich, 2014; Wazana, 2000, p. 376).

From the points of view of both physicians as well as pharmaceutical companies, information about such relationships reaching society are unfavorable for image reasons. For several years, the prestige of the medical profession in Poland has been lowering. In 1999, in the hierarchy of prestige of professions, doctors ranked second and nurses ranked fifth (CBOS, 1999). In 2013, nurses maintained their position, and doctors fell to the eighth place (CBOS, 2013). In the ranking of trust in a profession from 2016, the doctors were also in the eighth position (just after shop sellers and six places behind nurses) (CBOS, 2016). It is worth noting that in the professional hierarchy nurses are lower and for many doctors the fact of putting them above “better educated” physicians in social research is difficult to understand (Makowska, 2016, p. 96).

Pharmaceutical companies are also severely affected by the various media “reports” of irregularities in their operations. This kind of information is often the result of the interest of the prosecutor’s office in the company (Hajnosz & Wróblewski, 2007, p. 6). It also happens that the journalists conducting the investigation, provoke the interest of law enforcement agencies in drug manufacturers (Szymborski, 2003, pp. A1–A4). It can often end up with a ruling of very high compensation (e.g. Schering-Plough has been ordered by the US court to pay 500,000 USD fine for violating the Act on Foreign Corruption Practices in Poland) (cf. Makowska, 2012, p. 131). A lack of trust in pharmaceutical companies may lead to public undermining of the safety of their medicines (and thus, among
others, strengthening anti-vaccine movements), questioning the right price of medicines, or the activities of the medications produced by it. This, in turn, may have negative consequences for public health.

Under these circumstances, the “transparency” of the relationship between physicians and pharmaceutical companies became an important concept. This concept means that the public is informed about the cooperation between drug manufacturers and representatives of medical professions, as well as with healthcare organizations (INFARMA, 2015). Their mutual relations should be as transparent as possible to help regain public trust.

The goal of the article is to describe the existing (legal and voluntary) regulations regarding the principles of transparency\(^1\) in the relations between physicians and pharmaceutical companies and the indication of their weaknesses. The article will describe in turn—American regulations, the standards of selected European Union countries, and Polish standards aimed at increasing transparency in the cooperation of medics with drug business. The summary contains conclusions on the importance of these various provisions on transparency for patients, and on the problems and benefits of these for doctors and pharmaceutical companies.

2. **Sunshine Act in the United States**

The United States pioneered the principles of transparency in the relations between doctors and the pharmaceutical industry. *The Physician Payment Sunshine Act (Open Payments)*, which forms part of *The Patient Protection and Affordable Care Act* (PPACA, colloquially called Obamacare) from March 23, 2010 obliged the producers of medical devices, including medicines and medical equipment, which participate in federal health programs, to make their relations with physicians and university hospitals become public.

From August 1, 2013, producers of medical products such as medicines are required to collect data and submit annual reports on the doctors they have worked with, and what benefits they have provided to them. In addition, pharmaceutical companies must specify the benefits that physicians have gained from them: gifts; cash (or cash equivalents, e.g. vouchers), items or services, shares on the stock market, payment for consultations, withdrawals for other services, fees, tickets for entertainment events, meals, travels, research works, educational meetings, payments to charities, royalties or licenses, ownership rights or investment interests (present or future), remuneration for delivering papers at CME meetings (continuation of medical education), grants. However, you do not need to report such gifts which had a one-time value which did not exceed 10 USD, and when the total value of these products did not exceed 100 USD in a given calendar year (Agrawal, Brennan & Budetti, 2013, p. 2055). In addition, benefits such as snacks during conferences or educational meetings were excluded from reporting, as well

\(^1\) It should be noted that this term is relatively new. There are no definitions and interpretations in literature, especially in Polish.
as drug samples, educational materials for patients, short-term medical equipment rental for evaluation purposes, services which are used under the guarantee after purchase or during the leasing of medical equipment, price cuts, materials that a doctor gets when he is a patient, items used to provide charity care, dividends and other forms of profit distribution, doctor’s remuneration for non-medical activities (e.g. legal advice when he is also a lawyer) (American Medical Association, “Sunshine Act FAQs”).

Not all healthcare professionals who have contacts with industry must abide by these transparency rules. Manufacturers must report data on: physicians, osteopaths, podiatrists, dentists, oral and maxillofacial surgeons, ophthalmologists, chiropractors. However, they do not need to report on the actions taken for the benefit of, for example, nurses or medical assistants.

Information on cooperating doctors is provided to the Centers for Medicare and Medicaid (CMS), within the prescribed period. In addition, the Sunshine Act requires that this data be reliable and complete. If the drug manufacturers fail to meet their obligations, a fine is imposed on them. Physicians should receive information from the company that will be published about their person, at least 45 days before their transfer to CMS, because they must be able to report any comments on the data (Agrawal, Brennan & Budetti, 2013, p. 2056). American Medical Association even offers a special application to doctors that helps them track the benefits, which companies report that they gave them.

The Sunshine Act aimed to ensure transparency of relations between companies and physicians. Any interested patient can check if his doctor cooperates with a given pharmaceutical company. All you have to do is go to the cms.gov website, where all data provided by pharmaceutical companies are disclosed. Complete information on the doctor is also published there (AdvaMed, n.d.). It should be emphasized that the Sunshine Act is not aimed at forbidding the relationship between physicians and producers, but: 1) talking about public concerns about the doctor-company relationship and collect data on this cooperation; 2) helping the relations between them be clear and transparent; 3) providing a unified system for collecting data on the financial side of this cooperation; 4) ensuring that the collected data is reliable; 5) preventing unfair influences on research, education and clinical decision making; 6) preventing conflicts of interest, which may affect patients and the care exercised over them (Centers for Medicare & Medicaid Services, “Fact Sheet for Physicians”).

Sunshine Act from the beginning has been criticized for the fact that it will be difficult to get full data in these reports, it was especially a problem when information was being collected. Some of the benefits for doctors remained hidden (Belluz, 2014). Similarly to those received by the people related to medical care and not subject to disclosure (e.g. nurses). Doctors were also concerned whether the data which companies reported were appropriate or not. Sometimes they lose their precious time explaining irregularities. The research conducted in 2012 in those states in which transparency was previously introduced indicates that this

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2 Nurses in the US can prescribe prescription drugs.
legislation had little impact on prescriptions prescribed by doctors, and had no impact on drug costs paid by patients (Pham-Kanter, Alexander & Nair, 2012, p. 819).

A collective report on the benefits provided by companies to US physicians (Open Payments) from 2015, indicates that 1,456 pharmaceutical companies have transferred some services to 618,000 doctors and 1110 university hospitals. The companies that provided some benefits in 2015 were 7.8% less than in the previous year, the number of doctors remained unchanged, and the number of university hospitals decreased by 2.2%. In 2015, companies donated general benefits worth 2 billion USD to doctors, and 86.39 million USD for medical examinations. University hospitals received 605 million USD of general benefits, for research—724 million USD. In general, the companies spent 3.89 billion USD on research (Centers for Medicare & Medicaid Services, 2016). Novartis reported the largest benefits transfer spending 539 million USD, 95% of which was intended for research funding (PolicyMed, 2016). The specialists best-paid by the industry were those dealing with nuclear medicine (on average they received support of 51,279 USD), then neurosurgeons (26,064.33 USD) and orthopedic surgeons (26,080.31USD) (The CMS Blog, 2016).

3. Transparency in European Union countries

The enforcement of the Sunshine Act in the United States has led to public debate on such solutions. In particular European countries, similar regulations have been established. On this basis, you can distinguish the countries: 1) which introduced solutions in the law similar to those in the USA (e.g. France, Portugal and Slovakia), 2) countries where there are not very restrictive regulations regarding the disclosure of links with the industry (e.g. Belgium, Denmark, Germany, Spain, Italy) and 3) countries where there are only voluntary codes, which the European Federation of Pharmaceutical Industries and Associations (EFPIA) is responsible for.3

Detailed information on solutions operating in individual countries is presented in Table 1.

3 We do not discuss the EFPIA code in this place, because in Poland INFARMA implements it as a “Kodeks Przejrzystości” [“Transparency Code”] and it was described in detail in point 4.
Table 1. Individual countries of the European Union and their activities for transparency in the relations between a physician and a pharmaceutical company.\textsuperscript{4}

<table>
<thead>
<tr>
<th>Country</th>
<th>Characteristic features / description</th>
</tr>
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| France   | • the law governing transparency has been in force since the end of 2011;  
• pharmaceutical companies must disclose contracts with health professionals and healthcare organizations and material or monetary benefits in excess of 10 Euros;  
• this data must be made public on a special website at an appropriate time twice a year;  
• fines and sanctions will be imposed on enterprises that will evade the obligation to publish data (45 thousand EUR for deliberate non-publishing of data in the case of medical professionals, and 225 thousand EUR in the case of concealing cooperation with healthcare organizations);  
• in France, there is also the LEEM Association, which implements the Disclosure Code regulation on behalf of EFPIA;                                                                                     |
| Portugal | • the law setting out the transparency rules has been in force since 2013;  
• pharmaceutical companies must disclose contracts concluded with representatives of medical professions and healthcare organizations as well as material or financial benefits exceeding 25 EUR (in October 2014 this amount was raised to 60 EUR);  
• regulations also cover any natural or legal person, referred to in the regulation, involved in the production process, including the authorization holders of allowing a given product to be marketed;  
• pharmaceutical companies are required to keep records of documents relating to each of the events directly or indirectly sponsored or organized in the last five years and made them available to the legal institution, i.e. INFARMED. Violation of these rules is punishable by a fine;  
• in Portugal, there is also the APIFARMA Association, which implements the Disclosure Code regulation on behalf of EFPIA;                                                                                     |
| Slovakia | • the law setting out the transparency rules has been in force since 2011, the amendment entered into force in 2016;  
• previously, pharmaceutical companies had to submit an annual report to the Ministry of Health, stating the value of expenditure on advertising and marketing and other benefits provided to representatives of medical professions in a direct or indirect way. The report must contain beneficiaries’ data and the amount of expenses;  
• since 2016, the obligation to report on benefits for doctors and health organizations twice a year has been introduced. What you need to report is more detailed than the data required by AIFP, an association of companies implementing Slovakia’s Disclosure Code on behalf of EFPIA;                                                                                     |

\textsuperscript{4} It should be noticed that legal regulations in individual countries are constantly changing and the data presented in this article may need to be updated.
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Denmark
- the law setting out the transparency rules has been in force since the end of 2014;
- drug manufacturers and manufacturers of medical equipment are required to report once a year all connections they have with doctors;
- the main obligation to disclose benefits lies with the representatives of the medical professions who must obtain approval from a specially appointed institution (Sundhedsstyrelsen) before they can cooperate with a specific pharmaceutical company;
- in Denmark, there is a LIF association that implements Disclosure Code on behalf of EFPIA;

Greece
- the law setting out the transparency rules has been in force since the end of 2014;
- pharmaceutical companies must disclose all services to physicians and other listed persons on their websites and EOF’s official websites (Greek National Drug Administration) no later than 6 months from the end of the calendar year;
- there is no need to spread information about market research, meals and drinks, as well as benefits of a minimum value (defined at 15 Euro), which serve the professional practice of a physician;
- in Greece, the SFEE Association operates, which implements Disclosure Code on behalf of EFPIA;

Romania
- the law setting out the transparency rules has been in force since 2014, additional regulations were also introduced in 2015;
- pharmaceutical companies operating in Romania must disclose all “sponsoring” activities for doctors, nurses, health organizations and patient organizations to the Ministry of Health and the National Medicines Agency;
- persons who have received a benefit from a pharmaceutical company must also report it;
- ARPIM operates in Romania, an organization which implements Disclosure Code on behalf of EFPIA;

Countries where there are not very strict regulations

Belgium
- pharmaceutical companies are required to report information on the benefits received by medical professionals to a special institution (AFMPS) by March 1 each year;
- pharmaceutical companies must maintain data with detailed information on gifts, benefits, financial support and payments for services that are received by healthcare professionals;
- drug manufacturers must meet specific requirements prior to launching new products or sponsoring scientific events. Failure to meet these requirements may result in a fine or imprisonment;
- there is also an association called pharma.be in Belgium which implements the Disclosure Code regulation on behalf of EFPIA;
Germany

• German legislation imposes quite general information obligations on the pharmaceutical industry;
• The Medical Devices Act (Arzneimittelgesetz) imposes information obligations in relation to research conducted on medicines in order to collect knowledge about the safety of approved or registered pharmaceutical products;
• representatives of medical professions cooperating with pharmaceutical companies are almost always obliged to disclose these connections to their employers or principals (the doctrine of employer consent);
• the German FSA implements the Disclosure Code regulation on behalf of EFPIA;

Spain

• pharmaceutical companies must publish details of the benefits they have given to health professionals and healthcare organizations (e.g. conferences, congresses, study tours).
• financed conferences and publications must contain an indication of the source of financing and the amount of funds allocated by specific entities.
• pharmaceutical companies are required to notify relevant public authorities about their participation in materials (e.g. containing information about medicines) provided to representatives of medical professions. Such materials include scientific journals, books, blogs or other similar publications issued in paper form or by any audiovisual and electronic media;
• Spanish Farmaindustria implements the Disclosure Code regulation on behalf of EFPIA;

Italy

• pharmaceutical companies that manufacture, trade or commercialize medicines on the Italian market are required to inform the Italian Medicines Agency (AIFA) of their intention to organize or fund events related to the commercialized product;
• events not organized in accordance with the law can be canceled by AIFA, and pharmaceutical companies can be punished;
• Italian Farmindustria implements the Disclosure Code regulation on behalf of EFPIA.

Countries where exists only industry self-regulation

Netherlands

• in the Netherlands there is no statutory obligation for pharmaceutical companies to publish information on the benefits provided to healthcare professionals and healthcare organizations;
• The Dutch Nefarma Association implements the Disclosure Code regulation on behalf of EFPIA;

Sweden

• there is no obligation for pharmaceutical companies to publish data in Sweden;
• there are some indirect regulations such as the act on medicinal products or anti-corruption laws based on the penal code;
• in Sweden, there is the LIF Association, which implements Disclosure Code on behalf of EFPIA;

Great Britain

• currently British law prohibits offering, providing or promising benefits (to promote medicinal products) to medical professionals or suppliers of such products;
• ABPI implements Disclosure Code on behalf of EFPIA in Great Britain;
4. Polish regulations regarding the transparency of the relations between doctors and pharmaceutical companies

So far in Poland, there is no legal solution that would enforce transparency in the doctor-medical representative relationship. Drug manufacturers associated in INFARMA (Association of Employers from Innovative Pharmaceutical Companies) have signed a voluntary document—“Code of Transparency”—which defines the rules concerning the sharing of information on cooperation between drug manufacturers, both representatives of medical professions and healthcare organizations.

The Code is not a Polish idea, but rather a part of the project of the European Federation of Pharmaceutical Industries and Associations (EFPIA), to which INFARMA belongs. Currently, 41 companies that operate in Europe are signed under the code (INFARMA, 2016). The “Code of Transparency” was created at the initiative of the pharmaceutical industry, which considers it necessary to introduce transparent rules of cooperation between companies and representatives of medical professions. Thanks to this, the public will know the real dimension and importance of this cooperation for the health care system, the development of medicine and the well-being of patients (INFARMA, 2016).

The preamble of the Code emphasizes the importance of cooperation between pharmaceutical companies and the medical community, and at the same time it has been pointed out that the public has the right to full information on what this cooperation looks like. It is worth noting that the Code deals not only with doctors, but also representatives of other medical professions such as: dentists, pharmacists, hospital attendants, nurses, midwives, laboratory diagnostics, paramedics or pharmaceutical technicians, as well as cooperation with healthcare organizations (e.g. hospitals, clinics, foundations or universities).

Code signatories must collect the following information: costs incurred in connection with events (various types of educational, promotional or scientific meetings, with the division into registration fees and travel and accommodation costs), remuneration for services provided to the company (divided into remuneration and additional expenses), and services related to research and

scientific activity. A separate subsection in the Code is devoted to information that needs to be collected about cooperation with healthcare organizations.\(^5\)

Companies collect information on an annual basis (consistent with the calendar year) and publish it on their website up to six months from the end of the year. The data must be available for the next three years from the date of making it available, and the documentation regarding the transfer of the benefit must be kept for five years.

Disputes resulting from the application of the Code and cases of its violation are considered by the Disciplinary Court. The Court may apply penalties for delay in providing information by the Signatory. Annexes to the Code are two forms, which are a model for the Signatories in what form and what data should be made available.

According to the “Transparency Code”, the doctor’s identification data (name and surname, place of work, type of service he received from the company and the amount of remuneration he has received from the manufacturer in one year) is only published if he/she gives his/her consent. If he/she does not, then the data concerning him/her will be added to the aggregated data. Therefore, the public will be informed about the relationship between the pharmaceutical company and doctors, but only those who agree to disclose such information. Therefore, this information will not be complete.

Additionally, it is worth paying attention to the limitations that the Code introduces to the registered benefits. There is no obligation to create documentation for benefits related to OTC drugs (over the counter), gifts (up to 100 PLN, related to medical practice or having an educational or informational character\(^6\)), meals (the cost of which does not exceed 200 PLN per person), samples (4 samples of one product can be transferred in a year), discounts and rebates, as well as other commercial tools that are customarily used in the sale of medicinal products (cf. art. 5 point 2 „Kodeks Przejrzystości” [„Transparency Code”]). Thus, the entire area of benefits that can be obtained remains “hidden”.

