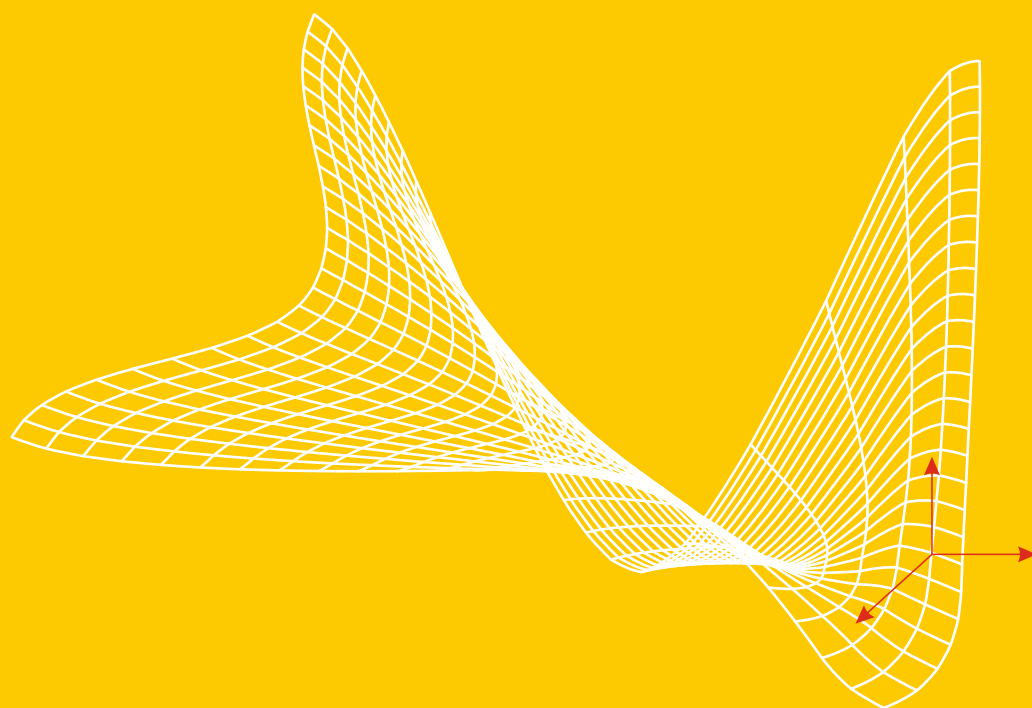


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Planning a market exit strategy for manufacturers of consumer goods when entering foreign markets

Maik DÖRING

Feuma, Germany

Abstract:

Aim: The internal market for manufacturers of consumer products companies is often too small in order to grant long-term success. Therefore, companies expand and enter foreign markets. This paper presents a planning process for market penetration for the selected foreign market, which will show the possibility of a withdrawal and shows also whether an exit scenario is planned by manufacturers of consumer products and when companies tend to think about a market exit.

Design / Research methods: First, the literature was studied. Based on this, hypothesis were prepared. This was followed by a telephone survey of decision-makers from German manufacturers of the consumer products companies.

Conclusions / findings: A planning process for market penetration was developed, which shows next to the market entry also the market exit. Additional this paper shows that manufacturers of consumer products companies can be better prepared for a market exit than companies without an exit strategy, in particular, if the manufacturer sets out relevant economic parameters for the foreign market which determine whether to remain in the market or leave.

Originality / value of the article: When analysing literature on planning processes for market entry, it becomes clear that an exit strategy is not planned. This may indicate that the authors did not consider a market exit and/or anticipate this as a worst case in their market entry assumption.

Implications of the research: The last market entry of the surveyed companies usually occurred recently. For market exit results to be determined, a further consultation of the companies examined should be undertaken over a longer period of time.

Keywords: Manufacturers of consumer goods, foreign markets, planning process for market penetration, market exit

JEL: L20, L66, L67, L68.

1. Introduction, problem definition and objective

Manufacturers of consumer goods penetrate foreign markets. The reasons may be manifold, such as the saturation of the internal market, and/or the extension of the product life cycle and/or the development of a market position as well as following competitors into an external market (von Behr 2004: 45-98; Meffert, Bolz 1994: 94ff.).

Companies in the Consumer Goods Industry (CGI) can also fail with their products abroad, as the example of Henkel in China shows. With brands of detergent like Persil and Spee, but also with local brands such as Wipp or Tianqing, Henkel withdrew in 2008 from the local market. The reason for Henkel's withdrawal was that the target profit for the company was impossible to reach. Domestic competitors work largely with rock-bottom prices for their products and low profits (Brück 2011: 3).

The possibility of failure in the new foreign market and a potential loss of image in its home market therefore makes the decision problematic for a new market penetration. The market entry therefore requires thorough thinking and planning (Kutschker, Schmid 2008: 424; Welge, Holtbrügge 2006: 53-94; Perlitz 2004: 66; Ruzzier et al. 2006: 476-497).

When analysing literature on planning processes for market entry, it becomes clear that an exit strategy is not planned (the processes, see Neubert 2006: 53ff.; Renggli, Martin 2006: 399; Fuchs, Apfelthaler 2009: 267ff.; Root 1998: 2-4). This may indicate that the authors did not consider a market exit and/or anticipate this as a WORST CASE in their market entry assumption.

In the light of these considerations, we will undertake the analysis of market entries into foreign markets for companies in the consumer goods industry. At the same time, a planning process for market penetration will be developed, that will show the possibility of a withdrawal. A study carried out by the author with policy-makers in 100 companies in the consumer goods industry, will provide results for the market entry and exit. The focus of this publication will be on the results of market exits.

In the following section, the theoretical consideration will be discussed. The third section will examine concrete results. In the last section, the summary of the results will be presented.

2. Theoretical considerations

Before showing actual results - in relation to the topic of publication - a digression into the essential concepts will be made. Then follows a development on the market entry planning process.

2.1 Presentation of the most important concepts

The concepts defined in this sub-section are of central importance for this research work. The terms referred to in the first chapter are already relevant: manufacturers of consumer goods, market, market entry and exit.

Manufacturers of consumer goods are companies which produce durable goods and consumer goods. The difference between consumer goods and durable goods is in the purpose (Kuß 2006: 10). When goods are purchased for day-to-day needs, they are considered to be consumer goods because they will be purchased again by the consumers in short purchasing cycles (Westphal 1991: 43ff.). When products are purchased for long-term use, they are considered to be durable goods (Jenner 1994: 110; Fischbach 1992: 13).

In literature, the term market is defined by the following, often unanimous explanations such as, for example, those from Grossekkettler et al. and Fischbach: *"The term market, used in economics, is derived from the idea of a weekly or a securities market. If you were to generalise these expectations in such a way that you're not only considering purchasing and selling activities for a particular product at a specified place and time, but also activities such as the shipping of goods or including the phone/e-commerce, you would arrive at a definition that focuses on sales of products that are essentially material. This goods-oriented market definition is: "We see the market as a sort of meeting of supply and demand for a particular kind of good (Grossekkettler et al. 2005: 158)." "In the abstract*

sense, the market that is important today, is the intellectual expression of all purchase and sales transactions for a particular good (Fischbach 1992: 339)."

In summary, the term market designates the meeting of supply and demand on the procurement and/or sales market for a particular good, whereby prices are being formed (Meffert et al. 2008: 3; Sander 2004: 21; Kortmann 2003: 19). The goods can be consumer goods, capital goods, land, money or work itself (Sander 2004: 21).

The research focuses on the analysis of companies in the consumer goods industry (CGI). Companies in the services sector, which, in essence, provide services and/or activities will not be analysed (Burr, Stephan 2006: 17ff.).

In the procurement market, the company can obtain these goods for their own production (Large 2009: 101; Rüdric et al. 2004: 11-84). In the sales market, the company can try to sell goods (Kuß 2006: 28ff.).

Market entry refers to the opportunity for companies to penetrate a new market in order to participate as a buyer or seller (Oelsnitz 2000: 2-9). The market entry can be performed in the home country, in a neighbouring country but can also take place in remote areas (Jenner 2000: 121-136). Under market entry, we understand entry into a foreign market as a concrete event or even a period of time that may include multiple activities (Kutschker, Schmid 2008: 1106; Michaeli 2008: 434). In the context of this study, the market entry is seen as a period of time. The beginning of the market entry is the introduction of the product, the conclusion of the entry is its sale.

Market exit is the time at which a company withdraws from a market (Porter 2008: 243). A definition of the factors leading to a market exit is not known. So, for example, the exit can occur when one or more targets are not achieved.

2.2 Theories, approaches and concepts, and a decision on a theoretical concept for this study

Behavioural theories¹ show limits for decisions in terms of rationality for organisations, but also for their decision makers. Thus, decision-making by the company about internationalisation can also be a rather rational or even irrational process, in some respects (Siedenbiedel 2008: 66). The theories and approaches to internationalisation² are, however, rather explanatory models, seldom decision models. This means that these theories are largely looking for criteria on how to achieve the internationalisation of companies (Perlitz 2004: 115-118).

The actual behaviour of companies entering new markets is not discussed in the above theories and approaches to internationalisation. Also, these theories and approaches often examine different aspects of internationalisation. In these theories, internationalisation was seldom analysed as to whether it was successful for businesses or not, i.e. what constitutes successful internationalisation and how it is affected by external factors (Kutschker, Schmid 2008: 471-474).

The concepts reflected in the context of this paper show that Wesnitzer's reasoning cannot solve the issues raised by this research. He has limited his study to only Eastern European countries at the time after the fall of the Berlin wall. Moreover, he suggests in his study of market entries by German companies, that explanations of the transaction cost theory, with a view to market entry strategies, apparently play no significant role in decisions to enter a new market.

A major challenge for market entry of CGI companies lies in the consumer market, where new consumers are to be won over. Therefore, it is imperative to take into account the conditions for companies entering the market, i.e. market conditions and business requirements (Macharzina, Wolf 2010: 1037; Dülfer, Jöstingmeier 2008: 134; Schmid 2006: 172). If this is not done, objectives are not always reached (Lehmann-Waffenschmidt 2006: 253). In this regard, Aharoni notes that decision makers are often faced not only with deficits in the definition of objectives, but often

¹ See the concept of bounded rationality, theory of organizational decision.

² The most relevant theories in the literature: the behavioral theory of Aharoni, the product life cycle theory of Vernon, the location-based approaches, the diamond approach of Porter, the transaction costs approach, the competitive advantage theory, the eclectic paradigm of Dunning and culture models, like the Uppsala model and the study of Hofstede.

also with deficits in new market information (Aharoni 1966: 49ff). Therein lies a poorly structured decision problem. Tesch provides a list of conditions to be taken into account about the market and business conditions for market entry, but that list is virtually endless (Perlitz 2004: 100) so that the complexity of the conditions to be taken into account for market entry by CGI companies, can only be guessed at. As mentioned several times above, it is also an objective of the present document to reduce this complexity to bare essentials. In the context of the study, it is to be pointed out that possible, rather limited rational decisions or even irrational decisions of companies to enter the market, are not necessarily wrong as such.

Therefore, based on the basic model of decision theory, a model is built, which represents the market entry of manufacturers of consumer goods in foreign markets. In the context of this paper, it is important to determine relevant goals, relevant options for action, relevant business requirements and relevant market conditions, with which concrete goals for market entry can be better achieved and a short-lived market entry is avoided. The planning process for market entry with an integrated market exit strategy is described in the next section.

2.3 Planning process at the time of market entry

Penetrating a foreign market requires planning by the management of a company (Bell et al. 2004: 23-56). To this end, the use of standardised methods or planning processes is recommended (Kutschker, Schmid 2008: 947ff.). A planning process is the establishment of a sequence within planning stages in order to achieve certain objectives (Fuchs, Unger 2007: 19; Warzecha 2004: 20; Eckrich 2003: 35-52).

In literature, there are several variations on the definition of a planning process in a market penetration. The planning processes differ not only in the number of process phases, but also in their respective task descriptions (the processes, see Neubert 2006: 53ff.; Renggli, Martin 2006: 399; Fuchs, Apfelthaler 2009: 267ff.; Root 1998: 2-4).

In the context of internationalisation³, Root developed a planning process at the time of market entry. The basis for his considerations is that entry into a new foreign market requires a comprehensive plan with business principles and objectives, company resources and a company policy. For the planning and implementation phase for a market entry, Root estimates that a period of at least 3 to 5 years is required. In the first step, it should be investigated how and which products should be proposed for a market entry into a new market. The next step involves defining the management objectives, which are to be achieved in the new market. The third step defines the form of business. Before entering the market, the marketing plan must be established by the company in a fourth step (Root 1998: 2-4). However, a possible withdrawal from the market will usually not be included.

Neubert illustrates what a market process from preparation of market entry to market cultivation can look like. He associates tasks and tools with each process (Neubert 2006: 53ff). Before the planning process, consisting of four phases, namely market selection, market preparation, market entry, market development, Neubert proceeds with a business potential analysis, during which the company and marketing goals are set (Neubert 2006: 57).

As the time frame for establishing the market entry targets is not revealed, it can be assumed that these objectives will be decided only at the business plan stage. In the business plan, strategies and objectives of the company, as well as requirements, plans and measures are set in a time frame of 3 to 5 years (Nagl 2011: 13ff.; Harms et al. 2008: 79-93). This timing after the final market entry decision appears, according to the author of this study, to be too late. Only on the basis of pre-established objectives can options for the market entry be developed and targets be adjusted, if necessary. It is advisable to address objectives before the final market entry decision. Neubert however does not specify when such a thing should happen within the process.

An withdrawal scenario from the market is also not considered by Neubert. Through a planned exit, sunk costs can be prevented by remaining in the foreign

³ As for the internationalisation, there is on the one hand, an understanding of a process, meaning the increasing integration of companies in foreign markets, and on the other hand, the opinion of a status description, meaning the distribution of value creation activities of companies in different countries at specific times, see Glaum, M. 2007: 3-29.

market (Stiglitz, Walsh 2010: 188). Sunk costs are costs that are bound to a particular corporate commitment - like location-bound investments or costs due to product-specific adaptations - and that cannot be recovered after a market exit (Büter 2010: 72; Cezanne 2005: 167; Donges, Freytag 2004: 223).

The brand-expansion-count-down process described by Renggli and Martin shows the steps to follow when opening stores in other countries as a way of market entry. The process consists of the market entry decision (phase I), the market conquest strategy (phase II), the company organisation (phase III) and the opening of a subsidiary (phase IV) (Renggli, Martin 2006: 397-409). When the target setting is to be done remains open. Also, a possible market exit is not considered here either.

Fuchs and Apfelthaler have described a process for the systematic market entry decision. This process consists of six phases. The first phase is the decision in favour of an internationalisation process, the second phase is the product decision and the third phase is the market decision. Then, the fourth phase decides whether the market entry will take place or not. In the fifth phase, the planning decision occurs with the business plan and the sixth phase focuses on the market cultivation (Fuchs, Apfelthaler 2009: 267ff.). The market entry as a separate phase and a possible withdrawal are not shown as such.

Based on the planning processes, a new planning process has now been elaborated. This can be divided into four main phases, as shown in Table 1.

I	II	III	IV		
Market & Target Setting	Overall Analyses & Market Entry Decision	Preparation Market Cultivation	Market Cultivation		
			IVa	IVb	IVc
			Markt Entry	Market Development	Market Exit

Table 1 Planning the market entry

Source: Author's own elaboration.

In the market and target setting phase (phase I), the geographical selection of the target market is made, followed by the establishment of a possible date of entry and the determination of corporate and market entry targets for the market entry.

In the overall analysis, the possible options to cover these objectives in terms of market cultivation, market conditions and company requirements are explored. This will take into account the specificities of CGI when entering the new market (Emes, Gruber 2008: 303-322). In this phase II, there will be a recommendation for the market entry as a basis for the entry decision at the end of the phase. If there is any resistance in the implementation of this decision, follow-up negotiations are possible. Phase II represents the pre-examination of the subsequent stages III-IV.

In the framework of the preparation (phase III), depending on the options for market cultivation, an "action plan" for the new market needs to be defined, its implementation being essential in order to achieve the objectives. At the same time, it is possible to anticipate a possible exit scenario, if targets are not met. That is why the market cultivation is divided into market entry and market development within the newly developed process as opposed to other processes, supplemented by an exit strategy.

Within the market cultivation, the market entry is considered complete if the requirements for a continuous development of the market abroad are met, that is, if the product is accepted by the market and can be sold (Neubert 2006: 61). The implementation of the measures set out in the strategic plan for the further market strengthening and development will occur during the market development (Faix et al. 2006: 57).

In summary, the represented process shows a market entry planning for the selected foreign market. Objectives, local market conditions and company requirements are considered in the overall analysis. The market exit as part of the market analysis is added.

The extent to which German companies in the Consumer Goods Industry (CGI) plan for market entry and exit is shown in the results of this study. Based on the theoretical findings, an empirical investigation has been conducted with decision makers in 100 companies in the consumer goods industry which can provide information about the processes and background information on market entries and

exits. The focus of this publication is on the market exit aspects, as already described above.

3. Methodology of the presented study

In the context of the present study, the quantitative survey method and a telephone survey using a standardised questionnaire appeared to be the most appropriate survey instrument, allowing for a structured survey. Statements of interviewees can be compared. Thus, the number of samples of quantitative results may allow statements regarding the hypotheses (Paier 2010: 101).

Telephone surveys eliminate possible travelling expenses to interview partners (Paier 2010: 99; Scholl 2009: 42). This may also explain why market and social research institutes with headquarters in Germany resort to telephone interviews, as much as possible - in addition to online surveys (ADM 2010). The time required for the interview partner to answer the questions is less than in the case of a face-to-face interview. This can also increase the willingness to participate in the interview (Schnell et al. 2011: 366).

A disadvantage of telephone interviews can be that it is not possible to use any visual aids to help in the representation of the interview topic. In addition, a telephone interview has a temporal limitation of the interview period to avoid call termination. Often, there is also an unwillingness of interview partners to respond to open and/or sensitive or delicate questions (Schnell et al. 2011: 361; Paier 2010: 101; Scholl 2009: 43).

The execution of the survey was carried out by a market research institute. The main reason for deciding on a telephone survey of decision makers through a market research institute, in this case, Foerster & Thelen Marktforschung Feldservice GmbH (Bochum/Germany), and to outsource the rather non-scientific part of this market research study, was to ensure that the theoretically elaborated part of the questionnaire also works in practice. Foerster & Thelen have the manpower, such as interviewers, who are familiar with the data collection process. Survey data can already be prepared and be made available as SPSS data set. In addition, Foerster &

Thelen are using CATI (Computer Assisted Telephone Interviewing). Possible refusals can be avoided and thus a higher coverage rate can be achieved.

To improve the quality of the survey, the interviewers have been trained on-site at the market research Institute. This training was conducted by the author of this study to intensively prepare the interviewers on the questions and their answers in the input mask. Each question, as well as links to other issues was discussed. Terms were explained if not known to the interviewers.

4. Results of the study

4.1 General results

The interview lasted on average about 24 minutes. An interview survey was therefore in line with the interview duration occurring in practice, namely between 10 and 30 minutes (Diekmann 2010: 504). 1739 contacts from the adjusted sample led to 100 completed interviews, which corresponds to a ratio of 5.8%.

The last 100 completed market entries, which were considered by the respondents during the interview, occurred mainly in Europe. Here, in particular, the countries France, Russia and the United Kingdom are mentioned. In Asia, the focus is on entering the market in countries in East Asia such as Japan and South Korea, and in America, in the USA and Canada. Once the companies have penetrated a foreign market, they then consider the market entry finished after approximately 14 months, on average.

The majority of the surveyed companies can be considered to be small and medium-sized enterprises (SMES) (see Figure 1). According to the Institute for Small and Medium-sized Business Research (IfM), SMEs are companies with fewer than 500 employees and less than EUR 50 million annual turnover (Institute for Small and Medium-sized Business Research 2002).

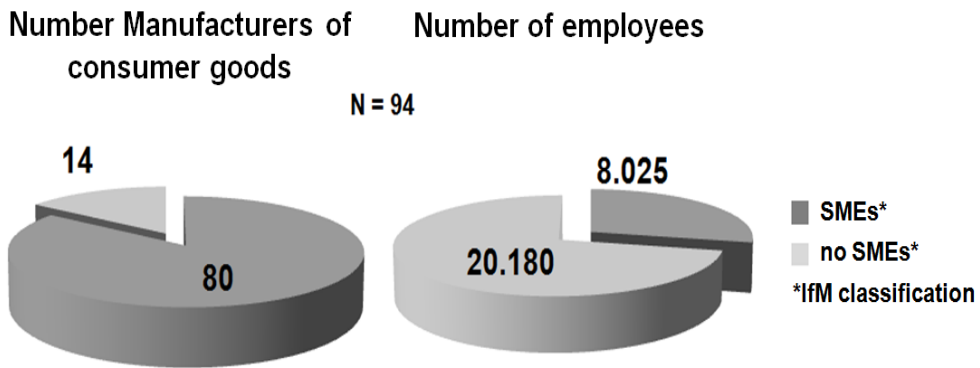


Figure 1. Respondent companies broken down by size (own representation based on the survey)

The vast majority of market entries was made as an own market entry⁴ (81%). Direct export appeared to be of great relevance (69%). Companies penetrate those markets, where they expect to have many potential customers. In addition, market entry occurred mainly in markets with strong competitors. The power of retailers was rated as "strong" by almost half of the respondents. Only every fourth company considered the power of retailers as "weak". The market in the new foreign market is often assessed as a free market with a high level of political stability and a high degree of legal security.

In answering the question as to how the distribution of products was handled in the export market, multiple answers were possible because the sale through one form of distribution does not exclude other forms of distribution, at the same time. The results show that trade accounts for more than half of product sales and direct sales through the export department for less than one third. The small balance is distributed almost equally between distribution in "shop-in-shop / own outlets", "own online shops" and "direct marketing via media". Negotiations with retailers revolved predominantly around price agreements and arrangements in terms of turnover and logistics.

Almost two thirds of respondents did not include any additional know-how for planning their market entry. These are often smaller companies. A third of these

⁴ Own market entry: direct export, overseas branch, sales joint venture

respondents envisage, however, resorting to external expertise when approaching the next market entry.

4.2 Concrete market exit results

The result of the survey shows that a good tenth of the companies planning to enter a market have also planned for an exit scenario. Almost one-tenth has been thinking about withdrawal after entering a new foreign market (own work/study).

One-fifth of the manufacturers who have planned for a market exit scenario before entering the market, have thought about withdrawal after having entered in the foreign market (see table 1). For those who did plan for a market exit scenario, the proportion is less than one-tenth of the manufacturers.

Among companies that have planned for a market exit scenario before entering the market, the difference between companies that have considered a market exit and those that have not, is visible in terms of the degree of *turnover achievement* (own work/study: Turnover is the most important market entry objective). Companies tend to think about a market exit if the sales target is not reached.

Feature		Was a market exit scenario planned prior to entering the market?			
		Yes		No	
		Have you ever thought about a market exit?		Have you ever thought about a market exit?	
		Yes	No	Yes	No
Market entry turnover target	MV	2.50	3.29	3.33	3.41
[1 = not achieved up to 5 = fully achieved]	N	2	7	6	75

Table 2. Comparing market exit scenario planning vs. considering market exit and target achievement for the market entry turnover target

MV=mean value, N=number

Source: author's own representation based on the survey.

This suggests that companies in the CGI, when planning for market exit scenarios, have also defined criteria for exiting the market, in addition to the market exit itself. Thus, the market withdrawal scenarios can be aligned quantitatively with

economic parameters. Specific limits are set for remaining in the market. When falling short of these limits, the company will withdraw from the market.

The survey of 100 companies shows that almost all respondents CG manufacturers from Germany are still active in foreign markets. Only one company withdrew.

The market entry took place in 2010 with indirect export as a form of business. The exit occurred in the same year. The reason for the withdrawal was insufficient sales in the foreign market.

Further analysis on market exits is not possible at this point, because the number of cases of market exits is quite low.

5. Discussion of findings

The study carried out on the consumer goods industry provides results for market entry and exit. Most of the manufacturers have not withdrawn from the market - as this study shows. Since the latest market entry of the company was queried, a crucial reason for being persistent –without market exit– may reside in the fact that the penetration is still fairly recent.

The market entry was mostly operated as an own market entry. This may be related to the marketing of products "Made in Germany". A possible partner –as a no own market entry⁵– is likely to be less trusted than own employees. When entering a foreign market, the goal is to find a partner who guarantees the sale of products. Trusting your partners plays an important role. This trust does not seem very strong.

An own market entry often means higher investments in the foreign market. Investments should pay off in the long term. A failure in the international market –through a market exit– was probably not even considered by the surveyed companies.

According to this study, the duration of consideration for entering a new market in a relevant target market was approximately 24 months, on average. The reflection

⁵ No own market entry: indirect export, franchising.

time does not inevitably correspond to the planning time, but includes it and can go beyond it. However, this duration can also be due to the financial flexibility of the company being low and/or by the decision-makers having not gathered enough market entry experience and being hesitant in their final decision. In addition, it can be assumed that the main goal of the reflection period, the decision to enter the market and plan for it, is a successful market entry, with the achievement of sales and no early withdrawal from the market.

Additional know-how in the planning phase to enter the market was barely involved. Since these were mostly small companies, this may be due to the costs for accessing external expertise or to their reluctance to hire consultants.

As shown in this study, the market in the new foreign market is often assessed as a free market with a high level of political stability and a high degree of legal security. This means that companies penetrate markets in which hardly any restrictions are expected, which can affect the sales of products and a possible market exit.

Also, entry took place into countries around the world, but seldom in China. Possibly, manufacturers of consumer goods –given the product piracy in China– rather fear a potential market exit, so that market entry is already excluded from the start.

It is evident that the sale of products of new market participants largely requires distribution via retail trade. Therefore, agreements were also mostly concluded with these. This can be a further option to help secure a market position in the new international market.

The study shows that manufacturers of consumer products with planned market exit scenarios, will consider a market exit if the objectives are not achieved. They can be better prepared for a market withdrawal than companies without an exit strategy, in particular, if the manufacturer sets out relevant economic parameters for the foreign market which determine whether to remain in the market or leave.

Since the last market entry of the surveyed companies usually occurred recently, it suggests that when observing companies over a longer period of time, further market exits will follow.

6. Summary of results

Of the 100 respondents who are manufacturers of consumer goods, apart from one company, all are still active in the international market. This result may be justified by the nature of the survey. The question revolved around the last entry in an international market.

Most companies have chosen a market entry in the international marketplace on their own. An own market entry often requires investing more than with a no own market entry. Therefore, a market exit often does not seem an option in the planning. It is surprising, however, that little additional expertise in the planning phase of entering the market is resorted to, given the investment in the new international market. This may be related to costs or to reluctance to hire consultants on behalf of companies.

The market entry is usually planned in free markets. Thus, possible sanctions can be ruled out. This may also explain why companies forego planning for a market exit.

The sale of consumer goods occurs largely through retail trade. Therefore, contracts are concluded with these partners. This procedure is intended to simplify access to the new market. From the point of view of the company, market exits appear unlikely.

The study shows that companies with a planned market exit scenario are better prepared for a market exit than companies without. For market exit results to be determined, a further consultation of the companies examined should be undertaken over a longer period of time.

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Planowanie strategii wyjścia z rynku przez wytwórców dóbr konsumpcyjnych podczas wchodzenia na rynki zagraniczne

Streszczenie

Cel: Dla przedsiębiorstw produkujących dobra konsumpcyjne rynek wewnętrzny jest często zbyt mały, aby zagwarantować długoterminowy sukces. Z tego powodu przedsiębiorstwa podbijają i wchodzą na rynki zagraniczne. Niniejszy artykuł przedstawia proces planowania penetracji rynku dla wybranego rynku zagranicznego, który ukaże możliwość wycofania się, a także omawia, czy scenariusz wyjścia jest planowany przez producentów dóbr konsumpcyjnych oraz kiedy przedsiębiorstwa zaczynają myśleć nad wyjściem z rynku.

Układ / metody badawcze: W pierwszym rzędzie w artykule zawarto przegląd literatury. Na tej podstawie postawiono hipotezy badawcze. Następnie przedstawiono wyniki telefonicznej ankiety przeprowadzonej wśród decydentów w niemieckich przedsiębiorstwach zajmujących się produkcją dóbr konsumpcyjnych.

Wnioski / wyniki: Opracowano model procesu planowania penetracji rynku, przedstawiający obok wejścia na rynek także wyjście z rynku. Ponadto artykuł ukazuje, że wytwórcy dóbr konsumpcyjnych mogą być lepiej przygotowani do wyjścia z rynku aniżeli przedsiębiorstwa bez strategii wyjścia, w szczególności gdy producenci wyznaczają istotne parametry ekonomiczne dla zagranicznych rynków, determinujące decyzję o pozostaniu lub wycofaniu się z rynku.

Oryginalność / wartość artykułu: Podczas analizy literatury poświęconej procesowi planowania wejścia na rynek jasne staje się, że strategia wyjścia nie podlega planowaniu. Może to oznaczać, że autorzy nie rozważają wyjścia z rynku i / lub przypuszczają, że jest to najgorszy przypadek w ich założeniach dotyczących wejścia na rynek.

Implikacje badań: Ostatnie wejścia na rynek ankietowanych przedsiębiorstw zwykle miały miejsce niedawno. Aby określić wyniki wyjścia z rynku, niezbędne jest podjęcie dalszych konsultacji z badanymi przedsiębiorstwami w dłuższej perspektywie czasowej.

Słowa kluczowe: Wytwórczy dóbr konsumpcyjnych, rynki zagraniczne, proces planowania dla penetracji rynku, wyjście z rynku

JEL: L20, L66, L67, L68.

Benefits of membership of Exchange Rate Mechanism - ERM II - alternatives to Poland's adoption of euro¹

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Abstract:

Aim: The aim of this paper is to outline the essential features of the EU Exchange Rate Mechanism - ERM II - including the past experience of its participants and to analyze the benefits arising from Poland's accession to it.

Design / Research methods: The method of inductive inference based on the comparative analysis of the experience of the present members of the ERM II system was employed.

Conclusions / findings: Participation in the ERM II system does not obligate its participants to join the eurozone; further, it allows for sustaining a floating exchange rate and guarantees help of the European Central Bank, thus reinforcing economic stability and credibility. This, in turn, should translate into the reduction of the investor's risk premium and of the relatively high cost of capital in Poland, compared to other Central and Eastern European countries, and to facilitate access to that capital, thus having a positive impact on economic growth.

