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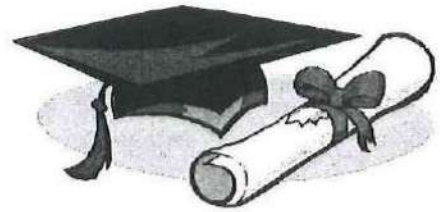

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EU CLIMATE POLITICS AND ENERGY QUESTIONS IN THE ARCTIC

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1. INTRODUCTION

The Arctic is a 4.300 meter deep ocean surrounded by a vast and nearly continuous continental shelf and covered by moving ice formations of various thicknesses. [1][2] According to general law of the sea, beyond territorial waters of coastal States, it is governed by the freedom of the seas doctrine restricted by rights inherent to contiguous and exclusive economic zones. [3] Beyond areas of national jurisdiction, the Arctic Ocean contains parts pertaining to the high seas where the seabed is managed by the International Seabed Authority, however, there is a continuous practice of coastal states to extend their jurisdiction under different legal titles of international law (drawing straight baselines, historical title of acquisition of sea territory, environmental protection) in order to gain the treasures of the huge continental shelf laying underneath and to draw the Arctic sea routes (Northwest Passage and Northeast Passage) beyond national sovereignty into the jurisdiction of coastal states. Additionally, the vast sea and land spaces of the Arctic region are vital and vulnerable components of the environment and climate system of the Earth, so every state activity leaves here its environmental footprint not to mention the changes and that destruction of Arctic environment can cause in worldwide context.

2. THE CONTEXT BETWEEN EU INTERESTS AND THE TERRITORY OF THE ARCTIC: THE ATTRACTIVE FORCE OF THE ARCTIC AND THE CHALLENGES

The European Union is linked to the Arctic by historical, geographical, economical and scientific achievements. Three Member States - Denmark (Greenland), Finland and Sweden - have territories in the Arctic, two other Arctic states - Iceland and Norway - are members of the European Economic Area, and the rest of the Arctic states - Canada, Russia and the United States - are strategic partners of the EU.[4; p. 3.] The Finnish and Swedish accession to the EU in 1991 substantially increased the Northern presence of the Union and since then a specific Arctic orientated policy – the Arctic Window of Northern Dimension – have been developed. Additionally, six of the EU member states currently hold a seat in the Arctic Council which brings together representatives of Arctic indigenous communities and other interested nations.

2.1. Hydrocarbon stores to be exploited

The Arctic continental shelf contains large untapped hydrocarbon reserves, nowadays 25% of the remaining oil and gas location of the word - 100-200 billion

barrels of crude oil and up to 2,000-3,000 trillion cubic feet of natural gas - is estimated to be hidden here. [5][6] Known Arctic offshore resources are located inside the exclusive economic zone of Arctic states, but the expansion tendency turns to acquisition of outer territories and hydrocarbon stores, too, [7] and from time to time the sovereignty over the region is questioned [8] despite the fact that according to existing law of the sea its status in international law is the same as that of other high seas of the word. Arctic resources could contribute to enhancing the EU's security of supply concerning energy and raw materials in general. [9] However, exploitation will be slow, since it presents great challenges and entails high costs due to harsh conditions. It will multiple environmental risks but it would also contribute to weaken or even put an end to the energy dependence of the EU on Russia.

2.2. Effects of climate change in the Arctic

Arctic air temperatures have been increasing twice as much as the global average, [10] and that is also due to the EU as a global polluter. Coverage of sea ice, snow cover and permafrost have been decreasing rapidly, triggering strong feed-back mechanisms that accelerate global warming. Owing to the reduction of ice new shipping routes opens, [11] fishing facilities widen out and the exploitation and transport of resources hidden in the continental plate is increasing in the foreseeable future. [12] Global warming and its manifestations in the Arctic have already increased the intensity and frequency of natural disasters, raise sea-level that will lead to the disappearance of entire countries. It can also lead to future conflicts due to a wide shortage of water and massive diminution of food in the region. [13]

Because of the presence of EU member states in the area, the EU plays a fundamental role in the development of the region, moreover the major changes in the area open new opportunities and threats for the neighbourhood which provide for a substantial legitimacy for the Union to develop Arctic-related policies. In the light of these facts, during the 2008 spring summit the European Council endorsed a paper on the security threats posed by the impacts of climate change of the Arctic in particular, [14] and the Commission also elaborated a communication (Solana Report) aiming to define the role that EU wishes to play in the future of the region.[1]

3. PROMOTING SUSTAINABLE USE OF RESOURCES: TO GAIN BUT NOT TO LOOSE TOO MUCH

3.1. EU policy concerning Arctic hydrocarbon stores

In recent years, the implication policy for the energy sector, the dramatic increase of energy prices and the intensified concerns for the future security of supply have contributed to push energy issues to the top of the agenda and finally it got a whole article (Art. 194) in the newly created Lisbon Treaty. The EU is a net energy importer (50% of its total consumption), and over the next 20 years its import share is predicted to rise to 65-70%, so the problem of energy dependency and the huge hydrocarbon stores under Arctic Ocean will probably be interdependent.[15]