This makes us ask: why do some companies (Signatories of the “Transparency Code”) publish selective data (indicated in the “Transparency Code”) regarding some doctors (who give their consent)? Such self-regulation of industry is first of all a good “marketing gimmick”—the “Code of Transparency” has been widely discussed in the Polish press and the Internet, and secondly it aims to “protect” against the introduction of legal regulation—e.g. similar to the American or French Sunshine Act and forced to publish all data indicated by law on all physicians who work with companies.

Despite this critical approach, it should be stressed, however, that since we do not have any legal regulations regarding transparency, the publication of data on the benefits provided by the signatories to the beneficiaries by INFARMA is a very important step forward in improving the ethics of cooperation between

\(^5\) Described in more detail: art. 9 „Kodeks Przejrzystości” [“Transparency Code”].

\(^6\) The record regarding gifts is more extensive and contains several exclusions. More on the subject: in art. 38 paragraph 2 and 3 of the “Kodeks Dobrych Praktyk Przemysłu Farmaceutycznego” [“Code of Good Practice of the Pharmaceutical Industry”].
pharmaceutical companies, and representatives of medical professions and health care centers in Poland. The list published by INFARMA in June 2016 is the first such list available to all interested parties, and although it certainly does not show the “full picture” of the relationship, it shows some part of it.

The report distinguishes three groups of “expenditures” of drug manufacturers: for healthcare professionals, for healthcare organizations and for research and development activities. Benefits for healthcare professionals amounted to 17% (107,646,032 PLN) of total benefits, these for healthcare organizations accounted for 20% of all benefits (128,950,676 PLN). The largest amount of funds, as much as 63% (395,533,983 PLN) pharmaceutical companies spent on research and development activities.

Among the types of benefits for medical representatives, the majority (61%) were costs incurred in connection with events, and the part of remuneration for services rendered was 39%. In the case of services for health care organizations, the majority of funds were transferred to costs incurred in connection with events (45%) and donations (41%). The rest (14%) were transfers that were remuneration for services rendered. Reports also include the average value of provided benefits. On average, the health care organization received from the company support in the amount of 32,514 PLN, and representatives of medical professions received an average of 2,772 PLN (INFARMA, 2015–2017). Only 22% of physicians agreed to publish data about their person with the required data (including surname) in individual reports. While, among organizations, as many as 70% agreed to full identification. It should be emphasized once again that these are data coming only from innovative pharmaceutical companies that are signatories of the “Transparency Code”.

5. Conclusions

Research clearly indicates that the benefits from drug manufacturers influence the prescriptions that medics prescribe to their patients (Halperin, Hutchison & Barrier Jr, 2004, p. 1479; Orlowski & Wateska, 1992, pp. 270–271; Wazana, 2000, p. 375). Patients are alerted about potential conflicts of interest in which doctors may find themselves by working with the pharmaceutical industry. This in turn raises their concern about whether the drug therapy prescribed for them is really the best for them. Patients deserve to know if the doctor who treats them has any connections with the industry and if it could have any effect on their therapy. All actions (legal and self-regulatory) undertaken for the purpose of greater transparency of relations between physicians and pharmaceutical companies should be
positively evaluated. Although, certainly, those introduced in the law give a more complete picture\(^7\) of what cooperation between physicians and pharmaceutical companies looks like.

The premise underlying transparency is that doctors will not cooperate with the pharmaceutical industry, which they could later be ashamed of in front of their patients or in the medical community. Of course, when a physician has to agree to the publication of data (in the case of voluntary, and non-statutory regulations), it won’t have such an impact. For if he/she is ashamed of any relationship, he/she will simply refuse to make the information about it public.

The benefits of these regulations for doctors and industry are primarily the ability to avoid further accusations of a lack of ethics in cooperation, which will allow them to rebuild a good image and society’s trust. However, these regulations also raise many problems: doctors giving up cooperation with companies often get rid of an additional source of income, which may arouse their opposition and unwillingness to such regulations, especially in countries such as Poland, where a doctor’s salary is lower compared to other countries in the European Union (Makowska, 2016, p. 46). For pharmaceutical companies, these regulations mean less opportunities to influence the medics with the help of various benefits and the rule of mutuality (more in Ciadini, 2003, p. 33). Doctors may also be concerned about whether data collected and shared by companies are reliable. On the other hand, companies are obliged to collect and accumulate data that they did not have to save.

Transparency (even legally introduced) is not enough to make relationships between physicians and pharmaceutical companies truly ethical. It should also be emphasized that ethical issues have a very wide scope and are not limited to publishing the benefits that physicians gain from cooperation with pharmaceutical companies. They also refer to the reliability of information provided to medics by companies, the honesty of research conducted during this cooperation, as well as many other aspects.

### References


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\(^7\) Because they oblige all companies to disclose data and introduce more severe sanctions for their unreliability.
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Ethical dilemmas of aesthetic medicine: Between restorative medicine and the commercialisation of the body*

Abstract

Technological advances in medicine have given the sick and the disabled a chance of making a full recovery. However, contemporary trends show that medicine goes far beyond its restorative functions. The increasing popularity of plastic surgery raises many questions. Is medicine beginning a new era of its development as a response to the commercialisation of the human body? Does not correcting nature lead to people’s segregation into the better and the worse ones?

The development of medical technologies has accelerated the commercialisation of the body by treating it as a package that one can “redecorate” to be more attractive in the market of social relations. Plastic surgery is trying to solve the identity crisis and psychological problems of people. New forms of medicalisation are emerging. A lack of success is seen as a symptom of a disease that can be cured with a scalpel.

Plastic surgery can be a tool of reconstruction of one’s identity but only under strict circumstances (genetic defects, bodily injuries). By posturing as a solution to people’s psychological and sociological problems, medicine must reckon with a moral/ethical critique.

Keywords: plastic surgery, commercialisation of the body, medicalisation

JEL Classification: I11, I12

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1. Introduction

The fact that humans have bodies is undeniable. However, the answer to the question of where the boundary between the physical and social body lies is not so obvious. If it is possible to function with artificial organs, support life with an apparatus or change the appearance through surgery, where does the “pure” or “natural” man end?

The world is becoming increasingly uncertain; during the last two decades expressions such as the culture of fear (Furedi, 2007) or the risk society (Beck, 2012) have emerged. Uncertainty concerns not only the condition of the natural environment or the state of world security but also what the human body is. Being a subject of medical interest for many centuries, it has become one of the most medicalised elements of the contemporary world. Technological advances in medicine have created enormous possibilities, giving hope for fitness and recovery to the sick, handicapped and injured in accidents, allowing for early diagnosis that saves lives of millions of people in the world, and enabling us to look inside the human body and remove defects that formerly excluded man from functioning in society.

However, currently observed trends indicate that medicine has gone beyond curative and restorative functions understood as providing help to those in need. Today, medical activities often concern “repairing normality”. The growing popularity of plastic surgery, compounded by the media, makes us ask whether medicine is entering a new phase associated with the technological progress as a response to the commercialisation of the body. Does not correcting nature lead to segregation of people into the better ones (i.e. surgically corrected) and the worse ones (characterised by a lower market value)? And consequently, does aesthetic medicine, whose aim is to eliminate uncertainty about one’s body, not give birth to this uncertainty anew?

In the author’s opinion, technological advances in medicine have accelerated the commercialisation of the human body, making it into a package that can be modernised and improved, thus increasing an individual’s attractiveness in the labour market. The body becomes a product, an investment that determines the position of a human being in the arena of interpersonal relations. Aesthetic medicine (or plastic surgery, dental surgery, ophthalmology, sports medicine, etc.) seeks to solve the identity crisis and psychological problems of contemporary people. Further manifestations of medicalisation are emerging. A healthy person is a person improved by surgical procedures that change not only his or her appearance but also personality. A lack of success and self-confidence or an unsuccessful marital life are symptoms of a disease that can be cured with a scalpel.
2. The sociology of the body and the sociology of health, disease and medicine

The presented considerations draw theoretical inspirations from the sociology of the body and the sociology of health, disease and medicine. Within the first of the mentioned sub-disciplines of sociology, three main approaches can be distinguished: issues related to the social regulation of the body, the ontology of the body and the experiencing of the body (Nettleton, 2005).

The social regulation of the body. This perspective focuses on the influence of social institutions on the regulation, control, monitoring and use of the human body. Our bodies are subjected to careful “treatment” from the moment of birth the aim of which is to suppress and channel natural instincts to build the so-called social body. The constant conflict between nature and culture, between reason and emotions, resurfaces here. Many authors are interested in the way institutions of religion, law or medicine regulate the human body. The most evident influence of these three institutions can be seen at the birth and death of the human body, but there is also debate over topics such as abortion, euthanasia or organ transplants. It is worth noting here that in this perspective feminist movements, which have made the issue of the regulation of the female body by all kinds of institutions one of their central issues, have found their place. The control of the human body, manifested in a variety of forms, is to serve primarily to maintain social order. The theorists of this trend indicate that throughout the whole life of man the human body is subject to two types of regulations: the first one consists in “training” the human body to specific behaviours, and the main mechanism in this respect is socialisation whose task is to encourage people to hide their natural instincts and behaviours under the mask of socialised conduct. We learn to wear a special type of clothing, how to behave in specific situations, and what should not be done or must not be done. The other type of regulations is based on continuous control of the effects obtained in the first stage. Institutions established for this purpose have a set of penalties and rewards by means of which they effectively enforce the required behaviour. Individuals whose bodies do not follow such regulations are isolated and go to hospitals or prisons.

The lived body. According to this trend, the human body determines the way in which one explores and responds to the world. The perception and experiencing of the world are rooted in the senses of sight, touch, smell, hearing and taste, i.e. the elements that undoubtedly belong to human corporeality. Through this corporeality, the outer world appears to us and our reactions to it are born. Usually, we are unaware of this fact, because we are also ignorant of the existence of our own body.¹ We feel it only when its dysfunction appears—a cold, fracture, contusion, or haemorrhage. A disease often forces us to rebuild our consciousness and how we perceive our body. A great deal of considerations is also devoted to new tasks and possibilities that stand before the body and the embodied self of a sick person. This perspective has appeared as a response to the dualism of the soul and body, nature and

¹ In relation to this condition, the term health in a vacuum, proposed by the French researcher C. Herzlich, is used (cf. Puchalski, 1990, pp. 321–331).
culture, reason and emotions popularised in the literature. Proponents of this approach argue that it is impossible to separate these two entities from each other, as there is constant interaction between them. The body and the soul are a unity that manifests itself most fully in a situation of illness, suffering and pain. Somatic complaints are accompanied by specific emotions—anger, sadness, or a sense of powerlessness.

The ontology of the body (body projects). This last perspective is the most important here, as it focuses on the dilemmas of aesthetic medicine. The growing uncertainty of the surrounding world means that the human body has begun to be perceived as fragile, delicate, unreliable, and therefore requiring constant improvements and enhancements. At the same time, people have begun to see that the human body is the seat of the self, the place where the human soul is hidden. This has additionally intensified the willingness to care for the packaging of such noble content. The human body has started to be perceived as a process, it has become a “project” that is developed and carried out throughout an individual’s life. Body projects, as this phenomenon is defined in the discussed perspective, have become the basis for an individual’s self-identification. Genetic engineering, a healthy diet, physical activity, cosmetic procedures and plastic surgery are just some examples of such “projects”. It turns out, however, that what was to contribute to the rebuilding of self-confidence creates an even greater sense of uncertainty. The boundary between the body and its image is becoming blurred. Increasingly, the reflection, the image of the body itself—the ECG, X-ray or computed tomography—becomes more reliable than the actual person. The image of the body becomes the basis for its transformation. Nowadays, aesthetic medicine more often creates the image of a human being than simply eliminates existing defects. In many television stations, one can watch programmes in which people, mainly women, undergo painful and risky surgical procedures in the name of beauty, self-confidence and success. It would not be possible if it were not for medical technological advances that can form human bodies like the sculptor’s hands create a statue. However, this is associated with several threats that will be discussed further on.

The other sub-discipline—the sociology of health, disease and medicine—focuses on the social construction of health and disease concepts, a reflection on medicine itself, its organisation and medical professions as well as the relationship between medical science and social sciences. In its context, one can speak about the social consequences of changes in medicine. Medical advances and health education have changed the structure of diseases from acute to chronic, have caused the emergence of a holistic model of health and disease as a response to the biomedical model, and have increased health awareness of modern societies as well as the importance of the concept of health and disease as social constructs, not only objective products of evidence-based medicine (Ostrowska, 2010; Skrzypek, 2013; Sokolowska, 1986; Straus, 1957). Especially since health has become a commercialised, commoditised category, it deserves consideration. There has been a transition from “being healthy” to “having health”, making it a commodity, changing the definition of the disease, and thus blurring the already fluid boundary between the common understanding of health and disease.
3. The body and its image

Corporeality is associated mainly with the physical dimension, is proof of our existence, and the permanent absence of the body indicates the end of our biological life. Ever since ancient times, however, the human body has also had other dimensions—the psychological one, associated with experiencing one’s organism and its perception by an individual, as well as the social one, whose essence is related to other people and how they perceive the body of an individual. Therefore, since the beginning of time, the body has been subjected to rituals, customs and treatments aimed at embellishing, modifying, displaying, decorating or covering its certain parts. The most common procedure is to hide the body under layers of clothing. Nudity, in the Bible, is associated with the feeling of shame and is inseparable from the original sin. Having committed the sin, the first people “realised that they were naked”. Nowadays deprived of clothes, we feel naked, exposed, but not only in the physical dimension but above all in the spiritual dimension. Clothing conceals the imperfections of our beauty, but also of our conscience. In addition, without clothing, we become extremely like each other, ordinary, average. Clothes are something that sets us apart in a way, makes us richer or poorer, having better or worse taste, while in the face of nakedness we only differ in terms of sex.

Nowadays, the external appearance has become the most important trademark of a person which determines his or her economic, professional, family and social position. The ways of dressing, doing one’s hair and makeup, the complexion, the body shape and body structure promoted in the media show at the same time the ideals of a woman and a man that are desirable and appropriate. The external appearance determines inclusion or exclusion from a given social group. Newspapers, magazines, television, cinema, and the music industry define patterns of appearance that are fashionable. The way these patterns are presented means that they also become desirable. As in the past, the advertisement showed that a person could become someone better, more valuable, less frustrated, happier or more attractive thanks to the acquisition of a specific product, today television shows that to achieve it one only needs to undergo plastic surgery.

The human body has ceased to be treated as permanent and immutable. This change in perception has an ontological meaning, as it forces us to revisit the answer to the question of what the human body is. For centuries, it was treated as permanent, immutable and, among others, because of that fact, it was not an object of interest in social sciences. In sociology, it appeared incidentally as the basis for social activities, but not as an object of a separate scientific reflection. Anthropology was the first to make the body the centre of study, showing its diversity, dissimilarity of treatment and use. In sociology, the body appeared through the sociology of sport, followed by the sociology of the body and medicine. The body has ceased to be something that “is”, nowadays one “has”, “possessed”, “modifies”.

2 It is worth referring to works of Marcel Mauss or Bronisław Malinowski.
3 Currently, this sub-discipline is called the sociology of health, disease and medicine.
and “creates” the body (Bauman, 2006; Buczkowski, 2005; Featherstone, 2008, pp. 109–117; Shilling, 2010; Turner, 2008). The body is treated as a process and as a “project”. It has become a long-term investment that is supposed to provide benefits, prestige, and respect. Thus, the flexible body is subjected to many modifications throughout the entire human life, depending on the needs or desires of a given individual. At the same time, it is perceived as the most important element of human personality. Jan Szczepański’s classic concept distinguishes biogenic elements (of which the body is part) as well as psychogenic and sociogenic personalities (Szczepański, 1972). The body is also an important element of Ralph Turner’s self-image and self-conception (Turner, 2006, pp. 272–284). The self-image is a “photograph” of our “self” which we see at a specific moment and which changes from moment to moment (Turner, 2006). The self-conception is a permanent “picture” of our “self”, the concept of who we really are. If the body of an individual ceases to be permanent and becomes “fluid”, it also has consequences for such lasting constructs as the self-conception. Interest in body makeover programmes, in which ordinary people decide to “remodel” their bodies, shows not only the economic dimensions of the play between demand and supply of commercial medical services but also the social transformation of orientation towards hedonistic and consumerist values. According to Wolfgang Welsch, referred to by Agnieszka Maj (2013, p. 85), today’s man is homo aestheticus, i.e., an “educated hedonist”—a sensitive, conscious person with a sublime taste, ready to shape and stylise his or her soul and body.

As the programmes show, many people deciding to undergo plastic surgery believe that with their new noses or breasts their well-being will improve, their self-confidence will increase and, therefore, the quality of their lives will be enhanced. The first programmes on this subject did not take into consideration possible side effects, which might suggest that the procedures were a safe technique for improving one’s appearance. Currently, information on side effects appears in the programmes, the convalescence process is also shown, which somewhat balances the optimistic and pleasant image of plastic surgery. Moreover, there are also programmes showing the side effects of plastic surgery. Many formats also show people for whom aesthetic medicine is the last chance for a normal life and full social activity (victims of accidents, diseases, people with congenital malformations and deformities). In this way, two separate types of medicine are presented—restorative medicine and medicine that fulfils desires. The former gives a chance for a normal life, restoring a healthy look and self-confidence, countering social exclusion and stigmatisation. The latter makes life better, easier, more beautiful; pleasant medicine that makes an individual’s life better and an individual him or herself healthier. This division is equally unfavourable for patients as well as medicine itself. On the one hand, it somewhat alleviates the

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4 Examples of such programmes on Polish television are, among others: “Secrets of Plastic Surgery”, “Life Without Shame”, “I Want a Famous Face”, “The Swan”, “Make Me Beautiful”.

