ANNEX NO. 3

TO THE APPLICATION FOR THE HABILITATION PROCEDURE

FIELDS OF SCIENCE – LEGAL STUDIES, IN THE DISCIPLINE – LAW

SUMMARY OF PROFESSIONAL ACHIEVEMENTS

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Contents:

The following Summary has been prepared in accordance with Article 16 and Article 18a of the Act of 14 March 2003 on scientific degrees and scientific titles as well as the degrees and titles in the arts and humanities (i.e., – Journal of Laws from 2017, position 1789 with amendments) as well as Paragraph 12(2) of the Decree of the Minister of Science and Higher Education of 19 January 2018 in reference to the specific mode and conditions of conducting doctoral procedures, habilitation procedures as well as in the procedure of granting the title of a professor (Journal of Laws of 2018, pos. 261). These regulations, in accordance with the provisions of Article 179(2) of the Act of 3 July 2018 which introduced the *Law on Higher Education and Science* (Journal of Laws of 2018, pos. 1669) are the basis for the decisions concerning the initiation of habilitation procedures since the day that the Act of 20 July 2018 was enacted – the *Law on Higher Education and Science* (Journal of Laws from 2018, pos. 1668), i.e. of 1 October 2018 until 30 April 2019.

This Summary of professional achievements contains a description of the scientific work and accomplishments of the habilitation candidate, especially those described in Article 16(2) of the abovementioned Act of 14 March 2003. The list of publications is located in Appendix No. 4, as well as the information about the accomplishments referring to didactic work, cooperation with scientific institutions, international cooperation as well as activities popularizing science in Appendix No. 5 to application for the habilitation procedure.

1) Name and surname

Natalia Kohtamäki

2) Diplomas and scientific degrees obtained

In 2011 I received the title **Doctor of Legal Sciences in the field of Law (Lat. *doctor iuris*). It was granted by the Faculty of Law of the Friedrich Schiller University in Jena (Ger. *Rechtswissenschaftliche Fakultät*, *Friedrich-Schiller-Universität Jena*)**, based on my dissertation *Die Reform der Bankenaufsicht in der Europäischen Union* (Eng. *The Reform of Banking Supervision in the European Union*), prepared under the scientific supervision of Professor Matthias Ruffert.

My work was evaluated *magna cum laude* (Eng. “with great praise”).

The Members of the Examination Commission who decided about granting me the title of a Doctor of Law were:

Professor Matthias Ruffert (Chair of the Commission, first review)
Professor Christoph Ohler (second review)
Professor, Doctor Honoris Causa Eberhard Eichenhofer

The doctoral dissertation was created during two-year interdisciplinary doctoral studies in the field of law and economics organized by the Faculties of Law at the Friedrich Schiller University in Jena and Martin Luther University in Halle (Ger. *Martin-Luther-Universität Halle*) in cooperation with the Faculty of Law at the Johann Wolfgang Goethe University in Frankfurt am Main (Ger. *Goethe-Universität Frankfurt am Main*).

Professional titles obtained:

- In 2005 I received a **master's degree of law at the Faculty of Law and Administration at the University of Warsaw**;
  My studies (2000-2005) were completed with an *excellent* grade;

- In 2006 I received the title of **Master of Law (Lat. *magister legum*, LL.M.) after completing comparative post-graduate studies in the field of law at the Faculty of Law at the Friedrich's Wilhelm University in Bonn (Ger. *Rechts- und Staatswissenschaftliche Fakultät, Rheinische-Friedrich-Wilhelms-Universität Bonn*)**; my scientific supervisor during my studies as well as during the preparation of my dissertation was professor Christian Hillgruber;
  My studies (2005–2006) were completed with a *magna cum laude* (Eng. "with great praise") grade;

- In 2007 I received the title of **master in the field of international relations studies at the Institute of International Relations and Political Science, Faculty of Journalism and Political Science (currently the Faculty of Political Science and International Studies) at the University of Warsaw**;
  The studies were (2001–2007) completed with honours.

During my post-graduate studies in Bonn and my doctoral studies in Jena I received fellowships from prestigious German foundations which fund scientific projects: *Stifterverband für die Deutsche Wissenschaft* (Eng. *Foundation for German Science*) and *Stiftung „Geld und Währung"* (Eng. *Foundation for "Money and Currency"*).