Originality / value of the article: Considering the unwillingness of subsequent governments and citizens to adopt euro, this paper attempts to disseminate knowledge and reinforce the substantive arguments within this area at a time when, in spite of the crisis, the group of the EU countries outside the eurozone has been shrinking.

Keywords: *Eurozone, exchange rate stabilization mechanism ERM II, exchange rate regime*

JEL: F33, F15, E42, E52, E58

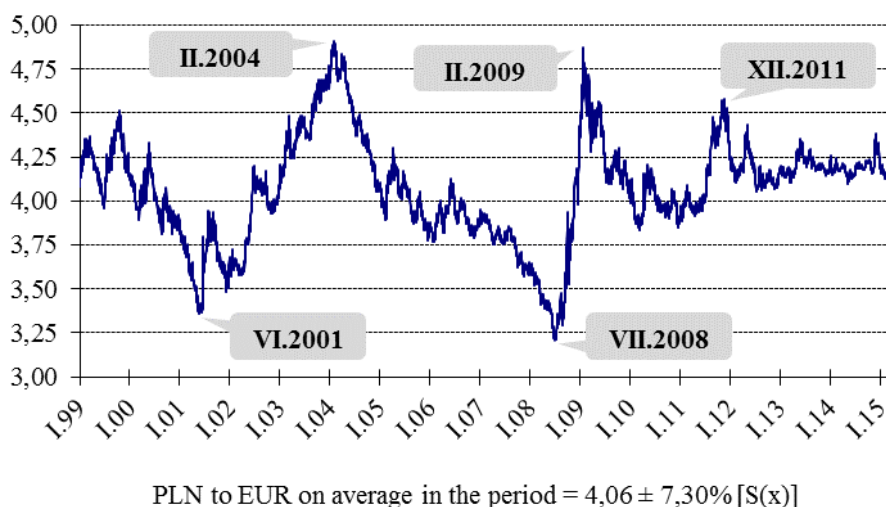
¹The main tenets of this paper were presented in Redo (2016).

1. Introduction

The euro area encompasses 19 out of 28 EU countries, thus putting Poland in a minority of the EU countries without euro. On top of that, if we take into account the fact that Bulgaria (currency board) and in practice Denmark too (officially, an exchange rate with a very narrow fluctuation margin of $\pm 2.25\%$) use a fixed exchange rate against the euro, then all of a sudden Poland finds itself in a very small group of 6 EU states – the UK, Sweden, the Czech Republic, Hungary, Romania and Croatia – whose economies, citizens and business entities are exposed to exchange rate fluctuations on a daily basis, having to bear the costs relating to it. It is worth recalling that it was 15 years ago on 12 April 2000 when the Polish economy made a transition to the floating exchange rate regime, which in practical terms implies potentially unlimited exchange rate fluctuations of the Polish zloty, for it is the market that determines its level – a greater interest in zloty leads to its appreciation, while smaller interest causes its depreciation.

While eschewing a multifaceted analysis of the benefits and costs of the euro adoption, it not being the objective of this paper, still, it should be made clear that business entities from the eurozone countries have been in a better competitive position for over 16 years, which has made their functioning within the EU single market easier. This is particularly important for the Polish economy whose currency could be both very strong (2001 or 2008) and extremely weak (2003-2004 and at the turn of 2008 and 2009) – see Chart 1. For example, the period of two and a half years, from the middle of 2001 to the beginning of 2004, saw the weakening of zloty against euro, (about 46% for the medium exchange rate, from PLN 3.36 to PLN 4.90 per EUR 1), followed by a period of 5 years marked by zloty gaining in strength (about 34% up to PLN 3.21 per EUR 1 in July 2008), thus placing the Polish entrepreneurs (exporters and importers) and borrowers (foreign currency loans) in entirely different conditions to those envisaged in their original plans.

Chart 1. Zloty to euro exchange rate between January 1999 and April 2015



Source: Self-reported data based on Oanda 2015.

Among other things, this resulted in losses from certain contracts, problems with the exchange rate fluctuation or even insolvency. Further implications involved a limited expansion into foreign markets, eventually giving them up, and ultimately employment reduction or failure to create new jobs, a slowdown in consumption and investment along with a full range of consequences coming from that for the country's economic trends, level of wealth and financial situation.

The question therefore naturally arises whether a floating exchange rate regime is truly the best solution for the Polish economy. To this end, the aim of the paper is to show the benefits from an alternative option in the form of the inclusion of zloty in the ERM II – a measure whose adoption would hardly be noticed by the market, and yet, would yield quick quantifiable benefits, while providing a compromise to the public's dislike of Poland's joining the eurozone. According to the CBOS poll conducted in October 2014, as many as 68% of respondents were against the transition to euro (with 24% supporting the idea). Moreover, the support for the euro adoption has been falling steadily every year (it increased only during the 2008-2009

crisis), and it is worth recalling that 12 years ago, in 2002, 64% were for the adoption of the euro currency (CBOS 2014).²

2. The European Exchange Rate Mechanism – ERM II

The European Exchange Rate Mechanism is the exchange rate stabilization system. It was set up on 1 January 1999 for the EU countries which had not entered the eurozone. Its objective is to maintain a relative stability of a country's own currency against euro, thus fostering economic stability and development both on the national and European level. Participation in the mechanism is voluntary, yet it is also the requirement for entering the eurozone. EMR II is a successor to the European Monetary System in which the EU countries (former EEC) stabilized their exchange rates against the ECU from 13 March 1979 till the end of 1998. Several decades ago, Western Europe already recognized that the advantages of the exchange rate stability more than compensate the stabilization costs – in particular, that was the case for the European economies in the process of integrating with one another, whose characteristic feature was the high and ever increasing level of openness and mutual trade.

Participation in the ERM II entails the obligation to keep the exchange rate of the country's currency within a set margin. However, the standard fluctuation band is broad, up to +/-15% against the central rate (Resolution of the European Council 1997: paragraph 2.1.). It should be emphasized straight away that the participation in the system is not without a very tangible advantage in the form of the guarantee of the European Central Bank's help in sustaining the stability at a time of exchange rate tensions (ECB Agreement 2006: Article 6 and 4). This help is automatic in its nature and unlimited in amount when intervening at the edges of the fluctuation band (ECB Agreement 2006, Article 7-8), whereas in the situation of an intervention within the fluctuation band, this help would be limited up to approximately EUR 1.94 billion (ECB Agreement 2014: Annex) for Poland. This

² The poll was conducted using computer assisted personal interviews between 9 and 15 of October 2014 on a representative, random sample of 919 adults from Poland.

guarantee is an important factor fostering stability and credibility of the country's economy.

Since there is neither support nor more specific plans regarding Poland's joining the eurozone, the participation in the ERM II could be viewed merely as a measure designed to increase security and to stabilize Polish economy. In the future, this participation could be a factor in the discussion on narrowing the fluctuation band, that is, a stronger position of zloty, and might even contribute to the acceleration of the euro transition process, should such will or need occur. In order to qualify for the membership in the eurozone, a country must participate in the ERM II for at least two years (at the moment of checking the fulfillment of the criteria) – and that without any major tensions and devaluation of the central exchange rate (TFUE 2012: Article 140 paragraph 1, third indent; Protocol 2012: Article 3).

Since the ERM II participation does not obligate a country to enter the eurozone, while enabling it to maintain a floating exchange rate (in other words, no need of overly frequent exchange rate interventions) and guarantees the ECB help and thus greater credibility of the country's economy, entering the ERM II seems quite reasonable, especially taking into consideration the relatively long intertwined periods of weak (weakening) and strong (getting stronger) zloty within a relatively short time, as seen from the perspective of a single entrepreneur or borrower. It is not only about the obvious benefits for the economy coming from better stability of the exchange rate in the form of greater predictability, stability, a longer-term planning horizon, improved competitiveness and economic credibility, but it is also about testing whether Polish economy is capable of development and of coping with a crisis at the chosen level of the exchange rate to euro – the level which we do not need to cling to (within the permitted fluctuation band, one can steer the rates) and which we can adjust, if necessary, or we can leave the system altogether. However, this kind of opportunity will not present itself if zloty enters the ERM II at the last minute before the euro adoption – due to time pressure and desire to meet the exchange rate criteria. Most importantly, all this can be done under the supervision, that is, with the ECB help, which is an extra protective shield in case of speculation attacks on the Polish currency. Indeed, the exchange rate stabilization (whether or not within the currency system) may provoke speculators. Yet, one should bear in

mind that the floating exchange rate regime does not prevent from such attacks. Individual Westerns financial institutions have such huge capital that they are capable of destabilizing every economy, not only the developing ones, but also those with a floating exchange rate. On the other hand, the credible exchange rate policy run by the European Central Bank allows the intervention weight to be somewhat shifted onto the participants themselves of the currency market. Zloty's entry into the ERM II would yield yet another advantage – in the future, it would facilitate choosing the desired, from the perspective of the Polish economy, level of the conversion rate into euro, which is extremely valuable considering the importance of business interests as represented by the advocates of a lower as well as a higher conversion rate. It has to be understood that weighing up the arguments and making a decision as to whose interest to promote is particularly difficult in the case of the Polish economy. Poland is still a developing economy seeking to bridge the gap between herself and the Western countries, and for this reason fostering competitiveness appears to be of key importance. However, if we consider the huge dependence on import (not only raw materials) and the problem with innovation, the choice of a compromise rate proves to be very difficult indeed.

If Poland intends to become a fully-fledged decision maker, participant and beneficiary of the development of the European economy, sooner or later it will have to join the euro, if only because remaining at the ever narrower margin of the increasingly integrated Europe will generate greater costs (network effect – NBP 2009: 59, 179). Taking advantage of the current absence of pressure relating to a prompt euro adoption, we should at least carry out a substantial analysis - also in public, so as to enhance the public's awareness and thus win the support of at least some of them - of the consequences resulting from the floating exchange rate, keeping zloty at different levels against euro (very strong, strong, medium, weak and very weak), and its possible stabilization against euro (e.g. even within a broader fluctuation band). At this point a debate should be held on the possible entry into the ERM II, which, although being one of the convergence criteria for entry into the eurozone, does not represent in itself a declaration stating a quick adoption of euro, or any coercive measure to do so. This is best borne out by Danish krone, which has

successfully been stabilized against euro within the system from the day it was set up on 1 January 1999; up to this day Denmark has not adopted euro.

3. Experience of other EU countries

Some of the new EU member states which belong to the eurozone entered the ERM II long before adopting the euro (see Table 1)

Table 1. Comparison of the overall time in the ERM II by the currencies of the participant countries

Country	ERM II entry date	Eurozone entry date	Overall time in the ERM II
Slovenia	28 June 2004	1 January 2007	2.5 years
Cyprus	2 May 2005	1 January 2008	2.5 years
Malta	2 May 2005	1 January 2008	over 2.5 years
Slovakia	28 November 2005	1 January 2009	over 3 years
Estonia	28 June 2004	1 January 2011	6.5 years
Latvia	2 May 2005	1 January 2014	8.5 years
Lithuania	28 June 2004	1 January 2015	10.5 years
Greece	1 January 1999	1 January 2001	2 years ³
Denmark	1 January 1999	-	for over 16 years ⁴

Source: Self-reported data based on the European Central Bank 2004a, European Central Bank 2004b, European Central Bank 2004c, European Central Bank 2005b, European Central Bank 2005a, European Central Bank 2005c, European Central Bank 2005d, Danmarks Nationalbank 2014, Kontolemis 2003: 31.

The Lithuanian litas was in the ERM II system for over 10 years, the Latvian lats for over 8 years and Estonian kroon for over 6 years before adopting euro.

³ Greek Drachma participated in the previous ERM too from 16 March 1998 to 31 December 2001 which is in total almost 3 years.

⁴ Danish krone participated in the first ERM from the very beginning of its functioning, which is from 13 March 1979 and at the moment of the euro introduction it became automatically a member of the ERM II, and still is until now. Denmark has been stabilizing its currency against euro – previously against ECU – for more than 36 years.

Business entities of those countries had thus many years to see how their economies would cope not only in the good economic times until 2008 but also at the time of the extreme financial and economic turbulences following the 2008 crisis. For these economies the test was unique as all of these countries adopted, on their own initiative, a fixed peg to euro regime while staying in the ERM II system (Latvian lats was pegged to euro with a very narrow fluctuation band of $\pm 1\%$). The example of Denmark is worth noting here; Danish currency has been in the ERM II system from the very beginning, 1 January 1999, and before that, since 1979, it was stabilized against ECU within the previous system of exchange rate stabilization – the European Monetary System. It should be emphasized that Denmark officially maintains, on its own initiative, its currency pegged to euro within the fluctuation band of $\pm 2.25\%$, which is considerably narrower than the standard of $\pm 15\%$ from the central rate against euro. The ERM II allows a country to have a stronger stabilization of its currency (Resolution of the European Council 1997: paragraph 2.4.). The exchange rate of the Danish krone in practice is even more stable against the euro – with the fluctuation band of merely $\pm 0.5\%$ (Danmarks Nationalbank 2014), which has the effect that Danish economy, although not being in the euro, is not exposed to continuous exchange rate fluctuations and uncertainty that comes with it. This places Danish business entities in a better competitive position than, for example, the Polish ones. Furthermore, the ERM II participation strengthens stability and trust in the Danish economy and its economic policy because of the guarantee of the ECB help in case of exchange rate tensions.

The currencies of the following countries remain outside the ERM II system: Poland, the UK, Sweden, the Czech Republic, Hungary, Bulgaria and Croatia.

4. The costs of the exchange rate stabilization and destabilization

It is true that the participation in the exchange rate system involves some obligations, cost and risk – yet not unlike staying out of it. The fluctuation range of 30 percent, which is allowed under the ERM II, offers a very wide corridor,

especially in the context of the discussion on the need to stabilize zloty against euro. Therefore keeping zloty within such a broad range should not generate a particularly high stabilization cost. In fact, if one were to decide unilaterally on stronger stabilization (as currently Denmark and before that, Latvia, Lithuania, Estonia, Slovenia, Cyprus and Malta), those costs would be greater, requiring much activity by the central bank on the country's currency market. It should further be highlighted that the higher costs of functioning of the central bank mean decrease in its profit or risk of losses, which is of huge relevance to Poland's budget, since 95% of the NBP profit from the previous year is assigned to this year's state budget (The Banking Act of 1997: Article 69 (4) and 62). But precisely here lies the answer why subsequent governments have for years shown no interest in changing the exchange rate regime in Poland.

At this point, it would be useful to show the consequences of stabilizing zloty and those involved in its destabilization and only then, on the basis of this analysis, make the decision whether to have zloty pegged or stay in the floating exchange rate regime. The Polish economy has been experiencing negative consequences of unpredictability and continuous, not infrequently, strong fluctuations of zloty since the introduction of the floating exchange rate regime 15 years ago. On the other hand, the cost of stabilizing the exchange rate means less contribution (or not at all) to the state budget from the NBP payment from profit due to higher operating expenses of the bank. This would imply spending cuts and/or higher taxes or even a greater budget deficit. So we face the dilemma once more: whose interest is more important from the perspective of the country's future development? It should be stressed that while each of these solutions entails certain costs for the economy, for the government, however, a much more convenient solution is the first option – not stabilizing zloty, for then the NBP does not generate stabilization costs and so performs better financially, which, in turn, increases budget revenues and facilitates economic policy (and staying in power). The figures we talk about are not small. The NBP profit has equaled almost PLN 50 billion in the last 14 years – see Table 2.

Table 2. Net profit of the National Bank of Poland and payments from profit made to the state budget in a given year* (PLN billion)

	NBP profit	NBP payment made to state budget
2013	0	0
2012	5.54	5.26
2011	8.64	8.21
2010	6.53	6.20
2009	4.17	3.96
2008	0	0
2007	-12.43	0
2006	2.61	2.48
2005	1.22	1.16
2004	4.39	4.17
2003	4.27	4.06
2002	4.84	4.68
2001	2.70	2.58
2000	5.01	4.87
	37.49	47.63

* payment made in a given year is assigned to the budget for next year – e.g. payment made on the basis of the 2012 profit = PLN 5.26 billion is assigned to the state budget for 2013.

Source: Self-reported data based on the report of the National Bank of Poland (2000-2013) and Ministry of Finance (2000-2013)

In 2007 a loss of PLN 12.43 billion occurred, which gives a positive financial result of PLN 37.49 billion for the years 2000-2013. At that time the state budget received PLN 47.63 billion from the NBP as payment from profit (Ministry of Finance 2000-2013), which accounts for 17.1%, amounting to PLN 277.8 billion of budget revenues planned for 2014 (Budget Act of 2014), or 5.8% of Poland's public debt, which is PLN 827 billion, as of the end of 2014 (Ministry of Finance 2015). However, it is curious that despite the NBP cumulated financial result of PLN 37.49 billion, the state budget received as much as PLN 47.63 billion, that is, over 10 billion more. A closer look into the NBP financial situation reveals that it was possible because the bank's high loss recorded in 2007 (PLN 12.43 billion) has not so far been fully covered, and at the end of 2013, the loss column in the bank's

balance sheet still indicates the loss of PLN 12,43 billion from the previous years (NBP 2014).

5. Conclusion

In view of the above, it seems appropriate to analyze in public the effects of instability of zloty, which have been felt for over 15 years, and of its possible stabilization in order to mitigate the public's fear of changes, educating it about the specificity of the Polish economy in the face of the eurozone expansion, as well as in the context of the available solution in the form of the ERM II. Perhaps the analysis will allow for better understanding of the dilemma involved in making the choice as to the desired level of the exchange rate of zloty against euro from the perspective of Polish economic interest as a whole, and of the significance of its stabilization and entry into the ERM II – without making any declarations regarding the transition to euro. It is also to use the available instrument to test the selected exchange rate and the competitiveness of the Polish economy following from that, as well as it is a key factor in fostering the country's economic stability and credibility. In turn, the economic stabilization, which will be achieved once the continuous fluctuations of zloty's exchange rates and the sense of uncertainty have been eliminated, along with greater security and credibility should, over time, translate into larger support for the integration with the eurozone. Even if that is not the case, we will still be able to function in a more stable economic environment, while enjoying additional support from the European Central Bank.

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Korzyści członkostwa w mechanizmie kursowym ERM II – alternatywy dla wprowadzenia euro w Polsce

Streszczenie

Cel: Celem opracowania jest przybliżenie istoty mechanizmu kursowego ERM II i doświadczeń dotychczasowych jego uczestników oraz analiza korzyści z przystąpienia Polski do niego.

Układ / metody badawcze: W tym celu zastosowano metodę wnioskowania indukcyjnego opartą na analizie porównawczej doświadczeń dotychczasowych członków systemu ERM II.

Wnioski / wyniki: Uczestnictwo w systemie ERM II nie zobowiązuje do wejścia do strefy euro, pozwala na zachowanie dalekiej płynności kursu walutowego i daje gwarancję pomocy Europejskiego Banku Centralnego, wzmacniającą stabilność i wiarygodności gospodarki, co powinno przełożyć się na zmniejszenie żądanej przez inwestorów premii za ryzyko i przyczynić do obniżenia względnie wysokiego kosztu kapitału w Polsce na tle państw Europy Środkowo-Wschodniej oraz ułatwić dostęp do niego, oddziałując pozytywnie na wzrost gospodarczy.

Oryginalność / wartość artykułu: W związku z niechęcią ze strony kolejnych rządów i obywateli do przejścia na euro opracowanie stanowi próbę upowszechnienia wiedzy i wzmocnienia merytorycznych argumentów w tym obszarze w sytuacji kurczącego się pomimo kryzysu grona państw UE pozostających poza strefą euro.

Implikacje badań:

Słowa kluczowe: strefa euro, mechanizm stabilizacji kursów walutowych ERM II, reżim kursowy
JEL: F33, F15, E42, E52, E58

Arbitration as an instrument of support for business transactions

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Abstract:

Aim: The article is concerned with issues relating to arbitration in terms of the development of economy and entrepreneurship. Attention should be drawn, in particular, to speed as one of its key assets. In terms of the cost of proceedings, arbitration is less expensive than a court process. Another advantage stems from the possibility to design an arbitral procedure. The process of designing the arbitral procedure may proceed according to the arrangement made by the parties themselves. They can decide on the choice of law, arbitrators, their competences and method of conducting a proceeding. Arbitration resolves disputes which arise between entities participating in business transactions. Based on the analysis conducted in the paper, the author takes the view that arbitration is of crucial importance to economic development. A quick dispute resolution has the effect that entrepreneurs show interest in this form of resolving their conflicts.

Design / Research methods: The interpretation of the impact of arbitration on business transactions was conducted employing historical and dogmatic method. The phenomenon of arbitration has been explained as an alternative form which exists next to mediation proceedings.

Conclusions / findings: The studies allow the author to advance a thesis that, apart from the usual economic mechanisms, the mechanisms contributing to the resolution of disputes arising between entrepreneurs ensure the proper functioning of the economy as well. One of such mechanisms is precisely the arbitral tribunal. Unlike common courts, it is a more effective instrument in the hands of entrepreneurs.

Originality / value of the article: There is a two way link between law and economics. The article shows that legal institutions like arbitration in fact serve economic aims. On the other hand, the legal aspects of arbitration can also be evaluated through the prism of economic analysis.

Keywords: *arbitration, award, disputes, economy, entrepreneurs, confidentiality, mediation, arbitrator, rules of arbitration*

JEL: K40, K41

1. Introduction

The beginning of arbitration as a method of dispute resolution dates back to different civilizations in ancient times. The history of arbitration is older than that of state judiciary. The form of arbitration in those days naturally looked slightly different than the arbitration we see today, also considering the contemporary regulations of law. However, that does not change the assumption underlying the emergence of this institution, which is to achieve as expeditious and perfect resolution as possible of the dispute arising between the parties. There should be no doubt that from its very beginning arbitration predominantly served to eliminate disputes of various types arising among people, preferring to refer to a third party's decision as a method of settling a conflict. Those disputes were commercial, religious and even familial in origin. Arbitration used neither force nor violence, and instead employed the institution of arbitrator, that is a third party enjoying great respect and esteem. An arbitrator was to be entrusted with the dispute with the objective to eliminate and resolve it for good (Szurski 1994: 3; Żołnieruczuk 1973: 113; Dalka 1987: 9; Wilanowski 1929: 141; Dąbkowski 1911: 445; Koredczuk 2006: 295-296). It is therefore quite reasonable to argue that arbitration is a social phenomenon which is not only older than state judiciary (Szurski 1994: 3; Habscheid 1959: 113), but also than any other form which served to mitigate conflicts between feuding parties. Some go even so far as to discern certain references to arbitration in the Bible, in the letter of St. Paul to the Corinthians (Myrcha 1948: 9).

Thus, it can be argued that from its very beginning the history of arbitration entailed the role of settling disputes arising among people initially by conciliation. Not until later was the arbitrator, in addition to dispute resolution, vested with powers of issuing decisions which would frequently form the basis of enforcement proceedings (Bossowski 1932: 2-6; Kuratowski 1932: 2-3). The power of issuing binding awards proved to be crucial not only from the point of view of the consequences arising from the dispute resolution, but also from the point of view of the authority of this institution. The historical circumstances have made it possible for the arbitration institution to survive until present times, making it into a serious

rival to contemporary administration of justice. There is no doubt that nowadays arbitration as a method of dispute resolution provides an alternative to inefficient state judiciary.

In our times, we can come across arbitration in a wide range of situations. As a mechanism for resolving disputes, it is known both to public law (including international public law) and private law. In fact, both of these forms should be considered separate, for arbitration operating under public law has little in common with the one operating in the area of private law. This comes from the fact that the formula and role of one somewhat differs from the other.

Given the set of issues adopted in the paper, arbitration known in private law will be of basic relevance, meaning the form which comes down to resolving disputes in a manner that is of private and not of public law nature. Arbitration occupies a special place in international business transactions, where it has for many years now been considered the best method of dispute resolution between contractors from different countries. Entrepreneurs on the international front see the advantages of arbitration, and certainly there are many more of those in arbitration than in the state judiciary. For international business, the sources allowing arbitration to operate are in the first place in the form of international conventions. Here we distinguish the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards and the European Convention of 1961 on International Commercial Arbitration. They have played a major role in the development of international arbitration and have certainly contributed to the economic development in their own particular way.

Arbitration has also been well established in domestic business transactions (Błaszczak, Ludwik 2007: 3). Today arbitration happens to surface in places which have so far been unavailable to it, and there have been increasingly more references in various legal regulations requiring that the provisions on arbitration be applied accordingly. All this has the effect that, on the one hand, we can distinguish arbitration types – accounting for certain arbitration differences – and on the other hand, it appears necessary to try and sort out the concepts in order that the forms which do not represent arbitration are not named as such (Błaszczak, Ludwik 2007: 3-10). The aim of this paper is therefore to clarify the essential element of arbitration

and to show the role of arbitration as an instrument supporting business transactions in Poland. It is undisputed that, apart from the standard economic mechanisms, an expeditious dispute resolution followed by prompt enforcement of obligations is crucial to economic development. Arbitration is here to serve just this purpose.

2. Classification of arbitration as alternative dispute resolution

Today's role of arbitration looks slightly different than in the old days. The difference is mainly linked to the fact that currently arbitration is, next to common judiciary (state judiciary), one of the methods of dispute resolution. The parties can therefore decide between choosing the path following arbitration or state judiciary. In making their choice, they are likely to be motivated by different factors, from the speed of the proceeding, qualifications and expertise of arbitrators to the efficiency and modalities of the proceeding. In the case of the latter, it is about the possibility of tailoring the conduct of the proceedings to the expectations of the parties themselves. In addition to accounting for specific requirements, the arbitral award may have procedural consequences in that its legal effect is equal to a court judgment. This feature is paramount in choosing this and not the other dispute resolution procedure.

From the point of view of the topic in question it is worth pointing out that today, due to the development of international business relations and thus the necessity to resolve disputes in the context of international trade, arbitration started to play special, and I would venture to say, even remarkable and dominant role (Błaszczak, Ludwik 2007: 3-20). This comes from the fact that specific business centers are naturally interested in providing their partners who are members of chambers or other associations with the guarantee of as quick and efficient dispute resolution as possible.

One could argue that in terms of business support, this role may first entail a speedy resolution of disputes arising from business cooperation at the international level, and secondly, at the national level, the issue could be raised that at a time when too great a burden is placed on state courts, arbitration is likely to represent an

effective alternative to common courts, and further to that, it is very conducive to business transactions. It is undisputable that every exchange of goods in business transactions is bound to generate conflicts on various grounds. Were these conflicts to be resolved before the courts (traditional way), then the effect could be an excessively lengthy hearing. Yet, in the case of arbitration this kind of lengthiness of proceedings can in principle be avoided. In this respect, therefore, the role of arbitration is not insignificant.

The arbitral tribunals which are organized within the framework or under the aegis of chambers of trade and industry or commodity exchanges have grown in importance (for example, International Chamber of Commerce in Paris – ICC, Internationale Schiedsgericht der Wirtschaftskammer Österreich, London Court of International Arbitration, Schiedsgericht der Zürcher Handelskammer, The Arbitration Institute of the Stockholm Chamber of Commerce, Regional Center for Arbitration in Kuala Lumpur, American Arbitration Association – AAA). Some even say that international commercial arbitration has become a judicial system that is “competitive” to the state judiciary (Rajski 2001: 2-3), with arbitrators being referred to as “natural judges” in matters of international business transactions (Lionnet 2001: 42). The centers for international commerce mentioned above are of immense relevance to international business. They are important centers with lists comprising highly qualified arbitrators with huge experience. Furthermore, the arbitration centers have a long tradition of resolving international disputes.

It should come as no surprise then that the entrepreneurs very frequently decide to refer their disputes to arbitral tribunals relying on their speedy resolution. In the domestic system a tendency is being observed of establishing permanent courts of arbitration at the Chambers of Commerce. This appears to be particularly important at the time of certain ineffectiveness of the state judicial system. The court of arbitration emerges here as an effective response to the paralysis of the Polish judiciary. There exists quite significant number of arbitral tribunals in Poland; however, not all of them could be characterized as professional unlike such courts as, for example, Court of Arbitration at the Polish Chamber of Commerce or Court of Arbitration at Polish Confederation of Private Employers Lewiatan. One could assert that at the present moment those are the two most important and highly

organized arbitration institutions in Poland. They have been operating for a long time, being the most recognizable in the Polish arbitration system. In choosing arbitration on the domestic arena one should pay attention especially to the experience and, if need be, the number of cases submitted to the particular institution. This should allow us to assess not only the professionalism of an arbitration center but also the expertise of arbitrators. Not for nothing do they say that whether or not the resolution is correct depends on the wisdom of arbitrators.

Arbitration is classified as alternative forms of dispute resolution. This, however, is not a one voice statement, for this issue depends on the designations contained in the very concept. There is no doubt as to the fact that from a systemic perspective arbitration will be viewed as an alternative to the state judicial system.

The term alternative forms of dispute resolution has multiple meanings, since an internal alternative and external alternative are being indicated. The first one is connected with the resolution of disputes before the court and, beside the judicial process, it comprises non-contentious proceedings and separate proceedings. Arbitration and mediation, on the other hand, tend to be defined as an external alternative. In literature the question of multiple meanings of the term was first brought to attention by Morawski. In his view, the term “alternative forms of dispute resolution” can be understood as having three meanings (Morawski 1993: 21; Morawski 2003: 228): a) first, alternative forms of dispute resolution can be seen as forms of judicial proceedings which are alternative to the traditional judicial proceeding. Within this meaning, an alternative to the civil proceeding could be a non-contentious proceeding, with any separate proceeding being that too. However, one should approach this concept with caution, for we need to remember that within the framework of civil proceedings a wide range of civil cases is indeed heard; still, this is the legislator who defines the limits of every civil proceeding, and it is not possible (beside arbitration) to have the matter referred to a different procedure or to another proceeding. I am referring here to a situation where parties are in conflict and refer their dispute to a court. In this case they cannot choose independently the contentious or non-contentious procedure, for the Code of Civil Procedure (hereinafter referred to as CCP) specifies in Article 13 that the court holds a hearing in litigation, unless otherwise provided by statute. If there are specific statutory

grounds for this, then no obstacle exists for the court to hear the case within the framework of a specific procedure, since it is obligated to do so. Thus, a fundamental question arises whether we can talk about an alternative if something is imposed or prohibited, with the parties having hardly any influence in this respect; b) secondly, the term “alternative forms of dispute resolution” can also imply those forms of court procedures which are not of adjudication nature. Conciliation and mediation proceedings ought to be pointed out here. It needs to be noted that at every stage of the proceedings a common court judge should seek to settle a dispute amicably. What follows from art. 10 of the CCP is that in matters where a settlement agreement is permissible the court should seek such settlement. The parties may also resolve a dispute before a mediator. In both cases the alternatives under the civil judicial proceedings are generally referred to as internal alternatives (Morawski 2003: 229); c) third, “alternative forms of dispute resolution” are to be understood as any out-of-court forms. These forms operate outside the state judicial system. They involve either jurisprudence activities (e.g. arbitration) or they are based on mediation or conciliatory techniques. These forms, in turn, are usually referred to as external alternatives (Morawski 2003: 229; Wach 2005: 124). The perspective thus presented is predominantly theoretical, based on the tenets adopted above. However, while using a practical approach to arbitration it does not clarify much.