5 Examples of such TV programmes available in Poland include “Cosmetic Surgery from Hell,” “Botched”.
hedonistic orientation of aesthetic medicine itself, but on the other hand, the confrontation of the healthy and the sick that avail of its offer falls to the disadvantage of the former, accused of vanity.

The contemporary image of the body contradicts somewhat demographic trends. On the one hand, we are dealing with the so-called greying population, which is a result of the decline in the number of births and the extension of the length of human life. On the other hand, there is no place for old age in modern societies. It is associated with illness, suffering, powerlessness and social uselessness, and above all with a deformed body, which becomes unattractive, unsightly, wrinkled, and distorted. Technological advances have contributed to a significant extension of human existence, and now attempts are being made to mask this achievement with the help of plastic surgery. Medicine has become a cure and a weapon at the same time. Old age has been medicalised and is treated like a disease. Death begins to be perceived as an “accident at work” made by a doctor which soon can be prevented. And elderly people as a social category are marginalised, sidelined, even though in many countries they constitute a huge percentage of the population. Old age is unfashionable and unwanted, and modern generations are no different from the main character in The Picture of Dorian Gray who wanted to preserve his youth at all costs. According to surveys conducted by the Centre for Public Opinion Research (CBOS) from 2017, as much as 87% of Poles attach great importance to their own appearance (Cybulska, 2017). According to the same report, the look is of great importance both in personal life and professional career. As far as the personal sphere is concerned, as much as 38% of the respondents believe that the appearance has a large impact on the success of a person in life, while for 32% the appearance determines the success of a person in life. In the professional sphere, the responses were 37% and 33%, respectively (Cybulska, 2017). According to the GfK Beauty report from 2016, the external appearance reflects well-being for 35% of the respondents.

The determinants of beauty in women are now symmetry and proportionality of the figure and face, well-groomed appearance, smooth and radiant skin without discoloration, wrinkles and pimples, unnecessary hair, and the body structure—from a slim figure to anorexic thinness. The determinants of male beauty are also proportionality and symmetry, as well as a muscular body structure, clean skin and neat nails, and increasingly often a lack of characteristic male hair. Added to this is a radiant smile with white teeth and elegant fashionable attire for both sexes. Old age has no place in this scenario; if someone wants to age with dignity, they must cover up the signs of entering the golden years. Only in this way will they not be excluded from society, the labour market, and the social relations market.
4. Aesthetic medicine—service to people or commercial activity?

Aesthetic medicine is a branch of medical aesthetics understood as a sub-discipline of medicine dealing with the prevention of skin aging and improving the physical attractiveness of the patient (by restoring or improving the natural appearance) (Śpiewak, 2012, pp. 70–71).

Treatments aimed at modifying the human body have been known for millennia (Koziński & Zaczyński, 2006). In the 6th century BC in India, reconstructions of the nose, ears and mouth were carried out, while in China since the 10th century AD women’s feet were bound because the ideal was a woman with small feet. In the Turkish literature of the 11th century, descriptions of operations of drooping eyelids and gynecomastia procedures appeared. Pioneering facelifts, often ending in patients’ death due to the materials used—a solution of arsenic and lead—were carried out in the 19th century in Great Britain. In the 20th century, surgical procedures became even more popular, and at the same time more invasive. In the 1920s, women had their ribs removed to give them the slim wasp waist. Such a procedure was allegedly performed on Pola Negri. Marilyn Monroe also owed her face and image to plastic surgery—to make her face shapelier, a sponge implant was sewn into her chin. It was reportedly replaced every five years. The first plastic surgery clinic was opened in the United States in 1921 and was founded by a Polish surgeon, Jacek Maliniak.

The 1960s were a period of popularisation of silicone breast implants. In 2000, Botox was invented, which became a commonly used means for smoothing wrinkles, and in 2004, operations rejuvenating voice were initiated. Michael Jackson and Cher, who since 1988 have underwent numerous plastic surgeries and became the icons of plastic surgery. In 2004, 12 million plastic surgeries were performed in the United States (Koziński & Zaczyński, 2006, p. 55).

Currently, plastic surgeries are a fashionable Holy Communion gift in Brazil and are very popular among the Chinese families with adolescent daughters. In the 2003 CBOS study (Biały, 2003), only 1% of the respondents admitted to having undergone a beautifying treatment, in 2009 it was 2% (Pankowski, 2009). How many people really want to do this is evidenced by the number of applications for the Polish edition of the “Make Me Beautiful” programme. As many as 100,000 Polish women are ready to change their body to find a better job, a partner, to repair marital relations, or to get rid of complexes. Breast enlargement or liposuction become a remedy for many problems of a psychological or social nature—these treatments are aimed at solving financial problems (finding a job) or even supplementing intellectual deficiencies (a more beautiful and well-groomed person is also a wiser, better-educated person). Individuals are becoming increasingly insecure about themselves and their abilities. To increase chances in the labour market or social relations, a person undergoes treatments believing that they will contribute to this goal. Medicine today meets social expectations. Thanks to technological advances, medicine can save lives even in the most hopeless situations. However, it is becoming a threat to many spheres of human functioning by medi-
calising them. Work, professional success, social life, sexual life or earnings cease to be dependent on personality traits, intellect, education, and become dependent on the offer of aesthetic medicine.

Progress in medicine has two faces. On the one hand, achievements in this field have given hope for health and life to many millions of sick, handicapped and disabled people. Organ transplants or artificial organs prolong the lives of many people with dysfunction of specific parts of the body, and restore mobility to handicapped people, artificial insemination gives hope to many married couples who have difficulty with having children, specialist equipment sustains vital functions, monitors body parameters and is used for complicated procedures, while plastic surgery enables the removal of congenital defects and injuries or damage resulting from accidents. On the other hand, medicine has contributed to the acceleration of the commercialisation of the body. It has become a commodity with a clearly defined price and market value, depending on the investments made. This second face of medicine becomes morally ambiguous, for example, because it contributes to the segmentation of people into the better and worse ones, more and less valuable. Economic disparities are becoming more pronounced as not everyone can afford these aesthetic medical services. The cost of liposuction is approx. PLN 3,900, abdominoplasty—PLN 4,900, breast enlargement—PLN 3,500, breast reduction—PLN 4,900, cheek lifting—PLN 3,900, and eyelid surgery—PLN 2,900 (Sarnowicz, 2006). Added to this are dental procedures (one implant costs approx. PLN 8,000), dermatological treatments (Botox—PLN 1,000), beautician’s and hairdresser’s services as well as designers’ consultations usually combined with the change of wardrobe. The prices vary significantly and depend on the prestige of the clinic, as well as the medical procedure used (equipment, the form of treatment, materials, etc.). Nevertheless, these are not cheap procedures. Therefore, those who can afford the costs are made more beautiful, becoming even more attractive, desirable or rich. Most people are only left frustrated, and this frustration is the cumulative effect of dissatisfaction with one’s own body and economic constraints preventing its change. Such people are left only with the possibility of participating in television programmes in which they make an exhibitionist act of having their bodies publicly improved.

Medicine, manipulating the human body, also manipulates the mind and personality of man. Plastic surgery carries a huge risk of psychological problems for both patients and their immediate environment. For many people, it seems that after the surgery not only their appearance will change, but also their character, personality, and financial, marital as well as social problems will disappear. Reality after the surgery verifies this illusion quite quickly, leaving scars on the body and soul. Very often, plastic surgery is a threat to the youngest members of the patient’s family, as children do not recognise a new face of their parent or relative after surgery. This can have very serious negative consequences in the relationship between the person who has undergone the procedure and the child.

What is the purpose of contemporary aesthetic medicine—repairing what has been damaged, or creating something new, better, based on what was old and good? In other words, does the doctor have the right to model the patient’s body
according to the preferences of the latter, despite a lack of health reasons, or should medicine help only when the patient’s life and health are in danger? This question does not concern only plastic surgery, but also genetic engineering that enables manipulation of the human genome or prosthetics, i.e. implantation of artificial organs. The answer should consider the medical, psychological, social and economic aspects, as it is impossible to talk about these issues and not to mention their commercial dimension. This question about the purpose of aesthetic medicine can be extended to medicine in general. Not only has the body becomes a commodity, health in general has become commoditised, and the state of one’s depends not on the biological conditions but on one’s financial resources.

Aesthetic medicine is commercial medicine, market-oriented, which has little to do with social service or conscience. Each doctor has the right to refuse to perform a medical procedure citing the clause of conscience. Nobody has heard of such a behaviour among plastic surgeons or dentists, but it is quite common, for example, among gynaecologists. Of significance is probably the fact that aesthetic medicine is basically a completely private activity, while gynaecological services are performed both privately and state-run institutions. A private practice often has completely different rules and a system of values. As it is a commercial activity, it is subject to market regulations, not moral regulations. Improvement and beautification become more important than medical treatment.

A serious consequence of medicalisation of old age and popularisation of plastic surgery is the commercialisation, and thus the commoditisation, of the human body. Medical specialisations have already introduced a significant fragmentation of man into individual organs, treated by many doctors narrowly specialised in the pathology of a specific organ. The patient is dehumanised and ceases to be an actor or a partner and is perceived as a sick pancreas or a badly prognostic cancer. Aesthetic medicine further deepens this depersonalisation, assigning a material value to the human body, just as the price of a car and its individual parts are established. A facelift begins to resemble the straightening of a car’s body after an accident. Advice by stylists and make-up artists is comparable to needing a new paint job, and dental implants—a set of new tires. This “repaired” man “leaves” the beauty salon and enters the world where the cult of youth and success dictates the rules.

5. Conclusions

General medicine is currently generating many discussions about its achievements, discoveries and activities, as well as the effects of these activities. The definition of health comprises an overall well-being including physical, mental

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6 It is a completely different matter to hide behind the clause of conscience in a state-run facility, while at the same time unscrupulously performing abortions or prescribing contraceptives in private practice. These phenomena, however, though pathological, have slightly different origins and merit a separate study.
and social dimensions instead of using the absence of illness or disability as the criteria. However, ways to achieve this well-being are changing, and technological advances are being widely used. On the one hand, medicine is focused on saving human life. Its basic principle is “do no harm”. It should be emphasised, however, that this does not refer only to a purely medical dimension, in the form of iatrogenic errors, but also to mental and social harm that is far more serious in its consequences. On the other hand, medicine is increasingly commercialised, becoming one of many service-provided companies. Its goal ceases to be the change from the “bad” state to the “good” state, but increasingly often the goal is the change from the “good” to the “better” state. This is particularly visible in the field of aesthetic medicine, which is extremely commercialised nowadays. This fact has several negative consequences, such as:

1. Psychological effects of cosmetic procedures and plastic surgery, not always in line with patients’ expectations;
2. An increase in social inequalities and progressive polarisation between the very rich and very poor, the beautiful and ugly, the improved and damaged;
3. Financial consequences associated with the need to repeat some treatments;
4. Social consequences related to new fashions and new ideals of beauty and success redefine interpersonal relationships that were once based on knowledge, experience, opinions or interests, and are replaced by the external appearance;
5. Making the external appearance a value in the labour market equal to knowledge and skills;
6. The fluidity of “self”, instability of the self-conception, and consequent mental imbalance leading to emotional and personality disorders;
7. Moral consequences related to blurring the boundary between what is real and natural, and what is artificial and created.

Aesthetic medicine can be a tool for rebuilding one’s identity, but only in justified cases (genetic defects or personal injuries due to accidents). However, by offering its services as a key to solving personal and professional problems, medicine can lead to disturbances in the sphere of self-image and self-conception, and therefore, must reckon with moral objections.

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The use of modern technology by financial institutions in combating financial exclusion*

Abstract

Financial exclusion can be considered as one of the important problems in countries at the average level of socioeconomic development that include, among others, Poland. It consists in the presence of difficulties in accessing and/or using financial products and services available on the main market that meet the needs of individuals, which prevents them from leading a normal life in society. Due to its own characteristics and trends in financial markets, this phenomenon is closely linked to the issue of the digital divide. Accordingly, it can be seen that solutions leading to the reduction of financial exclusion are based on tools using information technology innovations and modern technologies. One of the methods recognised as the most effective in this area is financial education, aimed largely at children and adolescents, which additionally justifies the choice of such tools. It is equally important to determine the extent to which modern instruments are preferred in comparison with traditional ones. The aim of this paper will be the analysis of the solutions based on modern technologies that are used in actions taken to prevent financial exclusion in selected EU countries, including Poland. The structure of the paper is as follows: the first part will present the problem of financial exclusion (identifying groups particularly at risk), then a review of methods of preventing and combating financial exclusion will be presented, with particular emphasis on modern ICT tools, and the final part will indicate possible

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directions and barriers to the solutions that may lead to a reduced level of financial exclusion of individuals. The methods used include an in-depth analysis of the literature and a review of existing solutions which financial institutions provide on the Web.

**Keywords:** financial exclusion, financial education, Information and Communication Technologies (ICT)

**JEL Classification:** D14, G21, O33

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1. Introduction

Financial exclusion and development of modern technologies are phenomena whose significance and impact on contemporary socio-economic systems (perceived from the perspective of individuals as well as society) are constantly growing. It is worth emphasising that these issues are closely related. Observation of trends in the financial markets (not only in highly developed countries but also in countries at the average level of socio-economic development such as Poland) allows one to state clearly that products and services offered by financial institutions are increasingly complex. In addition, along with the increase in complexity, the ways of their distribution and promotion are changing, becoming increasingly based on the use of modern technologies. These processes contribute to the intensification of financial exclusion and create the situation in which individuals (groups of individuals) who have problems with access to the Internet or using tools based on modern technologies are particularly exposed to this type of exclusion, which leads to further negative implications. It is noteworthy that one of the most important methods of combating financial exclusion and limiting its adverse consequences is financial education and actions to improve the level of financial literacy. Significantly, these solutions are often implemented through the Internet or applications that utilise remote access to resources. The question arises whether the modern technologies can aid in preventing financial exclusion.

The aim of the article is to analyse how the solutions based on modern technologies can influence the formation, scale and intensity of the financial exclusion in Poland as a European Union country characterised by a relatively high level of financial exclusion (European Commission, 2012, p. 13). Particular attention has been paid to economic education, to which unusually broad possibilities not only to combat financial exclusion but also to support the processes of financial inclusion are attributed. The article assumes that this type of education and related activities are an effective tool that in a long-term perspective may permanently reduce financial exclusion and, above all, its negative effects in countries characterised by at least the average level of socio-economic development. This refers to a situation in which only a small percentage of the population would be affected.
On the other hand, one should not overlook issues related to the implementation by banks of new tools that help individuals in their access to financial products and services and create better opportunities to use them. Although the purpose of their introduction is often not to combat financial exclusion, they actually lead to the reduction in the level of this phenomenon.

The article is divided into three parts. The first part presents the issue of financial exclusion with its specific features. This section also includes a brief description of the groups most exposed to this type of exclusion. The second part presents a review of the methods that contribute to countering and combating financial exclusion. Particular attention is paid to the tools based on IT innovations and modern technologies. The considerations are also extended to include possible barriers to taking action in this area. The final section is devoted to the conclusions of the present analysis.

The article is based on an in-depth analysis of the available literature, specifically relating to Poland where the banking penetration ratio is lower than in other European Union countries. It is supplemented with a review of existing solutions (including their evaluation) based on the analysis of the content of websites of individual financial institutions and other entities whose activities are related to the financial market. Therefore, the article is mainly theoretical in nature.

2. Financial exclusion—its nature and specificity

Financial exclusion can be defined as a phenomenon related to a situation in which individuals have problems with access and/or use of services and financial products available on the so-called mainstream (regulated by law) market that meet their needs, enabling them to lead a normal life as members of society (European Commission, 2008, pp. 9–10). This means that some people cannot fully fulfill their financial needs (and thus, indirectly, also other needs that are associated with the flow of financial resources) due to the existence of barriers of a non-natural nature (e.g.: a lack of resources that can be allocated to savings) and barriers created by financial institutions (e.g.: too high demands placed on a group of potential clients considered unattractive or potentially unreliable by financial institutions). In addition, it is worth mentioning people referred to in the discourse as self-excluded persons. This group is divided into two categories of individuals:

1. The banking penetration ratio can be understood as a concept that relatively well reflects the level of availability of banking products and services. Although in the literature this term is not clearly defined, the banking penetration ratio is usually described by means of indicators determining the degree of use of the bank offer by individuals (including, in particular, taking into consideration the number of bank accounts or payment cards held, and less frequently—savings products, loans and insurance) or the number of branches of financial institutions or cash dispensers per a given number of inhabitants. Cf. analyses carried out by the National Bank of Poland (e.g. Koźliński, 2009) or publications and resources made available by the World Bank (e.g.: Demirgüç-Kunt & Klapper, 2012).

2. The reasons for financial exclusion are usually divided into demand, supply and social ones (cf. European Commission, 2007).
those who are not willing to participate in financial market processes and those who are not aware of how and why they could or should participate in this market. Regardless of the reasons for their lack of using financial products and services, the presence of modern technologies is an important factor, on the one hand, determining the decisions of these people in the sphere of personal finance management, and on the other, enabling them to take actions as financial market participants.