Support for the exploitation of Arctic hydrocarbon resources should be provided in full respect of strict environmental standards taking into account the particular vulnerability of the Arctic. The EU edge in technologies for sustainable exploitation of resources in polar conditions should be maintained. The EU plans to strengthen the foundations for long-term cooperation, particularly with Norway and the Russian Federation, facilitating the sustainable and environmentally friendly exploration, extraction and transportation of Arctic hydrocarbon resources. It would also encourage the observance of the highest possible environmental standards, the respect of binding international standards, and the guidelines of the Arctic Council and relevant international conventions for oil and gas exploitation. The EU also promotes further research and development in offshore technology and infrastructures in order to facilitate further research and innovation in deeper waters.[1; p. 6-7. point 3.1.]

3.2. Arctic policy concerning climate change in the Arctic

The EU is a leader in fighting climate change and in promoting sustainable development. EU Member States and the EU itself are parties to most multilateral environmental agreements of fundamental importance but for the Arctic, special treatment is necessary because of the unique conditions of the region. European industries are in the front line in developing technologies for safe and sustainable operations in harsh conditions — on land, in coastal zones and offshore. While the Arctic environment is particularly vulnerable, the low population and infrastructure density make emergency response management extremely difficult. The main goal must be to prevent and mitigate the negative impact of climate change as well as to support adaptation to inevitable changes. Prevention and mitigation action should also concern other global and transboundary processes with negative impacts in the Arctic, such as long-range transport of pollutants. This should be complemented by developing a holistic, ecosystem-based management of human activities, ensuring that the latter are administered in a sustainable way, integrating environmental considerations at all levels. Besides, there is a need to improve emergency response management. [1; p. 4-5. point 2.1.]

For a sustainable development in the field of energy in particular and for the effective combat against climate change in the Arctic, the Commission proposes to work for the effectiveness of EU policies and of multilateral environmental agreements in responding to Arctic environmental challenges. Within this goal, international efforts shall be strengthened to mitigate climate change and identify areas where support for adaptation to the effects of climate change needs to be provided, including the adaptive management of biodiversity. The Commission also promotes permanent dialogue and sharing of experiences with NGOs on the state of the environment in the Arctic region in order to coordinate efforts with Arctic states, territories and other stakeholders promoting high environmental standards. Concerning decision –making process in areas whereby strategies and projects of the EU affect the Arctic, environmental impacts before decisions shall be taken account. For this purpose the Commission promotes the use of impact assessments of projects, plans and programs affecting the Arctic environment, including strategic environmental assessments, and share experience with the Arctic states. All EU - policies shall make

efforts to reduce pollution of the Arctic by persistent organic pollutants, heavy metals and other contaminants, including those from land-based sources and to continue supporting the destruction of stocks of harmful chemicals and the reduction of the risk of radioactive release in the Arctic. In order to reach this aim, there is a need for specified cooperation on prevention, preparedness and disaster response with the use of the Commission's *Monitoring and Information Centre* which can contribute to enhancing EU disaster response capacity in the Arctic. In connection with this task, the Commission aims to support the conclusion of an agreement on emergency prevention and response in the Barents Euro-Arctic Council (BEAC). Concerning energy questions and exploitation the Commission emphasized the importance of improving primary energy savings, energy efficiency and the use of renewable energies in the Arctic and the importance of reducing industrial impact on marine mammals of increased acoustic noise generated by human activities. [1; p. 3-4. point 2.1.]

4. CONCLUSION: FUTUR TASKS AND CHALLENGES OF EU POLICY CONCERNING ENERGY AND CLIMATE QUESTIONS IN THE ARCTIC

The Arctic is rich in renewable resources like freshwater and fish and also in non-renewable resources as oil and gas, but its specific climatic conditions challenge the whole world. The EU itself has just begun to explore the possibilities in the region but it also recognizes its responsibility in maintaining and not destructing it. Not only keeping the balance between environmental and energy priorities will challenge the EU but security problems will also have to be faced because if the EU turns to the Arctic, it will probably stir up a hornets' nest. Beside the Arctic five (those states who encircle the North Pole: USA, Canada, Russia, Norway, Denmark and Greenland), non-traditional players, such as China and Japan, are also becoming increasingly interested in this region. Russia is ready to protect its – or presumed – national interests in exploitation and the USA also projects a sovereign US maritime presence in the Arctic. [13] As the sovereignty over territory has been a subject of a 100 year-old debate, the melting makes the territory more accessible thus more attractive for states hungry for power and raw material.