Analyzing both the external and internal alternatives, it is rather difficult to accept such a differentiated approach. While for the common courts of law indicating the internal alternative does not seem justifiable because the judicial proceeding is first and foremost a basic procedure in the civil cases adjudication, all those methods which do not entail civil case adjudication by judicial bodies administering justice will provide an alternative to the judicial proceedings. Another situation which would support the notion that the division lacks justification is the fact that the structure and course of the judicial proceeding is not in the hands of the parties, since we deal here with clear criteria defined by the legislator itself. The judicial proceeding is inherently marked by formalism, which cannot be said about out-of-court methods of dispute resolution, where we encounter a much greater flexibility, having the opportunity to design the rules of the proceeding. With respect to arbitration, the parties may design the arbitral proceeding in a manner which they

choose; however, it remains crucial that the procedure does not infringe the principle of equality. From this perspective, it seems unreasonable to point to any alternative solutions or methods of civil cases settlement within the state judicial system. We should bear in mind that even if we differentiate between the contentious and non-contentious procedure, there is no way for the latter to become an alternative to the first one, for they are not subject to the will of the parties who would be able to decide either of which to choose; and secondly, the category of matters that may be the subject of the non-contentious procedure is laid down by law. So whatever the parties may desire or whatever their findings, all that will be rendered meaningless.

An arbitral proceeding as an out-of-court proceeding is also classified as alternative dispute resolution –ADR (Morawski 2003: 229; Morawski 1993: 21, Korybbski 1993: 83; Korybski 1991: 139; Błaszczak 2006: 331-336; Zienkiewicz 2004: 257; Jakubiak-Miłośnik 2008: 19-25; Rajski 2001: 38-39; Piasecki 1995: 258; Białecki 2010: 370-371; Ślęzak: 2003: 90; Kalisz-Prokopik 2003: 183-190; Skibińska 2009: 41; Mól 2001: 35; Gajda 2008: 23; Morek 2004: 1-5).

This, however, is not a uniform view as this concept has its advocates and critics. The issue here is that arbitration is of adjudication nature, while the ADR methods are based on conciliatory elements. Some authors (Rajski 2001: 38; Szurski 1994: 87) believe, therefore, that arbitration should be excluded from the scope of alternative dispute resolution. This observation refers in the first place to the EU Green Paper which distinguishes only so called contractual ADR, that is methods of dispute resolution conducted out-of-court by a neutral third party, excluding arbitration (Wach 2005: 137; Morek 2004: 133); secondly, the observation results from the fact that the court of arbitration does not seek to settle a dispute amicably, but to resolve it by issuing an award. That does not alter the fact that in view of the currently applicable provisions, arbitration represents an alternative to the state judiciary. The very fact of the adjudication nature cannot undermine the fundamental assumption that the proceeding before an arbitral tribunal is still an out-of-court procedure of dispute resolution, which is also conceived as such from the point of view of the concept of ADR (Wach 2009: 65-67). In view of the topic discussed in the paper, I should, without investigating this issue any further, limit myself to and accept that in employing this approach a proceeding before an arbitral

tribunal has also the form of ADR (Błaszczak 2006: 345; Błaszczak, Ludwik 2007: 24-30; Ereciński, Weitz 2009: 25; Wach 2005: 137, Pazdan 2004: 15).

3. Characteristic features and the essence of arbitration

The fundamental feature of arbitration is its being of voluntary nature. In this aspect, its voluntariness runs counter to compulsion. Voluntariness involves the notion that nobody can be forced to have a dispute heard in arbitral proceedings. Otherwise one could assume that in imposing on anybody the requirement to have a dispute heard before an arbitral tribunal would indeed be inadmissible and impermissible abusive clause.

The autonomy of the will of the parties lies at the core of arbitration. Not only is it expressed in the freedom of decision whether or not bring the dispute before the arbitral tribunal for judgment, but also in the freedom in terms of making a decision as to the way the panel is constituted and the composition of arbitrators, as well as in the freedom of designing the proceeding, which also includes the choice of applicable law for the dispute resolution. In arbitration, the autonomy of the will ensures that the parties may at their own discretion bring the case before the arbitral tribunal.

The principle applied in arbitration is that the number of arbitral judges and its composition is specified by the parties. They can also define the procedure of appointing arbitrators in that they may establish it by themselves, or use the rules of *ad hoc* arbitration. Only in the situation where the parties have made no arrangements, the procedural laws established by the state find their application. They often provide for an “emergency” procedure regarding the appointment of arbitrators, including the aid of domestic courts within this scope with the purpose to maintain the original intention of the parties, which is to bring the dispute before the arbitral tribunal, when the parties, being already in conflict, appear incapable of reaching the agreement as to the composition of the arbitral tribunal (Błaszczak, Ludwik 2007: 20-30).

There is a number of reasons why the parties elect arbitration as a method of resolving a dispute. The decision to bring the dispute before the arbitral tribunal should always be considered depending on the real circumstances surrounding a specific case, for what seems attractive to a foreign entrepreneur need not be so for a domestic consumer or entrepreneur. What follows is that the lists of arbitration advantages and drawbacks cited in literature are not always identical (Błaszczak, Ludwik 2007: 14-20; Rajski 2001: 1; Szurski 1999: 4; Dalka 2003: 92-94; Schlosser 1989: 6; Podkowiński 2004: 113). Still, the aspect most frequently highlighted is that arbitration ensures, to a greater degree than state courts could ever do, that the dispute resolution is in accordance with the peculiarities of the case in question. Furthermore, an emphasis is put on the fact that arbitration proceedings are as a rule speedier, less expensive and less formalized than a court litigation (Podkowiński 2004: 113), with the arbitral tribunal providing an opportunity to resolve a dispute according to the rules established by the parties, which is particularly important between entities who, because of their different nationalities, may find it more difficult to pursue their claims and accuse the state courts of bias in that they favor their own citizens and evince a tendency to discriminate against foreign entities (Błaszczak, Ludwik 2007: 15). Moreover, the following advantages can also be included: confidentiality and expertise of arbitrators, and in the case of international arbitration, easier enforcement of foreign awards issued by the arbitral tribunals. The disadvantages of the arbitral proceedings are, on the other hand, perceived in the limitation of competences of the arbitral tribunals, in the lack of uniformity regarding awards and the problems related to the participation in the proceedings of entities not covered by the arbitration agreement.

The key feature of arbitration is its flexibility. The flexibility of the arbitration procedure is the possibility of designing it in a way the parties see fit, unless the dispute is being resolved by a permanent arbitration court. If this is the case, the court follows its own arbitral rules. From this point of view, it is of significance that although arbitration is deformed in its nature, specific standards must be observed; first, the standards which aim at safeguarding the principle of the parties' equality, and second, the opportunity to present arguments and evidence in support of the facts alleged. Hence, it is not possible to conduct an arbitral proceeding with a

focus solely on one party to the detriment of the other. This kind of proceeding would have to be considered flawed, failing to provide the basis for arbitral settlement. The deformed nature of arbitration is linked to its speed. It is inherent for arbitration to be quicker than any court proceedings. However, the problem comes down to the post-arbitral proceedings, that is procedures for recognition or a declaration of enforceability of the arbitral award, or the actions seeking its annulment. Since these proceedings are brought before common courts, they may limit the speed of arbitration considerably.

Moreover, the expertise of arbitrators forms a crucial foundation among the characteristic features of arbitration. The dispute resolution depends mainly on the arbitrators' knowledge, expertise and qualifications.

With regard to confidentiality, it is accepted not only in international but also in domestic business transactions. The confidentiality of arbitration is quite often indicated in the doctrine, generally deriving it from the very essence and nature of arbitration (Błaszczak, Ludwik 2007: 34). At the same time, what is highlighted is lack of normative basis, both in domestic and international law, specifying the content and scope of confidentiality of arbitration (Przedzińska 2003). In the majority of cases arbitration proceedings are kept confidential, which is the result of a confidentiality clause signed by the parties, along with the arbitration agreement under which participants to the proceeding are prohibited from disclosing any information to third parties in connection with the conduct and outcome of the arbitration, allowing the use of any information thus disclosed solely for the purpose of the proceeding (Paulsson, Rawding 1995: 303; Coe 1997: 179; Rajski 2001: 3). Virtually all rules obligate the arbitrators to maintain secrecy of any information they have been made aware of while conducting the arbitral proceeding.

As noted above, arbitration entails dispute resolution. Before providing the opportunity for disputes to be resolved by arbitration, an arbitration agreement has to be concluded. It is an indispensable element without which the arbitral tribunal could not function. This is an agreement under which the parties submit disputes to arbitration which arose between them in connection with a specific agreement. Pursuant to Article 1161 § 1 CCP, submission of a dispute to arbitration requires an agreement between the parties defining the subject of the dispute or the legal

relationship under which the dispute has arisen or may arise (an arbitration agreement) Provisions of an arbitration agreement which are in breach of the principle of equality of the, parties, in particular provisions entitling only one party to bring a case before the arbitral tribunal indicated in the arbitration agreement or before a court, shall be ineffective (CCP: Article 1161 § 2). An arbitration agreement may indicate a permanent arbitral tribunal for resolution of the dispute. Unless otherwise agreed by the parties, the parties are bound by the rules of such arbitral tribunal in force as of the date of the arbitration agreement (CCP: Article 1161 § 3).

It should be underlined that the arbitration agreement itself demonstrates that arbitration operates within the framework of the autonomy of the parties (Pazdan 2003: 174). The arbitration agreement is an act in law by virtue of which the parties submit their dispute to an arbitral tribunal of their choice, thus excluding proceedings before a state court, and recognizing in advance the arbitral award that is to be rendered in their case (Pazdan 2003: 174). In legal writings the nature of arbitration agreement has been extensively explored (Siedlecki 1979: 169; Mokry 1993: 70; Mokry 1973: 34-35; Skąpski 1981: 24; Kulski 2006: 69-72; Kulski 2002: 53-55). Hence, three theories on this topic have emerged. The first one reduces the arbitration agreement to an act in law in the broader sense, whose basic consequence is the exclusion of the common court jurisdiction. The second theory assumes that the arbitration agreement is an act in law of substantive nature, which would allow the use of defects in consent. The third theory suggests that the arbitration agreement is a *sui generis* act. None of the theories could be named a leading theory and none could be considered more relevant than the other.

The arbitration agreement forms the basis of the jurisdiction of the arbitral tribunal, arbitrators' rights and the effectiveness of an arbitral award (Mazur 2003: 120). Furthermore, it should be noted that in order to initiate an arbitral procedure, the arbitration agreement has to be drawn up correctly, where the content of the agreement can considerably influence the course of the procedure, and the action for setting aside the arbitral award frequently finds its grounds in the allegations as to the validity or correctness of the arbitral agreement (Błaszczak, Ludwik 2007: 76; Jankowski 2005; Morek 2006: 127). All this has the effect that the relevance of the

arbitration agreement extends beyond its being the core of the competences of the arbitral tribunal and one ought to agree with the assertion that it represents the central institution of arbitration (Morek 2006: 127). Moreover, it is worth noting that the arbitral tribunal will have no competences to act and state courts will not be excluded from consideration of the dispute, unless the parties have concluded the arbitration agreement effectively (Błaszczak, Ludwik 2007: 76-78). In the nomenclature of the Polish Code of Civil Procedure, the arbitration agreement is traditionally referred to as an arbitration clause. This wording was employed for the CCP of 1932 (Article 486 § 1), CCP of 1964 (Article 698 § 1), and the legislator preserved it in the recent amendment of the provisions of the Code of Civil Procedure pertaining, *inter alia*, to arbitration. Pursuant to Article 1161 CCP, submission of a dispute to arbitration requires an agreement between the parties, defining the subject of the dispute and the legal relationship under which the dispute has arisen or may arise (an arbitration agreement) (Błaszczak, Ludwik 2007: 77). The quoted provision provides that the decision on submitting a dispute to arbitration the parties can make when the dispute has already arisen and when the parties merely foresee that it may arise under the specific legal relationship between them. Therefore, in the theory of civil litigation the following forms of arbitration agreement can be distinguished: a compromise, that is an agreement to submit a dispute to arbitration which may arise in the future under a specific legal relationship, and an arbitration agreement, in the strict sense of the term, in which the parties submit a dispute to arbitration which has already arisen and has been specifically defined (Błaszczak, Ludwik 2007: 77; Potrzebowski, Żywicki 1961: 14; Tomaszewski 1994: 15; Mazur 2003: 120; Naworski 2005: 239; Morek 2006: 127). The arbitration agreement can be a stand-alone agreement as well a clause in the principal agreement (e.g. sale agreement, contract for works, agency contract, etc.), where it is traditionally referred to as arbitration clause (Tomaszewski 1994: 15; Morek 2006: 127). Since this distinction is not reflected in the Polish Code of Civil Procedure, its provisions, in particular those governing the form and content of the arbitration agreement are applicable both to the arbitration agreement and arbitration clause.

Pursuant to Article 1162 § 1 CCP, an arbitration agreement has to be drawn up in writing. The requirement with regard to the form of the arbitration agreement is also met when it is contained in correspondence exchanged between the parties or statements made using telecommunication allowing for the content to be recorded. Reference in a contract to a document containing a provision on submission of a dispute to arbitration meets the requirement as to the form of the arbitration agreement if the contract is made in writing, and the reference is such that makes the clause an integral part of the contract (CCP: Article 1162). Likewise noteworthy is the provision under Article 1163 § 1 CCP, according to which an arbitration agreement included in the articles of association (statute) of a commercial company concerning disputes arising out of the corporate relationship is binding upon the company and its shareholders.

Another important issue related to the functioning of arbitration is arbitrability of a dispute. The arbitrability of a dispute is to be understood as the admissibility of submission of a given dispute to arbitration on account of its subject. Arbitrability (*Schiedsfähigkeit, arbitrabilité*) represents a necessary condition for an arbitration agreement to be valid, while affecting the competence of the arbitral tribunal. Lack of arbitrability implies that the resolution of a particular dispute is reserved to state courts (Błaszczak, Ludwik 2007: 96-97). Moreover, in American legal literature and science the concept of arbitrability allows one to answer the question whether the dispute to be resolved by an arbitral tribunal is covered by the arbitration agreement (Błaszczak, Ludwik 2007: 97). In the European legal literature a narrower interpretation of the concept of arbitrability prevails. It appears that it has been adopted by the Polish legal literature, which sees the concept of arbitrability as the material scope of admissibility of arbitration (Morek 2006: 114). It is worth recalling here that setting limitations to the competences of arbitral tribunals through specifying what disputes may be submitted to arbitration represents one of the forms of the state control over arbitral tribunals, and it is first and foremost linked to the concept of public policy adopted by a particular country in the public interest. Therefore, the New York Convention and Geneva Convention left the regulation of this issue to national legislators. Furthermore, adjusting national arbitration laws to UNCITRAL model law does not involve having to adopt a list of those disputes

which may be resolved by arbitral tribunals. On the contrary, pursuant to the provisions of Article 1 (5) of the UNNCITRAL model law, the provisions of this law shall not affect any other law of the state adopting the model law by virtue of which certain disputes may not be submitted to arbitration. In view of the above, the approach to arbitrality of various legal systems is differentiated. (Wiśniewski 2005: 16; Błaszczak, Ludwik 2007: 97). Still, a clear tendency has emerged towards expanding the scope of disputes which the arbitral tribunals may resolve. In the light of the provisions of the Polish Code of Civil Procedure, arbitrable disputes are those regarding property rights and non-property rights which may be subject to a judicial settlement, excluding cases for support (CCP: Article 1157). In addition, disputes involving labor law which were previously excluded from arbitration are now considered to be arbitrable (CCP: Article 1164). Here the issue comes down merely to the fact that the arbitration agreement may only be drawn up after the dispute has arisen and not before. Hence it is not admissible to design the arbitration agreement already in the work contract.

4. Arbitration proceeding and arbitral award

As indicated before, the arbitral proceedings can be largely deformed, which implies that the parties may design the rules and how the proceeding will be conducted before the arbitral tribunal. This is crucial, for the parties may agree that the proceeding will be conducted before the arbitral tribunal including or without hearing only through the exchange of written statements. Moreover, there is the possibility to modify the taking of evidence itself. The rules of arbitral tribunals may determine the procedure and the rules regarding this proceeding. The autonomy of the parties with respect to the procedure design is limited when the parties decide to resolve their dispute by a permanent court of arbitration. In making such decision, they also accept the rules of a particular permanent court of arbitration. These rules, as previously discussed, may not breach the mandatory provisions of the Polish Code of Civil Procedure (Błaszczak, Ludwik 2007: 138). Pursuant to Article 1187 § 1 CCP, the parties may agree on the language or languages in which the proceeding

is to be conducted. Failing such agreement, the arbitral tribunal shall determine the language or languages of the proceeding. Unless provided otherwise, the parties' agreement or the decision made by the arbitral tribunal apply to all written declarations of the parties, hearings, awards and notices issued by the arbitral tribunal. In the proceedings before the arbitral tribunal, neither the principle of equality nor the dispositive principle nor adversarial principle are restricted. The rules of the arbitration proceeding must be stringently complied with, otherwise the arbitral award may be set aside. With regard to the arbitral tribunal which is not part of the judicial system, the rules of the Polish Code of Civil Procedure Article 1205 § 2 provide for the possibility of establishing the second instance court, however, the rule is not a two-instance but a single-instance system of the arbitral tribunal. On the one hand, this feature can be perceived as an advantage, for it makes consideration of the case speedier, yet on the other hand, everybody makes mistakes and so we may face the risk of committing an error in the application of law which, on top of that, cannot be remedied (Tomaszewski 2006: 45).

When completing the proceeding, arbitral tribunals can issue two types of awards. The form of the award depends on whether or not a dispute has been examined on the merits of the case. Although the provisions of the Polish Code of Civil Procedure do not contain a regulation similar to Article 32 of the UNCITRAL model law, according to which an arbitral proceeding is terminated by a final award or an order in matters provided for in the law, there is no doubt that the form of dispute resolution before the arbitral tribunal which is based on the merits of the case is an arbitral award (Fenichel 1935: 223; Błaszczak, Ludwik 2007: 180-185). Awards closing the proceeding officially, e.g. by terminating the proceeding, are orders of the arbitral tribunal. When it comes to the award issued by an arbitral tribunal it is an award on the merits of the case. Not unlike the judgments delivered by common courts, the awards issued by the arbitral tribunals can be grouped based on a range of criteria (Błaszczak, Ludwik 2007: 180). Looking at the operative part of the award in relation to the claim contained in the petitem of the application, it is possible to distinguish awards which either take into account or refuse the claim. Considering the scope of the settlement in relation to the claim and the wording of the provisions under Article 1195 CCP, as well as the present position of science

(Dalka 1996: 59-61) and the content of a number of the arbitral rules, we can acknowledge that also the arbitral tribunal may issue an award that is final, partial or provisional. Depending on the type of claim, the arbitral award may have the effect of ordering, declaring and affecting. As a rule, awards made by arbitral tribunals are adversarial in nature, that is they are issued in a proceeding characterized by the defendant's active defense (Morek 2006: 233; Błaszczak, Ludwik 2007: 181). However, it is quite possible that the arbitral decision will be a consent award. Moreover, it can also happen that the arbitral tribunal gives the settlement concluded by the parties the form of an award (CCP: Article 1196 § 2). However, considering the wording of Article 1190 CCP, it is deemed that the arbitral tribunal may not issue default awards (Błaszczak, Ludwik 2007: 182).

Awards made by the arbitral tribunals are subject to control of the common court. This control may take the form of an action for setting aside the arbitral award, seeking obliteration of the arbitral award or aiming at the procedure for recognition or declaration of enforceability of the award issued by the arbitral tribunal. As far as the first measure of control is concerned, we can observe, without going into too much detail, that a party, pursuant to Article 1206 § 1 CCP, may request that the arbitral award be set aside, if: 1) there was no arbitration agreement or the agreement was invalid, ineffective or no longer in force under the provisions of applicable law; 2) the party did not have proper notice of the appointment of an arbitrator, or the proceeding before the arbitral tribunal or was otherwise deprived of the opportunity to be able to defend their right before the arbitral tribunal; 3) the arbitral award is concerned with the dispute not covered by the arbitration agreement or exceeds the scope of the arbitration agreement; however, if the decision on matters covered by the arbitration agreement is separable from matters not covered by the arbitration agreement or those exceeding its scope, then the award may be set aside only with regard to the matters not covered by the arbitration agreement or those exceeding its scope; exceeding the scope of the arbitration agreement may not constitute grounds for vacating an award if a party who participated in the proceeding failed to raise a plea as to the hearing the claims exceeding the scope of the arbitration agreement; 4) the requirements with regard to the composition of the arbitral tribunal or fundamental rules of procedure before such tribunal, arising

under statute or specified by the parties, were not observed; 5) the award was obtained by means of an offence or the award was issued on the basis of a forged or altered document; 6) a legally final court judgment was issued in the same matters between the same parties.

An arbitral award shall also be set aside if the court finds that: 1) in accordance with statute the dispute may not be resolved by an arbitral tribunal; 2) the arbitral award is contrary to fundamental principles of the legal order of the Republic of Poland (public order clause) (CCP: Article 1206 § 2)

Moreover, regarding the recognition or declaration of enforceability, it is worth referring to the rule in Article 1212 CCP pursuant to which an arbitral award or a settlement entered before an arbitral tribunal shall have legal effect equal to a court judgment or a settlement entered into before a court upon recognition or enforcement thereof by the court. An arbitral award or settlement entered into before an arbitral tribunal, irrespective of the country of issuance, shall be subject to recognition or enforcement in accordance with rules set forth in this title (CCP: Article 1212 § 2)

5. Conclusion

Considering the discussion above, it should be observed that arbitration plays a huge role among entrepreneurs, providing them with an effective method of dispute resolution. For obvious reasons, it was not possible to refer to all the issues relating to arbitration as it would exceed the framework of the paper. Still, a number of aspects were highlighted which may prove to be significant and rather crucial from the point of view of an average entrepreneur.

While arbitration is a more or less universal method in dispute resolution at international level, in national terms, and particularly across Poland, it is becoming more and more embedded in the minds of not only lawyers but also business entities, enjoying ever greater popularity. Although it is not yet so widespread as in the other countries, hopefully the nearest future will alter the attitude towards it. For

it seems that the future should belong to arbitration, it being, after all, the basic method of commercial dispute resolution.

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Sądownictwo arbitrażowe jako instrument wsparcia obrotu gospodarczego

Streszczenie

Cel: Artykuł dotyczy zagadnień związanych z arbitrażem i jego wpływem na rozwój gospodarki i przedsiębiorczości. Arbitraż może wpłynąć na przyspieszenie rozstrzygania sporów i tym samym i tym samym doprowadzić do uaktywnienia współpracy pomiędzy przedsiębiorcami. Jeśli chodzi o koszt postępowania, arbitraż jest tańszy niż proces sądowy. Kolejną zaletą jest możliwość opracowania procedury arbitrażowej. Proces arbitrażowy może rozpocząć się zgodnie z ustaleniami poczynionymi przez strony. Strony mogą decydować o wyborze prawa, arbitrów, ich kompetencjach i sposobie prowadzenia postępowania. Na podstawie analizy przeprowadzonej w pracy autor zauważa, że arbitraż ma kluczowe znaczenie dla rozwoju gospodarczego. Szybkie rozwiązywanie sporów powoduje, że przedsiębiorcy wykazują zainteresowanie tą formą rozwiązywania konfliktów.

Układ / metody badawcze: Interpretację wpływu arbitrażu na transakcje handlowe przeprowadzono metodą historyczną i dogmatyczną. Zjawisko arbitrażu zostało wyjaśnione jako alternatywna forma, która istnieje obok postępowań medacyjnych.

Wnioski / wyniki: Niniejsze badania pozwalają autorowi na postawienie tezy, że poza zwykłymi mechanizmami ekonomicznymi, mechanizmy przyczyniające się do rozwiązania sporów między przedsiębiorcami zapewniają również prawidłowe funkcjonowanie gospodarki. Jednym z takich mechanizmów jest właśnie sąd arbitrażowy. W przeciwieństwie do sądownictwa powszechnego, arbitraż jest skuteczniejszym instrumentem w rękach przedsiębiorców.

Oryginalność / wartość artykułu: Istnieje dwustronny związek między prawem a ekonomią. Artykuł pokazuje, że instytucje prawne takie jak arbitraż faktycznie służą celom gospodarczym. Z drugiej strony, prawne aspekty arbitrażu można również oceniać za pomocą pryzmatu analizy ekonomicznej.

Słowa kluczowe: Arbitraż, nagroda, spory, gospodarka, przedsiębiorcy, poufność, mediacja, arbiter, zasady arbitrażu

JEL: K40, K41

Accumulation of funds under the IKE pension system and WIG20 index fluctuation

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Abstract:

Aim: The topic of the pension pillar III, a voluntary pension scheme, is occasionally addressed in the media making the public wonder whether it is possible to live a dignified life after retirement. The article makes the attempt to show how households' interest in Individual Retirement Accounts (in the paper referred to as IKE) has changed in relation to the WIG 20 index. The author believes that the behavior of the capital market influences the public in its decision-making with regard to funds accumulation under the IKE pension system. The aim of the paper is to examine the relationship between household's showing interest in setting up an individual retirement account and the WIG20 index fluctuation. The study was conducted based on data spanning 12 years, i.e. from 2004 to 2015. The paper outlines the characteristic features of IKE pension accounts, as well as the impact of the stock index WIG20 on the flow of funds placed with IKE.

Design / Research methods: The analysis using Pearson's correlation coefficient indicated a small dependency between the number of IKEs and WIG20.

Conclusions / findings: Having examined the different segments of IKE, an unexpected dependency between IKE in a voluntary pension scheme managed by PTE /Universal Pension Fund Company/ and the WIG20 was found.

Originality / value of the article: Investors may find the paper interesting seeing it as a determinant in making investment decisions; it could also be of interest to scholars seeking to investigate in more depth the topic relating to the third-pillar.

Limitations of the research: The limitation of the study was lack of data on inactive accounts which have not been deleted.

Keywords: IRA, households, investing, savings

JEL: E2

1. Introduction

It is a common perception that there are not too many young Poles who think about saving money for retirement. Only when approaching the retirement age, the awareness about the need to save money starts growing. One of the reasons for the situation described above is the low income of people entering the labor market (Wądołowska 2010: 1-14).

According to studies conducted by the Polish institute ARC Rynek i Opinia (Białasek 2013), households who decide to accumulate funds for the future are most likely to choose low-risk financial products, commonly known as secure financial products. In the vast majority of cases, this entails saving money with a savings and checking account. The money stays mostly in the current account, and to a lesser degree is held on deposits.

Within the framework of the pension reform designed for the third-pillar, in 1999, employee pension funds were established (in the paper referred to as PPE). Up till now (2016) employers have been setting them up for employees. These programs are a form of organized, collective, regular accumulation of funds for future retirement. Participation in the program is voluntary for both sides. Neither are employers obligated to establish PPE in their companies, nor do employees have to participate in the program. Five years following the pension reform, in September 2004, the Polish government introduced changes in the third-pillar, making a new product available which was the Individual Retirement Account. Another solution for the future retirees came in 2012 with an offer of Individual Pension Insurance Accounts (in the paper referred to as IKZE). At present, individuals may save and invest collectively through PPE, and through different forms of IKE and IKZE (Jakubowski 2014: 241-248). Both schemes of funds accumulation are characterized by being voluntary. It should be noted that every form designed to build capital for retirement can constitute the third-pillar. What makes PPE, IKE and IKZE different from other forms of investing capital is their preferential tax treatment. Since the paper is concerned with the IKE pension system with the topic itself being vast, the author did not include PPE and IKZE in his study.

Despite having introduced a few preferential products encouraging retirement savings, the public has not been showing much interest, nor is it well informed about the pension insurance systems. This is proven by the surveys commissioned by the Chamber of Fund and Asset Management and conducted by CBOS. In 2013, 63% of respondents reported to recognize the IKE pension system (CBOS 2013: 2). A relationship between the education level and willingness to use the pension programs was found – the higher the education level, the greater interest in the programs. The group taking the least interest in the pension systems were farmers. As one of the barriers respondents reported not enough money and a lack of convincing arguments for viability of the pension systems.

At the end of 2007 the assets held by the Investment Fund Company (TFI) amounted to PLN 134 bn (Chamber of Fund and Asset Management 2008). The amount was unprecedented. Sadly, however, as early as in 2008 – due to the stock market crash – the value of assets fell by 45%. The investors through the IKE pension system reacted less nervously, showing resilience in the face of the market turmoil. This may suggest that IKE is chosen by financially mature individuals who invest capital with a long-time horizon.

The aim of the paper is to examine the relationships between the households' interest in setting up an account under the IKE pension system and the WIG20 index fluctuation. The study was developed based on the data spanning 12 years, i.e. from 2004 to 2015. The paper outlines characteristic features of IKE, as well as the impact of the WIG20 stock market index on the flow of funds placed with IKE.

2. The essence and general features of Individual Retirement Accounts

Individual Retirement Account is governed by the Act of 20 April 2004 on IKE and IKZE, as amended (Journal Of Laws 2004, no. 116, item 1205).