Due to their specificity, several social groups are primarily exposed to financial exclusion. It should be noted that although each of them is characterised by different special features, often the criteria for belonging to these categories overlap (these people can be assigned to more than one group). The following persons are particularly threatened by financial exclusion (cf. Alińska, 2011, p. 11; Szopa & Szopa, 2011, p. 20):

1. with low economic status,
2. with a low level of education,
3. elderly (50+),
4. from rural areas,
5. disabled,
6. having a certain set of specific psychological features that constitute a strong disincentive to the use of the financial market (e.g.: fears of modern technologies or the habit of cash payments),
7. young persons, including those inheriting the financially excluded status, but also those who do not have a “history” of cooperation with financial institutions.3

In the case of each of the above-mentioned groups, particularly vulnerable to financial exclusion, it is possible to distinguish a specific set of conditions that contribute to the difficulties in access and use by those individuals of financial market products and services. For example, people with low economic status tend to be a group of unattractive clients (cf. Błędowski & Iwanicz-Drozdowska, 2010, pp. 8–9). This explains a general lack of offer specifically addressed to these groups of people. The “standard” conditions are often out of their reach and too costly. Poorly educated people are often unable to make the optimal choice for themselves, which, for example, results in incurring too high (sometimes even unnecessary) costs for an offer not suited to their needs. Problems in their case may also be related to electronic and mobile banking, where all the activities must be done by customers, without the participation and possible help of the staff of a given financial institution. On the one hand, seniors perceive the financial sector as dangerous (associated with a possible loss of funds), on the other hand, they treat the personnel of financial institutions as trustworthy, which means that they buy products that they do

3 It should be remembered that the situation of young people should be considered from two perspectives. On the one hand, the offer is often directed to them, and products and services are adapted to preferences of students and people starting their careers. Banks treat them as prospective clients, even if they do not constitute a profitable group in a given period. On the other hand, the group of financially excluded (or those at risk of this type of exclusion) young people is relatively heterogeneous. An additional factor leading to their exclusion is undoubtedly their background and the environment from which they come (understood both in terms of their socio-economic status and territorial status).
not need or they do not read contracts, which in turn translates into their later reluctance to use the financial offer. At the same time, digital exclusion is a major problem for elderly people (Kubicki, 2013, pp. 44–47). According to the data of the Ministry of Administration and Digitisation, approx. 70% of Poles over the age of 50 do not use the Internet (Kapieszewski, 2014, p. A5). Data from the National Bank of Poland survey conducted in 2011–2012 regarding payment habits of Poles (Koźliński, 2013, p. 96) indicate that among bank account holders, 24% are 65 years old or older. Only half of the respondents in the 55–64 year age group have access to online banking. In the case of senior citizens, financial exclusion of people living in rural areas and in small towns depends, to a large extent, on their lack of access to the Internet⁴, which makes it impossible to use the electronic offers provided by the financial institutions. The problem is compounded by the lack of a sufficient number of bank branches and cash dispensers located outside larger urban agglomerations. The situation is different, however, in the case of disabled people (Gajda, 2010), for whom e-banking can be a factor of an inclusive nature in terms of participation in the financial market (provided that websites are adapted to the capabilities of these clients—primarily people with visual impairments). If, on the other hand, the group of young people is to be seen as particularly vulnerable to financial exclusion, the main characteristics will certainly be: the relatively low percentage of use of financial products and services by people under 24 (which, however, is well justified by low demand due to their age) and the relatively frequent use of this offer via remote channels (cf. Gajda, 2010, pp. 24, 95). In the group of young people, however, the key issue is a lack of adequate knowledge and financial literacy. The skilful use of these attributes would make it possible to avail of the offer in a conscious, rational manner and adequately to existing needs, and thus should result, among others, in the reduction of the risk of later financial problems of such a person.

Thus, it can be noted that the process of financial exclusion is determined by many factors, the most important of which are those of a social, economic, legal and territorial nature (Ziembka, Świeszczak & Marcinkowska, 2014, p. 146). In addition, they include the factor associated with the dynamic development and use of modern technologies on a wider scale.

3. **Modern technologies and counteracting financial exclusion**

The use of modern technologies by financial institutions in the light of the process of counteracting financial exclusion can be analysed taking into consideration several aspects. It should be emphasised that the relationship between the implementation of technological innovations and activity in the area of combating financial exclusion depends on the entity that chooses the solutions in the framework of its business activities and formulated objectives.

⁴ However, it should be noted that according to the data presented in the survey carried out at the request of the NBP, 28% of people from rural areas do not have a bank account at all (cf. Koźliński, 2013, p. 25).
One should point to the activities in the field of broadly understood financial education that are conducted by various institutions—financial and non-financial, commercial and non-commercial, with a national and international scope. The review of websites shows that these initiatives (especially when taken by financial institutions) are to a large extent based on modern tools that require an Internet connection. The National Bank of Poland has been running the NBPortal Internet platform for over ten years to disseminate knowledge about the market economy, the rules regarding the functioning of financial markets, and to cultivate appropriate attitudes. Its goal is to bring the economic knowledge to children, the young adults, teachers, seniors and people with disabilities. On the websites of the central bank and other commercial banks (those which, in the framework of the implementation of the concept of Corporate Social Responsibility or socially engaged marketing, conduct activities aimed at increasing financial literacy), there are numerous online games, quizzes, interactive simulations and multimedia presentations. This trend is similar to the directions of initiatives undertaken by the banking sectors in the other European Union countries, such as the central bank of Germany or Lithuania.

The use of modern technologies (not only as part of activities in financial education, but also within the basic activity carried out by financial institutions) is a factor encouraging above all young people (up to 24 years of age) and persons who in everyday life (including their professional life) use similar tools. In the case of these customer groups, the lack of electronic banking in the institution’s offer may lead to the self-exclusion decision.

The financial institutions are creating and offering free applications that are easy to use to manage one’s money. For instance, applications that teach how to save money develop positive saving habits. These applications, due to the simplicity of their use and their attractive form, are an effective response to the needs of people with a low educational level whose intellectual capabilities to predict the consequences of, for instance, borrowing large sums may be limited. The problem, however, is a lack of knowledge about the existence of such applications. The target groups (due to their earlier exclusion by financial institutions or because of self-exclusion) may be unaware of the services and the financial products available to them.

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5 These institutions include in particular: commercial and cooperative banks, associations of commercial banks, foundations operating at commercial banks, central banks, the European Commission, the Organisation for Economic Cooperation and Development, the European Financial Inclusion Network and non-governmental organisations (e.g.: the Microfinance Centre, the Association of Third Age Universities or the Rural Development Foundation). The term “conducting activities” is also understood in this sentences as implementing directives and developing recommendations or creating legal conditions, and not only implementing specific programmes, which result in reducing the level of financial exclusion.

6 The content of this platform is available at the following address: http://www.nbportal.pl/.

7 In addition to numerous interactive materials, the interactive Museum of Money can also be such an example: http://www.bundesbank.de/Navigation/DE/Bundesbank/Geldmuseum/geldmuseum.html.

8 On the bank’s website, one can, among others, find multimedia materials, and bank employees organise on-line training: http://www.lb.lt/education.

9 It should be taken into account that these individuals have difficulties using the computer and the Internet in general (cf. Czapiński & Panek, 2014, pp. 377–378), however, the level of complexity of programmes facilitating the management of personal finances is minimal.
The financial institutions are also using similar technologies to reach and serve the people with hearing, vision, and motor skills. The elderly, especially with various disabilities may have similar needs and expectations regarding the financial products and services.¹⁰ For those with mobility difficulties, the possibility of using financial services via remote channels within the electronic banking framework cannot be overestimated. However, to obtain access to these services, one usually has to visit a bank branch. The banks are increasingly being remodelled to accommodate the needs of such people. In highly developed countries such as France, one may find special buttons placed outside the door to call an employee who will help the disabled. For people with visual and hearing impairments, the issue related to the use of websites (e.g. adjusting the font size or contrast as well as client authorisation mechanisms)¹¹ and the diversification of devices that support applications such as telephone banking are important. Interestingly, the banks operating in Poland are reluctant to adapt their websites to the needs and expectations of people with disabilities. The disabled citizens in Poland, more so than other social groups, are affected by digital exclusion that prevents them from accessing and using products and services offered in the financial market.

The reduction of digital exclusion is also one of the essential premises for counteracting financial exclusion that has a territorial basis. It seems that the development of electronic banking is more justified from the point of view of financial institutions in terms of incurred costs and investment efficiency. According to contemporary trends, banks are spending more and more money on broadly understood universal electronic banking. This translates indirectly into the number of bank branches opened. Therefore, people from less urbanised areas can quickly meet their financial needs by means of video-conferencing. It is worth emphasising that such solutions supported by numerous initiatives in financial education. Equipping the rural libraries with computers and the Internet, providing training in personal finance management, and using various forms of communication are some of the ways of getting people interested in entering the sphere of electronic banking or just economic and financial issues.¹²

The latest in the digital technology are the biometrics devices. Digital biometric tools are quick and reliable ways for authentication of clients and authorisation of transactions based on individual personal characteristics such as fingerprints, finger or hand veins, the pupil pattern, or voice recognition (Kuchciak, 2011, p. 226). Since such technology is new and arrived in Poland in 2010 when Podkarpacie Bank Spółdzielczy installed a biometric cash dispenser,

¹⁰ This does not refer, however, to the type of products and services or the criteria that must be met in order to be able to use them.
¹¹ For example—the need to adapt tokens to the needs of the blind or introduce a different verification method than a one-time code card (cf. http://di.com.pl/oferty-bankow-w-sieci-a-niepelnosprawni-34032).
¹² Such initiatives include: the Library Development Programme, implemented throughout the country in more than 3,800 libraries in small towns: http://www.biblioteki.org/pl/o_programie/o_programie or the project co-financed by the National Bank of Poland “On finance in the library” (http://www.biblioteki.org/repository/PLIKI/O_FINANSACH/opis_projektu.doc).
(https://www.pbsbank.pl/biometria1), it is possible to indicate only some of its applications. Thanks to biometrics, one no longer needs identity cards for customer verification, nor is it necessary to memorize passwords, or personal identification numbers (PIN)—often the problems with the elderly and those with lower social status. Using biometrics, it is also easier to establish the credibility of an individual, based on his or her history of cooperation with financial institutions, which could contribute to a more reliable assessment of a given client. Another example (used in Poland) is the streamlining of the payment of social benefits to the entitled persons improving the quality of service, security, and reducing the waiting time (Woszczyński, 2013, pp. 48, 50).

Based on the review of presented methods and tools, it can be seen that the use of modern technologies in financial institutions is very extensive. Their role in the process of combating financial exclusion is significant, and it can be assumed that this role will continue to grow. Importantly, financial sector institutions themselves are interested in developing this type of innovations. An additional advantage of modern technologies is the fact that they can be applied to different groups of individuals who are particularly threatened by the process of financial exclusion. At the same time, it should be noted that Poles declare very high confidence in innovative technologies and the level of security of transactions concluded via the Internet, and the level of these services offered by financial institutions in Poland is also high, which may additionally facilitate their development and effectiveness in combating financial exclusion.

4. Conclusions

Thus far, due to the limited access to the IT networking in Poland, a lack of computers or devices that allows electronic banking and a lack of knowledge about using such tools a relatively high percentage of households is deprived of access to financial products and services via the Internet. This is all the more significant since the financial institutions increasingly prefer the individuals to contact and make transactions through remote communication channels, which is manifested, among others, in diversifying the level of prices of products and services. These barriers are particularly visible in the case of the elderly; however, they also apply to residents of rural areas (and poorly urbanised areas) as well as to people with low incomes and low education levels. Seniors are often reluctant to use modern solutions that are too dynamic for them, and sometimes also require too much

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14 According to the Social Diagnosis (Czapiński & Panek, 2014, pp. 357, 367) data for 2013, approx. 30% of households did not have a computer and approx. 33% of households had no Internet access, additionally a lack of Internet skills was the reason for a lack of access to the Web for approx. 25% of households, and finally approx. 15% of households that had the Internet did not use it.
The use of modern technology involves improving precision (e.g.: in the case of using touch screens) or remembering a number of passwords.

On the other hand, as a result of adapting technology to the declared needs of individuals (potential clients) so as to encourage them to use the widest possible offer of financial institutions, many methods to facilitate access to products and services are being introduced. For example, the use of biometrics, which results in no need to memorise passwords, faster and more comprehensive verification of the credibility of the client, and even in eliminating the presentation of documents confirming one’s identity. In addition, there are numerous manuals and guides (in various forms) on how to use the proposed tools. At the same time, the impact of a demographic factor cannot be overlooked. A generational change is taking place, as a result of which individuals entering old age are already able to use modern technologies (among others, because they used such technologies during their professional career). For people of working age, solutions based on modern technologies constitute a significant facilitation in everyday functioning, additionally limiting transaction costs. Moreover, multimedia applications are attractive also for the young generation, for whom the use of the Internet is very often an important part of life, thanks to which (in conjunction with numerous programmes of financial education addressed to youth and young adults) acquiring knowledge in the field of economics and finance by this generation is easier and is done more readily.

On the basis of the considerations carried out in the text, it seems justified to state that modern technologies should be included among factors that exert both a positive and negative influence on the level of financial exclusion. However, observing trends in socio-economic systems at the average and high level of development, as well as demographic phenomena and processes along with activities undertaken by institutions related to the financial sector (or affecting it), it can be assumed that the first of these trends should gradually become dominant. This should also be facilitated by the fact that technological innovations, due to their nature, are very flexible in adapting to the needs of both financial institutions and their clients (current and potential).

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The essence of the Bank Guarantee Fund’s activity and related dilemmas in the context of banking system stability*

Abstract
The deposit guarantee system in Poland was devised at the time of the economic transformation. Its creation resulted from a difficult situation in the banking sector, and so it was meant to be an antidote to clients’ problems associated with the insolvency of collapsing banks and with adjusting to European community law. The aim of this work is to present the Bank Guarantee Fund—an institution that is part of the financial safety net, whose main task is to protect the interest of depositors and to ensure the banking system’s stability. The paper looks at some aspects of the growing interest in bank deposit insurance schemes and lively discussions on the subject during a crisis in banking markets. In response to the crisis that started in the subprime lending market in the USA and spread to other segments of the financial markets as well as to other countries, the ECOFIN made a decision to increase the existing guarantee limits for individual persons and to speed up the payout of guaranteed funds. The above changes were aimed at strengthening the security of clients and increasing confidence in the banking sector.

Keywords: Bank Guarantee Fund, deposits, stability

JEL Classification: E52, E58

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1. Introduction

The deposit guarantee system in Poland was devised at the time of the economic transformation. Its creation resulted from a difficult situation in the banking sector, and therefore it was to be an antidote to customers’ problems related to the insolvency of failing banks and the adjustments to Community law. The aim of this work is to present the Bank Guarantee Fund, an institution that belongs to the financial safety net, whose main task is to protect the interests of depositors and to ensure the banking system’s stability. The stabilizing function of deposit guarantee schemes consists in preventing a general panic among depositors when a crisis in the financial markets arises. Yet, this existence of this scheme brings not only benefits, but also involves certain risks. Some studies demonstrate that the danger lies in the obligatory, non-market character of this scheme, leading to moral hazard, a stronger inclination to take greater risk in order to maximize profit (Pawlikowski, 2010). The thesis of this paper concerns the growing interest in bank deposit insurance systems and the revival of the discussion on their activity in a time of crisis in the financial markets.

2. The specificity of the functioning of deposit guarantee schemes

As an institution, a bank is of a dual nature. On the one hand, it functions as an enterprise and is focused on increasing the profits and market value of the company. On the other hand, it is an institution of public trust, and consequently, its good image and clients’ confidence in the security of entrusted funds is of overriding importance to the stability of an individual bank and the entire banking system, as well as the related economy. In order to earn the trust of clients, drawing on the experience of other countries, the Bank Guarantee Fund (Polish: Bankowy Fundusz Gwarancyjny, hereafter: BFG) was created in Poland, which is—among other things—a deposit insurance system. The first deposit guarantee fund was established in the United States in 1934 in the aftermath of the Great Depression (Szczepańska, 2008, p. 61). Deposit guarantee schemes exist not only in the developed world, but are also present in African countries. Typically, one scheme is designed in each country; yet, sometimes there are more. In some regions of the world, a single scheme is drawn up for several countries, e.g. the Central African Republic, Chad, Congo, Equatorial Guinea and Gabon (Jurkowska-Zeidler, 2008, p. 196). The organization and competences of the funds vary. According to the scope of functions, two main models can be distinguished:

(1) narrow—paybox,
(2) wide—risk minimizer.
Under a narrow mandate (*paybox*), only the guarantee activity is undertaken, which consists in the payout of deposits in the event of the bank’s failure. Under a broad mandate (risk minimizer), however, in addition to performing the guarantee function, financial assistance is provided to banks that are at risk of crashing. The decision about which model is chosen depends on the condition of the banking sector, its level of concentration and the nature of the ownership structure (Zdanowicz, 2007, p. 34).

Apart from the scope of the functions served, the difference between guarantee schemes relates to their administrative structure. In this case, schemes can be divided into the following categories:

1. **Public**—implemented by public authorities (mandatory participation, as authorized by the law),
2. **Private**—implemented by representatives of the banking sector (voluntary participation),
3. **Mixed**—implemented jointly by public and private entities.