In the academic year 2003/2004 I received a fellowship from the Socrates-Erasmus programme at the Faculty of Economics and Social Sciences at the University of Potsdam (Ger. *Wirtschafts- und Sozialwissenschaftliche Fakultät*, *Universität Potsdam*).

In 2005 I completed a year-long course in the field of German and European Law in the School of German Law. The course was organized by the Law Faculties of Universities in Warsaw and Bonn as well as by the German Centre for Academic Exchange (Ger. *Deutscher Akademischer Austauschdienst*, DAAD).

In 2007 I graduated from the *Internationales Parlaments-Stipendium* (IPS) programme which is organized by the German parliament (Ger. *Deutscher Bundestag*) in cooperation with Berlin universities: the Free University (Ger. *Freie Universität Berlin*) and the Humboldt University (Ger. *Humboldt Universität zu Berlin*). The programme included, apart from studies in the field of constitutional and European law at the aforementioned universities, among others, a six-month-long internship at the office of a member of the German parliament from the Free Democratic Party (Ger. *Freie Demokratische Partei*, FDP), attorney-at-law Mrs. Sibylle Laurischk.

3) Information about hitherto employment at scientific facilities

Since the 1 October 2011 I have been employed **full time at the Institute of International Law, the European Union and International Relations at the Faculty of Law and Administration at the Cardinal Stefan Wyszyński University in Warsaw** (since 1 October 2011 till the 29 February 2012 as an assistant; since 1 March 2012 onward – as a **post-doctoral fellow**).

During this time I carry out the following administrative functions at the Faculty of Law and Administration at the Cardinal Stefan Wyszyński University in Warsaw:

- since 2013 I have been the Dean's Representative for the Anti-Plagiarism Programme (during the current term of the Dean, since 2016)
- since 2016 I have been a Member of the Inter-Faculty Commission on Didactics
- since 2017 I have been the Dean's Representative for the Erasmus+ Academic Exchange Programme for the law course (Departmental Coordinator)

Between 2009 and 2011 I worked as a **researcher in the *Global Financial Markets* College at the Faculty of Law at the Friedrich Schiller University in Jena.**

Between 2008 and 2009 I was hired for the position of an **analyst in the Office of Research and Analyses of the Polish Institute of International Affairs in Warsaw.**

4) Indicating the accomplishments referring to Article 16(2) of the Act of 14 March 2003 on scientific degrees and the scientific title as well as the degrees and titles in the arts (i.e. Journal of Laws of 2017, pos. 1789 with amendments)

The monograph which I would like to indicate as my scientific accomplishment in the field of law, according with Article 16(2) of the Act of 14 March 2003 on scientific degrees and the scientific title as well as the degrees and titles in the arts is the publication:

Theorising the Legitimacy of EU Regulatory Agencies,
Peter Lang Publishing, Berlin 2019, ISBN: 978-3-631-74861-9.

a) Justification for the choice of the topic of the dissertation / subject matter

Regulatory agencies are a part of the European administrative space, otherwise called the European executive order, that is a complex system of the EU and national institutions participating in the process of implementing European law. The first regulative agencies were created in the 1970s. Subsequent ones in the 1990s. The real acceleration of institutional processes within the EU administrative space began after the year 2000. Before this date there was about ten of them, now there are more than thirty.

Due to the diverse classifications present in the literature it is hard to either present a concrete number or to include them into one consistent set. The legal chaos surrounding the issue, which accompanied the formation of the agency apparatus in the institutional system of the European Union, does not enable that. For many years there were no homogenous criteria that could be used in the assessment process concerning the need for establishing

this sort of EU office. On account of that neither was there any consistent legal framework concerning the organizational structure of the established agencies, nor for the scope of their competences. Establishing regulative agencies within the networks of European administrative bodies was in each case a result of the political situation at the time (e.g., a crisis on the food market in the second half of the 1990s, or the financial crisis of 2008 to 2010) and the rivalry of the EU bodies, predominantly the Commission and the Council, as far as the level of competences ceded to the EU level was considered.