The rule arising from Article 2 of the aforementioned act provides a precise definition of what an Individual Retirement Account is, it is “a separate entry in the register of investment fund participants, a separate securities account or other account where financial instruments other than securities are recorded, and a cash

account used to service such accounts with an entity running a brokerage business, or a separate account in insurance capital fund, a separate bank account in a bank, a separate IKE account in a voluntary pension fund, kept pursuant to the rules laid down herein, and to the extent not provided for herein – pursuant to the rules laid down in provisions applicable to these accounts and registers.

The Act on IKE specifies who may set up the account, it being an individual over 16 years of age. Moreover, the legislator limited the possibility of establishing an account under IKE to one person, and thus the saver may not accumulate savings together with their spouse and child. Further to that, there is a cap on the amount contributed, which, as of this date (2016), is an equivalent of 300% of national projected monthly salary determined in the Budget Act for a given year. The contributions accumulated under the third pillar are voluntary (Stańczyk 2013: 186). The objective behind the introduction of IKEs was to encourage the public to responsible saving which should increase the future pension. In addition, the third pillar is designed for investors who invest in investment funds, bonds and shares, obtaining above average rates of return. This enables them to take advantage of the tax shield in that they don't have to pay taxes on returns on investment, which is 19% of the taxable amount (Witczak 2012: 153-165). The higher the rate of return on investment, the higher the benefits in terms of real money.

A wide variety of the IKE pension systems allows for tailoring the account to the risk that is acceptable; ranging from the IKE in a bank, where money is most likely to be accumulated in the form of bank deposits, the IKE in investment funds and insurance undertakings under the management of competent staff or offering ready-made financial products; to the IKE in brokerage houses, where investors build and manage the investment portfolio from scratch, e.g. buying stocks from the companies of their choice. In choosing the IKE system, investors should make an informed decision adjusting their knowledge, the time they can devote to analyses and risk level. A chance decision is not recommended, for it can have a significant impact on the viability of the pension plan (Kubiak 2011: 334).

Withdrawal of funds accumulated in IKE, subject to the tax exemption on capital gains, is possible only if the following statutory requirements are met: the

individual saving money is past the age of 60, or he/she acquired pension rights and is over 55, and further, if one of the two requirements cited below has been met:

- Contributions into IKE should be made at least for over the period of any five calendar years.
- At least half of IKE contributions should be made over five years before submitting the application for withdrawal of funds.

This, however, does not imply that the individual who has been saving under the IKE pension system may not withdraw the funds he/she accumulated before acquiring pension rights. They may request to be paid in full or one-time payment at any time. But if this is the case, return on investment settlement is required. On the other hand, there is no obligation to withdraw funds immediately after the retirement age.

3. IKE development over the years 2004-2015

Many publications and studies, e.g. 04/BMN/18/12 case study headed by Piotr Żuk argue that there is real decrease in the value of future pension. This problem refers both to individuals who do not experience career breaks as well as those who retire at the age of 67. One of the methods of slowing down the replacement rate is saving under the third-pillar.

Since the day IKE was established the public have not taken much interest in the program, although a wide range in terms of financial institutions, risk level and adequate knowledge was offered. The main reason could be perceived in the fact that the topic of pension saving was not attractive to: the media, Office for Competition and Consumer Protection, Financial Supervision Commission and State Treasury. Only after 2010, the State Treasury began to educate the public actively by organizing a program Civic Shareholding “Invest wisely” (Ministry of Treasury 2016).

In spite of the fact that the training enjoyed much popularity, there were no records of rapid increase in the number of accounts in the third-pillar by 2016. In the middle of 2011 only 5% of the working population held an account under the IKE

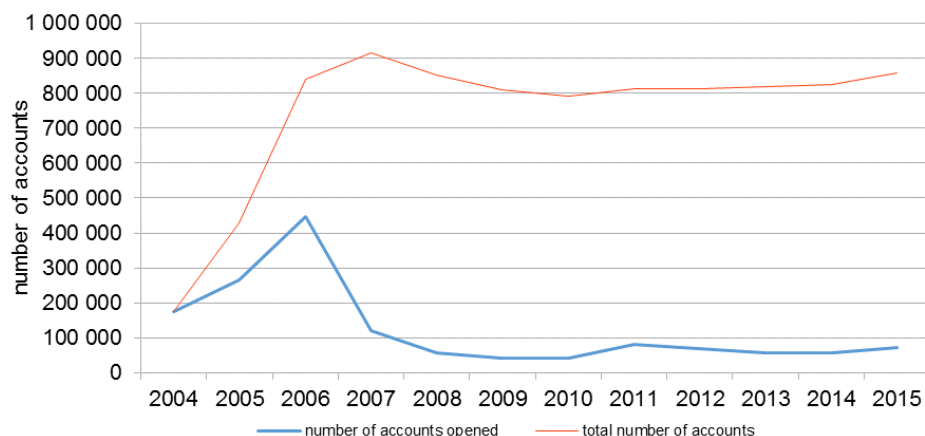
pension program (Jagielnicki 2012: 80). Over the years this proportion barely changed, and it was equal to 5.4% in the middle of 2016 (interim report of the Financial Supervision Commission).

Since 1 January 2012, another product, alternative to the IKE pension system, has been available on the market - Individual Pension Insurance Account. The introduction of the IKZE triggered a debate in the mass media which product was better. It is likely that the increased interest in IKE was the consequence of these debates and exchanges of views.

Chart 1 shows the trend in taking interest in the IKE pension system since it was established. The claret-colored line shows the number of accounts incrementally, while the bottom line shows the data pertaining to the accounts being opened at the end of every year. It can be gleaned from the chart that at the beginning, i.e. over the first three years, there was a rapid increase in the accounts. In 2007 over 100 thousand accounts were opened, breaking the historical record as far as the number of accounts kept is concerned – 915,492. However, the following years saw the interest in this form of saving decline considerably and until 2015 the number of openings did not exceed a 100 thousand accounts annually.

In addition, we can observe based on Chart 1 that in the years 2007-2010 there was a sudden decline in the number of accounts. Over the three years their number went down by nearly 13.5%, from 915,492 to 792,466. This indicates that more accounts were being closed than opened. One of the reason why the clients stayed away could be the stock market crash and the global financial crisis. In 2011 this situation improved, which is attested by an increase by 22 thousand accounts kept under the IKE pension system. A disconcerting development noticed over the years between 2011 and 2014 was continuous decline in the pace of openings of new accounts. The first sign of things getting better came with the year 2015 when an increase in openings of 30% was recorded, compared to 2014. There are, however, no data on inactive accounts which were not deleted.

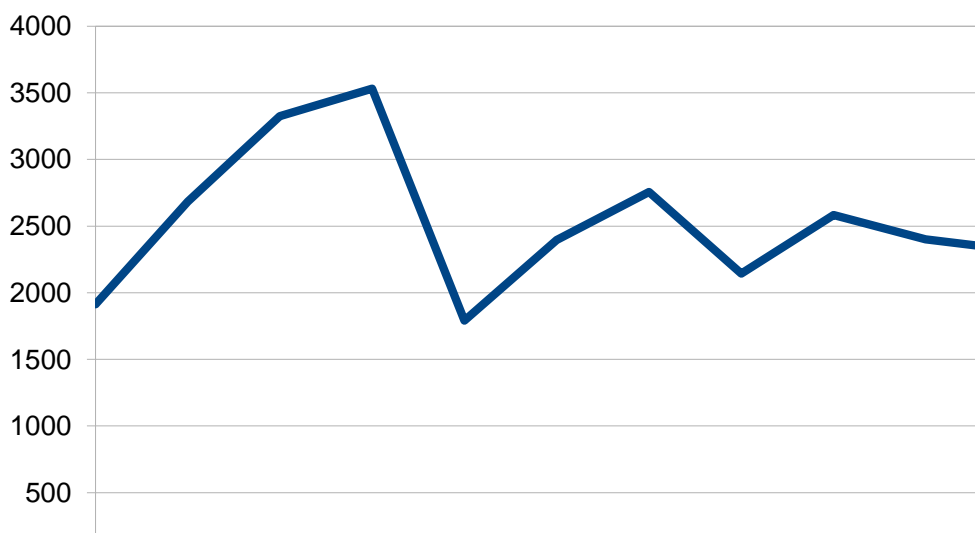
Chart 1. Number of IKE accounts over the period of 2004-2015 (as of the end of year)



Source: The author's own study based on the data from the Financial Supervision Commission

Chart 2 shows the change in the value of the most smooth and prestigious stock exchange index WIG 20 over a decade. A yearly interval was used. In the years 2007/2008 panic erupted on the financial market, which could confirm the reason why the number of accounts and interest in IKE declined, and thus the withdrawal of some of the funds from the capital market. Only after two years of a rising stock market, in 2010 the mood on the capital markets slightly improved. This behavior could be confirmed by an increase in the number of accounts under the IKE pension system.

Chart 2. WIG20 index value at the end of year over the years 2004-2015 (data given in points)



Source: The author's own study based on the data from the Financial Supervision Commission

Table 1 presents information helpful in assessing the attractiveness of the Individual Retirement Account. The first item shows the average capital saved by investors at the end of the year in IKE. It contains the cumulative value of assets per one participant. In 2004, investors saved on average PLN 960.69, with the amount growing up to PLN 6,616 in 2015. This could imply that payments were made systematically into the account and the capital was managed efficiently as well. However, assuming that, over 12 years, investors make contributions in the maximum amount, they should hold PLN 92,411 in capital alone.

Another item shows the cap on contributions paid into the account in a given year. With each year an increase in the value can be observed. The year 2009 saw the biggest change as the result of the new rules on the cap calculation introduced by the legislator.

The penultimate item in the table shows the average contribution to IKE by a participant in a given year. The dynamics in 2005 in relation to 2004 equaled 229%, being the highest in the period under study. Over the next three years the average

contribution went down, with the lowest value recorded in the year 2008. The situation improved in the years 2012-2015.

In the table below, we can also see the extent to which the limit was utilized, which shows as percentage how much cash was paid in relation to the limit. It turns out that the values are no longer so optimistic. Only in the years 2005 and 2006 not much over 60% of the limit was used, i.e. at the time when the stock market was very high. In the worst year – 2009 the value of the limit utilized was only 19%. At that time the legislator changed the method by which the limit on the IKE contributions was calculated, raising it from 150% to 300% of the national average projected monthly gross salary for a given year. It is possible that the savers had not enough time to react to these changes. The stabilization of the situation on the financial market, even though accompanied by the public's limited trust, could also account for the lowest degree of the limit utilization. This degree of the limit utilization could be seen as an "index of fear"; with the stock market boom, contributions increase while with its fall, so does the limit utilization.

Since 2008, a systematic increase in the average IKE contribution can be observed. Over the period of eight years the contribution almost doubled. This information may indicate that the public slowly began to believe that this method of saving for retirement was the right thing to do.

Chart 3 shows the amount of the accumulated capital in IKE compared to withdrawals made over the 12 years the system was in operation. In 2012 the balance shows savings equal to over PLN 3.7 bn. The year 2008 was not one the most successful for those saving under the pension program, since the capital held with IKE decreased for the first time. The reason must lie in the stock market crash, for no considerable withdrawals of funds could be noticed.

Despite the crisis of several years, the figure above shows that there was an increase in assets on the accounts, and in terms of value, even a considerable growth rate in the last four years. Specifying the number of accounts by gender proved to be an interesting investigation, as illustrated by Table 2. It appears that while in 2004, i.e. at the moment of IKE launch, the number of accounts of women and men was comparable, in the years to follow it was women whose accounts prevailed. The

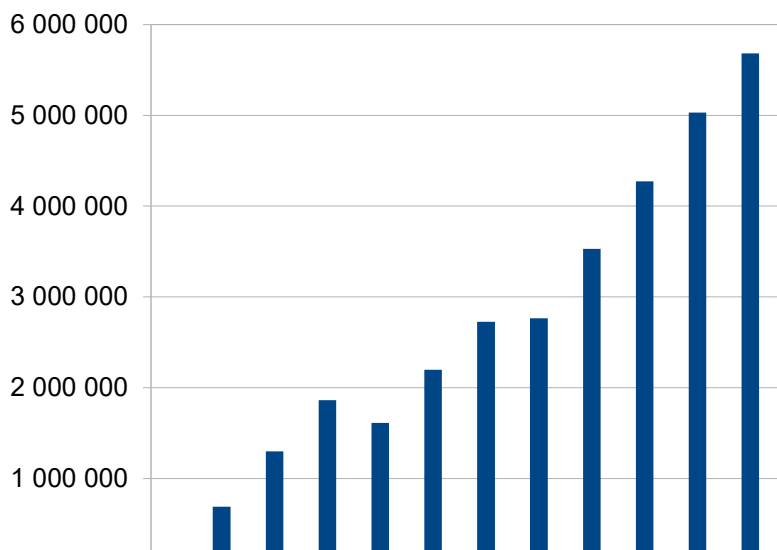
surprise is all the greater in the light of the common view that the financial sector has been dominated by men (Szynek, Karasek 2015).

Table 1. Summary of changes in the IKE accounts in terms of amount and percentage

Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Average capital saved on IKE (PLN)	961	1612	1545	2037	1890	2718	3440	3394	4341	5224	6101	6618
Contribution limit (PLN)	3435	3635	3521	3697	4055	9579	9579	10077	10578	11139	11238	11877
Average contribution into IKE in reporting period (PLN)	961	2208	2199	1719	1561	1850	1971	1982	2584	3130	3440	3500
The degree of limit utilization (%)	28	61	62	46	38	19	21	20	24	28	31	29

Source: The author's own study based on the data from the Financial Supervision Commission

This might indicate that women see the opportunity to protect capital through tax optimization. This is corroborated by a study conducted by a credit company, Experian (Druś 2013), which was reported in the magazine Puls Biznesu on 22 May 2013. The finding was that women, despite being lower earners, were better at cash managing, paying their loans on time. Since 2008, there was a downward trend regarding the difference between the accounts held by women and those by men. While in 2008 the difference was 7.3%, in 2015 it was 4.4%.

Chart 3. Aggregated capital on IKE in relation to withdrawals in the years 2004-2015

Source: The author's own study based on the data from the Financial Supervision Commission
 Blue column – Total amount accumulates in IKE at the end of the year.
 Orange column – Amount withdrawn from IKE in the accounting year.

Table 2. Number of accounts by gender

	2004	2005	2006	2007	2008	2009
Men	86 063	194 204	385833	418 619	395 899	377 816
Women	89 413	233 661	454429	496 873	457 933	431 403
w-m	1.91%	9.22%	8.16%	8.55%	7.27%	6.62%
	2010	2011	2012	2013	2014	2015
Men	371 756	381 683	385 094	387 046	392 675	410 324
Women	420 710	432 766	428 497	430 605	431 810	448 401
w-m	6.18%	6.27%	5.37%	5.33%	4.75%	4.43%

Source: The author's own study based on the data from the Financial Supervision Commission

4. The impact of the WIG20 index fluctuation on IKE

In order to test whether there is a dependency between the WIG20 index and IKE, Pearson's correlation coefficient was used, given by:

$$r_{XY} = \frac{C(X,Y)}{\sqrt{S_x^2 \cdot S_y^2}} = \frac{\sum_{i=1}^n (x_i - \bar{x})(y_i - \bar{y})}{\sqrt{\sum_{i=1}^n (x_i - \bar{x})^2 \cdot \sum_{i=1}^n (y_i - \bar{y})^2}}$$

Quoting (Greń 1976), Pearson's correlation coefficient refers to the strength and direction of the relationship between variables. It has a value between -1 and 1. The closer the value to zero, the weaker the relationship. The closer it gets to 1 (or -1), the stronger the relationship. The value equal to 1 (or -1) means a perfect linear correlation. The sign of the correlation coefficient tells us about the direction of the relationship: "+" means a positive correlation, i.e. increase (decrease) in the value of one characteristic causes increase (decrease) in the value of the other (a directly proportional correlation). "-" a negative direction, i.e. increase (decrease) in the value of one characteristic causes decrease (increase) in the value of the other (a reversely proportional correlation).

In order to determine the correlation coefficient of the WIG20 value and the number of IKE accounts, a tabulated summary was produced of the prices at the close of the WIG20 index at the last session in a given year (variable X) and the number of IKE accounts kept in individual segments (variable Y), also on an annual basis – Table 3. The correlations are illustrated in Table 5.

The measure for IKE against WIG20 is positive, but of small strength equal to 0.27. An interesting value of the correlation coefficient was calculated for IKE DM /brokerage houses/ -0.34 and IKE PTE, approximately -0.92. In the case of IKE DM one could expect the association to be negative and strong, for rational long-term investors use corrections, and breaks to buy shares, and thus to expand the risk profile portfolio. In the case of PTE, the strong negative value came as a surprise. Yet, as it was measured since 2012, the time is too short to be able to formulate any conclusions.

Table 3. Tabulated summary of individual IKE and prices at the close of WIG20

Date	WIG20 value at the last session in a given year	Number of accounts					
		IKE	IKE – Brokerage Houses	IKE – banks	TFI	Insurance undertakings	Voluntary pension funds managed by PTE
2004	1912	175 476	6 279	7 570	50 899	110 728	
2005	2683	427 865	7 492	49 220	103 624	267 529	
2006	3324	840 263	8 156	53 208	144 322	634 577	
2007	3530	915 492	8 782	42 520	192 206	671 984	
2008	1790	853 832	9 985	36 406	173 776	633 665	
2009	2396	809 219	11 732	31 982	172 532	592 973	
2010	2757	792 466	14 564	30 148	168 664	579 090	
2011	2144	814 449	17 025	29 095	200 244	568 085	
2012	2583	813734	20 521	47 037	188 102	557 595	479
2013	2401	817 651	21 712	49 370	182 807	562 289	1 473
2014	2316	824 485	22 884	51 625	174 515	573 515	1 946
2015	1859	858 725	25 220	52 371	205 494	573 092	2 548

Source: The author's own study based on the data from the Financial Supervision Commission

Quite unexpected might be the prevalence of accounts set up by Insurance Undertakings. Since the IKE pension system was established, no other form enjoyed such great interest. In terms of attractiveness, Investment Funds Companies were second in the rank, with savers taking, from the very beginning of the study, the least interest in Brokerage Houses and voluntary pension funds managed by PTE. However, this last form of saving was only made available in 2012 and despite a small number of accounts, the dynamics of new openings exceeds 20%.

Still, the number of accounts is not enough to make an argument that ZU /insurance undertakings/ play the most important role in the third pillar prepared by the government. It appears that showing interest is not matched by average amount of money saved – as Table 4 illustrates. The table below shows that investors using brokerage houses dominate in terms of the capital paid in. The activity of individuals

holding accounts in ZU is the lowest of all the available forms under the IKE pension system. An average contribution in the last three years hardly exceeds PLN 2500. Those who save with brokerage houses made, over the same time period, contributions in the amount of PLN 8600.

Table 4. Average capital paid into IKE

Date	IKE – Brokerage Houses	IKE – banks	TFI	Insurance undertakings	Voluntary pension funds managed by PTE
2004	3 300	no data	2 322	498	
2005	3 349	1 521	2 758	1 205	
2006	3 211	1 649	2 708	1 226	
2007	3 102	1 214	2 327	1 386	
2008	2 848	1 953	1 795	1 352	
2009	8 388	2 609	1 911	1 435	
2010	7 813	2 973	2 196	1 421	
2011	8 004	2 928	1 811	1 526	
2012	8 100	4 600	2 600	1 600	4 600
2013	8 800	4 700	3 200	2 200	5 800
2014	8 600	4 000	3 500	2 800	5 200
2015	8 700	4 500	3 700	2 600	4 600

Source: The author's own study based on the data from the Financial Supervision Commission

Since the assumption goes that the stock market is ahead of the economic situation, a test was conducted in that the data on IKE were shifted a year, later referred to as autocorrelation. Table 5 shows the dependency between the WIG20 quotations from a given year and the number of IKE accounts from the following years. If the shift goes forward in the case of the number of IKE accounts, the autocorrelations for the banks all of a sudden changes value to – 0.14. This means that the dependency between the number of accounts and the behavior of the WIG20 index is reversely correlated. For insurance undertakings the value increases from

0.31 to 0.58, and thus, the behavior of the stock market grows in importance when we make a decision to set up an account under the IKE pension system. For brokerage houses the dependency goes down to -0.24. A high negative value of the index for voluntary pension funds operated by PTE is the result of its short history, making it difficult to consider the findings to be meaningful. At the beginning, virtually all kinds of accounts show an upward trend of the accounts that are being set up which is due to the low basis.

Table 5. Correlation coefficient of the Stock Exchange index in relation to number of IPA accounts

WIG20	Banks	Brokerage houses	TFI	Insurance undertakings	Voluntary pension funds managed by PTE
Wyprzedzający	0.064896	-0.51150	-0.49416	-0.35277	-0.83680
bez zmian	0.34955	-0.33891	0.075017	0.3149	-0.91918
Opóźniony	-0.13640	-0.23756	0.321608	0.5788	-0.96222

Source: The author's own study based on the data from the Financial Supervision Commission

It seems that the most interesting group investigated are investors who make their own investment decisions through brokerage accounts, without any support of qualified advisors. This group has to devote the highest amount of time to make analyses. For the rest of individuals who use the third pillar the decision is to buy a ready-made product created by insurers, investment funds and banks.

5. Conclusion

In the light of the data and discussion presented, one can notice that there is a gradual increase in the public's interest towards setting up individual retirement accounts, which is mainly attested by the increase in the amount of funds accumulated in the accounts. The improved situation on the capital market and that of economy could account for this. It is worth underlining that women are more

likely than men to open an account under the third pillar. The reason why the fair sex takes more interest could be both their far-sightedness and being aware of the fact that their pensions are lower than men's.

The analysis conducted in the paper shows that there is a correlation between IKE accounts set up in banks and the WIG20 index. However, for IKE in general this dependency is very small, only when introducing the time lag the correlation coefficient improves. Naturally, the analysis demonstrated is general in nature, and in order to make it a more in-depth investigation, it would be necessary to conduct a survey of people who use this form of funds accumulation for the future.

Although the news in the media are rarely positive, with every year people transfer ever greater sums into their IKE accounts. One of the reason why the interest in IKE has grown could be the tax on so called "anti-Belka" capital investment, which restricted the possibilities of the tax shield and triggered the discussion on the preferential treatment of capital accumulation.

In terms of substance, the reverse correlation between IKE and WIG20 index is of a virtual nature. For if we take into account the short history of IKE, the increase in the number of accounts being set up reflects the clients' willingness to take advantage of the new offer, regardless of the current stock market situation, which at that time showed a downward trend. A broader analysis of the phenomenon would call for a research conducted over a longer term.

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Gromadzenie środków w ramach IKE, a zmienność indeksu WIG 20

Streszczenie

Cel: Temat III filaru, dobrowolnego ubezpieczenia emerytalnego, pojawia się co pewien czas w mediach i wywołuje pytanie wśród społeczeństwa czy na emeryturze da się godnie żyć. Artykuł podejmuje próbę pokazania zmian zainteresowania Indywidualnymi Kontami Emerytalnymi (zwane dalej IKE) przez gospodarstwa domowe względem indeksu WIG20. Zachowanie rynku kapitałowego według autora ma wpływ na społeczeństwo podczas podejmowania decyzji gromadzenia środków w ramach IKE. Celem artykułu jest zbadanie zależności pomiędzy zainteresowaniem gospodarstw domowych zakładaniem IKE a fluktuacją indeksu WIG20. Przeprowadzone badanie zostało opracowane na podstawie danych z okresu 12 lat, tj. od 2004 do 2015 roku. W treści opracowania przedstawiono charakterystykę IKE, a także wpływ indeksu giełdowego WIG20 na przepływ środków lokowanych na IKE.

Układ / metody badawcze: Badanie z wykorzystaniem współczynnika korelacji Pearsona, wskazało na niewielką zależność między liczbą IKE a WIG20.

Wnioski / wyniki: Po przeanalizowaniu poszczególnych form IKE, można zauważyć nieoczekiwaną zależność między IKE w dobrowolnym funduszu emerytalnym zarządzanym przez PTE, a WIG20.

Oryginalność / wartość artykułu: Artykuł może znaleźć zainteresowanie wśród inwestorów, jako wyznacznik w podejmowaniu decyzji inwestycyjnych; naukowców, w celu dalszego pogłębiania tematu związanego z III filarem.

Ograniczenie badań: Ograniczeniem badania jest brak danych dotyczących nieaktywnych kont, a które nie zostały zlikwidowane.

Słowa kluczowe: IKE, gospodarstwa domowe, inwestowanie, oszczędności

JEL: E2

Selected features of demography and social infrastructure of the town and Municipality of Wleń in the context of local development

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Abstract:

Aim: The aim of the paper is to analyze the selected components characterizing the demographic potential and the state of social infrastructure in the rural-urban Municipality of Wleń.

Design / Research methods: The data derived from the Local Data Bank of the Central Statistical Office was analyzed, describing population structure, number and density, natural growth, number of marriages as well as the data on social infrastructure, i.e. healthcare, welfare, security, education, sport and culture. In addition, the analyses covered also data from participant observation and data obtained in the course of the public consultations conducted in relation to the development strategy for the years 2015-2022, devised for the municipality of Wleń. The research was conducted for the time period from 2004 to 2014 – the choice was driven by the wish to carry out observations that would span a decade.

Conclusions / findings: The Municipality of Wleń is undergoing depopulation and succumbing to negative consequences relating to the process. The municipality needs active, creative and young population in order to secure future development. Yet, this is a group of well informed consumers of space who expect specific services (including education), hence maintaining an adequate level of social infrastructure provided by the municipality should become a high-priority target for the local authorities. Positive changes can be observed such as better childcare provided in nurseries. While facing aging population, lacking a social welfare home may become a growing problem. The sense of security, on the other hand, is certainly an asset the municipality space offers.

Originality / value of the article: The findings of the studies are useful for local self-government.

Implications of the research: The research findings may prove helpful for the municipality management.

Keywords: local development, population, social infrastructure.

JEL: R58, R23.

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1. Introduction

The development processes which are being implemented in a municipality are multi-dimensional and differentiated - the same characteristic refers to the definitions of the development process which have been functioning in the literature on the subject. Parysek draws attention to the classification of local development in the category of socio-economic processes, which implies that it encompasses both creating new jobs and shaping comprehensively the possibly best living conditions in the local environment (Parysek 1997: 46). Pietrzyk emphasizes that local development is synonymous with actions which local actors (self-governments, business entities, associations, etc.) are willing to undertake, having reflected on the enhancement of local resources while taking into account territorial particularities (Pietrzyk 2006: 32). Klimek is among those who point out to the problem of ambiguity of the definition (Klimek 2010: 63). Sztando, moreover, highlights the dual nature of the local development process which has the effect that we have to see it in local and trans-local terms, i.e. as one of the most important development ideas of a modern state and society (Sztando 2012: 14-16).

However, for the authors of the paper, looking for differences contained in the definitions is not perceived as important – we argue that inherent in local development and in each and every definition of the concept is local community, for it is the community which talks about the needs and shows its involvement, thus forming the basis for the local authorities operations. There is no doubt that the functioning of a municipal community requires an adequate social infrastructure – hence the study encompasses selected features referring to demography and social infrastructure. It is worth recalling that there is no one clear definition of social infrastructure in literature. Although scholars cannot agree on the category, there are no doubts that it is a significant development factor, being crucial to the level of competitiveness of a particular area, and thus considerably affecting the standard of living and the operations of business entities (Przybyła, Gonda-Soroczyńska 2014: 249). According to Kroszel, social infrastructure is to be understood as a system consisting of facilities and institutions providing non-productive services, individual in their nature (of a consumption type) in an organized manner. Further, he limits the scope of those

services to operations in the field of education, culture promotion, health and social care, physical culture and tourism (Kroszel 1990: 190).

The aim of the paper is to analyze the selected components characteristic of the demographic potential and social infrastructure of the urban-rural Municipality of Wleń. To this end the following data were used: data derived from Local Data Bank of the Central Statistical Office, data from the participant observation and data obtained in the course of the public consultations conducted in connection with the development strategy for the years 2015-2022, devised for the Municipality of Wleń. The research was conducted for the time span between 2004 and 2014 – this time frame was driven by the wish to carry out observations that would span a decade.

2. Characteristic features of the area of interest

The urban-rural Municipality of Wleń, covering an area of 8606 ha, is located in Lower Silesian Voivodship, in Lwówecki District. The municipality comprises 12 villages: Bełczyna, Bystrzyca, Klecza, Łupki, Marczów, Modrzewie, Nieleśno, Pilchowice, Przeździec, Radomice, Strzyżowiec and Tarczyn. The analysis of the land use structure (data as of 2014) shows that the municipality consists overwhelmingly of agricultural land (4870 ha), largely made up of arable land (2669 ha). Forests, wooded and scrub land cover 3083 ha, with underwater land of 232 ha. In the municipality, the developed and urban land takes up 4.6% of the entire area (399 ha). While describing its characteristic features, it should be noted that the municipality is situated at Izerskie Foothills, at the base of the Sudety mountain range to the west. Wleń itself, located in the valley of the Bóbr river, is one of the oldest Silesian towns – it was granted city privileges in 1214. The basic spatial forms, as specified by Bogdan Jałowiecki (production, consumption, power, symbolism and exchange) have a centuries-old tradition (Jałowiecki 2010: 37-39). Although there have been insufficient repairs and modernization of the housing stock, the urban space of Wleń is actually cohesive. In the light of the observations made by Danuta Stawasz, this fact should be recognized as the town's asset

(Stawasz 2015: 23-31). It is worth recalling that before the Second World War Wleń was also – just like Sokołowsko, Opolno, Trzebnica – a well known health resort taking advantage of its healing mineral springs (Gonda-Soroczyńska, Soroczyńska 2010: 75-88).