Public funds prove to be an effective solution in countries where the banking system is stable, and there are no major threats to financial markets. In other cases, schemes of private and mixed funds are adopted (Zaleska, 2007, p. 218).

3. **The essence of the BFG’s activity**

The Bank Guarantee Fund was established by the Act of 1994, in accordance with Directive 1994/19/EC of the European Parliament and of the Council of 1994 on deposit-guarantee schemes, and its mission is: “to contribute to the safety and stability of banks and to increase confidence in the banking system” (www.bfg.pl). The BFG was set up in order to carry out the operations of the mandatory and contractual deposit insurance schemes. The goal of the mandatory deposit insurance scheme is to provide depositors with a payout up to the amount of guaranteed funds in the event of their unavailability. The goal of the contractual guarantee scheme is to extend aid to entities covered by this scheme. The above goals are attained through specific tasks, among which can be listed (Act of 14 December 1994 on the Bank Guarantee Fund):

1. protecting funds deposited in the accounts of natural persons and other entities, who entrust their money to banks (personal deposits in PLN and foreign currencies by natural and legal persons, including local government units, school savings associations and employee assistance-and-loan associations, units who cannot assess financial risk on their own). These deposits are kept at all domestic banks (i.e., those with registered head offices located within the territory of Poland);
2. providing banks with financial assistance if a threat of insolvency arises;
3. supporting the merger processes of threatened banks (the acquisition of stock or shares, or receivables of the bank facing a threat of insolvency);
(4) collecting and analysing information on entities covered by the guarantee system, preparing analyses and forecasts regarding the banking sector, as well as undertaking initiatives and taking preventive measures to maintain the stability of the banking system.

Two main areas of the Fund’s activity are usually indicated—mandatory deposit insurance and discretionary financial assistance for banks with solvency problems.

While analysing the guarantee function, it can be observed that the guaranteed funds covered by the BFG protection constitute the basis for determining the amount of financial resources owed to an individual depositor. This benefit is calculated in the event of the bankruptcy of any bank in the amount specified in the amended BFG Act of 2010, according to which the deposit amount not exceeding the PLN equivalent of EUR 100,000 is guaranteed in its entirety (Act of 16 December 2010 amending the Bank Guarantee Fund Act and certain other acts). The calculation of the guaranteed amount is based on all funds accumulated in a bank (also electronically, online) by one person. Irrespective of the number of accounts (e.g. term deposits, current accounts, savings and settlement accounts), they are treated as one deposit. Joint accounts are also covered by the guarantee. Each joint account holder is entitled to a separate guaranteed amount. Each of the spouses is seen as a separate depositor regardless of their mutual property relationship (Act of 14 December 1994, on the Bank Guarantee Fund).

The basis for calculating the guaranteed amount is the sum of funds deposited in all accounts. Irrespective of the currency in which the deposit is denominated, the guaranteed funds are disbursed in PLN, after calculating the value of the foreign currency deposit according to the exchange rate from the day of the bank’s failure. It is also possible to recover some of the deposits that are not guaranteed by the BFG. They constitute depositor’s claims against the bankruptcy estate of a bank and can be recovered during the bankruptcy proceedings. Moreover, it should be noted that in the case of certain products available to clients, the bank acts solely as an intermediary in their sale (this applies to, for instance, units in investment funds or insurance products) and hence, they are not covered by the guarantee scheme. Only the deposit component of the product is insured (Act of 14 December 1994, on the Bank Guarantee Fund).

The following are excluded from the group of depositors protected by virtue of the Act of 14 December 1994, on the Bank Guarantee Fund: the State Treasury, domestic and foreign banks, credit institutions, entities trading in financial instruments, insurance companies, investment funds, pension funds, major shareholders of the bank holding at least 5% of the shares as well as bank management staff.

In the event of bank bankruptcy, the BFG collects funds from all banks to pay out the amounts guaranteed to the clients of the failed bank, as at the day of the suspension of the bank’s operations, plus interest due accrued up to the day of the fulfilment of the guarantee condition. The Fund assumes liabilities towards the depositor on the day that the operations of the bank are suspended by the Polish Financial Supervision Authority (Polish: Komisja Nadzoru Finansowego) and a petition to declare its liquidation is filed. Once the bank is declared insolvent, the
manager or trustee in bankruptcy reimburses the guaranteed funds in places and on
dates that are publicly announced. Depositors may apply to the BFG for the dis-
bursement of due funds within a period of 5 years from the day the bank was de-

The Bank Guarantee Fund provides banks with returnable financial assistance
in the form of loans, guarantees and suretyships, as well as the acquisition of re-
ceivables, which are intended for eliminating the risk of insolvency or acquiring
stock and shares of the bank by new stockholders or shareholders. The financial
assistance provided by the BFG is more beneficial compared to that offered by
banks, as demonstrated in loans, guarantees and sureties with lower interest rates,
from which lower commissions are deducted and more convenient time frames for
the repayment are set. Since June 2002, the interest rate on loans granted by the
Fund is, on an annual basis, between 0.1 and 0.4 of the rediscount rate. The
amount of the commission was set at:

1. 0.3% of the loan amount for joint-stock banks and state-owned banks,
2. 0.1% of the loan amount for cooperative banks.

The BFG assesses the risk of insolvency occurrence resting on an analysis of
the bank’s economic and financial standing, taking into account both the scale and
the reasons for its financial difficulties. It is understood that the insolvency risk
occurs in a situation when the solvency ratio falls below the required target set out
in separate regulations and when a balance sheet loss was incurred by the bank.
What is more, the analysis of the insolvency risk occurrence involves an assess-
ment of the trends of the basic economic and financial ratios of the bank compared
to averages in particular sectors, namely (Act of 14 December 1994, on the Bank
Guarantee Fund):

1. gross return on assets,
2. the ratio of gross non-performing assets to total gross assets,
3. the encumbrance of the bank activity results with operating expenses,
4. the encumbrance of assets with operating expenses,
5. the encumbrance of bank activity results with the balance of provisions.

The Fund performs an analysis of the economic and financial standing based
on documents and information submitted by the applying bank. The evaluation of
the bank’s situation is made in terms of the capacity to produce such an aid effect
that would allow the threat of insolvency to be eliminated. At the same time, what
is also assessed is whether the applying bank will be able to repay loans along
with the accrued interest within a fixed period. The Fund’s Management Board
analyses applications of the banks that meet the statutory and economic conditions
to receive assistance (Act of 14 December 1994, on the Bank Guarantee Fund). As
for the nature of the BFG’s assistance activities, it is founded on the following
assumptions:

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1 The detailed terms and conditions of financial assistance provided by the Bank Guarantee Fund,
along with a list of documents and information that should be submitted in conjunction with the appli-
cation were stipulated by the BFG Council in Resolution No. 57/97 of 20 November 1997, as amended
1. adhering to the principle of the equal treatment of banks in their access to assistance funds and the transparency of the criteria and procedures for granting aid,

2. making the aid available to banks as quickly as possible in order to minimize losses,

3. supporting the consolidation and restructuring processes by granting aid for the takeover of banks threatened with insolvency by strong banks,

4. motivating applicants to seek additional sources of financial support, outside the BFG, in order to implement rehabilitation programmes,

5. ensuring the economically high effectiveness of assistance, for instance, by setting out such conditions of the loan agreements, would allow banks to recover their solvency permanently.

The financial aid granted by the assistance fund comes from obligatory annual fees paid by all banks that are covered by the mandatory guarantee system. The Fund’s Council established the rate of the obligatory annual fee in 2010 at 0.045% of 12.5 sums of the capital requirements for specific types of risk and of the capital requirements for exceeding limits and violating other norms specified in the Banking Law.

4. Dilemmas related to the functioning of deposit guarantee schemes

Evaluating how the Bank Guarantee Fund, as well as other funds of this type, operate, one may ask whether it is justified to guarantee bank deposits in a free market economy. The arguments are offered for and against institutionalizing the insurance of funds deposited in banks. Proponents point to the fact that the introduction of a deposit guarantee scheme brings many positive outcomes from the perspective of depositors, the banking system and society as a whole because:

(1) it makes depositors more resistant to bank runs;

(2) it prevents economically weak social groups from becoming impoverished, which means that it has a social aspect, as those who put their savings in banks are usually small depositors who cannot assess the financial standing of a depositary bank;

(3) prevents the reduction of the savings rate.

On the other hand, the “against” arguments most often emphasize that the institutionalized deposit protection:

(1) encourages banks to take excessive risks so as to maximize profits;

(2) reduces depositors’ interest and engagement in seeking access to information on the financial standing of banks;

(3) favours the occurrence of an unfavourable phenomenon referred to as moral hazard, following from the fact that the system protects the parties to the contract against losses, which weakens market discipline among banks and depositors;
(4) brings about the situation in which clients do not attach enough importance to the bank’s risk assessment and opt for those service providers who, in accordance with the principles of moral hazard, tempt clients with the highest interest on deposits and the lowest interest rate on loans;

(5) impairs the normal functioning of the market as a mechanism for the effective allocation of economic resources and calls into question the principles of financial security, leading to a situation in which the whole of society or other banks bear the costs of moral hazard.

Therefore, in the light of practice and theoretical analyses, the view has been formulated that the risk of its occurrence should be reduced by following adequate procedures and adopting specific system solutions – for example, making the amount of the insurance premium dependent on the risk a bank takes, forbidding banks from engaging in activities that involve excessive risk, and constantly monitoring the risks that banks are involved in (Gołędzinowski, 2009, pp. 31–32). Thus, the emphasis is placed on shaping the deposit guarantee scheme in such a way that its benefits will outweigh the costs and inconveniences associated with its functioning.

Gradually, the rules for guaranteeing deposits by the BFG have been modified and modelled on the solutions adopted in the EU, such as (Act of 16 December 2010 amending the Bank Guarantee Fund Act and certain other acts):

(1) correlating the amount of guaranteed funds with the balance of funds accumulated by a depositor on the day on which a bank’s operations are suspended (on the day the funds become unavailable);

(2) determining that guaranteed funds are reimbursed by the trustees in the bankruptcy within 20 days of receiving the deposits from the BFG.

Interest in bank deposit insurance schemes and the discussions on how they function are revived in times of crisis in financial markets. Hence, in response to the crisis that started in the subprime lending market in the USA and spread to other segments of financial markets and to other countries, a decision was made to raise the existing guarantee limits. The EU Economic and Financial Affairs Council (ECOFIN) announced that in order to protect the interests of depositors, all member states would raise the guarantee limits for natural persons to EUR 50,000 (Directive 2009/14/EC of the European Parliament and of the Council of March 11, 2009, amending Directive 94/19/EC on deposit-guarantee schemes as regards the coverage level and the payout delay; for more, cf. Dunaszewska & Ślązak, 2008). Bearing in mind the crisis and the threat to the stability of the financial markets, it was decided that the main direction of changes in how guarantee funds function was a gradual increase of the guarantee limit and a faster payout of guaranteed funds. By the end of 2010, the guarantee limit was raised from the PLN equivalent of EUR 50,000 to the PLN equivalent of EUR 100,000. The purpose of the above changes was to offer clients greater security and to increase their confidence in the banking sector (see: Table 1).
Table 1. The maximum guaranteed amounts

<table>
<thead>
<tr>
<th>Period</th>
<th>Guaranteed amount in EUR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Until Jun 30, 1997</td>
<td>3,000</td>
</tr>
<tr>
<td>Until Dec 31, 1997</td>
<td>4,000</td>
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<tr>
<td>Until Dec 31, 1998</td>
<td>5,000</td>
</tr>
<tr>
<td>Until Dec 31, 1999</td>
<td>8,000</td>
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<tr>
<td>Until Dec 31, 2000</td>
<td>11,000</td>
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<tr>
<td>Until Dec 31, 2001</td>
<td>15,000</td>
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<tr>
<td>Until Dec 31, 2002</td>
<td>18,000</td>
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<tr>
<td>Until Dec 27, 2008</td>
<td>22,500</td>
</tr>
<tr>
<td>Until Dec 29, 2010</td>
<td>50,000</td>
</tr>
<tr>
<td>Until Dec 30, 2010</td>
<td>100,000</td>
</tr>
</tbody>
</table>

Note. Adapted from „Sieć bezpieczeństwa finansowego,” by M. Capiga, W. Gradoń, and G. Szustak, 2010, Warszawa, CeDeWu, p. 84.

In the period until November 27, 2008, guaranteed amounts of over EUR 1,000 were paid out in 90% of the amount to each person, and after November 28, 2008—100%. In addition, until December 30, 2010, the funds owed to a depositor of a given bank on account of the BFG guarantee were reduced by the depositor’s liabilities to the bank, e.g., liabilities resulting from the loan agreement. Under the Act of 16 December 2010 on the BFG, the compensation principle was abolished. The purpose of the above changes was to provide greater security to clients and boost their confidence in the banking sector. If we consider development trends in deposit guarantee schemes, what may draw our attention is the discussion on their character, which can be local or transnational, and the need to create a European deposit guarantee scheme for banks of systematic importance. Yet, there is a problem with defining them, since a bank that is systematically unimportant in its home country can have a considerable impact through a daughter company in a host country. In the age of globalization, an institution for global guarantees should be established, but its creation would require changes in the functioning of the financial safety net (Iwanicz-Drozdowska, 2005, pp. 449–450).

Another problem relating to guarantee funds—which is associated with the rationality in action understood as savings on administration and management expenses as well as economies of scale—is how to implement the concept of integrating organizationally national guarantee schemes in respect of the deposit guarantee schemes with the compensation system for stock investors and the participants of joint investment, or even a guarantee scheme for insurance policies. A solution to this issue could be a temporary transfer of assets between particular funds, which would make it possible to optimize costs (Szambelančyk, 2005, pp. 464–465). Therefore, the institutional protection of depositors’ interest and the stability of the banking system—in the form of the BFG in Poland and other funds in other countries—face numerous structural and organizational questions. Their resolution should lead to the optimization of actions in the conditions of universal integration and globalization in financial service markets as well as to the increase

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Footnote: 2 Changes in the deposit guarantee schemes that are favourable to customers of the banks, Jan 3, 2011.
in client confidence in the financial system, which has an impact on the financial stability, seen as a public good, a prerequisite for economic growth and an improvement in people’s living conditions.

5. Conclusions

In conclusion, a guarantee fund is meant to protect depositors and preserve public confidence in the banking system, as well as to counteract the occurrence of panic breakouts and massive runs on the banks in the event of instability on financial markets. In the Act on the BFG passed on December 14, 1994, which entered into force on February 17, 1995, the legal basis for the deposit guarantee scheme was established, being universal and obligatory in character. Participation in this scheme became mandatory for all banks operating in Poland, regardless of the type of ownership or legal status. The scheme provides coverage to deposits of both natural and legal persons and is grounded in the principle of distributional solidarity. Taking into account the scale of bankruptcy risk in the banking sector and the financial capacity of banks, the Act obliged the scheme participants to jointly collect the resources for guarantees in the form of treasury securities and NBP (National Bank of Poland) money bills deposited in accounts with the NBP. Assets secured in this way constituted the so-called guaranteed amount protection fund, being a reserve of assets controlled by the banks, which, in the event of bankruptcy of one of them, could be used towards the reimbursement of guaranteed amounts to clients.

The objective of the study set out in the introduction has been accomplished, which is reflected in the presentation on the essence of the BFG, with special attention given to the question of the threats resulting from the non-market character of the fund. Additionally, the author discussed changes in the principles of how deposit guarantee funds operate, which are related to the crisis on financial markets, and are aimed at increasing depositors’ confidence in the banking system.

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Mobbing as a problem in management ethics*

Abstract

A positive company image and its good reputation are usually results of ethical and honest behaviour towards employees and may improve competitiveness, increase profits, customer satisfaction, and create new job jobs. However, it often occurs in dynamically developing firms where ethical norms are not kept and this process can be seen in the lack of equal chances to get a job – people without connections remain without work. According to research, mobbing is a very serious problem.

Psychological terror or mobbing in work life involves hostile and unethical communication that is conducted in a systematic manner by one or more individuals, mainly toward one individual, who, due to mobbing, is pushed into a helpless and defenceless position and held there by means of continuing mobbing activities. These actions occur on a very frequent basis (statistical definition: at least once a week) and over a long period (statistical definition: at least six months’ duration). Because of the high frequency and long duration of hostile behaviour, this maltreatment results in considerable mental, psychosomatic, and social misery.

* The article is an updated version of the paper published in Polish in the Annales. Ethics in Economic Life, 14(1), 227–240
1. Introduction

The ethical rules in a given profession can be seen through a socially accepted moral code, which includes matters regarding internal actions and social responsibility connected with the job. Companies that achieve lasting economic success usually treat their employees as the most important assets in managing the firm. The real benefits of the company owners, its management, its environment and workers come from the management styles based on respecting and appreciating their people, sharing responsibility, participation in the results of company actions, possibilities for development. A positive image of companies and their good reputation result from an ethical and honest approach to their staff, which can lead to increased competitiveness, increased profits, customer satisfaction, and creation of new jobs. However, in a dynamically developing private sector as well as in the public area, ethical norms are not always observed, which can be clearly seen in the lack of equal access to jobs—people without connections do not get jobs. According to many analyses, including Polish research, mobbing has become a serious problem in many organisations.

2. The concept of mobbing

The concept of mobbing was introduced in 1984 by Heinz Leymann, a born in Germany Swedish psychiatrist and psychosociologist (Leymann, Gustavsson, 1984). He claimed that mobbing had always been present but it had never been analysed in any systematic way (Leymann, 1996).