The EU has not played an active role in the Arctic yet, beside some declared goals and recognized possibilities; it has no concrete plans for the future in connection with this region however it should have one. The race for the treasures of its continental shelf is ready to begin and the EU has the right to take a piece of the cake on the right of its member states (Denmark, Sweden) not only to weaken the energy dependence on Russia but because of pollution. No matter which state starts the offshore exploitation in the high seas first, the impacts will undoubtedly affect the EU not only in economic way but in environmental context, too. As Arctic states tend to expand their sovereignty ignoring the principle of *mare liberum*, this phenomenon will increase when the effective exploitation works can begin. The 2008 Solana Report illustrates Europe's new challenges and opportunities, but does not go further. Before concrete steps to the Arctic, the EU shall strengthen some areas and not just on the level of declaration of goals. In this light, the EU shall cooperate with Arctic Council to be able to influence its political weight meanwhile the EU should strengthen its institutional capacities in order to deal with Arctic issues. This means establishing a

horizontal *Arctic Unit* in the Commission that can coordinate and develop the interests of States and Arctic policy of the EU between the DGs Environment, Maritime Affairs, Research, Energy, and External Relations. Such a unit based within DG Environment, would be a sensible step in order to avoid negative reflexes that Arctic countries could have were the unit based in the more politically-charged DG's RELEX or TREN. In this light, the Commission shall enforce its cooperation with Denmark and Greenland and with the non-member state Norway which state is possibly the most experienced Arctic state in developing oil and gas fields in this harsh environment. [16]

At any case, the EU shall enforce its institutional and legitimacy tools to be able to compete with other powers in the area.

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PROPERTY LAW IN THE PERSPECTIVE OF CONSTITUTIONAL SAFEGUARDS IN POLAND

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The ownership of property is under the special constitutional protection. In accordance with Article. 67 of the Constitution[1] of 1997 it is the right of the fundamental human rights and freedoms. According to P. Winczorek the Constitution does not guarantee the property, but it can protect the rights of the owner or restore these rights if they have been violated[2].

As the Constitutional Court ruled on 25 February 1999, K 23/98 to guarantee the protection of property is the constitutional duty of the state, which is realized by the action of a legislative nature (the formation of basic legal institutions determining the content of the ownership, defining its boundaries), and actual actions of the authorities having as their subject matter the goods owned[3].
Constitutional laws for the protection of property rights were subject to changes in the last century resulted from the socio-economic changes.

The constitutional protection of property in The Polish Republic II was guaranteed in particular Art.99 of the Law of 17th March 1921 The Constitution of The Polish Republic referred to as the March Constitution[4] Under this provision The Polish Republic recognized any property, whether the one of individual citizens or collective one of associations of citizens , institutions, local government bodies and the state itself, as one of the most essential grounds of the social system and legal order, and it guaranteed to all residents, institutions and communities to protect their property.

The abolition or limitation of the ownership of both personal and collective property was possible only because of higher utility and for compensation. Only the Law was to provide which goods and to what extent were to be solely owned by the state, and how much the rights of citizens and their legally recognized relationship to the free use of land, waters, minerals and other natural treasures – could, because of the public reasons, suffer limitatiors.
According to the Constitution of March the land as one of the most important factors of the nation and the state being could not be the subject of an unlimited market. The laws were to provide for the state to exercise its right to compulsory purchase of land and to regulate the land market taking into account the principle

[1] The Law of 2 April. The constitution of the Polish Republic (Journal of Law No78, item 483).
[2] P. Winczorek, *Komentarz do konstytucji Rzeczypospolitej Polskiej z dn. 2kwietnia1997*, Warszawa200, p. 87
[3] Constitutional Court Ruling 1999No 2, Item 25, see J. Oniszczuk, Konstytucja Rzeczypospolitej Polskiej w orzecznictwie Trybunału Konstytucyjnego, Kraków 2000 and Sokolewicz W. [ed:], *Zasady podstawowe polskiej konstytucji*, Warszawa 1998.
[4] Journal of Law No 44, Item 267.

CONTRIBUTION FOR THE SECOND PILLAR

In addition to deducting social insurance contributions, employers are also obligated to deduct the contribution for the second pillar (in Hungary, termed the membership fee) from the earnings of those of their employees who are in the mixed system. The employer must then send this fee to the private fund to which the employee belongs along with a monthly report. By law, this report must contain such details as the member's natural identifiers, social insurance number, and the base for, and amount of, the membership fee. The self-employed are also obliged to perform all these actions, but by themselves.

In cases of unpaid contributions to MPPFs, the private insurance fund is obligated to call upon the account holder to settle the debt within eight days.

If the call is unheeded, the private insurer is supposed to inform the Tax Office of the debt immediately, and at the same time inform the worker.

The employer not only has to pay a late charge and fine for failing to pay the deducted membership fee but is responsible as well for the damage caused to the insurance fund member.

CONCLUSIONS

Just as the pension system has not always existed, so it will, probably, not last forever. But as long as it does exist, it is worth handling with care. Although it has many weaknesses and shortcomings, no better system has ever been invented.

The time horizon of pension systems is much longer than that of most other systems in society. Thus, managing it requires techniques that are entirely different from what we are accustomed to in problem solving in other fields.

People used to believe in the pension system, but today this is no longer true. They do not believe they will receive reasonable value in return for the contributions they pay. This has caused contribution-paying morale to fall.

A long-lasting boom in the economy, with its favourable effects on employment, might also cause the problems of contribution collection to appear less serious.

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ORAL PRESENTATIONS