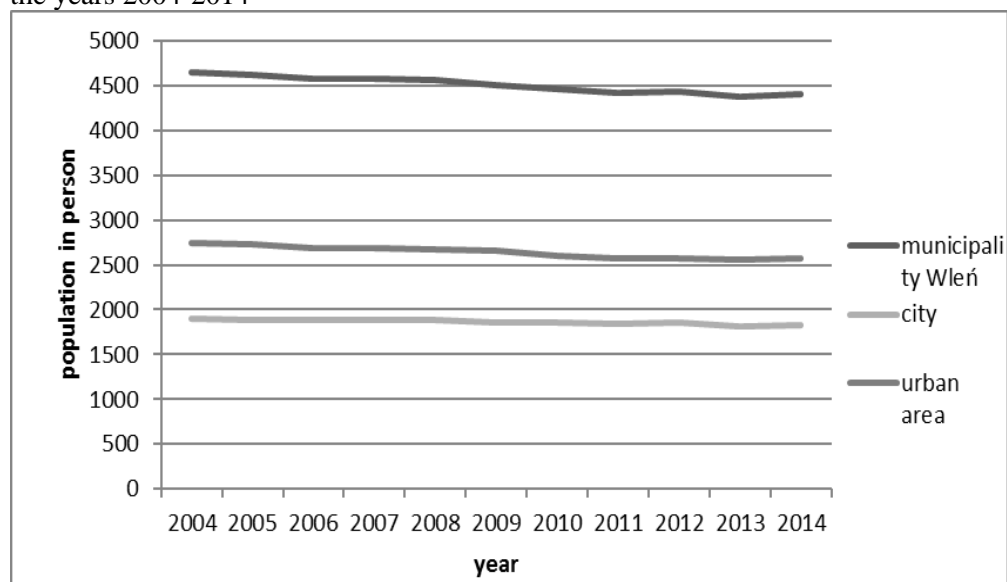
The municipality is characterized by its rich natural, cultural, historic and landscape assets – all those led to the establishing of a scenic park in 1989, The River Bóbr Valley Scenic Park (PKDB – Park Krajobrazowy Doliny Bobru). In Wleń Municipality, the area-related forms of nature conservation cover 5030.70 ha, which accounts for over 58% of the entire area of the municipality. In 1994, within the borders of PKDB, a nature reserve Góra Zamkowa was created, encompassing 21 ha. According to the data of the Central Register of Forms of Nature Conservation, it is a forest reserve of phytocenoses type, created to protect dry ground forest, a habitat to numerous precious plant species and a place of cultural heritage. However, the natural environment of the municipality is not without negative consequences – floods tended to occur so often and were so severe that at the beginning of the nineteenth century a dam was built on the Bóbr river in Piechowice. Naturally this investment could not solve the problem, yet it reduced considerably the negative impact of the natural forces. The infrastructure losses resulting from natural disasters alone in the years between 1997-2008 were estimated to amount to PLN 4.5 million (pecuniary values were indexed to 2008). The funding provided to remove the damage caused by the natural disasters was equal to PLN 16.7 million over the research period, with 11.5 million alone in the year 2008 (Piepiora 2011: 217-227).

3. Demographic potential of Wleń Municipality

The Municipality of Wleń has a population of 4404, with over half of the population (58.47%) living in rural areas. The observation made within the research period (2004-2014) is that the division of population between rural and urban areas is stable. In both cases we see a decline in the population – in the town by 3.84%, while in the rural areas by 6.19%. It is alarming that the decline is faster than that

recorded in Lwówecki District, where it was by 3.05% (base year 2004 to 2014), see Chart 1. It is worth noting that the situation both in Wleń Municipality and Lwówecki District is the reverse of the development observed in Lower Silesia, where we are witnessing population growth.

Chart 1. Population of Wleń Municipality by factual place of residence – data for the years 2004-2014



Source: Authors' own elaboration based on the data derived from CSO – Local Data Bank

Over the entire period of research, women slightly outnumbered men in the town of Wleń, whereas in the rural area men made up a larger proportion of the population. 52% of the town population were women. In the rural area, these differences were not significant either – the highest proportion of men in the population was recorded in 2007 and it was equal to 51.60%. Thus, the feminization ratio in the municipality of Wleń was very low – a considerably lower than in Lwówecki District and Lower Silesian Voivodship – see Table 1.

The analysis of the population structure according to pre-working, working, post-working age leads in some worrying conclusions. The comparison of the data for 2004 with those for 2014 reveals that the pre-working age population declined by 26.42%. Considering the importance of this population group for the future of the municipality, the number of people was given on the chart below in the year

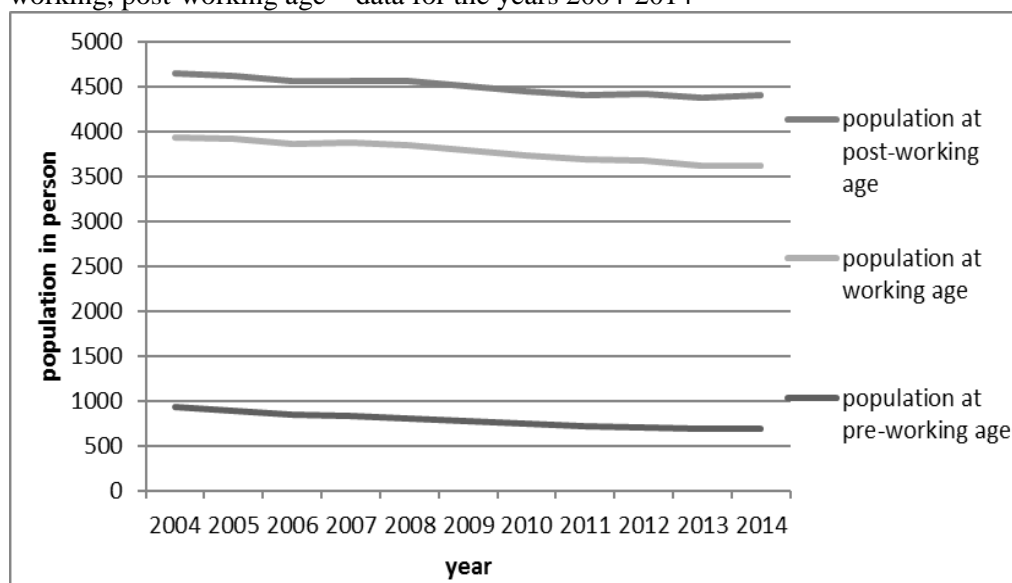
concerned. The decline is also recorded for the group of working –age population (2.46%), with growth being recorded only for post-working age population – see Chart 2. These trends are consistent with the current depopulation trend.

Table 1. The feminization ratio in the Municipality of Wleń, Lwówecki District and Lower Silesian Voivodship – data for the years 2004-2014

Specification	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Wleń Municipality	101	102	101	100	101	101	101	101	102	101	102
Lwówecki District	105	105	105	105	106	106	105	105	105	105	105
Lower Silesian Voivodship	108	108	108	109	109	109	108	108	108	108	108

Source: Authors' own elaboration based on the data derived from CSO – Local Data Bank

Chart 2. Population of the Municipality of Wleń according to pre-working, working, post-working age – data for the years 2004-2014

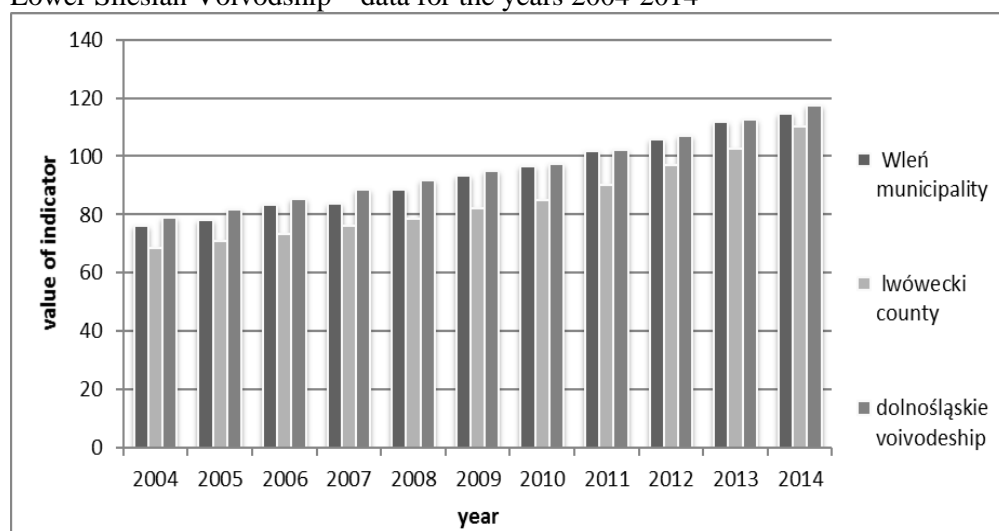


Source: Authors' own elaboration based on the data of CSO – Local Data Bank

The demographic dependency ratio measured as the ratio of the post-working age population to 100 population from the group of pre-working age population was

114.6 in 2014. In 2004, this ratio was equal to 76.0 – which naturally gives reason to some concern. Yet, the Municipality of Wleń is not unique in this respect – almost identical was the increase of this ratio for Lower Silesia, with the ratio recorded in Lwówecki District being even higher (by 41). On the positive side though, the demographic dependency ratio was lower in Wleń Municipality than in Lower Silesia over the entire research period – see Chart 3.

Chart 3. The ratio of the post-working age population to 100 population in the pre-working population group in the Municipality of Wleń, Lwówecki District and Lower Silesian Voivodship – data for the years 2004-2014



Source: Authors' own elaboration based on the data derived from CSO – Local Data Bank

Over the 2004-2014 period, natural growth was positive only in one year (2008) in the municipality – see Table 2.

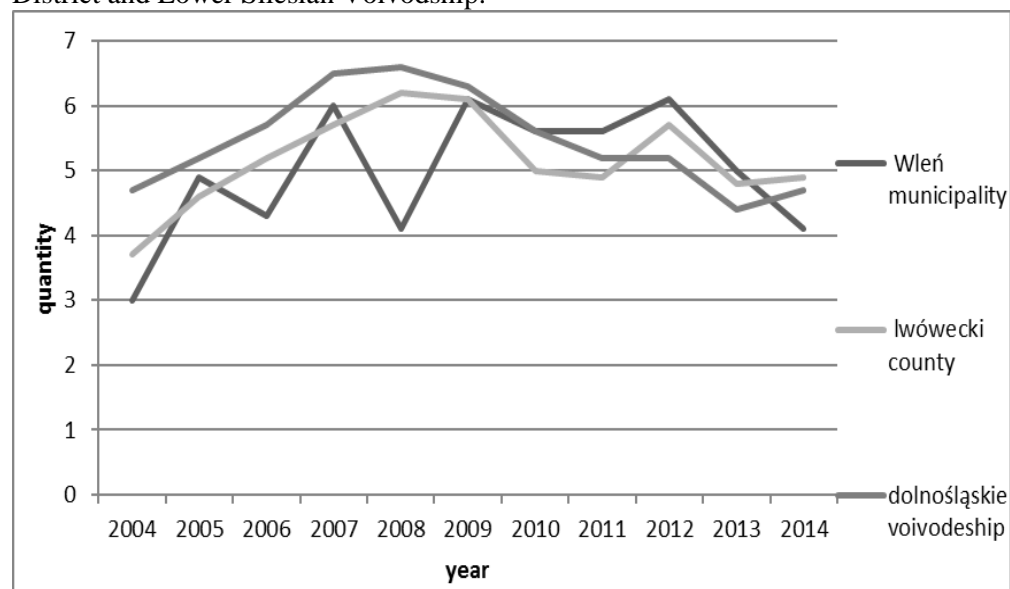
Table 2. Live births and deaths in total in the Municipality of Wleń – data for the years 2004-2014

Specification	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Live births	27	37	42	45	52	35	34	40	46	37	44
deaths	49	51	48	50	51	53	60	63	54	59	58

Source: Authors' own elaboration based on the data derived from CSO – Local Data Bank

The number of marriages contracted in Wleń Municipality per thousand population, varied significantly over the research period– the value ranged between 3 and 6,1. There were four years (2004, 2006, 2008, 2014) when this number was smaller than the value recorded in Lwówecki District; in 2009 the number of marriages was exactly the same, while in the remaining years the municipality recorded a higher number than the district. The comparison of the number of marriages in Wleń Municipality with that recorded for Lower Silesia shows that the municipality recorded higher values than Lower Silesia only in three years (2011, 2012, 2013) – see Chart 4.

Chart 4. Marriages per thousand population in the Municipality of Wleń, Lwówecki District and Lower Silesian Voivodship.



Source: Authors' own elaboration based on the data derived from CSO – Local Data Bank

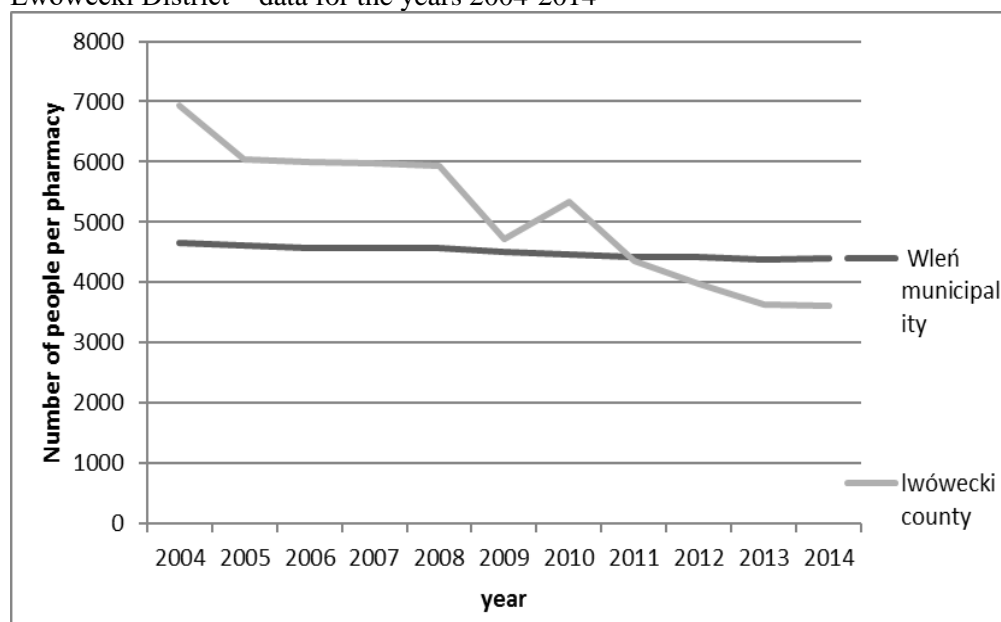
4. Social infrastructure in the Municipality of Wleń

4.1 Health care

Over the 2004-2014 period, there were three out-patient clinics operating in Wleń Municipality. Since 2009 this number went down to two. The number of

consultations provided annually under primary health care ranged between 17.6 thousand and 13.8 thousand over the period examined (2004-2014). The highest number was recorded in the year 2011 (17,683 consultations), while the lowest in 2014 (13,750 consultations). If the assessment of access to pharmacies were to be limited to the analysis of statistical data, the situation would have to be evaluated as satisfactory – the number of individuals per one pharmacy which is generally available in the years 2004-2010 was higher in Lwówecki District than in the municipality – see Chart 5. Although, in fact, there was only one pharmacy operating in the municipality. Considering the territorial dispersion of the population, this situation need not be perceived as negative, implying that, in this respect, there are deficiencies in the social infrastructure.

Chart 5. Population per one generally available pharmacy in Wleń Municipality and Lwówecki District – data for the years 2004-2014

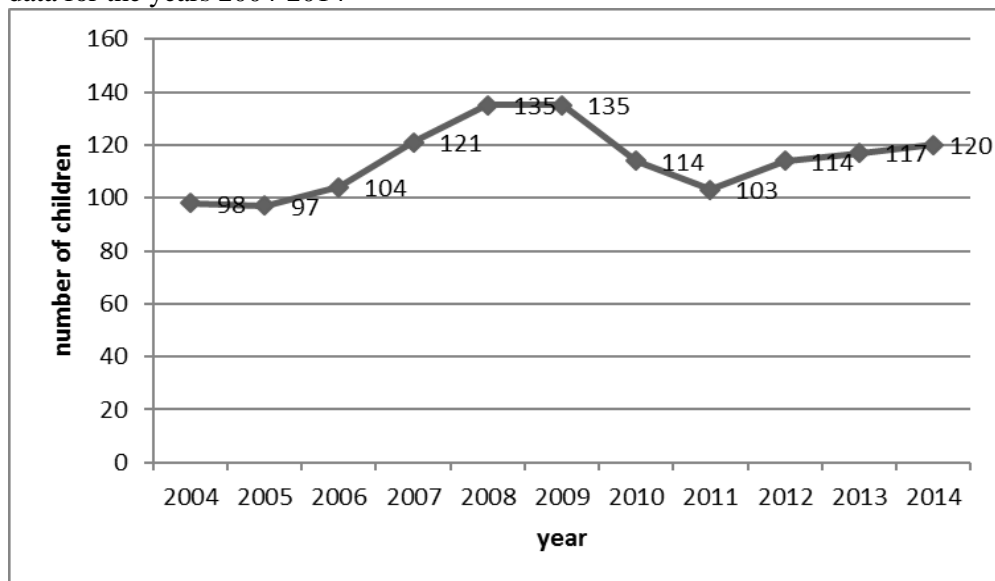


Source: Authors' own elaboration based on the data derived from CSO – Local Data Bank

The analysis of data on childcare up to age 3 indicates a development in the care offered by day nurseries – the comparison of the data for the year 2004 and 2014

shows an increase by 22 children, which should be considered significant, given the 4.4 thousand population of the Municipality of Wleń – see Chart 6.

Chart 6. Number of children (up to 3 years old) in nurseries in Wleń Municipality – data for the years 2004-2014

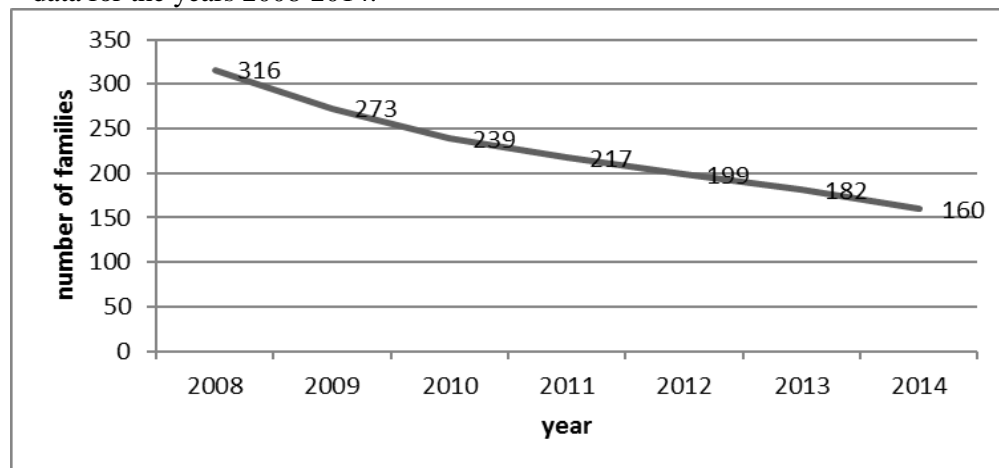


Source: Authors' own elaboration based on the data derived from CSO – Local Data Bank

The number of households who are recipients of social assistance by income was the highest in 2009, comprising 201 households. In the last year of the period in question, i.e. 2014, this number was significantly smaller – 177. The number of families receiving child allowance in the municipality over the years 2008-2014 declined systematically – see Chart 7. However, it is difficult to see it as the effect of an improved financial situation of the inhabitants. The reasons are more likely to be found in the reduced number of children entitled to receive the benefit.

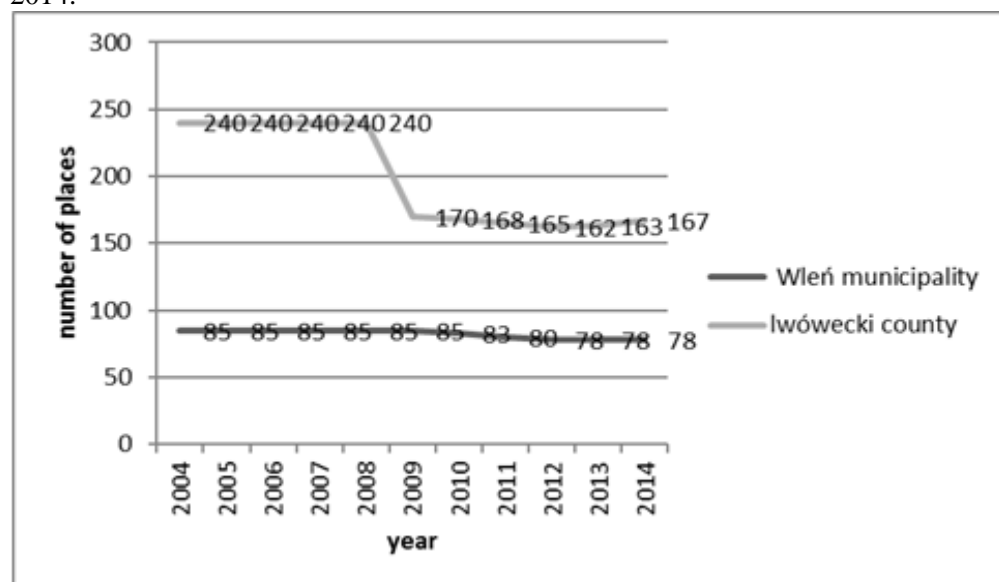
In the municipality of Wleń – in the village of Nielestnie – over the research period, there was one Social Welfare Home operating (DPS). The number of beds offered by the DPS went down from 85 in 2004 to 78 in 2014. Considering the fact that in the last three years included in the study not all beds were occupied, we can argue that the offer in this respect is sufficient – see Chart 9.

Chart 7. Number of families receiving child allowance in the Municipality of Wleń – data for the years 2008-2014.



Source: Authors' own elaboration based on the data derived from CSO – Local Data Bank

Chart 8. Number of beds in the Social Welfare Home in the Municipality of Wleń and Lwówecki District – data for the years 2004-2014.



Source: Authors' own elaboration based on the data derived from CSO – Local Data Bank

However, it should be made clear that the offer of the Social Welfare Home in Nielestnie is addressed only to people with intellectual disabilities. With respect to

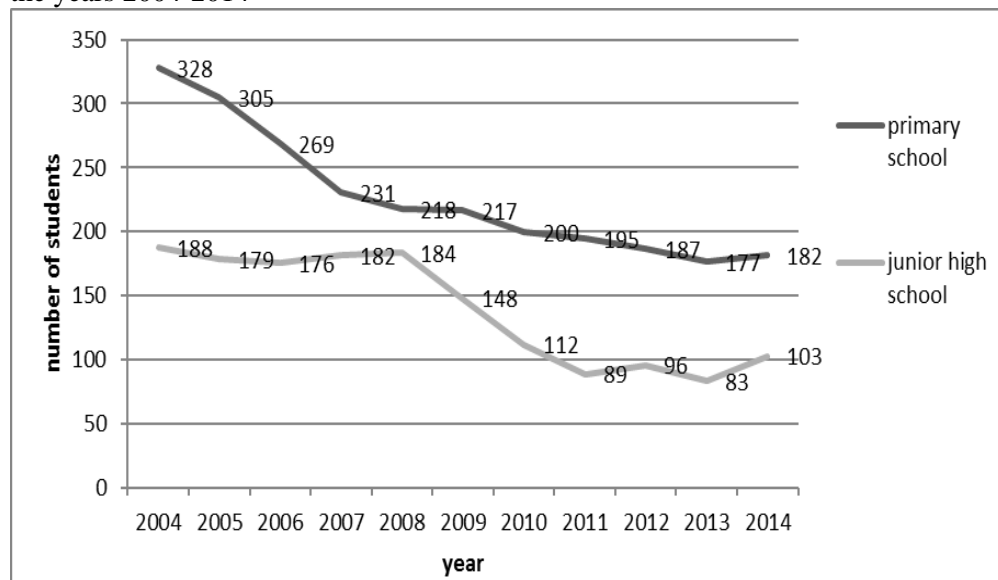
people suffering from chronic somatic diseases, assistance is offered by a facility in Mirsk. The social welfare home in Mirsk is located in Lwówiecki District, outside the borders of Wleń municipality.

4.2 Security

The information obtained from the town and municipal authorities of Wleń shows that there is an Office for Enquiries which is under the authorities of the District Police Station in Lwówek Śląski. Further, Wleń has municipal security guard service (one post). Also, there are three voluntary fire brigades (OSP): OSP Wleń, OSP Pilchowice and OSP Radomice. In addition, OSP Wleń and OSP Pilchowice belong to the National Firefigting and Rescue System. There are also plans to establish OSP Marczów. It is worth noting that during the public consultations taking place in connection with the development strategy for the years 2015-2022, devised for the Municipality of Wleń, the inhabitants voiced positive opinions in terms of the level of security in the municipality. While writing about security, J. Kotus emphasizes that the sense of security is created by an objective situation where no threat is present and subjective, emotional and psychological evaluation of space as being safe (Kotus 2005: 54). In the light of the above, this component of social infrastructure should be assessed positively.

4.3 Education

The Municipality of Wleń runs a School Complex named after Jadwiga Śląska- it comprises a middle school, primary school and a kindergarten. Classes are held in the facilities located in Wleń and Pilchowice (only kindergarten). Over the research period, the number of pupils attending schools in the Municipality of Wleń decreased considerably –comparing the data stemming from the beginning and from the end of that period shows a drop of about 45% for both the middle school and primary school – see Chart 9.

Chart 9. Number of pupils in the schools located in Wleń Municipality – data for the years 2004-2014

Source: Authors' own elaboration based on the data derived from CSO – Local Data Bank

4.4 Sport and culture

The leading institution in terms of organizing cultural, social and sports events in the municipality is the Culture, Sports and Tourism Center. The schedule of local events conducted by the center encompasses a list of 30 events of which the following should be considered key events: Homing Pigeons Fair, Street Memorial named after Michał Fludr, Medieval Market of Female Pigeon Keeper and Town and Municipality Day Festival, Municipality Harvest Festival and Children Song Contest (OKSiT 2016).

Based on the information received from the town and municipality authorities, the following sports clubs operate in the municipality: Pogoń Wleń, Uczniowski Klub Sportowy Bobrzanie, Czarni Strzyżowiec and Wiejski Klub Sportowy Pilchowice. In the past there was a Table Tennis Club too. Books are made available to inhabitants in three places: Municipality Library in Wleń and in its two divisions located in Bystrzyca and Pilchowice.

5. Concluding remarks

The Municipality of Wleń is undergoing depopulation and succumbing to negative consequences relating to the process – among other things, this is reflected in higher demographic dependency ratio. A chance to change things – as Adamska rightly points (Adamska 2013: 11-12) – should be seen only in striving for multifunctional rural areas. In order to achieve this, not only involvement on the part of the authorities, but also on the part of the local community is needed.

Therefore, the Municipality of Wleń needs active, creative and young people. They, however, represent a well informed group of consumers of space, expecting specific services, hence maintaining an adequate level of social infrastructure offered by the municipality should become a high-priority target for the local self-government. Positive changes can be observed such as, for example, the development of childcare provided in day nurseries. On the other hand, in the context of aging population the fact that there is no Social Welfare Home offering its services to people suffering from chronic somatic diseases could cause problems in the future. The sense of security is certainly an asset the municipality space offers. It needs to be stressed that maintaining educational services is necessary considering the expectations of young families. The analysis of the number of pupils indicates that there was a decrease during the period in question. However, in the light of the above those services have to be sustained.

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Wybrane cechy demografii oraz infrastruktury społecznej gminy i miasta Wleń w kontekście rozwoju lokalnego

Streszczenie

Cel: Celem artykułu jest analiza wybranych elementów charakteryzujących potencjał demograficzny oraz stan infrastruktury społecznej miejsko-wiejskiej gminy Wleń.

Design / Research methods: Dokonano analizy danych Banku Danych Lokalnych Głównego Urzędu Statystycznego opisujących strukturę i liczbę ludności, gęstość zaludnienia, przyrost naturalny, liczbę zawieranych małżeństw, a także dane odnoszące się do infrastruktury społecznej tj. ochrony zdrowia, opieki społecznej, bezpieczeństwa, edukacji oraz sportu i kultury. Ponadto przeanalizowano dane zgromadzone w efekcie obserwacji uczestniczącej oraz dane pozyskane w trakcie konsultacji społecznych prowadzonych w związku z opracowywaniem Strategii rozwoju gminy Wleń na lata 2015-2022. Badania wykonano dla okresu 2004-2014 – wybór było podyktowany chęcią dokonania obserwacji dla dekady.

Conclusions / findings: Gmina Wleń poddaje się procesowi depopulacji i negatywnym konsekwencjom z tym związanym. Dla przyszłego rozwoju badana gmina potrzebuje aktywnych, kreatywnych, młodych mieszkańców. Jest to jednak grupa świadomych konsumentów przestrzeni, oczekująca określonych usług (w tym edukacyjnych), stąd utrzymanie odpowiedniego poziomu infrastruktury społecznej oferowanej przez gminę winno być celem priorytetowym dla władz lokalnych. Można zaobserwować pozytywne zmiany jak chociażby rozwój opieki prowadzonej w ramach żłobków. W obliczu starzenia się społeczeństwa może natomiast narastać problem braku Domu Pomocy Społecznej. Niewątpliwie zaletą wleńskiej przestrzeni jest poczucie bezpieczeństwa.

Originality / value of the article: wyniki badań są użyteczne dla samorządu lokalnego.

Implications of the research: wyniki badań mogą być pomocne w zarządzaniu badaną gminą.

Keywords: rozwój lokalny, ludność, infrastruktura społeczna.

JEL: R58, R23.

The implementation evaluation of the philosophy of continuous improvement in company X –part two

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Abstract:

Aim: The aim of the study is to analyze selected areas of the company's operations. The following aspects were examined: the benefits from the application of the concept of continuous improvement for the company and its individual employees, barriers preventing a successful implementation of the concept and self-evaluation of the company's employees.

Design / Research methods: The company was examined using a survey method. The findings are the result of the academic internship done at this company. The publication is an outcome of a science project within the framework of the Support Program of the Partnership between Higher Education and Science, and Business Activity Sector financed by the City of Wrocław.

Conclusions / findings: The paper completes the set of modernization recommendations co-developed by the authors and the entrepreneur's representative.

Originality / value of the article: In the context of current knowledge, the paper demonstrates the quality of continuous improvement based on the example of a Polish enterprise, which is a valuable source of information given the limited number of studies within this scope in the domestic strand of research. The findings may be used during the implementation of Kaizen in other organizations.