The phenomenon of mobbing is affecting more and more employees. It refers to the quality of interpersonal relations in the workplace and how these affect the functioning of people and the institutions. Mobbing means actions or behaviour relating to an employee or directed against them, which consist in continuous and long-lasting harassment, or threatening the employee, which lowers their belief in their professional usefulness and results in or is intended to humiliate or ridicule them, isolate or eliminate them from the team of their co-workers. It is the most dangerous and destructive phenomenon occurring in a workplace, one which has been growing drastically claiming more and more victims (Milerski & Śliwerski, 2000, p. 126).
Mobbing, or psychological harassment in the workplace, has been perceived as a social issue since the late nineteen-eighties, at the end of the yuppies’ era who treated professional aspirations as their highest life ambitions (cf. Maciejewska, 2002, p. 71). Dan Olweus was the first to use the word “mobbing”—he borrowed the term from the work of the ethnographer, Konrad Lorentz. Some researchers call this phenomenon bullying. In a book edited by Jerzy Kwaśniewski titled Badanie problemów społecznych we can also find the phrase “ganging up on someone,” or “harassment,” (Babik, 2003, p. 186) and psychological terror (Hirigoyen, 2002, p. 13).

The term mobbing is applied to psychological terror connected with provoking, isolating, gossiping about, unpleasant comments or behaviours of a group or a person toward another group or person that are aimed at excluding the person from their social or professional group their lives (Moszczyńska, Pałyska & Raduj, 2002, p. 52). Psychological aggression is defined as subjecting an individual selected to become a scapegoat for systematic and stigmatising destructive actions, aiming at damaging their dignity, and physical and psychological integrity. When such an aggression lasts for a longer time, it leads to initially passing, then permanent consequences for the physical and emotional life of the victim caused by prolonged exposure to stress. The most common symptoms are anxiousness, depression, anxiety disorders, phobias, or PTSD.

Research on victims of workplace harassment shows that long-lasting mobbing results in temporary or permanent unfitness for work. The unprecedented proliferation of mobbing in companies clearly leads to an increase in the number of medical leaves, days off work, and increased turnover, which results in multi-million losses for the companies and for the employee it means losing their job due to permanent unfitness for work or disability. Research clearly shows that an employee exposed to long-term moral molestation becomes unable to function properly in any professional context. According to this amendment, mobbing in the workplace in Polish Labour Code means...

actions or behaviour toward or against an employee that consists in continuous and long-term harassing or threatening the employee, resulting in their lowered assessment of the professional adequacy and causing or aiming at humiliating or ridiculing the employee, isolating or eliminating them from the group of other employees... (art. 94, § 2)

3. Conditions and characteristics of mobbing systems

In the literature, there is no single definition of mobbing. All known definitions include only a system of psychosocial characteristics of relations found in the workplace. Lidia Grzesiuk (2008, p. 230) writes about:

(1) its duration—at least half a year;
(2) continuity of harassment that occurs at least once a week;
(3) intentionality of action—of mobbing perpetrators;
seclusion of the victim—the mobber creates a barrier between them and their surroundings, manipulates other employees;

(5) use of malicious means such as lies, plotting, slander, gossip, deception—this is why mobbing has such serious consequences for its victims.

Irena Pospiszyl (2008, p. 279) also mentions conditions and characteristics that must be met for us to speak of mobbing. These are:

(1) duration of harassment (usually a few months or at least half a year);
(2) repetitiveness of harassment, at least once a week (although this is not defined very precisely since it comes from employees’ habits);
(3) imbalance of power between the mobbed and the mobbing;
(4) negative health consequences for the victim.

An expert on mobbing in Poland, Prof. Jarosław Marciniak (2004, pp. 16–17), suggests the following diagnostic criteria for mobbing:

(1) continuous harassment conducted in routinely and consequent manner but with various intensity; the mobber has a consistently negative attitude toward the victim and acts permanently regardless of the change in the victim’s situation or behaviour;
(2) long-term psychological harassment (at least half a year);
(3) mobbing is purposeful, the mobber is hardly ever unaware of their actions; it aims primarily at eliminating an individual from their closest surroundings, weakening their position, forcing them to leave work, but it can also be used for sophisticated manipulation of others and their limitless exploitation;
(4) relation (not only professional); it involves creating pathological relations between people, creating an abnormal system of dependencies between the harassing and the harassed with the former usually abusing their position to make others accept their mobbing actions;
(5) maliciousness and calculation (the perpetrator uses all possible unethical means to achieve the desired goal);
(6) exclusion and isolation of the victim; creating an artificial barrier between the victim and their surroundings leads to their genuine alienation from their social environment or to eliminating them from the team of employees.

4. Phases of mobbing

Mobbing is a gradual process without any clear boundaries between its phases. Stanisław Kozak (2009, p. 174) mentions the following four phases:

(1) rise of conflict, which according to the employee so far unaware of the threat can still be overcome, the conflict escalates and another phase begins;
(2) mobbing action, the victim is in a subordinate position to the perpetrator and finds no support in the workplace;
(3) mobbing intensifies, the victim who defends themselves, sometimes aggressively, becomes a scapegoat because their attempts to intensify their defence result in unjust punishment or their demotion;

(4) aggravation, the number of delegated tasks decreases, the critical position of the victim makes them reach a settlement and quit their job.

These phases show the gradual, seamless intensification of destructive behaviours and actions.

5. Mobbing strategies and perpetrators

Sven Max Litzke and Horst Schuh write that mobbing perpetrators are usually the victims’ superiors or co-workers. They mention several mobbing strategies such as (Kozak, 2009, p. 171):

(1) the strategy of belittling competence—the victim faces the threat of losing some of their responsibilities and duties in the workplace and even of losing their job;

(2) the strategy of isolation—isolating the harassed individual from the rest of the employees;

(3) the strategy of intimidation—enforces certain behaviour intended by the mobber using blackmail or threats;

(4) the strategy of humiliation—humiliation, ridicule or demeaning the harassed individual in the eyes of other employees.

Piotr Chomczyński mentions the three-stage model of Einarsen and Bjorkvist (2008, pp. 92–93), based mainly on the observed change in the intensity of mutual interaction of the parties. It includes:

(1) indirect actions such as spreading rumours, disturbing work (demeaning the victim in the eyes of others);

(2) more direct strategies based on isolating and public criticising or ridicule (public justification of one’s own actions by means of discrediting the victim and eliminating any possible remorse);

(3) actions focused on forming a public image of the victim as somebody mentally ill, irrational; at this stage, the person is often blackmailed (the victim is often prevented from fighting for their rights and from winning over their environment).

6. Mobbing behaviours

Leymann claims that in order to understand the structure of mobbing it is necessary to identify the hostile actions of the mobber. He listed 45 mobbing behaviours grouped into five general categories (Table 1):
Table 1. Mobbing behaviours according to Leymann

<table>
<thead>
<tr>
<th>I. Actions obstructing communication:</th>
<th>II. Actions disrupting social relations:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. limiting communication by the superior</td>
<td>12. avoiding conversations by the superior</td>
</tr>
<tr>
<td>2. constant interruptions</td>
<td>13. not letting the victim speak</td>
</tr>
<tr>
<td>3. limiting communication by co-workers</td>
<td>14. moving the victim to a place away from their colleagues in the workplace</td>
</tr>
<tr>
<td>4. reacting to remarks with shouting, scolding and threatening</td>
<td>15. forbidding the victim’s colleagues to speak to them</td>
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<tr>
<td>5. constant criticising of one’s work</td>
<td>16. ignoring the victim.</td>
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<tr>
<td>6. constant criticising of one’s personal life</td>
<td></td>
</tr>
<tr>
<td>7. harassing on the phone</td>
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<tr>
<td>8. verbal threats</td>
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<tr>
<td>9. written threats</td>
<td></td>
</tr>
<tr>
<td>10. limiting contact with humiliating and demeaning gestures and glances</td>
<td></td>
</tr>
<tr>
<td>11. various allusions without any straightforward communication</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>III. Actions focused on disrupting the social reception of the victim:</th>
<th>IV. Actions affecting the victim’s professional and life circumstances:</th>
</tr>
</thead>
<tbody>
<tr>
<td>17. speaking ill of the victim behind their back</td>
<td>32. not assigning any tasks to the victim</td>
</tr>
<tr>
<td>18. spreading rumour</td>
<td>33. taking away the work that was assigned earlier</td>
</tr>
<tr>
<td>19. attempts at ridiculing the victim</td>
<td>34. assigning pointless tasks</td>
</tr>
<tr>
<td>20. suggesting mental illness</td>
<td>35. assigning tasks below the victim’s competence</td>
</tr>
<tr>
<td>21. referring to the mental examination</td>
<td>36. flooding the victim with ever new tasks</td>
</tr>
<tr>
<td>22. mocking disability</td>
<td>37. ordering the victim to do tasks that are offensive to them</td>
</tr>
<tr>
<td>23. mocking their gate, way of speaking or gestures in order to ridicule the victim</td>
<td>38. assigning tasks that are beyond the victim’s abilities in order to discredit them</td>
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<tr>
<td>24. criticising their political or religious views n</td>
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<tr>
<td>25. joking about and laughing at their private lives</td>
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<tr>
<td>26. laughing at their nationality</td>
<td></td>
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<tr>
<td>27. forcing the victim to do jobs violating their personal dignity</td>
<td></td>
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<tr>
<td>28. evaluating the victim’s work engagement unjustly</td>
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<tr>
<td>29. questioning the decisions they make</td>
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<tr>
<td>30. calling the victim bawdy names or other names aimed at humiliating them</td>
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<tr>
<td>31. unwanted come-ons or sexual advances</td>
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</table>

| V. Actions harming the victim health: | |
|-------------------------------------||
| 39. forcing them to do unsafe work | |
| 40. threatening to use physical violence | |
| 41. using minor physical violence | |
| 42. physical harassment | |
| 43. creating costs to harm the victim | |
| 44. doing physical harm in the victim’s workplace or at home | |
| 45. sexual harm | |

A one-time conflict is not mobbing. For us to recognise the above actions as mobbing other conditions must be met (Litzke & Schuh, 2007, pp. 134–135):

1. Harassment lasts for six months,
2. Occurs quite often,
3. The victim is unable to defend on their own.

With respect to the aim of actions, we distinguish the following forms of mobbing behaviours (Sidor-Rządkowska, 2003, pp. 78–79):

1. Perverse molestation—the destruction of an individual in order to strengthen one’s power,
2. Strategic molestation—forcing the demission of an individual the mobber wants to go but has nothing against. Here the goal is for the victim to capitulate emotionally,
3. Institutional molestation—a management style involving harassing the employees with assigning them tasks that cannot be accomplished which makes them feel permanent guilt and exposes them to criticism. In this manner, one can easily manipulate and exploit without any limits.

**Characteristics of a mobbing victim:** research on victims of psychological harassment in the workplace show that they are not helpless in the face of life nor psychologically weak. They are usually very ambitious and conscientious individuals; they are engaged in their work and show a willingness to work hard. They often take on more responsibilities than is expected of them. They usually are better educated and better qualified than their superiors are. Research shows that women fall victim to mobbing more often than men do. According to one French survey, women account for 70% of workplace harassment. The analyses also show that some employees are more susceptible to mobbing than others. These are the lonely individuals—their loneliness pertains to the workplace rather than their private lives; these are people without connections, often in their pre-retirement years, individuals who stand out (because of their religion, culture, ethnicity, political views, sexual orientation, etc.). These are predominantly single women rejecting sexual advances, women living with parents, pregnant women, or, single mothers. Alternatively, workers over 50 years of age that the superiors want to eliminate from the workplace. Despite their experience, they do not fit with the younger staff. In such cases, the bosses may resort to psychological terror, forcing them to leave. Individuals that seem as too engaged, conscientious, multi-lingual and well educated, individuals who have participated in international internships and trainings pose a threat to the more experienced but less educated employees (Kozak, 2009, pp. 178–179; cf. Mazurowska, 2006).

**Characteristics of a mobber:** they include: past record of violent behaviour, high level of aggression, impulsiveness, past history of mental illness, power, also envy, competitiveness, lack of analysis of own behaviour. Most scholars agree that there are more male mobbers than female but the number of women mobbers is visibly growing. Sven Max Litzke and Horst Schuh (2007, p. 146) describe a mobber as a person who, among others, has a narcissistic personality, does not have a clearly defined concept of themselves, overestimates their value, who is aggressive and angry.
**Witnesses of mobbing:** a co-mobber witness (who supports and gives more power to the aggressor) and a side-mobber witness (who uses their own creativity to provide the mobber with new ways of harassment).

### 7. Consequences of mobbing for the victims and their families

Lidia Grzesiuk (2008, p. 239) writes about the consequences of mobbing for its victims and their families, for the employer and the company, and for the society as a whole.

In the case of the first category, we can see the deterioration of mental and physical health of the victim as well as a deterioration of their family relationships. Lidia Grzesiuk (2008, p. 241) lists—based on Zimbardo—four main reactions to stress caused by mobbing are:

1. **negative emotional reactions** (anxiety, distrust toward their surroundings, feeling lost, frustrated, medication) and positive emotional reactions related to the feeling of appreciation and excitement;
2. **non-specific somatic reactions** (headaches, diarrhoeas, vomiting, sleeplessness, lack of appetite, excessive appetite);
3. **negative behavioural reactions** (absence, medical leaves, a drop in work effectiveness) and positive behavioural reactions (raising one’s qualifications);
4. **cognitive reactions** (impaired concentration, memory problems, impaired speech and performance at intellectual tasks).

As mentioned above, high frequency and long periods of harassment have destructive consequences for the health of the victim. Consequences of mobbing can be divided into two categories (Kmiecik-Baran & Rybicki, 2003, p. 47):

1. **psychological consequences:** depression, impaired concentration, doubt and fear that can often lead to nervous breakdowns or suicide attempts;
2. **psychosomatic consequences:** arrhythmia, breathing problems, headaches, back and neck aches, sleeping disorders, skin disorders, gastrointestinal.

When it comes to consequences for the employer, we should first mention the decrease in work effectiveness of the victim and the resulting financial losses for the company. The society also bears the costs. These are related to the cost of treatment and therapy of mobbing victims. Long-lasting mobbing result in isolation from the society. A mobbing victim loses touch with their friends. Their work problems affect the victim’s personal life. The feeling of helplessness, consternation and family conflicts often result in separation or divorce and harm to the children (Grabowska, 2003, p. 12).

Professor Leymann treated 1300 victims of mobbing. He stated that before the individuals fell victims they were not any different from other people. According to Leymann, a person becomes a victim of mobbing not because of their personal qualities but mainly from the situation. Clearly, long-lasting mobbing can
affect one’s personality negatively. A person can become suspicious, withdrawn, irritable, and focused on their own suffering. Perpetrators of mobbing do not feel remorse because they do not relate their actions to the victim’s behaviour (Kaczyńska-Maciejowska, 2002, pp. 31–32). To defend oneself effectively against mobbing, we should react quickly, document all symptoms of mobbing, and find friends and witnesses of the unpleasant events. Regardless of one’s emotional condition, we should remain indifferent and not react aggressively. It is important to do one’s work and not be provoked to neglect it regardless of the atmosphere in the workplace. It is also important not to remain alone with the problem. We should seek support in the workplace and look for help in anti-mobbing organisations (cf. Mazurowska, 2006, pp. 28–30). according to prof. Dariusz Doliński, mobbing victims often do not want to leave work because of the following reasons: lack of alternative positions; fear of change; the fallacy of sunk cost is at play here—the more effort we put into doing something, the more difficult it becomes for us to abandon it. Professor Doliński also claims that those who experience mobbing have to accept that if their mobbers have a higher position in the hierarchy, they will not be able to deal with the problem on their own (cf. Kalinowska, 2007, p. 115).

8. Research on mobbing in Poland in the years 2001–2010

8.1. Research in the years 2001–2005

A report by the Public Opinion Research Center (CBOS) published in 2002 stated that 5% of working Poles were harassed by their supervisors every day in their workplace. However, 12% admitted that they experienced such treatment at least once in their professional career. Moreover, workers at small companies were more likely to experience ill-treatment by their employers whereas in large corporations harassment was more likely to come from their co-workers. Mobbing was experienced by 10% of women and 7% of men (Matuszyński, 2004). It can be seen that mobbing was the greatest threat in the countries of Northern Europe and the smallest in Mediterranean countries. It is possible that high occurrence in Scandinavian countries can be explained by better worker rights awareness and, as a result, the fact that more such activities were spotted. The highest risk of mobbing was found in the public sector. From the economic perspective, mobbing in UE pertains to: public administration and uniformed services—14%, education and healthcare—12%, hospitality and catering industries—12%, transport—12%, trade—9%, real property—7%, manufacturing industry, mining—6% (Matuszyński, 2004).