Limitations of the research: The paper follows up on the issues concerned with the implementation of the philosophy of continuous improvement in a business entity, and hence does not encompass the full Kaizen spectrum. In the first part of the series, the findings referring to the knowledge about the concept, implementation methods, etc. were presented.

Keywords: continuous improvement, barriers, benefits, Kaizen

JEL: D23, L23, L62.

1. Introduction

According to Deming's definition, continuous improvement (CI) means a "continuous and never-ending improvement from production to services which results in better quality, productivity and cost reduction" and which, in literature, is commonly acknowledged to be a synonym for Kaizen (Kucińska-Landwójtowicz 2015: 297). In Poland, the concept of continuous improvement has been a universally applied method of optimization of managerial, production processes and the likes. It won't be easy to come across a production company which would not be implementing its basic principles and tools in their business practice (Piasecka-Głuszak 2015: 382-385). Since the concept is so universal and fairly simple in its assumptions, even organizations which are not involved in the production sector, e.g. service sector, are implementing its basic principles in their daily operations. While analyzing the literature on this subject, it becomes clear that the current state of the implementation of the concept in Poland's business practice needs to be further diagnosed. In foreign studies we encounter detailed data on the effects of the implementation based on the process and Kaizen approach (Capell 2004: 5-6). In order to fill this gap, the paper seeks to extend the knowledge on the state of Polish enterprises in terms of the implementation of continuous improvement.

In meeting those needs, a cooperation has been established with one of the largest production company in Lower Silesia. The objective of the cooperation established under the academic internship is to improve the functioning of the selected tools of continuous improvement. While performing this objective, the first step was to carry out a thorough assessment of the state of the continuous improvement implementation process. This was achieved by conducting a survey using a questionnaire. The paper presents some of the findings thus obtained.

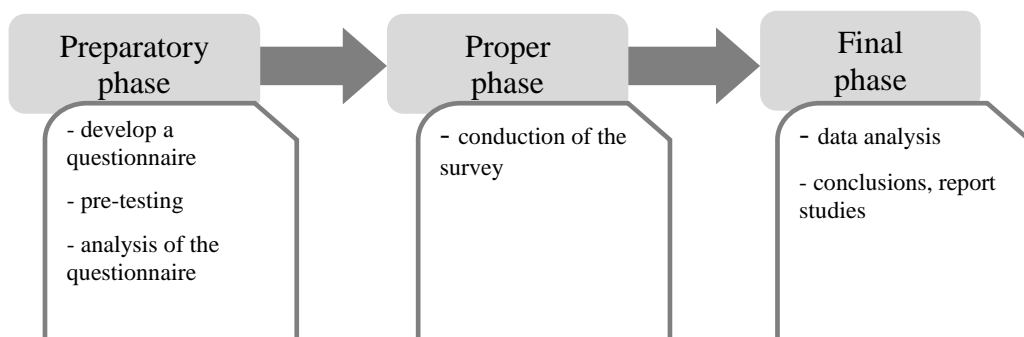
2. Aim and scope of the research

The company surveyed is the largest international investor in the transport industry, employing over 1500 people in Poland, with 4 production plants located in

such voivodships as: Śląskie (Upper Silesia), Łódzkie, Mazowieckie (Masovia) and Dolnośląskie (Lower Silesia). The plant in Lower Silesia has a long tradition of vehicle production, manufacturing frames and bodywork of trucks since 1833. After 1945, it was one of the largest in the country in terms of production volume and number of people employed. Since 2001 it has belonged to an international business group based in North America. The users of the company's products are transport undertakings from Germany, Sweden, Switzerland, USA and Italy. The company employs about 700 employees, including 200 in administration units and around 500 as manual employees.

The primary aim of the survey conducted in the company X was to identify the progress made in the implementation of continuous culture, to seek employees' views and experiences, particularly taking into account the benefits stemming from the implementation of such system, and further, to determine the barriers limiting the introduction and functioning of the concept. The methodology applied in the study was comprised of three successive phases described in Figure 1.

Figure 1. Survey procedure



Source: authors' own elaboration

The survey was carried out in November 2015 among the company's office employees. The target group encompassed 219 employees. The first step, after having defined the survey population, involved establishing contact with the management of specific departments operating within the company's organization structure with a view to determine the survey procedure. 101 questionnaires were filled out and returned, which accounts for 46% of all the employees classified as non-production workers (Table 1).

Table 1. The final number of employees surveyed

Specification	Number of employees	Percentage
Initial population the questionnaire was addressed to	219	100%
Number of questionnaires returned	101	46%

Source: Authors' own research based on data from the company's HR department.

3. Survey findings

The findings presented in the paper in table formats and charts were extended by interpretations and conclusions. The survey was divided into a number of modules pertaining to several aspects of continuous improvement, with the paper presenting only selected factors relating to the company. These include expected benefits, expected barriers, suggestions for changes and self-assessment of the company.

While working with the concept of continuous improvement we can use various models and although with every of those models the improvement process looks slightly different, the idea itself does not change. For the purpose of the study, we used the classic model by Shewhar-Deming, Plan-Do-Check-Act – PCDA (Mansir, Schacht 1989: 50-54). While deploying this approach, the continuous improvement consists of the following stages: identification of possible improvements, analysis of processes, finding solutions to problems detected, which is then followed by their implementation, result evaluation, solution standardization and future activities planning (Soković et al. 2009: 7). Continuous improvement can also be explored from the perspective of other concepts: the EFQM excellence model, DMADV, DMEDI, DMAIC, DCOV models which come up with the Six Sigma concept, the Peters and Waterman model, FEM –philosophy of excellent management, excellent

management pyramid by Kuc and others (Skrzypek 2014: 137-139). The initial research is consistent with the first stage of the cycle based on PCDA – identification of possible improvements in an enterprise – on the one hand, this knowledge enables one to identify areas where changes are necessary, and also to have some suggestions how to do it, while on the other hand, we get to know employees' expectations with respect to continuous improvement.

4. Continuous improvement benefits

The C module of the questionnaire is concerned with the benefits arising from the implementation of continuous improvement. The improvement of processes most frequently results in a more effective communication, less time needed to perform tasks, better quality, client's greater satisfaction and that of employees, a higher level of employees' knowledge, greater awareness and responsibility for processes conducted, etc. (Capell 2004: 4). Also, continuous improvement leads to Deming's chain reaction, as illustrated in Figure 2; further to that, it is possible to assess, based on the research, at what point of the model the company currently is (Mansir, Schacht 1989: 11).

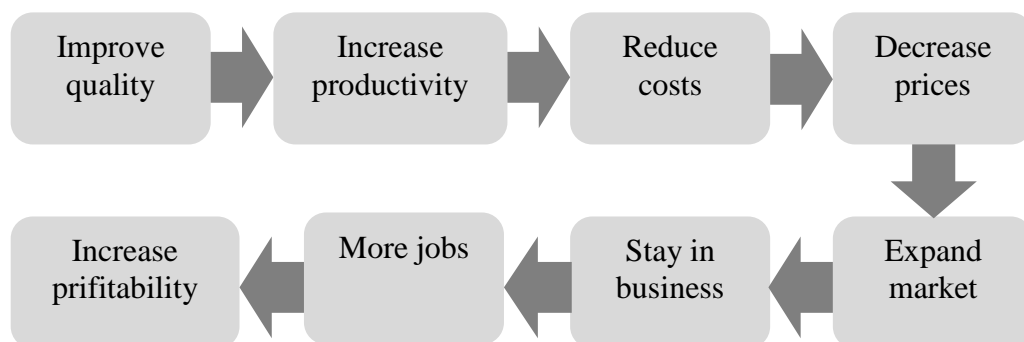


Figure 2. Deming's chain reaction

Source: Mansir, Schacht 1989: 11.

On the subject of benefits, respondents were asked about the benefits for the company and for the employees themselves arising from the application of the idea of continuous improvement. The questions were open-ended, so as not to make any suggestions of possible responses. 67 respondents stated their views, with 34 providing no comments on the benefits for the company resulting from the concept of continuous improvement (Table 2).

Table 2. Number of respondents who answered the question on the benefits for the company resulting from the application of the concept of continuous improvement

Response	Number of responses
Comments	67
No comments	34
Total	101

Source: Authors' own research.

Table 3. Benefits for the company arising from the application of the concept of continuous improvement

Description	Number of responses	Frequency (67 persons=1)
Saving time and money	28	0.418
Improved efficiency	23	0.343
Safety	19	0.284
Better quality	15	0.224
Process improvements	8	0.119
Error reduction	8	0.119
Waste reduction	6	0.09
Psychological effect – I have influence over the company's management	5	0.075
Process standardisation	5	0.075
More pleasant work experience	4	0.06
New solutions	3	0.045
Better financial results	3	0.045
Improved ergonomics	2	0.03
Improvement in the company's image	2	0.03
Reduction of negative environmental impacts	2	0.03
Innovation	1	0.015
No indifference to irregularities	1	0.015
Risk reduction	1	0.015
Greater integration and involvement of employees	1	0.015
Better frame of mind/comfort	1	0.015
Increased importance of human resource	1	0.015

Source: Authors' own research.

Respondents indicated, in total, 21 benefits for the company arising from the application of the concept. Most frequently indicated responses included: saving time and money (0.418 of those who provided comments), better performance efficiency (0.343), increased work safety (0.284), and better quality of production processes and finished products (0.224). The detailed data are illustrated in Table 3. The responses largely represent standard (literature-based) effect of the implementation of continuous improvement, which can be derived directly, or as synonymous formulations, from the benefits shown in Figure 2. The benefit for the company that appears to be of considerable interest is greater work safety, indicated by nearly 30% of respondents. This implies some work condition issues, with respondents expecting improvements in this area.

64 respondents answered the question on the benefits for employees arising from the application of the concept of continuous improvement. 37 respondents voiced no opinion on that (Table 4).

Table 4. Number of respondents who answered the question on the benefits for employees from the application of the concept of continuous improvement

Response	Number of responses
Comments	64
No comments	37
Total	101

Source: Authors' own research.

The persons surveyed indicated 24 benefits, in total, for employees resulting from the application of the idea of continuous improvement. The most likely comments included: easier work (0.344 persons who gave comments), increased safety (0.219), better work quality (0.172). It is worth pointing out that only one person saw no benefits from the application of the idea of continuous improvement. The detailed data are presented in Table 5. A very important fact to note is that employees see a chance to increase their competences through continuous improvement (personal growth – 0.078, expanding their knowledge – 0.063, training participation – 0.031, employees having an opportunity to gain new work experience

– 0.016, improved employability as the result of acquiring knowledge about continuous improvement – 0.016).

Table 5. Benefits for employees arising from the application of the concept of continuous improvement

Description	Number of responses	Frequency (64 persons = 1)
Easier work	22	0.344
Improved work safety	14	0.219
Better work quality	11	0.172
Opportunity to improve deficiencies	9	0.141
Time saving	7	0.109
Greater job satisfaction	5	0.078
Personal growth	5	0.078
Expanding one's knowledge	4	0.063
Elimination of waste	4	0.063
Improved productivity	3	0.047
Greater order on the company's premises	2	0.031
Capacity to adapt to change	2	0.031
Training participation	2	0.031
Financial benefit	2	0.031
Participation in e.g. the employee suggestion program results in feeling distinguished in the team	1	0.016
Employees can gain new work experience	1	0.016
Clear and transparent procedures	1	0.016
Improved employability due to acquiring knowledge on continuous improvement	1	0.016
Work in prestigious environment	1	0.016
More aesthetic work station	1	0.016
Environmental impact	1	0.016
Relieving an employee of his/her too heavy workload	1	0.016
Introduction of simple rules facilitating performance	1	0.016
Increased acceptance of change	1	0.016
No benefits	1	0.016

Source: Authors' own research.

5. Barriers to the implementation of continuous improvement

The process of overcoming barriers typically encompasses three basic stages: identification, comprehension and overcoming limitations which prevent the company's improvement (NICE 2007: 5). The survey conducted forms a part of the first step of this process. Barriers which hinder a proper development of a company

depend on the field of operation, being specific to the type of business (see Da Rocha de Araujo 2004: 15; Torres, Gati 2011: 104).

In the part of the questionnaire referring to the barriers to the continuous improvement implementation, there were two closed questions, offering, however, a possibility to add one's own reply. Almost half of respondents (45.5%) believe that the main barrier hindering the realization of the concept is lack of time – too many projects implemented at the same time (39.6%), which is linked to the mentioned lack of time. Unwillingness to change (38.6%) and fear of change (30.7%) indicate a mental barrier to the improvement of the idea. Lower in the rank was no proper communication (28.7%), no consistency in operations (26.7%) and no motivation (25.7%), followed by lack of support (13.9%), which, in turn, points to the problem with managing the concept of continuous improvement. Further on, respondents reported lack of sufficient knowledge and training (each 13.9%), perceiving a gap in terms of being adequately informed on the approach in question. 5 respondents added their own barriers: lack of motivation on the part of the superiors and too much red tape which were included in the category “other”. The findings are presented in detail in Table 6 and Figure 3.

Table 6. Barriers preventing an efficient application of the idea of continuous improvement

Response	Number of responses	Percentage
lack of time	46	45.5%
too many projects	40	39.6%
unwillingness to change	39	38.6%
fear of change	31	30.7%
lack of communication	29	28.7%
lack of consistency	27	26.7%
lack of motivation	26	25.7%
lack of knowledge	14	13.9%
lack of support	14	13.9%
lack of training	14	13.9%
other	5	5.0%

Source: Authors' own research.

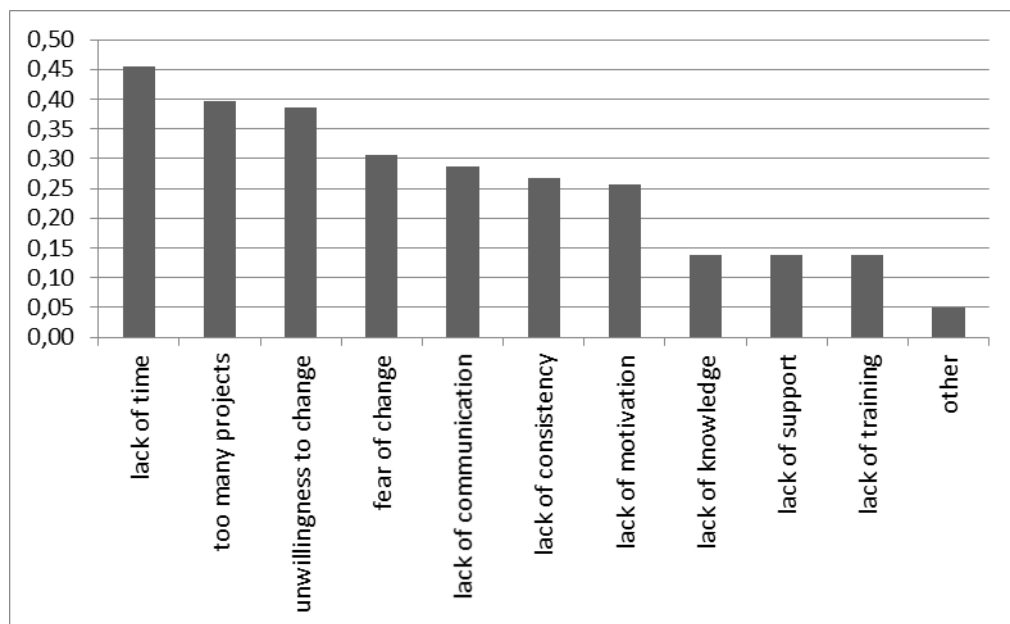


Figure 3. Barriers preventing an efficient application of the idea of continuous improvement

Source: Authors' own research.

In comparison with the surveys from other European countries (Norway, the UK) (Lodgaard et al. 2016: 1122), lack of time, too many projects and fear of change are among the most emphasized features. In the research by Lodgaard et al., the time-related problems are approached in terms of insufficient daily concentration on continuous improvement, which represents a broader view, taking into account, for example, task division. In the Polish research, moreover, lack of time (inadequate amount, too many other tasks) is a barrier that is frequently identified within the scope of the improvement techniques of a company (Jedynak 2015: 58). In literature, fear of change tends to be treated as one of the aspects associated with the resistance towards a some sort of evolution of the company resulting from the implementation of continuous improvement methods (Freddy, Mbohwa 2013: 212). In foreign explorations, fear is not likely to be identified or it tends to be regarded as a minor issue in continuous improvement. While the vast majority of the identified CI limitations can be clearly remedied (lack of training, communication), the problems linked to work involvement, unwillingness to and fear of change represent

a much more challenging issue. The American medical industry is an example where those aspects form the key barrier (Ahmed et al. 2004: 147). The main reasons for being resistant to change are habits, fear of losing one's freedom, status and income deterioration, etc. (Yılmaz, Kılıçoğlu 2013: 17). Therefore, what is needed is to identify the specific causes and try to address them in the company.

Table 7. Types of waste identified at work stations

Response	Number of responses	Percentage
waiting time	56	55.4%
process errors	36	35.6%
unused employees' creativity	34	33.7%
waste of motion	33	32.7%
high stocks	14	13.9%
other	6	5.9%

Source: Authors' own research.

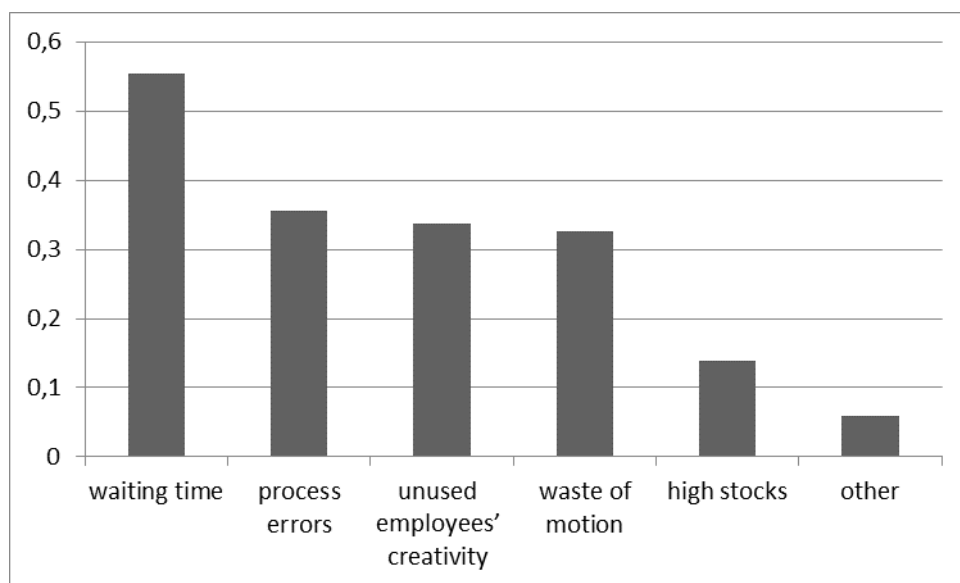


Figure 4. Types of waste identified at work stations

Source: Authors' own research.

In the next question, respondents were asked to indicate the type of waste (muda) which occurs in their work station or department. 55.4% reported waiting time, 35.6% indicated errors occurring in the process of performing a task, 33.7% respondents underlined unused employees' creativity, with 32.7% indicating waste of motion generating no value added. High stocks are a type of waste indicated by 13.9% of surveyed employees. Respondents (5.9%) indicating their response as "other" elaborated by stating that they meant red tape and lack of communication. A detailed description of the findings is presented in Table 8 and Chart 2.

6. Proposals of change

In this part of the questionnaire, respondents were asked to give advice, recommendations that would make the work of the Department of Continuous Improvement in the company X more efficient. In the question, respondents were asked to suggest ideas that could improve the quality of work of the department. 39 persons gave their own recommendations (Table 8).

Table 8. Number of respondents who answered the question referring to recommendations leading to a more efficient work of the Department of Continuous Improvement

Response	Number of responses
comments	39
No comments	62
Total	101

Source: Authors' own research.

Among the recommendations leading to greater efficiency, more training and workshops were most likely to be indicated (0.333 i.e. one in three respondents answered this question). 0.282% advocate increased campaign promoting the effects of the work performed by the Department of Continuous Improvement, 0.179 respondents wish to change the motivation system in the employee suggestion program, with 0.154 believing that the response to proposals and suggestions submitted by employees should be quicker. A detailed description is presented in

Table 9. The company is an organization with a low level of implementation of the continuous improvement system. The proposals regarding better efficiency are consistent with the standard, literature-based actions necessary for further development. Those include, for example: training, need for measurements, strategy creation, improved communication, specifying more clearly the process optimization method (Garcia-Sabater 2012: 108), the information indicated contains valuable guidance in terms of improving the organization's operations.

Table 9. Ideas (advice, recommendations) indicated by employees with a view to make the idea of continuous improvement more effective in the company

Element	Number of responses	Frequency (39 persons=1)
More training/workshops	13	0.333
More promotion of the idea of continuous improvement-showing the effects of the department's work	11	0.282
Higher money-prizes in the employee suggestions system	7	0.179
A quicker response to proposals and suggestions submitted by employees	6	0.154
Greater emphasis on 5S	2	0.051
Creating a web site informing about the idea of continuous improvement implemented in company X	1	0.026
Creating so called codes of good practice	1	0.026
Close cooperation with technologists	1	0.026
More frequent audits	1	0.026
Kaizen walk – benchmarking in other companies	1	0.026
More time devoted to an individual employee	1	0.026
Better access to training material	1	0.026
Meetings between the management and staff focusing on the promotion of the idea of continuous improvement	1	0.026
More activity on the part of employees of the department - more frequent going to the gemba	1	0.026

Source: Authors' own research.

The next question in this module was concerned with rating the quality of communicating information on the idea of continuous improvement. Respondents were asked to answer a closed question, in which they were to rate the quality of information banners, e-mail communication, contact with the department's employees and additionally could provide extended comments in an open-ended question. Over 50% of respondents believe that the communication method is on a

medium level, while 40% think it is average. A detailed description is presented in Table 5 and Figure 5.

Table 10. Assessment of the level of communicating information on the idea of continuous improvement in company X

Response	Number of responses	Percentage
unsatisfactory	5	4.95%
medium	51	50.50%
average	41	40.59%
very good	4	3.96%
Total	101	100.00%

Source: Authors' own research.

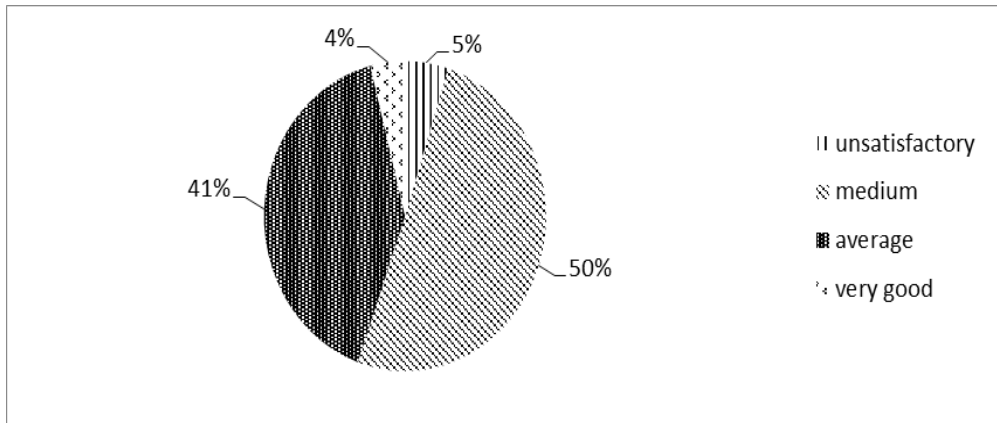


Figure 5. Assessment of the level of communicating information on the idea of continuous improvement in company X

Source: Authors' own research.

7. Self-assessment in terms of continuous improvement

In the last module of the questionnaire, respondents were asked to self-assess their own involvement in the implementation of the concept of continuous improvement in the company X. Over 51% of employees assess themselves as being fairly involved, with 23% saying that they are not very involved in the

implementation of the continuous improvement process. A detailed description is presented in Table 11 and Figure 6.

Table 11. Self-assessment of employees' attitudes in terms on the implementation of the idea of continuous improvement

Response	Number of responses	Percentage
not involved	7	6.9%
not very involved	23	22.8%
fairly involved	52	51.5%
very involved	19	18.8%
Total	101	100.0%

Source: Authors' own research.

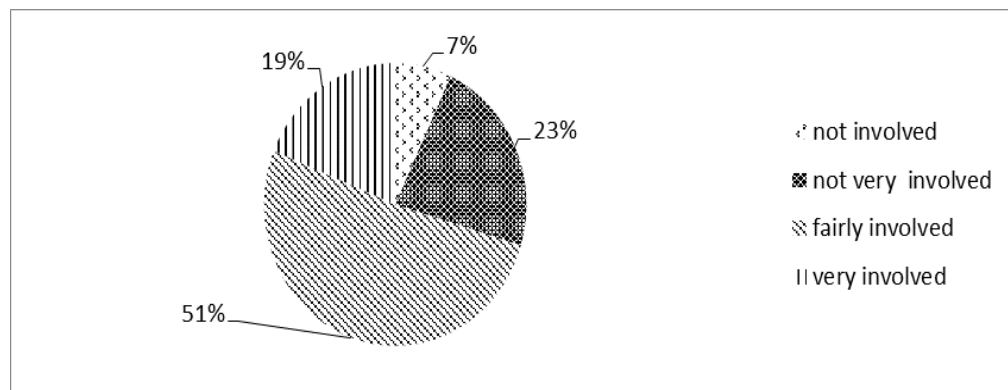


Figure 6. Self-assessment of employees' attitudes in terms of the implementation of the idea of continuous improvement

Source: Authors' own research.

8. Survey summary

In the paper, a survey was carried out to examine how the idea of continuous development fared in one of largest enterprises in the transport sector in Poland. Based on respondents' answers the conclusions are as follows:

- the benefits arising from the implementation of the idea of continuous improvement for the company comprise: time and money saving (lower costs),

improved operation efficiency, increased safety, greater quality of the processes performed and finished products,

- in terms of the benefits for employees resulting from the implementation of the idea, respondents indicated: easier work, increased safety and higher quality of work,
- in analyzing the benefits for the company and its employees, two elements need to be stressed: the answers were not suggested (open-ended questions) and the fact that the answers are similar,
- the survey reveals that the biggest barriers identified in the course of the implementation of the idea of continuous improvement are linked to fear of change and lack of time due to working on too many projects realized concurrently. Respondents also underline motivation and communication aspects, as well as lack of consistency in one's actions,
- the surveyed persons believe that the types of waste most likely to occur are: waiting time, process errors and unused creativity of the employees. The findings confirm that for administration workers (non-manual workers) waiting time is the most frequently identified type of waste,
- while analyzing employees' proposals and suggestions how to make the implementation of continuous improvement more efficient, the following should be indicated: demand for more training and workshops, increased promotional measures (those providing information) with regard to the effects achieved by the Department of Continuous Improvement, analysis of the motivation system in terms of employee suggestions and quicker response to proposals submitted by the employees,
- over 90% of respondents rate the quality of the information flow from the Department of Continuous Improvement as good,
- over half of respondents rate the level of their own involvement in the implementation of the idea of continuous improvement as fairly involved, with ¼ reporting of being not very involved.

On the basis of the data of the Central Statistical Office, between 2012 and 2013, there were 309 and 306 respectively groups of companies employing over 1000 people (GUS 2015: 44). A group of companies is to be understood as legally

independent enterprises, yet dependent on one another in economic terms, owing to their relationships regarding control or ownership (GUS 2015: 8). The paper examines in detail one representative of such enterprises, hence certain conclusion can be made with respect to the entire group. The experience gained additionally will be used to improve the company's operations within the Support Program of the Partnership between Higher Education and Science, and Business Activity Sector financed by the City of Wrocław

9. Recommendations modernizing the implementation of the philosophy of continuous improvement

On the basis of the survey, a set of recommendations has been worked out modernizing the implementation of the idea of continuous improvement in the Company X. Some of the recommendations presented below are general in their nature, while other pertain to specific and detailed solutions. For example, the elimination of barriers in terms of employees' fear of change may proceed through training, increased involvement, identification of misunderstandings and how to tackle them, etc. (Yılmaz, Kılıçoğlu 2013: 19). The corrective recommendations were not used directly, but rather through the prism of taking into account a broader look into the company's issues. Moreover, the recommendations need to be appropriately structured, analyzed and allocated to operational tasks while accounting for internal individual characteristics and circumstances of the organization. The recommendations aimed at modernizing the implementation are as follows:

1. Employee training and workshop – it is recommended to provide training to all production workers on Lean/Kaizen basics – administration workers could also be trained in more advanced techniques and methods, apart from refresher training on Lean/Kaizen basics.
2. Establishing a Kaizen Academy – developing a formalized training plan and have it scheduled one year in advance – with refresh training and training on new Lean/Kaizen tools and techniques.

3. Training materials – in order to strengthen the transfer of knowledge and skills, we recommend to hand out training materials. The materials should take into account workers' comprehension abilities, accounting for their age and years of service. Further, the advice is to start the so called diversity management, i.e. coordinating the transfer skillfully when facing a group in a different age bracket.
4. In the training materials – it is worth highlighting the measurable benefits arising from the implementation of this philosophy, in particular, with respect to manual workers, we recommend deploying training activation methods, e.g. case study, benchmarking, etc.
5. Identifying the causes – of waste occurrence of a particular type (waiting time) which was reported by both administration and production employees in the survey.
6. Communication improvement – with regard to the transfer of information within the employee suggestion system.
7. Standardization of all operations – regarding the operations of the Department of Continuous Improvement.
8. Conducting the analysis – jointly with the HR Department, of factors motivating employees to take Lean/Kaizen actions – articulating very clearly the benefits for employees relating to internal and external motivation.
9. Using an internal paper (company paper) – creating the so called Lean/Kaizen corner where selected contents and materials on Lean/Kaizen techniques can be demonstrated.
10. Using boards – it makes sense to place selected contents on Lean/Kaizen tools on the boards situated in the Departments – the contents should be changed and supplemented regularly.
11. Unification of terminology – within the scope of Lean/Kaizen perception of terms, according to the proper Lean/Kaizen names based on the theory.
12. Sustaining the information transfer – carried out by the Management on the importance of continuous improvement in the company's management process. Communicating such information, particularly by the Top Management, during so called quarterly meetings is crucial from the point of view of shaping the employees' good practices.

13. Finding allies – identifying persons among employees who take particular interest in the philosophy of continuous improvement and get them involved in the informed promotion of this topic; the person could be the so called Kaizen/Lean Leader or Ambassador.

14. Promotion of actions and effects – employees of the Department of Continuous Improvement should work out an effective marketing actions concerned with informing about successes arising from the implementation of the idea of continuous improvement in practice. This information should not be filled with dry facts, e.g. number of ideas submitted by employees, but it should rather focus on the very measurable benefits for the Department, Company, individual employee, etc. – creating the so called board of successes.

15. Logo competition – organizing a competition among the employees to design the best logo for the idea of continuous improvement implemented in the company.

16. Creating a model room – in which the standards referring to the implementation of the ideas would be presented, e.g. 5S technique, etc.

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Ocena wdrażania filozofii ciągłego doskonalenia w przedsiębiorstwie X – część druga

Streszczenie

Cel: Celem badań jest analiza wybranych obszarów funkcjonowania przedsiębiorstwa. Wnioskowaniem zostały objęte następujące aspekty: korzyści ze stosowania koncepcji ciągłego doskonalenia w stosunku do firmy jak i poszczególnych pracowników, bariery uniemożliwiające skuteczne wdrażanie tej koncepcji oraz samooceny pracowników.

Układ / metody badawcze: Przedsiębiorstwo zostało przebadane metodą ankietową. Prezentowane wyniki badań są rezultatem stażu naukowego realizowanego w niniejszym podmiocie. „Publikacja jest efektem realizacji projektu naukowego w ramach Miejskiego Programu Wsparcia Współpracy Szkolnictwa Wyższego i Nauki oraz Sektora Aktywności Gospodarczej finansowanego ze środków Gminy Wrocław.”

Wnioski / wyniki: Artykuł kończy zestaw zaleceń modernizujących wypracowanych wspólnie przez autorów publikacji oraz reprezentanta przedsiębiorcy.

Oryginalność / wartość artykułu: W kontekście obecnego stanu wiedzy, artykuł prezentuje jakość ciągłego doskonalenia na przykładzie polskiego przedsiębiorstwa, co stanowi cenne źródło informacji ze względu na ograniczoną ilość opracowań w tym zakresie w krajowym nurcie badań. Przedstawione wnioski mogą zostać wykorzystane przy wdrażaniu Kaizen w innych organizacjach.

Ograniczenie badań: Opracowanie stanowi kontynuację tematyki dotyczącej wdrażania filozofii ciągłego doskonalenia w podmiocie gospodarczym, dlatego nie obejmuje pełnego spektrum Kaizen. W pierwszej części z serii zaprezentowano wyniki badań związane z znajomością koncepcji, metodami wdrażania itp. (Ostrowski 2016: 27 – 40).

Słowa kluczowe: ciągle doskonalenie, bariery, korzyści, Kaizen

JEL: D23, L23, L62.

Application of discriminant models in predicting a company's risk of bankruptcy

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Abstract:

Aim: The aim of the paper is to review Polish discriminant models and their application to predict bankruptcy on the examples of selected joint stock companies in the years 2013-2015.

Design / Research methods: The paper was written on the basis of literature search within the scope discussed. Further, the authors carried out their own examination of certain joint stock companies listed on the Warsaw Stock Exchange (WSE). The discriminant analysis was conducted on the basis of financial statements of the selected companies using Mączynska's model, the model developed by Gajdka and Stos, Hadasik's model and the Poznański model.

Conclusions / findings: The analysis shows that not all discriminant models reflect changes in the financial condition of a company. Nevertheless, they are a good tool to evaluate the risk of failure, provided that more than one model are used.

Originality / value of the article: Discriminant models are universal, which means that they can be applied to any company, regardless of the industry they operate in. The results of the analysis can be used as a basis for further studies on the accurate adjustment of discriminant models to companies, depending on the type of business.

Keywords: *bankruptcy, company's bankruptcy, discriminant models.*
JEL: G30.

1. Introduction

The ever changing global economy of today has the effect that companies operate in an environment that is much unpredictable and full of risk. In market economy, there are no guarantees that a company will be successful and will stay in business. Companies which are capable of adapting to unstable conditions are likely to survive. Those which, for whatever reasons, do not evince such abilities run the risk of either being taken over by another entity or going bankrupt. The phenomenon of the company's failure is a sort of a natural regulator in the economic system, leading to replacing some resources with the more useful ones in that companies which are not efficient and cannot withstand competition simply disappear (Hadasik 1998). One could argue that bankruptcy is some sort of an economic selection which is conducive to cleansing economy from entities which are incapable of adapting to the demands of the market. However, in practical terms, one cannot determine with such clarity the significance of the bankruptcy process. Nowadays in a globalizing world there are numerous links between both domestic and foreign business entities. Thus, failure of one company may have far reaching consequences which are felt across regions, impacting an entire economy. That is why anticipating risks involved in the functioning of a company and predicting its failure continuous to be a very much alive issue.

One of the possibilities of early warning against the company's failure are quantitative models for predicting bankruptcy, that is, discriminant models. The aim of this paper is to review Polish discriminant models for predicting a company's failure and their application based on the examples of selected companies.

In the first part of the paper, the terms liquidation and bankruptcy are explained with the indication of differences between the two. Next, the discriminant models developed by Polish economists are demonstrated. Further, an analysis of bankruptcy risk employing the selected discriminant models is conducted on the example of three joint stock companies listed on the stock exchange. The findings obtained based on the analysis conclude the paper.

The study was carried out on the basis of individual financial statements for the years 2013-2015.

2. Company's failure vs. company's bankruptcy

Taking into consideration the economic and legal sphere, the term failure should be distinguished from bankruptcy. The company's failure is an economic term, while bankruptcy a legal one.

In economic terms, a failed company is a company which is unable to pay its debts and the value of its assets is not sufficient to cover all its obligations. In legal terms, bankruptcy of a company comes after the company has been declared bankrupt by court. Its purpose is to satisfy, in equal measure, all creditors' claims against the debtor who cannot compensate every one of them separately. This should prevent the conduct of enforcement proceedings against the debtor by only some of the creditors: when other creditors do not yet have an enforcement title, e.g. when their debts are not payable yet, and in a situation when there is a priority system regarding the enforcement proceeding. This means that the fact of going bankrupt is determined by the court based on a petition filed either by a debtor, creditor or a group of creditors. In the first case we talk about a voluntary bankruptcy, and in the latter – an involuntary bankruptcy. The main reason behind filing petition for bankruptcy under Polish law (Ustawa z dn. 28.02.2003 r.)) is the cessation of paying one's liabilities for a considerable period of time. A short-term cessation of payment due to temporary difficulties therefore does not constitute grounds for declaring bankruptcy. The law provides that bankruptcy is declared for a debtor who has become insolvent (Mączyńska, Zawadzki 2006). Thus, the economic bankruptcy could be defined as a state in which a company has no possibilities to continue its operations independently in such a way as to have its competitive capacity restored, as well as its profitability, liquidity and solvency (here understood as holding company's assets whose market value is sufficient to cover all debts), without any external aid. Moreover, legal bankruptcy, also referred to as judicial bankruptcy, could be defined as a set of rules and procedures governed by the Bankruptcy and Restructuring Act comprising, for example:

- bankruptcy declaration of an economic entity
- Conduct and completion of bankruptcy proceeding

Conducting and completing a bankruptcy proceeding encompasses, among other things: valuation and selling of the debtor's assets to satisfy creditors' claims, which allows the desired objectives to be attained, such as: fairness in the distribution of a debtor's assets, satisfying creditors' claims from the assets to the highest degree possible, liquidation of economic units whose competitive ability cannot be restored and other. In the further part of the paper, bankruptcy and failure are used interchangeably in economic terms.

3. Discriminant models as an early-warning tool

The research in developed market economies suggests that bankruptcy does not occur all of a sudden. There is a variety of warning signals which can be spotted well in advance. This gives a company a chance to take appropriate corrective actions so as to prevent the company from going bankrupt. Therefore, knowing early enough the reasons which may lead to the company's failure is crucial. To this end, it is necessary to use tools which would allow for an early identification of bankruptcy risk. In this respect, some help can be offered by a discriminant analysis, which is becoming an increasingly attractive instrument for bankruptcy risk assessment.

An exceptionally strong demand for predictive models occurred at the time of Great Depression in the twenties and thirties of the twentieth century. However, a breakthrough came in the sixties in the USA when E. Altman built models which could quickly identify risk in the company's operations. E. Altman is considered to be the precursor to making a transition from univariate to multivariate statistical methods of discriminant analysis applied as a tool to predict bankruptcy. His works gave rise to a dynamic development of early-warning discriminant models, becoming an inspiration to others in their various searches for new solutions in this area.

The changes taking place in the Polish economy in the 1990s prompted Polish scholars to take interest in bankruptcy prediction models, while taking notice of the fact that the foreign models were not adapted to the Polish environment. The first

Polish paper on quantitative surveys of companies' failure is by D. Hadasik. The authors of subsequent works focusing on the application of the discriminant analysis in predicting bankruptcy risk, among others, include: A. Hołda, E. Mączyńska i M. Zawadzki, J. Gajdka and D. Stos as well we D. Wierzba (Tłuczak 2013: 426).

In literature, the discriminant models are also referred to as Z-score function because they reduce the evaluation of the company's condition to the analysis of a single indicator. This indicator connects various financial indicators in a weighted way. The value of the Z function is determined based on the data coming from financial statements. This method allows for a clear assessment of the company's financial situation. The discriminant function applied to examine the company's risk of failure is given by (Galbarczyk, Świdorska 2011: 265):

$$Z = ax_1 + bx_2 + cx_3 + \dots + dx_n \quad (1)$$

where:

$x_1 - x_n$ - indicators characterizing a company which are selected on the basis of an empirical examination of the reported data from a great number of companies with satisfactory liquidity and at risk of failure.

a, b, c, d...- estimated parameters of the model (weight).

The studies show that the discriminant functions are an effective tool in formulating bankruptcy forecasts (Rólczyński 2006). It is estimated that their effectiveness is rather high and ranges between 80 and 90% , depending on the model (Hamrol, Chodakowski 2008). It should be underlined that the models are universal in nature and no findings have been made based on the analyses suggesting that there is any relationship between the prediction results and the line of business or the form of ownership.

3.1 Mączyńska's model

Mączyńska's model was built to reflect the need of customizing Altman's model to Polish conditions. E. Mączyńska and Zawadzki have developed 7 early-warning models. The authors carried out an analysis on a balanced sample of 80 companies listed on the WSE in Warsaw, using the financial statements from the years 1997-

2001, and financial indicators calculated on their basis. The study employed 45 indicators characteristic for profitability, liquidity, debt level, operational efficiency and the companies' growth dynamics. The final version of the model is given by the following formula (Mączyńska, Zawadzki 2006: 7):

$$Z_M = 1,5w_1 + 0,08w_2 + 10w_3 + 5w_4 + 0,3w_5 + 0,1w_6 \quad (2)$$

where:

$$w_1 = \frac{\text{gross profit} + \text{depreciation}}{\text{total liabilities}}$$

$$w_2 = \frac{\text{balance sheet total}}{\text{total liabilities}}$$

$$w_3 = \frac{\text{gross profit}}{\text{balance sheet total}}$$

$$w_4 = \frac{\text{gross profit}}{\text{sales revenues}}$$

$$w_5 = \frac{\text{value of inventory}}{\text{sales profit}}$$

$$w_6 = \frac{\text{sales revenues}}{\text{balance sheet total}}$$

The interpretation of the results of the discriminant function for this model is as follows:

- negative value of indicator Z indicates a company at risk of bankruptcy,
- positive value, yet less than 1, indicates a weak company, but not at risk of going bankrupt,
- positive value within the range of 1-2, a rather sound company,
- value above 2, a company in a very good financial condition.

3.2 The model by Gajdka and Stos

Another model providing an early warning against possible failure of a company is the model built by Gajdka and Stos. A group of 40 companies was tested operating in the manufacturing, construction and trade sectors and listed on the stock exchange. In this model, the discriminant function is given by (Gajdka, Stos 1996: 59-63):

$$Z_{GS} = 0,7732059 - 0,0856425w_1 + 0,000774w_2 + 0,9220985w_3 + 0,6535995w_4 - 0,594687w_5 \quad (3)$$

where:

$$w_1 = \frac{\text{sales revenues}}{\text{average value of assets in total}}$$

$$w_2 = \frac{\text{short - term liabilities average value}}{\text{production costs of the goods sold}} \times 360$$

$$w_3 = \frac{\text{net profit}}{\text{average value of total assets}}$$

$$w_4 = \frac{\text{gross profit}}{\text{sales revenues}}$$

$$w_5 = \frac{\text{total liabilities}}{\text{total assets}}$$

Interpretation of the model:

$Z_{GS} > 0,45$ company is not at risk of bankruptcy

$Z_{GS} < 0,45$ company at risk of bankruptcy

3.3 The Poznański model

The Poznański model was developed by M. Hamrol, B. Czajka and M. Piechocki on the basis of investigating financial statements of a 100 Polish commercial companies between 1999 and 2002 (half of the companies were represented by healthy enterprises). The companies considered to be bankrupt where

those for which bankruptcy procedure or arrangement procedure was conducted. The selection of healthy companies was based on the comparable amount of assets (Kisielińska, Waszkowski 2010: 24). The Poznański model is expressed by the following formula (Analizy-Prognozy 2016):

$$Z_p = 3,652w_1 + 1,588w_2 + 4,288w_3 + 6,719w_4 - 2,368 \quad (4)$$

where:

$$w_1 = \frac{\text{net profit}}{\text{total assets}}$$

$$w_2 = \frac{\text{current assets} - \text{inventory}}{\text{short-term liabilities}}$$

$$w_3 = \frac{\text{fixed capital}}{\text{total assets}}$$

$$w_4 = \frac{\text{net sales profit}}{\text{sales revenues}}$$

Interpretation of the model:

$ZP < 0$ – a difficult financial situation of the entity

$ZP > 0$ – a good financial standing of the entity

3.4 Hadasik's model

In developing her model, the author used a sample of firms whose ownership structure varied and largely comprised state enterprises, limited liability companies, joint stock companies and cooperatives. The companies which filed petition for bankruptcy in the Voivodship Court in Poznań, Piła or Leszno between 1991 and 1997 were considered to be bankrupt. They varied in terms of size (it was measured according to the value of the balance sheet total) and in terms of economic sectors they operated in. The model is given by (Hadasik1998):

$$\begin{aligned}
Z_H = & 0,365426 \times w_1 - 0,765526 w_2 - 2,40435 \times w_3 + 1,59079 \times w_4 \\
& + 0,00230258 \times w_5 - 0,127826 \times w_6 \\
& + 2,36261
\end{aligned} \tag{5}$$

where:

$$w_1 = \frac{\text{current assets}}{\text{short-term liabilities}}$$

$$w_2 = \frac{\text{current assets} - \text{inventory}}{\text{short-term liabilities}}$$

$$w_3 = \frac{\text{total liabilities}}{\text{balance sheet total}}$$

$$w_4 = \frac{\text{net working capital}}{\text{total liabilities}}$$

$$w_5 = \frac{\text{receivables}}{\text{sales revenues}}$$

$$w_6 = \frac{\text{inventory}}{\text{sales revenues}}$$

Interpretation:

$Z_H < 0$ – a difficult financial situation of the entity

$Z_H > 0$ – a good financial standing of the entity.

4. The application of the discriminant models on the selected examples

The study covered the following three business entities: Bioton S.A., Global Cosmed S.A., Miraculum S.A. The analysis was carried out on the basis of separate financial statements from the years 2013-2015. The businesses under study are joint

stock companies listed on the stock exchange, operating in the pharmaceutical industry. In order to assess the financial conditions of the enterprises the models developed by Mączyńska, by Gajdka and Stos, and the Poznański model as well as Hadasik's model were used. The tables below present the values of the discriminant functions for those companies and their interpretation. Table 1 contains the results obtained for the company Bioton S.A.

Table 1. The value and interpretation of the selected models for the company Bioton S.A.

year	Mączyńska's model		Gajdka and Stos's model		The Poznański model		Hadasik's model	
	value Z_M	interpretation	value Z_{GS}	interpretation	value Z_P	interpretation	value Z_H	interpretation
2013	0.552	weak	1.193	No risk	6.926	Good standing	1.69	Good standing
2014	5.450	Very good	1.640	No risk	7.189	Good standing	1.74	Good standing
2015	-21.3	At risk	-1.051	At risk	4.759	Good standing	1.73	Good standing

Source: Authors' own elaboration.

Table 2 shows the values of the functions for individual models and their interpretation for the company Global Cosmed S.A.

Table 2. The value and interpretation of the selected models for the company Global Cosmed S.A.

year	Mączyńska's model		Gajdka and Stos's model		The Poznański model		Hadasik's model	
	value Z_M	interpretation	value Z_{GS}	interpretation	value Z_P	interpretation	value Z_H	interpretation
2013	1.767	rather good	0.556	No risk	2.651	Good standing	1.31	Good standing
2014	1.388	rather good	0.453	No risk	2.907	Good standing	1.18	Good standing
2015	0.922	weak	0.445	At risk	2.793	Good standing	0.96	Good standing

Source: Authors' own elaboration.

Table 3 shows the values of the functions of the models and their interpretation for the company Miraculum S.A.

Table 3. The value and interpretation of the selected models for the company Miraculum S.A.

	Mączyńska's model		Gajdka and Stos's model		The Poznański model		Hadasik's model	
year	value Z_M	interpretation	value Z_{GS}	interpretation	value Z_P	interpretation	value Z_H	interpretation
2013	-0.593	At risk	4.480	No risk	3.349	Good standing	-1.04	Difficult situation
2014	-0.277	At risk	3.069	No risk	3.980	Good standing	0.10	Good standing
2015	-0.876	At risk	0.585	No risk	4.105	Good standing	0.33	Good standing

Source: Authors' own elaboration.

5. concluding remarks

According to Mączyńska's model, Bioton S.A. was considered to be a company in a poor financial situation. In 2014, the function value increased significantly compared to the previous year and the company was considered to have a very good financial standing. Its situation significantly deteriorated in 2015 (considerable increase in financial costs resulting in net losses) with the company running the risk of bankruptcy, according to the model in question. Hadasik's model indicated a difficult situation in 2013, whereas in the years 2014-2015 showed that the company had a good financial standing. The model by Gajdka and Stos does not predict the company's failure in 2013-2014, however, in 2015 the company was considered to be at risk of bankruptcy. Moreover, the Ponański model assesses the financial situation of Bioton as good for the entire period in question.

According to Mączyńska's model, the company Global Cosmed was considered to be a rather good enterprise in the years 2013-2014, yet, in 2015 its financial situation was perceived as poor. The model by Gajdka and Stos indicated that the company was facing difficulties in 2014 (the value of the discriminant function was at the limit value separating the sets) and in 2015 it was at risk of bankruptcy.

According to the Poznański model, at the time in question the company had a good financial standing. Hadasik's model showed the company having a good financial standing in the years 2013-2015, although it could be observed that the function value decreased. While analyzing the financial statement, it could be noticed that in 2015 the company's net profit decreased by 38%, compared with the previous year.

The analysis of the financial situation of the company Miraculum with the application of Mączyńska's model reveals that the company has been at risk of bankruptcy throughout all the years the study covered. The model by Gajdka and Stos qualifies the company as not being at risk of bankruptcy, however, it should be noted that the function value in 2015 decreased significantly compared to the previous years, staying close to the limit value (0.45), which implies a deteriorating financial situation (in 2015, the company recorded net losses). The function value in the Poznański model indicates that in the years 2013-2015 the company had a good financial standing. Hadasik's model indicated the company's difficulties only in the year 2013, while the company's financial situation in the years 2014-2015 was described as good.

The analysis suggests that the classification of a company as either being at risk of failure or not can differ depending on the model selected. The changing situation of the companies under study is not always reflected in the value of the discriminant functions. The authors consider the Poznański model to be the least sensitive to changes of all the models used in the study. According to this model, in all the years covered by the analysis the companies had a good financial standing and were not at risk of bankruptcy. Considering that the company Miraculum saw in the years 2014-2015 its financial results deteriorating which was reflected in, for example, net losses, decrease in sales revenues, increased production costs of the goods sold, the Poznański model should be recognized as inefficient and failing to indicate the risk of bankruptcy. A similar situation occurred for the company Global Cosmed where the Poznański model failed to show the risk of bankruptcy despite the drop in operating profits and net profits in 2015, compared to the years before. Therefore it seems reasonable to base the assessment of a company's bankruptcy risk on an analysis which uses more than just one discriminant model. Since the companies

operate in the same industry and the sample encompassed only three enterprises, it is should be pointed out that the above findings ought to be treated with caution.

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Zastosowanie modeli dyskryminacyjnych do oceny zagrożenia upadłością przedsiębiorstwa

Streszczenie

Cel: Celem artykułu jest dokonanie przeglądu polskich modeli dyskryminacyjnych oraz ich zastosowanie do oceny zagrożenia upadłością na przykładach wybranych spółek akcyjnych w latach 2013-2015.

Metoda badawcza: Artykuł został napisany na podstawie badań literaturowych z omawianego zakresu. Ponadto autorki przeprowadziły badania własne spółek akcyjnych, notowane na GPW. Na podstawie sprawozdań finansowych wybranych spółek dokonana została analiza dyskryminacyjna za pomocą modelu Mączyńskiej, Gajdki i Stosa, Hadasik oraz poznańskiego.

Wnioski: Z przeprowadzonych badań wynika, że nie wszystkie modele dyskryminacyjne odzwierciedlają zmiany kondycji finansowej przedsiębiorstwa. Modele te są jednak dobrym narzędziem do oceny zagrożenia upadłością, pod warunkiem zastosowania więcej niż jednego modelu.

Oryginalność / wartość artykułu: Modele dyskryminacyjne mają charakter uniwersalny, co oznacza, że można je stosować do każdego przedsiębiorstwa, niezależnie od branży w której funkcjonują. Wyniki rozważań można traktować jako podstawę do dalszych badań dotyczących trafnego dostosowania poszczególnych modeli dyskryminacyjnych do spółek, w zależności od rodzaju prowadzonej działalności.

Słowa kluczowe: bankructwo, upadłość przedsiębiorstwa, modele dyskryminacyjne.

JEL: G30.

Public pension fund structure and mechanisms: A case study of the Tanzanian pension fund system

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Abstract:

Aim: Good governance structures have become an issue of public interest, including public pension systems. The quality and performance of the trustees of the funds influences the income flows to which members are entitled and promised, as well as any shortfalls thereof that may require interventions. We aim to examine the pension fund governance in Tanzania, by focusing on structures and mechanisms of boards of trustees, as well as its perceived challenges and future directions.

Design / Research methods: An extensive literature review provides the conceptual and practical framework for studying the pension funds governance on both a macro (regulatory) and a micro (board of trustees as a governing body) level. This case study describes the system in mainland Tanzania, where various regulators and five pension funds play a role.

Conclusions / findings: Board of trustees are important for funds governance. The pension fund structure and mechanisms in Tanzania uphold high standards. However, a major issue is that the board selection seems to be politically motivated and that the government claims most board seats, making conflicts of interest likely to occur repeatedly.

Originality / value of the article: The Tanzanian experience shows the importance of transparent mechanisms and structures, overseen by an independent and virtuous board of trustees.

Implications of the research: Further works need to be considered to account for heterogeneity in pension systems especially in developing countries.

Keywords: *Public pension funds, structure and mechanisms, governance, Tanzania, board of trustees, case study*

JEL: G23, G34

1. Introduction, problem definition and objective

Public pension fund governance debates are top in both academic and public policy agenda worldwide. This is partly because the design and governance of pension funds has significant implications for the welfare of participants (Clark, Urwin 2010). In addressing fundamental pension fund governance challenges, Ambachtsheer et al. (2006: 15), along with a seminal survey, posed a few interesting questions: “what is the true economic value of good pension fund governance? (...) What are the best routes to address the weaknesses in pension fund governance (...)? Should government legislation/regulation play a pro-active role?” These questions and many others, provide a good basis for analysing pension funds governance as it has direct bearing on the interests of stakeholders (Clark 2004). Pension fund governance is a complex and wide topic which defies a straightforward categorization (Thornton, Fleming 2011). This is true because, in assessing pension fund governance, one could focus on the funds designs, processes and structure or funds’ investments performance (Rozanov 2015).

Governance in a pension funds’ perspective implies a framework that the governing bodies (directors or trustees) use in decisions making. The framework may include, among others, “the structure of the governing body (including legal basis and segregation of functions); the decision making processes within the governing body (including internal controls, risk management, compliance functions and internal oversight structures); the requisite skills and competencies of the governing body; and the means by which the governing body is accountable to stakeholders (principally plan members and beneficiaries, but also a wider stakeholder set including employers, supervisory board, supervisors, regulators and government)” (OECD/ISSA/IOPS 2008: 5).

As a result, good governance is an essential ingredient of any institution’s functional performance, which is the capacity of an organization to function in ways consistent with desired goals. Pension funds are subject to many governance problems like other modern corporations. These include substantial agency problems, since the beneficiaries (principals) trust their assets to be managed by trustees (agents), and at the same time the principals are unable to monitor the

actions of the agents. In such settings, pension funds governance differs from governance of corporations or other financial institutions. This is partly because corporate governance mechanisms and structures are mostly focused on the interests of shareholders, whereas pension fund governance is focused on a multiple set of stakeholders (beneficiaries, employers, and financial institutions) that will, in some instances, have interests quite different and sometimes opposed to the interests of shareholders or other owners of the governing body (Stewart, Yermo 2008; Clark, Urwin 2008; Ambachtsheer 2013).

To address potential pension funds governance problems, international agencies have issued regulations and guidelines for best pension governance practices. These international pension governance regulatory guidelines have only been provided recently (OECD 2009; ILO 2010; IOPS 2013; OECD 2015). The guidelines relate to governance structure and governance mechanisms. The governance structure covers issues such as responsibility identification, governing body, accountability, suitability, delegation and expert advice, auditor, actuary, custodian and the governance mechanisms part covers risk-based instruments, reporting and disclosure. Ashcroft et al. (2009) divide pension governance into four areas: independence, which requires clear clarifications of duties and responsibilities; accountability, which is partly about a fitting internal organisation; transparency, to ensure objectives are communicated to stakeholders and are understood; and lastly, integrity, which refer to having codes of conduct and applying them.

This article aims to examine the pension fund governance in Tanzania, by focussing on structures and mechanisms of boards of trustees, as well as its perceived challenges and future directions. The pension sector in Tanzania has witnessed substantial reforms in the last decades, such as the inception of a regulatory agency and introduction of private pension funds systems (SSRA 2015). With the introduction of a regulator, pension funds board of trustees are faced with new regulations and codes of conduct in performing their fiduciary duties. In particular, this article tries to answer the question “what are main governance structures and mechanisms present in Tanzanian pension funds board of trustees, using independence, accountability, transparency and integrity perspectives?” With this research question, we basically refer to the agency issues as singled out by the

survey of Ambachtsheer et al. (2006), whereas the governance effectiveness and investment/risk management issues that they stress are left to another article (Westerman, Chande 2016).

A comprehensive literature review provided the conceptual and practical framework for studying the pension funds governance on both a macro (regulatory) and a micro (board of trustees as a governing body) level. This study describes the pension funds governance systems in mainland Tanzania, in which various regulators and five pension funds play a role. It applies a case research approach whose findings suggest similarities and differences of views along the concepts applied. The discussion shows that there are improvements in pension funds governance on both the macro and micro aspects. Moreover, there are prevalent weaknesses and problems within the system that require attention. Board selection procedures should be depoliticised to smoothen the pension funds system.

The remainder of the study is structured as follows. Section two has a literature review focusing on the regulatory structure, and the board of trustees' structure and mechanisms with specific attention to independence, accountability, transparency and integrity issues. Section three covers the (case) research methodology adopted, while section four describes the results and discusses these. Our conclusion is drawn up in the last section.

2. Literature overview

2.1 Governance structure and mechanisms

The governance of public pension funds differs from one to another depending mostly on the legal form of the funds and may basically assume three types: institutional, contractual and trust-based legal form (Stewart, Yermo 2008; OECD 2009). Under the institutional type, the pension fund is an independent entity with legal capacity and personality and has its internal governing board. Such arrangements can be found in most developed countries like Germany, Netherlands, Switzerland, Japan, Poland Italy and Denmark. Except for Germany and the Netherlands, which have dual-board structure, other countries have single governing

boards with representatives from both workers and employers. The contractual type is mostly seen in countries like Portugal, Mexico, Slovakia, Turkey and some in Italy and Poland. Under this system, pension funds are not independent entities with legal personality or capacity, but the governing bodies are separate entities; usually financial institutions such as insurance companies or banks. It is interesting to note that in most countries under the Anglo-Saxon rule, the pension models are neither contractual nor institutional (Stewart, Yermo 2008; OECD 2009). These countries follow a trust-based legal form whereby trustees have the legal title over pension funds' assets. In these arrangements, trustees, whether appointed or elected, are expected to make decisions solely for beneficiaries' interest. Trustees are not part of trust and could be of corporate type, as seen in United Kingdom, Australia or Ireland.

Despite increasing recognition over the importance of pension funds governance, challenges are still prevalent in both developed and developing countries. Most studies have found a positive link between governance and pension funds' performance and thus lack of governance affects the pension industry globally. Ambachtsheer and McLaughlin (2015) found out that despite improvements in pension funds governance, compared to the earlier Ambachtsheer et al. (2006) study, various countries such as Australia, Canada, New Zealand, UK and the USA still encounter many problems requiring attention. Mercer (2006) conducted a multinational survey on corporate pension governance: the author found out that most pension funds lack clear governance plans globally. These also included lack of skills and the competence of the governing bodies. Another report (OECD/ISSA/IOPS 2008) shows that transparency, information disclosure to beneficiaries; governing body competency and internal controls are still major governance problems in the countries studied.

In Ireland, a Pensions Board (2006) report shows that there is huge variation in awareness and understanding of trustees' responsibilities and conflicts of interest among nominated trustees of defined benefit plans. Also, consistency in trustee decision-making is an issue with UK pension funds (Clark et al. 2007). Likewise, Clark (2007) found an increasing tension between representation and expertise in several UK pension funds. The findings suggest that most trustees lack the necessary

competence and skills to challenge experts' opinions; therefore, continuing training was pointed to be vital in improving the situation. In general, poor performance in trust based-system is partly associated with weaknesses in governing boards, such as unclear defined duties and responsibilities, trustees being selected as representatives rather than for their knowledge, lack of self-assessments, and poor handling of conflicts of interest.