Earlier, in 2001–2002, research on mobbing was conducted by, among others, Mieczysław Cenin (2001). He presented his results on moral-ethical attitudes of Polish managers in a two-fold perspective: he showed negative and positive phenomena and analysed the conditions for their occurrence (it is a continuation of
the author’s earlier work, cf. Cenin, 1997). He devoted special attention to mobbing—psychological harassment of subordinates. Poland is at a stage of intense restructuring of the state, its economy and all social institutions into a system of parliamentary democracy and market economy. Referring to Durkheim (cf. Podgórecki, 1976), Cenin claimed that all crises, even positive social change, trigger a temporary devaluation of social control mechanisms. Anomy appears. It is a condition that results from the disintegration of widely accepted norms (lawlessness) and it is a situation where moral norms and patterns of behaviour are absent, unclear and/or conflicting. They lead to a state of alienation for an individual who, more or less consciously, breaks free from former social rigours and legal responsibility for certain crimes, e.g. theft, robbery, etc. In the contemporary period of transition, i.e. of socioeconomic transformation, old regulations and codes of action were long abandoned and new ones were not created yet or were not accepted.

According to the data presented by National Labour Inspectorate, in 2004, 395 mobbing complaints were filed, among these 31 were fully justified and 76 bore hallmarks of mobbing but were not sufficiently documented (Miedzik, 2008, p. 31).

Mobbing in Poland is often connected with the risk of being fired from work. According to research conducted by Public Opinion Research Center among Polish employees in 2002, we can see that such a form of harassment was experienced by 19% of the polled. Irena Pospiszyl writes that the most common method of mobbing in our country is creating a bad atmosphere at work by means of offending remarks. Such a situation was experienced by 21% of the polled. Another form is penalty, limitation and repression that were experienced by 20% of the polled. Seventeen per cent experienced unjustified criticism, work evaluation forging and belittling employees’ value. This research shows that women were harassed more often (55%) than men (45%). According to research done a few years ago by the European Foundation for the Improvement of Living and Working Conditions and the International Labour Organisation, on average 9% of workers experience mobbing (Pospiszyl, 2008, p. 282). The percentage of employees harassed in the workplace in different countries was: Portugal and Italy—4%, Greece and Spain—5%, Austria—6%, Luxemburg and Germany—7%, Denmark—8%, France and Ireland—10%, Belgium—11%, Sweden—12%, the Netherlands and Great Britain—14%, Finland—15%.

8.2. Research in the years 2009–2010

In 2009, comprehensive research was conducted on mobbing in Polish stores and supermarkets. The news portal Gazeta.pl presented the results that showed that statutory working time was not observed, leaves were not granted willingly, workers were forced to bear an excessive professional burden or mobbed and even blackmailed. The research showed that the rights of supermarket employees were not observed and the existing system of their protection was failing. The problem pertained mostly to women who account for around 90% of supermarket work-
Mobbing was widespread. According to Aleksandra Sokolik from the “Karat” coalition striving to protect supermarket employees’ rights, “Mobbing, meaning harassing and humiliating supermarket workers is so widespread that it can be considered an element of HR management in such places.” The most common forms of mobbing are: punishing the workers fighting for their rights with inconvenient working hours, threats of dismissal, and difficulties in getting deserved leaves. The analyses show that workers are fired and the remaining staff are given more and more responsibilities. Interviews reveal that in some places there were 50% fewer workers and those who remained had twice as much work without any increase in wages. The laws were broken in the medium-sized supermarkets and grocery discount stores that were controlled less often. Employees of the largest stores were in a slightly better position because of more frequent inspections. In these places, the case of “double work schedules”—one official for the inspectors, the other for the company management which showed that working time norms were exceeded—was less of a problem.

It is difficult to assess the severity of mobbing in Poland because many workers do not fight for their rights, let themselves be mobbed, change jobs or go on leaves to escape it. Anonymous polls conducted by Wacław Kisiel-Dorohinicki (the author of the book AntyMOBBING. Walcz o swoje prawa w miejscu pracy) at the beginning of 2009 show that 30% of the respondents experienced mobbing in their professional life, 15% of whom in the previous five years, but some people overuse the term mobbing and apply it to all unacceptable behaviour of their superiors. It is sometimes difficult to differentiate between a demanding boss and a mobbing boss. A demanding boss is often associated with an individual with a tough managing style who treats their employees instrumentally. Such a management style can provoke aggression and various negative emotions among the employees which may result in them trying to vent them off by, e.g.: mobbing, boycotting or sabotaging others; there is a high risk of behaviours such as: loud admonishing, shouting, publicly offending others or limiting the freedom of expression—all hallmarks of mobbing. We should not always label a demanding boss as a mobbing boss. In many professions, effective management results can only be achieved through giving orders without any room for debate or discussion (Kisiel-Dorohinicki, 2009).

In 2010, research on mobbing was conducted among the staff of public and private schools in Śląsk Cieszyński (G. Pilarek under the guidance of J. Kowal). The analysed opinions of the staff of the state institution showed that the vast majority of (83%) considered that mobbing actions and attitudes such as work disturbances, including exclusion, were not present in their workplace. 13% stated that such actions occurred once or twice a month and usually took the form of avoiding conversation or contact with the employee. The polls also indicated the presence of isolating and ignoring employees. The responses were provided by the service workers of the institution as well as those who worked there for less than 5 years. Workers with 10 or more years of experience pointed to excessive workload experienced once or twice a month. Thirteen per cent of the respondents stated that situations where work was disturbed or the workers were
isolated happened several times a week and manifested with excessive workload. These answers were provided by workers with five or fewer years of experience. The poll showed that 1% of respondents thought that situations where work is disturbed or the workers are isolated happened once a week and manifested itself by excessive workload.

The information provided by the staff of the private institution showed that the vast majority of respondents (86%) that mobbing actions and attitudes such as work disturbances, including exclusion, were not present in their workplace. 6% stated that such actions occurred once or twice a month and usually took the form of avoiding conversation or contact with the employee. The answers also indicated situations where the employees were not provided with information related to their responsibilities and were later accused of laziness. Workers with 10 or more years of experience provided these answers. Such an excessive workload was experienced once or twice a month. Four per cent of the respondents stated that situations where work is disturbed or the workers are isolated happened several times a week and manifested itself by excessive workload. These answers were provided by workers with five years or less experience. Four per cent of respondents thought that situations where work is disturbed or the workers are isolated happened once a week and manifested itself with an excessive workload.

It turned out that mobbing in the state institution was much more long-term. The respondents from the state institution with more than 10 years of experience pointed to several years’ duration. In addition, younger workers mentioned that mobbing actions and attitude were present for many months. In the private institutions 80% of the staff chose none of the possible answers (their experience did not match any of the given timescales). However, most answers showed that least experienced workers complained about mobbing actions.

The occurrence of mobbing in the form of work disturbances (including isolation) was comparable. It can be seen, however, that it occurred more often in the state facility and was more severe. Most often, it pertained to excessive workload and affected new workers. The least experienced staff felt overloaded with work and the expectations of the management and more experienced teachers, so they saw these actions as targeted against them and thus as mobbing. When it comes to workers with 10 or more years of experience, we can trust that their interpretation of mobbing was accurate. Such behaviour is well known to them and therefore correctly classified as mobbing actions or attitudes.

The staff of both facilities did not have sufficient knowledge of support institutions or providing help to people in need of it. Victims or witnesses of mobbing do not know how to react to it, which facilitates its occurrence in their workplace.
9. Fighting mobbing effectively

In order to combat mobbing effectively we should recognize the factors that increase the likelihood of the occurrence of mobbing against an individual. Among these factors, we can find (Grzesiuk, 2008, p. 234):

(1) social factors—large unemployment and risk of losing a job;
(2) characteristics of the firm, company, organisation, where mobbing occurs—chaos, mismanagement, rigid and hierarchical organisational structures, wrong management, changes (usually unforeseen) in the company (e.g. budget cuts to improve the company’s competitiveness), managing from the position of power, excessive and misunderstood discipline, strong emphasis on the company’s productivity, chaos in social relations, but also power struggles, promoting competition.

Fighting mobbing effectively, as shown by experience, is possible. It is also useful to spread didactic materials thanks to which employees become more aware and more willing to apply suggested amendments. Support of anti-mobbing organisations is also helpful. Due to the didactic materials and trainings, one can increase the prevention awareness and effectively fight against mobbing, i.e., psychological harassment, and openly discuss the problem of mobbing, it economic, health and moral consequences and help the victims from social exclusion and counteract all forms of discrimination in the workplace. The end goals have to be the gender equality, improved working conditions free of any psychological harassment, and to provide legal and medical counselling, mediating services, to cooperate with individual and institutions on collecting information and exchange experiences.

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Mobbing as an example of unethical behaviours at work*

Abstract

Currently, in the workplaces, the issues of behaviours classified as unethical or a violation of an employee’s dignity and personal rights are on the rise. Mobbing is one of the manifestations of such behaviours, described in the provisions of the Labour Code. The phenomenon of mobbing refers to the quality of interpersonal relationships at work and affects the operation of the entire organizational structure. This is a severe example of the violation of personal rights because such harassment is no less than a psychological terror affected by one or more persons against (typically) a single individual. The aim of this study is an analysis of mobbing, especially as regards the employer’s obligation to oppose mobbing practices. Ethical behaviour towards staff is not only a condition for observing the principles of community life in the work environment but it is the building block for creating a positive image of the employer in the business community. Mobbing behaviour impacts an organization’s image and poses several financial costs.

Keywords: mobbing, the Labour Code, workplace

JEL Classification: J82, M14

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1. Introduction

Mobbing, according to article 943 of the Labour Code are actions or behaviours pertaining to or directed against an employee that involve persistent and long-term harassment and threats to an employee. Mobbing may also include humiliating or ridiculing the employee, isolating them or excluding them from the group of co-workers. Such behaviours result in the lowered evaluation and professional usefulness on an employee. From this perspective, mobbing is the most harmful sign of an infringement of one’s moral rights as it is a form of a persecution or psychological terror against the targeted employee. Judicial decisions see mobbing as a Labour Code tort1, and the regulations of the Code clearly point to the employer as the subject normatively responsible for counteracting such practices (Cieślak & Stelina, 2004, p. 68).

The occurrence of mobbing in the workplace speaks poorly of the quality of interpersonal relations and has a negative effect on the functioning of the entire organisational structure of the employer. For this reason, it seems beneficial to build the relations in the workplace in a way that is not only in accord with legal but also ethical standards. Law, as a regulator of human behaviour, can be insufficient a tool if we want to eliminate potential tensions or conflicts which can eventually lead to the occurrence of pathological practices in the workplace. Contemporary standards for treating employees constitute an element of building a good reputation of the employer in business, which facilitates the economic success of their enterprises.

The goal of this paper is to show that mobbing is an undesired behaviour in the workplace. An employer, equipped with tools available to them within the scope of their management, is obliged to build the relationships within the workplace to prevent the occurrence of psychological violence or other pathogenic practices.

2. The legal and non-legal basis for protecting employees against mobbing

John Paul II (1983, p. 29) asserted,

[...] work is a good thing for people. It is not only good in the sense that it is useful or something to enjoy; it is also good as being something worthy, something that corresponds to one’s dignity, which expresses this dignity and increases it. To define the ethical meaning of work clearly, it is this truth that one must par-

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1 Mobbing is undoubtedly a qualified violation of labour law and the sanctions for mobbing fall in the domain of labour law where courts opine mainly based on labour law articles (article 943 § 1-5 LC), even though they also use civil judicial decisions in the case of financial compensations (article 445 § 1 CC and article 448 CC) as well as compensation for health disorders (article 444 § 1 CC). Cf. The sentence of The Supreme Court from March 29, 2007, II PK 228/06.
particularly keep in mind. Work is a good thing for people—a good thing for their humanity—because through work one not only transforms nature, adapting it to one’s own needs, but also achieves fulfilment as a human being and indeed, in a sense, becomes more a human being.

A man who works becomes richer and nobler in spirit; is empowered, and becomes more of a human (cf. Świątkowski, 1991, p. 12). For most people work is their fundamental activity in life, defining their social status and developing their humanity.

Legal norms are in turn a fundamental factor in defining the type and scope of an employer’s actions towards their employees in the workplace. Therefore, we should expect those at managerial positions to have at least basic knowledge of the Labour Code. In management education (Skrzypek, 2010) a more important role is attributed to its ethical aspect that results in the transplantation of ethical norms into human resources management. Managing human resources also involves solving ethical dilemmas, which requires, among others, the capacity to just and equal treatment. It has to correspond to the accepted social norms, i.e. the practices and rules of conduct accepted and approved in the society. All these elements contribute to the creation of the so-called ethical company, which is a community of people building a stable and strong culture based on respecting human rights and privacy. Such a company employs managers who treat their employees in an ethical manner (Zbiegień-Maciąg, 1997, p. 63 et seqq.). To many practitioners, business ethics means just the feeling of ethical responsibility for the manager. Entrepreneurs and managers have a powerful tool—the company, in which, apart from the capital invested in it, material goods of certain value, we find invaluable goods—its people. Certainly, the management is responsible for realising the task of distributing goods or:

1. hiring employees (recruiting and selecting the staff),
2. assigning tasks and positions,
3. assessing deserved remuneration,
4. evaluating, rewarding, promoting, firing, etc.

Equipped with such extensive capabilities, managers often become the “masters of destiny” to, for example, the fired employees. Law protects employees against their freedom to act as they see fit, but only to an extent. Beyond it lies the domain of ethics, which creates a moral barrier through, among others, social responsibility.

The knowledge and convictions of workers regarding the way they are treated in the workplace let them foresee which actions will be rewarded, which will be ignored and which punished (Dusiński, 2003, p. 170 et seqq.). When both sides of employment (the management and the employees) obey the legal and widely accepted ethical norms, there is harmony at work and respect for the staff resulting in economic gains. For this reason, one should look at the importance of the principles of community life (see article 8 of the Labour Code), which constitute in the workplace a criterion delineating the scope of executing one’s rights (subjective rights) in the relations regulated by labour law. Judicial decisions see it as a set of
social norms, i.e. commonly obeyed patterns of behaviour which the power of social habit considers as binding, and a set of moral norms axiologically grounded in evaluating behaviour as proper, good (Supreme Court sentence from 15.07.1998, II UKN 123/98, OSNP 1999, No. 13, point 435). Nowadays, community life principles are almost as important as non-legal moral and social norms shaping the relations between employers and employees in small, medium-sized, big companies and in collective employment. This general concept encompasses, among others, clauses in civil and trade law from the interwar period collected under the term “good practices” and “practices of honest exchange” (Celeda et al., 2009).

According to article 94 point 10 of the Labour Code, the employer should take part in shaping the principles of community life in the workplace, which corresponds with the employee’s duty to obey them (article 100 § 2 point 6 of the Labour Code). The principles of community life are usually in the form of socially accepted moral norms, and following these is a common responsibility. Therefore, the article 94 point 10 of the Labour Code does not pertain to the principles of community life but to the principles that are appropriate for the conditions in which the staff operates. Such principles lead to a harmonious cooperation and an atmosphere of mutual kindness and support. The employer can shape the workplace community by leading through example of their own behaviour towards the staff, which can later be used as a template and applied in the relations between the managers, between the workers, and the relations between the two groups.

A necessary condition for the credibility of such a model is obeying the principles of labour law (Supreme Court sentence from July 15, 1987, I PRN 25/87, OSNCP 1988, No. 12, point 180). Article 111 of the Labour Code, according to which the employer is obliged to respect the employee’s dignity and their other personality rights, has an especially momentous effect on shaping community life principles in the workplace. In employment relationship, the obligation to respect the employee and their other personality rights is a fundamental responsibility of the employer elevated to a legal obligation expressed in article 111 of the Labour Code. Literature rightly claims that dignity manifests itself in one’s feeling valuable and one’s expectation of being respected by others (Góral, 2011, p. 137; cf. also Dörre-Nowak, 2005, p. 28 et seqq.). In the employer-employee relationship, the employee is the weaker party and this is why the matter of their dignity and respect by the employer becomes especially significant. From it stems the employer’s responsibility to refrain from practices involving any direct interference with the employee’s legally protected personality rights, and the obligation to engage in positive actions aiming at the creation of appropriate work conditions, free from the potential threat of or the infringement of their personality rights. The employer, by violating their personal duty, also violates the employee’s personality rights—they have the right to their work in an environment that is free from mobbing practices (cf. Pisarczyk, 2004, p. 57). Worker’s dignity can be violated by various behaviours of the employer, e.g. by offensive commands, spreading

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false information about them, or delegating tasks to them that do not match their professional qualifications. Often such supervisory practices are enough to be labelled as mobbing. The Supreme Court opined that every employer should be expected to respect their employees and to consider their feeling of dignity and personal worth. The employer cannot communicate with their employees negatively without proper justification and speak of them in a way that would humiliate them in the eyes of the staff (Supreme Court sentence from 3.03.1975, I PR 16/75, LexPolonica No. 318105). In a different sentence (from 6.12.1973, I PR 493/73, LexPolonica No. 301123), the Supreme Court opined that

[...] the employee’s personal dignity is not violated by a critical evaluation of the tasks delegated to them, even if the evaluation turns out to be unjust, as long as it does not result in the harmful for the employee professional disqualification and does not contain improper expressions not necessary in the context of the actions undertaken within the scope of the employer’s responsibility (article 23 of the Civil Code).