Furthermore, various empirical studies have found a positive relationship between board of trustees' characteristics and pension fund performance. Jackowicz and Kowalewski (2012) found a direct relation between composition and motivation of the board members on Polish pension fund performance. Also, Ambachtsheer et al. (2006) found board competency and boards understanding of their roles as two fundamental challenges in pension governance. In their analysis, board competency is a complex issue since it depends on how trustees are brought in, either selected or elected. Competency in this regard does not imply trustees to become experts but rather being able to think strategically and govern the funds using defined standards. With respect to qualifications, the best practices recommend boards to have qualified and experienced individuals dedicated to protect members (PPF 2010, Mercer 2014). As a group the board should be composed of individuals with portfolios of skills in various areas that will allow it to exercise the fiduciary duties and make sound decisions on behalf of beneficiaries (Ambachtsheer, McLaughlin 2015; Ronazov 2015).

As Stewart and Yermo (2008) report, very few pension funds require trustees to be experts or to have any financial or investment background. While best practice guidelines provide room for varied experiences and qualifications, they do list core competencies and qualifications that each trustee should possess. For instance, a trustee must have at least five years of management experience in financial or social security from any public or any reputable organization. Furthermore, studies continue to raise concerns over the politically appointed trustees, since politicians are likely to interfere in board's decision making for political gains (Hess 2005; Yang, Mitchell 2005; Stewart, Yermo 2008; Fitzpatrick, Monahan 2015). One example of politically influenced decision may include investment of fund assets in the local economy or in certain ventures. In this regard, independent trustees (elected

by beneficiaries) are outsiders and thus are more likely to monitor members' interests than politically selected trustees who are seen as insiders.

As to Fitzpatrick and Monahan (2015: 1321), "despite the structural problems inherent in public plan governance, comprehensive studies of the issue are lacking in both developed and developing countries". Consequently, few studies on pension fund structures and mechanisms of board of trustees are found in Africa. Interesting is a document by Rusconi (2008) who found the most governance challenges in South African pension funds to be: knowledge gaps among trustees, conflicts of interests among consultants and assets managers, and weak board discipline. Njuguna (2011) found out that funds leadership and designs have positive impacts on governance in Kenya. As for Tanzania, one of the present authors stated a need for more body independence and transparency (Chande 2011). Okoye and Eze (2013) note that minimum standards in disclosing corporate governance practices should be applied and that practitioners should adhere and comply with the requirements on the new pension scheme in Nigeria.

2.2 Background to the Tanzanian pension funds system

The theoretical foundation of most pension funds governance studies is based on the agency theory (Hess, Impavido 2003; Ambachtsheer, McLaughlin 2015). Partly, this is because potential governance structure and mechanism problems in pension funds are agency problems. The governing bodies are agents that work on behalf of beneficiaries who are principals. In this relationship, the agent may take actions that are not in favour of the principal. Consequently, "institutional performance is conditioned by the inherited practices of various bodies that are responsible for these funds" (Clark, Urwin 2008: 2). We will use agency theory and assess its applicability in studying pension funds governance in Tanzania. This section will briefly discuss potential agency problems in public pension funds and mechanism to deal with such problems.

Tanzania provides a relevant case study since it has undergone major reforms in the pension industry. In the last decades, the pension sector in Tanzania has witnessed substantial reforms, such as the inception of a regulator and the introduction of private pension funds systems. With the introduction of a regulator,

pension funds are faced with new regulations and codes of conduct in relation to good governance which emphasize positive returns. These new developments pose potential agency problems, since governing bodies are expected to adapt to the changes and produce optimal outcomes.

The pension schemes in Tanzania fall under the social security system (SSRA 2015), of which the social assistance schemes fall outside of the scope of this study. The Mainland Tanzania pension fund system comprises of five funds, which are regulated by the Social Security Regulatory Authority (SSRA). The funds are categorized as social security funds since they offer more than pension benefits as stipulated in specific funds' Acts. The benefits and eligibility criteria used to differ per fund (World Bank 2014). In general, all funds offer benefits such as old age pension, invalidity pension, survivors' benefit, funeral benefits, social health insurance (only offered by one fund) and maternity benefit (provided by only two pension funds). Nonetheless, the current regulation has harmonised the benefit formula.

The system has both a mandatory and a voluntary tier, but the first tier clearly dominates. The mandatory tier is for all employees in public and private sectors, and is defined benefit, while the voluntary tier is for workers in the informal sectors and is under defined contribution (SSRA 2015). Moreover, the contribution rates vary depending on the sector. Nevertheless, the law requires members or employees to contribute a total of 20 percent (divided equally with the employers) or 5 percent from the employee and 15 percent paid by the employers.

Like most pension funds in sub-Saharan countries, pension funds started as provident funds and converted into pension or social security funds after independence (Dorfman 2015). The reforms were a step towards ensuring adequate income during retirement by paying monthly pensions to retirees than lump-sum as it was the case under provident systems. Additionally, all funds cover anyone who wants to join, including workers and employees in the public and private sector, NGOs, international agencies, workers and persons from informal sector, self-employed, and other people working under non-pensionable basis. As stipulated in their respective Acts, a fund's roles include registering of new members, collecting contributions, paying its members benefits, and investing prudently, as prescribed in

the law. To achieve their goals, all pension funds have a specific mission, vision and objectives which are all set in strategic plans which run into three to five years' cycles.

The pension funds play a major role not only in the financial sector of the country but are a major source of income for retirees and their dependents. The sector comprises of five pension funds, which by 2013 had net assets that grew from TZS 5.3 trillion to TZS 6.5 trillion. According to a recent financial report, the total pension funds' assets account for over 21 per cent of the financial system (BOT 2015). The membership size grew from 1.95 million members in 2013/14 to 2.14 million in 2014/15 (including National Health Insurance Fund members), reflecting a 10 per cent growth (SSRA 2015). Members' contributions grew from TZS 1.98 trillion to TZS 2.27 trillion by 2015. It is interesting to note that the benefits payments also grew for over 15 per cent from TZS 1.38 trillion in 2013/14 to TZS 1.53 trillion in 2014/2015. The increase in benefits pay outs could mainly be explained by the short-term benefits which includes premature pension withdrawals and which calls for affirmative actions, as premature withdraws of pension may lead to inadequate pension during old age.

It is further shown that the social security sector is expected to continue improving in terms of performance and structure (BOT 2015). The sector has undergone several reforms since independence, and more reforms are underway. Main objectives of the reforms include: encouraging and facilitating introduction of private pension funds, establishing an effective regulatory and supervisory framework for private pension funds, developing proper risks management frameworks in pension funds, and instituting sound and best practices of corporate governance in pension funds. The pension funds in general face both inherited institutional designs and governance challenges. They are characterized with limited membership coverage at less than 6 per cent of the active labour force (BOT 2015). Mismanaging and redirecting of sources from pension, for instance, to pay short-term benefits, poor services and poor information to members and political interference are pointed at here.

3. Methodology

This study confines its discussion to structures and mechanisms of the mainland Tanzania pension fund governance system, with a focus on board of trustees' issues as part of the governing organs. Table 1 below, provides an overview of the concepts to be applied in this study: positions of stakeholders, duties and responsibilities, competency and trainings, monitoring and reporting, compensation and incentives, information and communication, guidelines, charters and codes, and stakeholders' conflicts of interest. Given the lack of studies on the topic (Fitzpatrick, Monahan 2015) and its complex nature (Yin 2014), we employ a basically descriptive case study framework that, on top of observations, documents and other materials, heavily relies upon interviews with various players in the system as shown in Table 2.

Prior to holding the above-mentioned formal interviews, an introduction letter was sent to relevant organizations, including ministries, the pension fund's regulator and all five pension funds with background information about the study as well as a confidentiality assurance. Participants were selected based on the snowball sampling procedure. Upon interviewees' consent, the interviews were audio recorded and subsequently transcribed. All the interviews lasted between one to two hours, using questions adopted in a protocol. However, a semi-structured interview approach was used to allow for flexibility and hence providing a richer data set for later analysis (Ghauri, Grønhaug 2005). The board of trustees' functioning was narrowed to four areas providing insights into the board's structure and mechanisms in terms of independence, accountability, transparency and integrity. In line with key academic and practical literature, these concepts were selected to reflect board experiences in relations to good governance in Tanzanian public pension funds.

The basics for the study were laid by the knowledge and observations of the corresponding author. The actual research started late 2013, with making up a protocol, such as generally advised by the literature (Flyvbjerg 2006; Bereton et al. 2008; Ihantola, Kihn 2010; Yin 2014). It was followed by an in-depth literature review, which led to an array of concepts that boiled down into a lengthy questionnaire. As can be drawn from Table 2, half of the 18 interviews were held in

a two-week timeframe in February 2014. In this period, board members, regulatory officials and experts were interviewed by both authors, and various on-site observations were made, e.g. at a stakeholders' conference of one of the funds.

Table 1. Pension fund governance areas

1. Independence: Positions of stakeholders; Duties and responsibilities
2. Accountability: Competency and trainings; Monitoring and reporting
3. Transparency: Compensation and incentives; Information and communication
4. Integrity: Guidelines, charters, codes; Conflict of interest stakeholders

Source: Authors compilation

Table 2. List of transcribed sessions

Mr. A, Director of Operations, Fund C (26/02/14)
Dr. B, Associate Professor, Former Trustee Fund A (18/02/14)
Focus Group Faculty of Insurance and Social Protection IFM (27/02/14)
Ms. C, Director General, SSRA (24/02/14)
Mr. D, Assistant Commissioner, Ministry X/Y/Z (26/02/14)
Mr. E, Project Management Officer at the BOT (18/04/14)
Dr. F, Director Employers Association, Trustee Fund D (Acting Chair) (19/02/14)
Mr. G, Investment Director Fund D (05/06/14)
Ms. H, Director of Operations Fund E (June 26, 2014)
Mr. I, Director of Research, Actuarial & Policy Development, SSRA (24/02/14)
Mr. J, Secretary General Workers Association and Trustee Fund A (19/02/14)
Mr. K, Internal Auditor Fund E (26/06/14)
Dr. L, Pension Fund Expert at IFM (27/02/14)
Mr. M, Director General Fund B (24/02/14)
Mr. N, Director Employers Association, Member SSRA Board (07/10/15)
Mr. O, Chief Actuarial and Risk Manager Fund A (26/06/14)
Mr. P, Permanent Secretary Ministry X/Y/Z (17/04/15)
Mr. Q, Former Trustee, SSRA Board Member (24/03/15)

Source: Authors compilation

Afterwards, a mid-term review learnt that the topics dealt with were very broad by nature and that basically two groups of topics came out as being focal. Whereas the former dealt with investment oversight and led to a separate article (Westerman, Chande 2016), the latter referred to board of trustees' governance. This led to a

break-up of the original research framework into two about equal parts, whereby some macro (regulatory) and micro (pension fund level) issues were maintained for both studies but with different perspectives. The subsequent interviews (including even one with a secretary of state) were spread out over another one and half year, but were discontinued by the second half of 2015, when it was concluded that no material data could be acquired anymore.

Data matrices allowed for condensing data and findings (cf. Miles et al. 2013). The corresponding author did the first review and analysis of the interview reports and wrote a base draft of the article. Focus was laid on reliable and valid descriptions and discussions regarding the key theoretical concepts of independence, accountability, transparency and integrity. With this strategy, analytical generalisation (a fitting overview) rather than statistical generalisation (with exact numbers) was strived for as shown in Yin (2014). The other researcher checked the results description and discussion, while also suggesting changes and additions to the draft. In this way, the results section was objectified. Yet, the conclusions drawn may reflect personal preferences of the authors of course. Having said this, follow-up peer reviews did help to strengthen the text's academic quality.

Next to the subjectivity issue already addressed above, our methodology may suffer from other drawbacks. As an example, it may be that the interviewees do not speak up frankly. This is believed not be true, since differences of opinions were addressed freely. It was understood though, that actual identities of the interviewees would be confidential, which may go to the detriment of reporting precision. Additionally, the possibility that the authors might have missed an important issue by not asking on it is most unlikely, the corresponding author being a system insider. Nevertheless, if this has led to protecting the so-called innocent, then so be it. Furthermore, there is a general lack of up-to-date and complete public documentation. Lastly, the study object is a "moving target" with many improvements under way on various aspects, such as rules and regulations. While recognising this flaw, it is also understood that we did our best to standardise on conditions as of late 2015.

4. Results and discussion

This section has the condensed results from the formal and transcribed interview sessions. We show the results on order of the collapsed conceptual framework (see Table 1), which takes on the perspectives of independence, accountability, transparency and integrity. After the description, the results are evaluated and confronted with literature.

4.1 Results overview

The division between micro (pension fund) and macro (regulation) level sessions was 9 to 9 (see Table 2). We held 3 sessions with trustees having employee, employer or government backgrounds, and 6 sessions with management team members, including a general director, operations managers, investment managers, risk managers and auditors. Also, 4 sessions were held with regulator representatives, 2 with ministry officials, other 2 with researchers and 1 session was with a central bank officer. All mainland Tanzanian funds are represented, with an emphasis on Fund A with 5 sessions. Generally, the interviewees had between 3 and 12 years of experience in the field.

The five Mainland Tanzania pension funds are overseen by the Social Security Regulatory Authority (SSRA), which has a structure that basically resembles one of a regular pension fund. The mother ministries and the central bank also historically play a regulatory role. Day-to-day funds operations are run by the Management Team, which comprises of various directorates, departments and units. These include at Fund A the Directorate of Finance (DF), the Directorate of Operations (DO), the Directorate of Human Resources and Administration (DHRA), the Directorate of Internal Audit (DIA) and others, normally counting to a total of around 7. The five Tanzanian pension funds under study all have comparable setups.

Members' interests are represented by board of trustees under a tripartite arrangement, which is employees, employers and government. In general, each organization nominates candidates and the mother ministry appoints trustees from a list. However, the Board's chair is appointed by the president, as is the CEO (Director General, DG). In principle, a board member serves two terms, but the

terms may go up to four. Except for a union board representative and one investment director, all trustees and board members criticise this system, even with much support from the regulatory side. The Boards composition varies from eight representatives to twelve, representing the government, workers, employers, experts and the private sector. Nonetheless, there are few female representatives in the board of trustees.

All roles of board members and DGs are defined in the regulations, even before the regulator came into force. The board members for instance have signed a contract with mother Ministries which describes their duties and responsibilities. Similarly, each fund has other policies and regulations to support and guide in the execution of their duties. Furthermore, DGs serve as the secretary of the Board and are responsible for preparing all minutes and agendas. Yet, the interviewees disagree about whether this arrangement is right. All pension boards meet quarterly, but the chairman can call for an ad-hoc meeting in case of a pressing matter or issue. Committees meet more often and prepare for the board meetings. The SSRA DG is keen to note that after risks are reported to her, directors are personally liable from thereon.

Laws require the board of trustees to have the skills, knowledge and competency necessary to make pension funds related decisions. All pension funds acts, and the board of trustees' code of conducts clearly stipulate who qualifies to be a board member. Some interviewees articulate doubts about the actual quality, especially of union representatives. Some funds have an annual training programme and board training is on a needs basis. Moreover, there is no formal skills gap analysis. The board trainings are done both locally and internationally; they also include study tours to other countries within Africa, Asia, Europe and America. One interviewee complains about at least one trip with a perk character. Staff trainings are done regularly, and several interviewees note that government officials should also be trained. The SSRA assumes a facilitating role on trainings, supported by the central bank and the ILO.

At the time of the interviews, board of trustees' members are remunerated "handsomely", as one of the interviewees' notes. However, another interviewee states more prudently that the efforts made are compensated. One fund has a small

annual fee for board members, but sitting allowances for meetings and trainings prevail. Travelling and living costs are covered when being underway. However, one angry interviewee recalls a luxurious trip outside of the country that merely benefitted the board members personally. Notwithstanding this, it must be noted that the board members may also find themselves to “feel the heat” and they are personally liable when a fund goes under in the end. After most of the interviews had been held, the remuneration system became more lump sum with the funds.

Funds are required by law to keep proper records. Monitoring and reporting basically flows via the board committees and the internal systems. Board evaluations are being established. Formal evaluations are done on a yearly base and quarterly reports are made up as well. All funds adhere to a comprehensive framework act (2012) and use the government agencies reporting system OPRAS. The Regulator makes up a yearly overview of key results, with the Bank of Tanzania reporting on the investments. Internal auditing departments and external auditors regularly check the quality of the data provided. Next to physical inspections, the SSRA has had an actuarial review done twice and funds themselves do this at times. It is also said that controls assure compliance.

The findings from the interviews show that many internal documents are not for public consumption. However, all funds use different channels such as annual conferences, booklets, seminars and media to inform members about the Fund’s progress and status. In terms of communication to the public, the Fund uses media such as Radios, TVs, television programs and the annual general meetings. During the annual members meeting, the Fund gives the financial reports, shows the Fund’s progress and then discusses with members. In other instances, Funds hold seminars with employers. The central bank regularly reports on the funds’ investments. The SSRA informs the public and holds a yearly social security week. The flow of information and communication is getting way better quickly, but it is still said to be “poor”. The need to educate the public is high, but marketing goals are said to prevail.

In Tanzania, laws determine the boundaries for the pension fund system to operate in. Next to this, the regulators, increasingly represented by the SSRA, have set guidelines that the funds must adhere to. The funds themselves have their own

guidelines for behaviour, which are translated in missions, visions, policies, charters, codes and manuals. These are in use with a fund as a whole, boards and their committees, management teams and specific units. Funds may employ more than ten formal regulations, often referred to as charters or codes of conduct. Basically, they explain what is expected from a body and should prevent a fund from going under. Some interviewees call for visions for many years ahead, to adapt to changing needs. Despite the formal rules that may even boil down in fraud and whistle blower manuals, funds still face some issues, e.g. bribe of HR departments and corruption.

Multiple conflicts of interest may occur in the system due to some of the existing structure. The government as a guarantor sometimes interferes with financial decisions of funds, and the funds cannot object to such request. Too much political interference is a quite general complaint. However, in one fund, big projects cannot be vowed by special resolution. Also, whereas employer and employee representatives do not have fundamental conflicts of interest, board members do have occasionally. They are, by law, expected to declare these conflicts and regulations even prescribe that one can be expelled from the board after improvement attempts have failed. A specific issue is that pension funds cannot punish non-complying employers.

4.2 Results discussion

The design of the board of trustees in all five mainland Tanzania pension funds does not vary considerably. In general, board of trustees come from mainly three groups: trustees who serve by virtue of their public office (i.e. a state treasurer who automatically serves on board), trustees appointed by an elected official (could be a president or a minister) and representatives elected by either employers or employees directly or through trade unions (Urwin 2010; Fitzpatrick, Monahan, 2015). All boards range between eight and twelve members (SSRA 2015). This design in Tanzania is historically influenced, as in the past pension funds were sector based; in that case, the number of board members was determined by funds stakeholders. The boards guide the management teams, which in turn steer the daily activities in the fund. The SSRA as a kind of a “super fund”, assisted by the central

bank and reporting to the ministry of Labour, has a comparable structure. Next to the SSRA, the mother Ministries of the funds play a supervisory role.

In the broadest sense, a potential agency problem is likely to arise for political appointed board members due to political pressures. Indeed, most interviewees view body composition and selection to be problematic. This is partly because the selection process is done through representative organizations which do not have a standard selection format or procedure. In this case, trustees may make decisions in favour of the appointee. Our findings support this, since various pension funds have made investments that focus on social utility, for instance building a university or a bridge, without sufficient returns. This finding is consistent with Ambachtsheer et al. (2006), who found that composition and selection were sub-optimal with most boards surveyed. The selection process reported to be haphazard and jeopardize trustee's independence. In ideal pension governance settings, board members who are not appointed but selected possess strong numeric skills and the ability to think logically within a probability-based domain; such skills enable the board to function effectively in its long-horizon mission (Urwin 2010).

Most trustees are serving for more than two terms; the law set a two-term tenure, which is, however, renewable. In terms of good governance, perhaps it would be important in the future to assess the value added of having a board member for twelve years. In terms of gender representation, adjustments could be made since there are fewer number of female trustees than one might expect. Since the government has clearly shown intention in increasing female numbers in various boards, special attention may be taken in the pension sector. Another issue that some interviewees take on board is that the DG acts as a board secretary. Obviously, paternalism lies right around the corner then, but this practice also has informational advantages. Unfortunately, public data on board composition are incomplete.

Having noted the above, improvements in terms of trustees and other staff trainings is generally observed throughout the system. Yet, a training need for government officials and politicians is recognised, and a remark on the perk character of some training is made. Indeed, all interviewees who refer to the issue signal a positive tendency in this respect. This is partly due to the requirement set by the regulator that needs funds to periodically train their trustees and staff in general

to meet the changing pension issues. Competent and skilled boards of trustees enhance the funds decision-making processes and ensure that beneficiaries get the maximum value for their contributions (Clark 2007). In this regard, improvements in board selections such as via self-application may yield more competent trustees than the current system.

Our survey evidence further shows that, all pension funds conduct a self-performance assessment at least on an annual basis. However, none of the funds has used or is using external assessment. This finding is consistent with Mercer (2014), where 42 percent of the funds surveyed conduct self-assessment evaluation. According to the report, the results implies that opting for self-assessment is more for compliance rather than a genuine attempt of boards to discover if they are performing optimally. Through self-assessment, board members rate themselves highly and thus are not judging objectively. However, there are occasional examples of critical internal board evaluations in Tanzania. Also, the annual SSRA review may be viewed to partly fill in the gap noticed in this respect. However, the critical issue is to ensure evaluation findings are properly communicated to relevant stakeholders and are made public for accountability purposes.

Furthermore, in a member-centric governance system, communication should ideally be personalized, targeted and single topic, and adapted to different segments of the population in terms of circumstances, attitudes, and financial knowledge. Despite improvements in many communication aspects, our findings suggest poor communication between funds and members. All funds use advanced technology for informing members about their financial status; however, not all members are technologically savvy to be able to access, for instance, mobile technology. Likewise, there is no system or practice of sending members statements. This could help in informing member's progress and getting a snap overview of the expected pensions, which could in turn assist them to financially plan their retirement income.

Moreover, the current study found that the problem in Tanzania is not lack of rules or regulations, which are multiple and well-known, but rather compliance and reinforcement of such regulations. Outright fraud is rarely reported, but irregularities are all around, it seems. The same counts for conflicts of interest, which must be declared, but seldom are reported. However, the board of trustees under current

institutional arrangements are political representatives by nature, with more than half of the board members being government representatives anyway, which will have greater influence on their decision-making independence. This is consistent with the agency theory, which posits that political appointed trustees are potentially exposed to political pressure. For instance, Hess (2005) reported a positive impact of appointed trustees on investment returns. Yet, the presence of governmental representatives in boards is necessary to the Tanzanian system.

Furthermore, in line with Rozanov (2015), the interviews revealed board selection as a key issue of successful board governance. The current selection procedure for board members seems to be politicised. The system could benefit from adopting or adjusting the current selection or board appointment and enhance its independence. The sector regulator is called to ensure that the issued regulations are translated into actual selection processes by introducing board entry assessment of some form. This may help in selecting competent trustees who could easily be trained to attain required skills in performing their duties. If merging the existing funds will become definite, thus forming one large public and one private pension fund, board of trustee's appointments will become even more prominent. If private pension funds arrangements may also mean the introduction of a defined contribution system, a different approach of governance is moreover required.

It seems obvious how to choose if we are presented with the following scenarios. "Imagine two pension funds, each with a board of governors. The board of Fund #1 has been carefully selected based on a template that sets out optimal board composition in terms of the relevant collective skill/experience set, positive behavioural characteristics, and an un-conflicted passion for the well-being of the pension fund organization and its stakeholders. The board of Fund #2 was randomly selected out of the telephone book. Which of these two boards do you think would get higher oversight rankings for such important tasks as CEO selection and evaluation, clear delegation of authority to management, and self-evaluation of board effectiveness? Which of these two funds will likely generate better organization performance over the long term?" (Ambachtsheer 2006: 12). Our answer would likely be Board #1 and Fund #1, but the author cautions that the

difficulty of proving our answer would be in the metrics representing governance quality and performance.

5. Conclusion

As Urwin (2010) pointed out, pension funds should start to treat governance as a variable and not a constraint, and make some moves in the direction of best practice. Our findings suggest in the same line of reasoning that considerable improvements of Tanzanian pension fund governance are present; however, some aspects of governance need adjustments. In terms of board composition, the current mix provides a multitude of competencies and experiences; still, more qualified expert candidates need to be included in the boards. These could include experts with some basic and substantive knowledge in actuarial studies, social security, and financial management in general. Such skills together with others like human resources and management could improve the boards' collective ability to make prudent decisions. Such skills further assist trustees to be able to delegate decision making to competent technical experts.

Each pension fund has a mission and governance mechanisms by which to achieve its objectives. The most important aspect is to align the funds' governance structure and how the funds are managed daily. As Ambachtsheer (2011: 27) stated, "clear linkages between mission, governance, management and results are the hallmarks of pension funds management". And if such elements are well integrated they can facilitate the conversion of retirement savings into pension payments in an efficient, cost-effective manner. Also, a faster turnover of trustees and having more females in the board might help to keep up the drive in an environment that is supposed to be rapidly changing.

Boards' competence and skills is vital. The SSRA, perhaps working with experts, could develop competency and skills matrix as a strategy to select proper trustees in the boards. The matrix could help identifying the skill gaps and offer proper trainings. Moreover, the rising complexity in pension funds calls for more focus on governance issues; for example, the rising demands on the competency of

the governing body especially in developing countries where pension industry is at infant stages and growing rapidly. These countries may need to adjust and adapt new legislative requirements and increase supervisory competency on oversight of pension funds.

Monitoring and reporting in the Tanzanian pension fund system upholds high standards. In terms of board evaluation, evidence shows that pension funds use self-assessments as a method of evaluation annually. Additionally, regulators play a role as countervailing powers in this respect. However, the pension funds need to move beyond a compliance-based system to objective performance assessment to discover whether trustees are performing optimally. Objective assessment could determine boards' effectiveness thus help to devise strategies to improve funds' performance as well as incorporating benchmarks for measuring the following evaluation.

In Tanzania, much has been done to guide the funds' activities with guidelines, charters and codes that translate well into policies and manuals. Despite these efforts, the system occasionally gives way to corruption and may therefore call for reforms. Moreover, the actual performance has not always kept up to pace, in that governmental bodies are interfering much in the daily business of the funds. The cause of the interference could be attributed to the fact that the governmental is the lender of last resort, thus well understandable. However, since the pension funds have their own role in the society, namely to serve their members' interests, these kinds of interruptions should be evaded as much as possible. In doing so, the boards of trustees of the pension funds can uphold their independence, accountability, transparency and integrity.

In conclusion, 'governance' has become a buzzword in both academia and pension industry. This is not only confined into private pension arrangements but also in public pension. The increasing attention of governance issues under public pension funds is due to the dynamic nature of pension funds' operations and functions. The debates range from what is pension funds' governance to how best to ensure good governance in pension funds. Fundamental questions are first, how should and can governing bodies ensure good governance in pension funds without jeopardizing the interests of beneficiaries, and second, how best should the board of

trustees govern. Hence, understanding their functions, structures, mechanisms and challenges are equally important for both beneficiaries and the economy at large.

However, it is important to note that measuring the effectiveness of public pension governance is difficult, since it is hard to determine the counter-factual (what did not happen or went wrong) or separate the effects of external variables. Yet, various bodies and academic researchers are continuing to devise and develop a range of performance measures. As the Tanzanian experience learns, this should be embedded in transparent mechanisms and structures, overseen by an independent and virtuous board of trustees. Having said this, further works need to be considered to account for heterogeneity in pension systems especially in developing countries. We call for continuing evaluations to feed on going and arising debates and hence propose best reform options. Pension fund's governance is a dynamic phenomenon which requires constant assessment to reflect its changing nature.

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Struktura i mechanizmy publicznych funduszy emerytalnych: studium przypadku tanzańskiego systemu funduszy emerytalnych

Streszczenie

Cel: Struktury dobrego współrzędzenia, w tym też publiczne systemy emerytalne stały się przedmiotem zainteresowania publicznego. Jakość i kondycja powierników funduszy wpływa na przepływy dochodów, do których członkowie są utytułowani i które są im przyrzeczone, a także na jakiegokolwiek niedobory z tego tytułu, które mogą wymagać interwencji. Autorzy mają na celu zbadanie współrzędzenia funduszami emerytalnymi w Tanzanii poprzez skupienie się na strukturach i mechanizmach rad powierniczych, jak również na ich postrzeganych wyzwaniach i przyszłych kierunkach.

Układ / metody badawcze: Dogłębny przegląd literatury przedmiotu pozwolił na sformułowanie koncepcyjnych i praktycznych ram dla badań nad współrzędzeniem funduszami emerytalnymi zarówno na poziomie makro (regulacyjnym), jak i mikro (rada powiernicza jako ciało rządzące). Studium przypadku opisuje system w kontynentalnej Tanzanii, w której funkcjonują różne ciała nadzorujące oraz pięć funduszy emerytalnych.

Wnioski / wyniki: Rada powierników jest ważna dla współrzędzenia funduszami. Struktura i mechanizmy funduszy emerytalnych w Tanzanii spełniają wysokie standardy. Jednakże główną kwestię stanowi to, że wybór rady zdaje się być umotywowany politycznie i że rząd domaga się większości miejsc w radzie, co sprzyja powtarzalności występowania konfliktu interesów.

Oryginalność / wartość artykułu: Tanzańskie doświadczenia wskazują na znaczenie przejrzystości mechanizmów i struktur, nadzorowanych przez niezależną i praworządną radę powierniczą.

Implikacje badań: Należy rozważyć dalsze badania nad heterogenicznością w systemach emerytalnych, zwłaszcza w krajach rozwijających się.

Słowa kluczowe: publiczne systemy emerytalne, struktura i mechanizmy, współrzędzenie, Tanzania, rada powiernicza, studium przypadku

JEL: G23, G34