The employer’s duty to counteract mobbing is further supported by the rules regarding their responsibility to provide their employees’ with safe and hygienic work conditions. Within European law, we should note the 89/391/WE Framework Directive from 12.VI.1989 concerned with introducing measures to encourage improvements in the safety and health of workers at work (Journal of Laws WE L 183 from 29.VI.1989). Article 6 of the directive describes the employers’ obligations in the context of recognising risks and acting to ensure employees’ safety and health protection. It lacks, however, any regulations specifying if these risks also include psychological and social work environment factors. Nevertheless, it is commonly believed that such a directive helps combat mobbing (Szewczyk, 2003/2004, pp. 138–139). Beside the directive, I would like to mention autonomous agreements made by European social partners: the European Framework Agreement from 8.X.2004 regarding work-related stress and the Framework Agreement from 26.IV.2007 concerning harassment and violence in the workplace. The agreements came into force in the form of Wspólna Deklaracja Partnerów Społecznych (Joint Declaration of Social Partners) from 14.XI.2008 concerned with preventing and counteracting work-related stress and the Wspólna Deklaracja Partnerów Społecznych from 24.III.2011 concerned with harassment and violence in the workplace. The agreement from 2007 is especially important as it describes the anti-mobbing procedures and individual and collective workers’ rights in the face of harassment and violence (Surdykowska, 2007, 2011, pp. 11–17). According to the agreement, harassment is systematic and intentional offending, threatening or humiliating workers or supervisors in work-related contexts. Violence is defined there as the violation of the physical integrity or personal dignity of the worker or supervisor in work-related contexts. We should also mention article 31 the Charter of Fundamental Rights of the EU, which states that every worker has the right to working conditions that respect his or her health, safety and dignity.
In Polish labour law, we find articles 15 and 94 point 4 of the Labour Code, which guarantee the worker safe and hygienic working conditions. The goods protected by these regulations are workers’ health and life. For the employer to meet the requirements stated article 15 of the Labour Code they must:

(...) create such an environment using not only legal but also technical, technological, and organisational instruments that the worker’s life, health, and psychological welfare are not at risk. (Gersdorf, Rączka & Skoczyński, 2007, p. 57)

The way it can be achieved is described in article 94 point 4 of the Labour Code, which obliges the employer to provide their employees with safe and hygienic work environment and with regular health and safety trainings and in article 207 § 2 of the Labour Code concerned with protecting the health and life of the employee (Zych, 2007, pp. 39–40). We can assume that safe and hygienic work conditions also depend largely on whether the atmosphere in the workplace is free from discrimination or mobbing. These undesired practices not only harm the worker’s dignity, affect their work efficiency negatively and violate the principle of equal treatment; they also threaten the worker’s health, at least in the psychological sense. Therefore, any employer who tries to restrict or eliminate them to an insufficient extent does not meet the fundamental criteria of safe and hygienic work conditions. As a result, the literature of the subject rightly observes that the responsibility to counteract mobbing corresponds with the duty to protect the worker’s life and health by providing them with safe and hygienic work conditions (article 207 § 2 LC) (cf. e.g. Kuba, 2012, p. 156).

3. The concept of mobbing

When analysing mobbing from the perspective of terminology, we note that it was defined much earlier than in article 94 § 3 of the Labour Code within non-legal sciences, especially social science and human resources management. Mobbing is usually defined as long-term, systematic psychological harassment of an individual by one or several individuals with a muted consent or indifference of other members of the group. The term mobbing comes from the English verb to mob, which means 1) large crowd of people, especially one that is disorderly and intent on causing trouble or violence, 2) Crowd round (someone) or into (a place) in an unruly way. In the 1960s, Peter-Paul Heinemann used this term with respect to people when analysing hostile practices in children at schools. From today’s perspective, the most accurate definition did not appear until H. Leymann in the 1980s, who coined it thanks to his research on psychosocial relations in the workplace:

psychological terror in the professional life characterised by hostile and unethical practices that are systematically undertaken by one or several individuals and aimed against usually one individual who, as a result, is deprived of any chance
for help or defence. These practices occur very often (at least once a week) and for a long time (at least six months). Large frequency and long duration of the hostile behaviour results in serious mental, psychosomatic, and social problems. (Leymann, 1996)

Bechowska-Gebhardt and Stalewski (2004, p. 16) define mobbing as:

[…] unethical and irrational from the organisation’s perspective practices consisting of long-term, repetitive and unjustified harassment of a worker by their supervisors and co-workers. It means subjecting the victim to economic, psychological, and social violence in order to threaten or humiliate them and restrict their capacity to defend themselves. It is a subjectively experienced phenomenon but it can be intersubjectively confirmed. It is a multi-step process in which a mobber uses methods of manipulation starting from the most subtle ones and imperceptible to the victim to most drastic ones, causing the victim’s social isolation, their auto-depreciation, sense of grievance, helplessness, and rejection by their co-workers and, as a consequence, severe stress and somatic and mental disturbances.

In management, mobbing is also understood as:

unethical, malicious harassment of one or a group of staff members by an executive worker or a worker from a higher position in the group hierarchy. It means subjecting an individual to practices aiming at humiliating them or restrict their capacity to defend themselves. (Bańka, 2007, p. 241)

In legal context, mobbing, according to article 94\(^3\) § 2 of the Labour Code is defined as practices or behaviour affecting or aimed against an employee, consisting in persevering and long-term harassment or threatening of the employee, resulting in lowered sense of professional worth, causing or aiming at humiliating or ridiculing the employee k.p., oz, isolating or eliminating them from the staff. The conditions that qualify the employer’s practices or behaviour as mobbing indicate that the object of the mobber’s practices is their employee as defined in the labour law. Other indications include perseverance and long duration. In the doctrine (cf. Bury, 2007, p. 71 et seqq.; Cieślak & Stelina, 2004; Gładoch, 2006, p. 18; Szewczyk, 2009, p. 124 et seqq.), it is emphasised that the perseverance and long duration of mobbing are difficult to ascertain, which can lead to difficulties in classifying given behaviours as mobbing practices. We should note the particularly meaningful in this context decisions of the Supreme Court (cf. sentences from January 17, 2007, I PK 176/06, OSNP 2008, No. 5–6, point 58), in which it opined that the long duration of harassment or threatening of an employee as defined in article 94\(^3\) § 2 of the Labour Code should be considered individually and in the light of specific circumstances of the given case. It is then not possible to state unequivocally any minimum time limit for the practices to be recognised as mobbing. Perseverance is interpreted in the context of repetitive practices of the perpetrator (i.e. it does not pertain to one-time incidents) and their attitude (ill will) (Szewczyk, 2009, p. 124 et seqq.). According to article 94\(^3\) § 2 of the Labour
Code, their behaviour and practices are meant to cause the victim to lose their belief in their professional usefulness, cause or aim to humiliate or ridicule the employee, isolate or eliminate them from the staff. This part of the definition has been criticised in research because the consequences presented here are not always of primary significance and it was observed that the “main consequences of mobbing consist in preventing the victim from effectively doing their work and, afterwards, the victim’s psychological and psychosomatic disorders” (cf. Jędrejek, 2010, p. 36; Zych, 2006, p. 194).

The mobber’s behaviour has to be reprehensible, not grounded in moral norms or principles of community life because other work-related practices such as disciplinary actions or giving orders are not illegal and can be justified (Supreme Court sentence from April 22, 2015, II PK 166/14). The definition of mobbing under article 94³ § 2 of the Labour Code also does not require harassing of threatening of the employee to be an exceptional, unusual practice in the workplace (Supreme Court sentence from January 17, 2007, I PK 176/06, OSNP 2008, No. 5–6, point. 58). The Supreme Court clearly supported the possibility of recognising mobbing in the case of unintentional behaviour of the perpetrator (lack of intent) (Supreme Court sentences from May 7, 2009, III UK 2/09, OSNP 2011 No. 17–18 point 230; from March 16, 2010, I PK 203/09, OSNP 2011, No. 17–18). The consequences of the mobber’s behaviour, which constitute an important part of the definition can, but do not have to be intended. The Supreme Court ruled (sentence from October 20, 2016, I PK 243/15, Legalis No. 1564914) that behaviour qualified as mobbing neither require behaviour to be aimed at achieving a certain goal nor does it have to have consequences. It is sufficient for the employee to be an object of a practice that can be objectively recognised as resulting in one of the consequences listed in article 94³ § 2 of the Labour Code.

Another element of the definition of mobbing, the one concerning humiliating or ridiculing them and isolating or eliminating them from the group of employees is associated with creating hostile and unsafe work environment (Szewczyk, 2006, p. 258 et seqq.). It is claimed that mobbing occurs only when the victim’s isolation is caused by unethical practices bearing the hallmarks of harassment, threatening, humiliation and ridicule (Wyka, 2012, p. 133). It does not directly refer to unlawful practices infringing on legally protected rights such as the worker’s dignity, health, physical and mental integrity, even though mobbing usually leads to such consequences (Szewczyk, 2010, p. 8).

According to judicial decisions, the statutory conditions as presented in article 94³ § 2 have to be collectively fulfilled, moreover, the burden of proof lies on the employee (article 6 of the Civil Code) (Supreme Court sentences from 5.12.2006, II PK 112/06, Lex Polonica No. 1614447; Supreme Court sentence from 12.12.2000, V CKN 175/00, OSP 2001/7-8/116).
4. A review of conditions facilitating mobbing in the workplace

Much of the research is devoted to analysing the factors facilitating and affecting the occurrence of practices or behaviour qualified as mobbing. First, it is assumed that a personal conflict in the workplace can lead to mobbing. Therefore, we should look more closely at the causes and reasons for the occurrence of a phenomenon defined as

a conflict between two or more members of groups, resulting from the necessity to share limited resources or duties or from their different positions in the hierarchy, different goals, values or ideas. Within the conflict, the members of the organisation or its departments act to make their goals or viewpoint outweigh the goals or viewpoints of others. (Penc, 2001, p. 124)

The symptoms of conflicts in the workplace are: workers’ dissatisfaction, frequent complaints, anonymous denunciations, malicious criticism, ironic comments, demonstrative absences, acts of violence, rape, battery or fights (Ratajczak, 2007, pp. 106–111). Usually, the hidden causes of conflicts pertain to remuneration, material gains, privilege, insecurity, an unclear division of roles in the team. The very conflict between individuals in a group is natural and occurs in every organisation, even those well-managed and employing workers’ participation mechanisms. Here we should emphasise that the

fundamental difference between an ordinary conflict and mobbing consists in the former having limited duration and the parties becoming sooner or later interested in constructively resolving it, while in the latter the active party (the perpetrator) acts as long as is necessary for them to successfully humiliate the victim and make them leave the organisation or to achieve other goals [...]. (Marciniak, 2008, p. 42)

The employer is responsible for counteracting mobbing, i.e. for creating such work conditions, including work atmosphere, that mobbing will not occur. Because of this regulation, the employers are also responsible for their employees being mobbed by other members of their staff even when they are not aware that mobbing practices are present in their company. Potentially, mobbing practices do not have to be perpetrated by the employer; these can be the behaviour of an individual who is higher up in the company’s hierarchy, or by other co-workers. We can list three directions of mobbing (Zych, 2006, pp. 21–22):

(1) slanting mobbing—superiors against their inferiors, most commonly occurring,
(2) horizontal mobbing—one employee against another employee,
(3) vertical mobbing—inferiors against their superiors, less commonly occurring.
The course of mobbing practices changes with the changing conditions in the community, however, it is quite predictable when it reaches such a stage (Kijowski & Goździewicz, 2009, pp. 585–586).

The factors that stimulate the occurrence of mobbing in the workplace include: the atmosphere in the organisation, management style manifested by the superior or environmental conditions. The reasons for mobbing can be found in rigid community structures that enable managing people from the position of power. Typically, the negative characteristics of an organisation where psychological violence occurs include: unfilled posts, little time for dealing with urgent tasks, purposeless commands, holding employees responsible for tasks while limiting their decision-making possibilities, underappreciating the lower-level employees, low morale and a lack of friendly atmosphere, a lack of support from co-workers resulting in anxiety and insecurity all increase the risk of mobbing occurrence (Centralny Instytut Ochrony Pracy). The reasons for psychological harassment can be found in the personality of the mobber, the personality of the victim, and the structure of the company. However, we can assume that the dominant factors lie in organisational conditions (working routine, organisational culture, management style) that facilitate the emergence of attitudes and practices violating the employee’s well-being (Radzka, 2012, p. 32 et seqq.; Warszewska-Makuch, 2005, p. 6). Acts of psychological terror can be traced back to the norms and values approved by certain organisations.

The most susceptible are small, formal groups based on emotional bonds, where their members have defined positions and roles. The more sophisticated a given hierarchy, the more excluded are those who do not want to agree to follow certain rules, which exposes them to harassment. An enterprise with a rigid and fossilised structure with extensive internal control mechanisms and poor communication and flow of information is often a fertile ground for distorted relations between individuals. Indifferent management, narcissistic executives, bad work organisation or creating the image of a person based on a single negative event often are at the root of workplace harassment (Kmiecić-Baran & Rybicki, 2003, pp. 39–41). Many undesired consequences result from an autocratic or interfering company management style. The former consists in the manager trying to retain all competences in their own hands, is domineering, despotic and peremptory. Their employees must obey them absolutely, no partner relationship is possible with the superior who is in the dominant position and in case of resistance uses various forms of punishment as tools of control. In the latter, there is no real management. The manager avoids making decisions, does not interfere in the actions of their inferiors, and leaves them much freedom. As a result, they do not see or ignore conflicts. Such a situation is a perfect opportunity for one who is seeking power as such an individual is free to fight any potential competition (Ratyński, 2005, pp. 164–165).
5. Counteracting mobbing as a fundamental responsibility of the employer

The employer’s duty to combat mobbing is expressed in article 94 3 § 1 of the Labour Code in chapter I of part four, which contains a list of fundamental duties of the employer and for this reason we treat it as a legal responsibility of the parties of an employment relationship. The responsibility for counteracting mobbing is contractual, fundamental and general in nature (cf. Supreme Court sentence from August 3, 2011, I PK 35/11, LEX/el. No. 1001278), refers to performing other duties towards the employee. The place of article 94 3 § 1 has a significant influence on the employer’s scope of responsibility regarding the occurrence of mobbing in the workplace. It is in their own interest to create preventive mechanisms against mobbing because the lack of such plans can result in their being held responsible in the form of compensation for the victim suffering from health disorders. Moreover, the mobbed employee can also use their right to terminate their employment with immediate effect pursuant to article 55 1 § 1 of the Labour Code with the right to additional compensation (Dörre-Kolasa, 2014).

The employer can use organisational and persuasive means and, when they turn out to be ineffective, can apply sanctions described in labour law (e.g. within disciplinary liability). In order to realise their duty, the employer should prevent psychological violence from occurring in the workplace, provide the victim with support and eliminate mobbing practices in the work environment (Muszalski, 2009, pp. 365–366). Preventive action should be tailored to match the type of employer, their size, organisational structure or their business profile. Some methods will be effective in the case of small organisations, others, in more complex structures (Dörre-Kolasa, 2014). A recommended instrument, regardless of the character of the organisation, is a local anti-mobbing procedure, which allows the problems to be effectively resolved and to minimise the risk of their future reoccurrence. It is useful to include and anti-mobbing procedure into the collective agreement in the workplace, which can make the staff treat it as a special source of labour law—pursuant to article 9 § 1 of the Labour Code, i.e. as a source of rights and obligations of the parties in the employment relationship.

Actions taken when mobbing occurs in the workplace involve taking steps against the individual who has been shown to use psychological violence. Besides that, the employer should investigate if the circumstances that enabled such practices still exist. If so, then it becomes necessary to undertake appropriate action to eliminate them or decrease their influence in the work environment in the future.

Article 94 3 § 1 of the Labour Code suggests that the employer bears legal responsibility for not counteracting mobbing even when they are not personally involved in the use of violence and even when they are not aware it occurs in their workplace. Therefore, the employer can be held responsible for actively harassing their employees as well as not performing their duty to counteract the occurrence of psychological terror in the workplace (Abramowska & Nałęcz, 2004, p. 182). The aggrieved employee can claim from the employer: compensation for health
disorders caused by mobbing (art. 94\(^3\) § 3 LC), compensation for employment termination caused by mobbing (art. 94\(^3\) § 4 and 5 LC) and compensation for immediate employment termination pursuant to article 55 § 1\(^1\) LC. Thus, if the mobber’s practices can be also qualified as a violation of the victim’s personal rights, he or she is liable under personal rights violation of civil law code.

6. Conclusions

Mobbing as a special case of employees’ personal rights violation and a form of psychosocial threat in the workplace bears very serious consequences not only for the individuals affected by it but also for the company and the whole of society. The consequences include the rise of sickness absence, staff retention issues, decreased work quality, a decrease in work productivity, a reduction of engagement, creativity, and lowered morale of the staff. The workplace affected by mobbing often faces good reputation on the market and financial losses resulting from the costs of investigation and potential compensations for the victims. The burden of workplace mobbing also falls on the societies that are responsible for the costs of treatment, rehabilitation, and social allowances for the mobbing victims.

Mobbing practices are rooted in organisational factors, especially in their hierarchical form, individual characteristics of both the mobbing victims and its perpetrators. It makes it significantly more difficult for the employer to realise their duty to counteract mobbing because they are expected to identify such practices and react immediately if pathological practices occur. In such circumstances, it seems to be a good idea to take advantage of the possibilities provided by ethical normalisations expressed in, among others, codes of good practices and anti-mobbing procedures implemented in the workplace. Moreover, we should try to improve the quality of organisational culture in the workplace by means of implementing positive models and appropriate pieces of training.

Mobbing has been researched for long but qualifying certain practices or behaviour as mobbing is still controversial, which shows how difficult it is to apply regulations in practice. Therefore, it is still necessary to further develop and utilise various research methods to better analyse the complex nature of mobbing and, based on the findings, we need to create effective means of counteracting and dealing with this serious threat in the workplace.

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