The strongest evidence of this legal chaos accompanying the creation of particular agencies is the lack of homogenous rules with respect to selecting the legal basis within the primary law according to which a new agency should be established. Often, as in the case of Article 114 TFEU which in recent years became a norm that has been used on a regular basis in the process of forming bodies of this sort, general justifications and references to the task were linked with the broadly understood harmonization of the internal market suffice[1].

Despite the long-lasting process of the EU agency system's expansion, for many years EU regulation offices remained beyond the scope of interest of legal scholars who focused their interest on European law or, specifically, the process of the Europeanization of nation-state level administrative law[2]. One can point to three main reasons for this state of affairs.

First, in the initial process of the institutionalization of European cooperation in the area of the specific sector of the internal market, where agencies play a crucial role, these bodies functioned as advisory forums which did not have significant decision-making or *quasi*-legislative powers. On account of this, as platforms coordinating inter-governmental cooperation, e.g. the European Environment Agency (EEA), they did not arouse emotions among those handling the mechanisms of management within the EU structures either on a practical level or as researchers.

Second, in the institutional system of the European Union itself they were treated as an important link to shaping sectoral policies. The European Commission for decades guarded its decision-making autonomy in this matter, reluctantly agreeing to the transition of important powers connected with, for instance, the preparation of legal regulations, requiring specialized expert knowledge, for independent, differently organized institutions.

Third, a factor discouraging a broader range of recipients, including scholars in the field of legal, administrative or political sciences, is the casuistry of normative solutions elaborated by regulatory agencies due to the progressing specialization of their activities. This is a result of the distinct expertise of the administrative apparatus of the EU regulatory agencies. The knowledge that the particular experts employed there have at their disposal is strictly connected with a specific sector of the internal market (e.g. marketing of pharmaceuticals, the safety of air, sea and rail transport, trade in chemicals, financial supervision, food safety,

[1] Recently even a separate monograph which focuses on the chaos "forced" by the search for a legal basis for the establishment of subsequent agencies has been published: N. Sölter, *Rechtsgrundlagen europäischer Agenturen im Verhältnis vertikaler Gewaltenteilung*, Duncker & Humblot, Berlin 2017.

[2] Until the 1990s there were practically no academic publications on this topic. A certain symbolic breakthrough, signifying that agencies had been noticed by representatives of the European legal doctrine as well as political scientists, was the special issue of the periodical "Journal of European Public Policy" published 1997 under the editorial supervision of Alexander Kreher and Yves Mény.

etc.). On account of that it is not only inaccessible for laymen, but also for specialists – e.g. lawyers who concentrate on issues connected with European integration and the harmonization of legal orders on a more general level.

An important event for the perception of the significance of EU regulatory agencies is the publication of *White Paper on European Governance* of 25 July 2001 by the European Commission. At that point the strategy of the European Commission in relation to regulatory agencies was transformed and from then on they had become a useful instrument for optimizing regulative processes and strengthening the position of the Commission itself, which stood at the helm of the expanding apparatus of the EU administration[3].

The agencies which have been established in recent years, such as the European Supervisory Authorities, ESAs: EBA, ESMA and EIOPA, may be considered, in comparison with the hitherto existing bodies, to be institutions of a new type. This is a result of the radical expanding of their competences in relation to the existing EU regulatory agencies. This is an effect of a significant intensification of the integrational process. Gradually they are starting to resemble agencies or ministries of nation-states, most of all when one refers to the direct influence which they can have on natural and legal persons in the member states. On account of that, the agency system arouses increasing interest among researchers: predominantly legal, administrative and political scholars, specialists in the field of management studies and even sociologists, but also in the public opinion. The latter is only aware of their increasing influence on the lives of the citizens in the member states to a limited extent, due to the specifics of the activities of the particular agencies.

Increasing the powers of the regulatory agencies has aroused many controversies. On the one hand, questions arose concerning the purposefulness of establishing costly expert bodies, the actions of which do not always deliver measurable effects. On the other hand, legal doubts have appeared connected with the status of regulatory agencies in the European supervisory system, with their expanding institutional autonomy and their obscure democratic legitimization. The status of regulatory agencies, apart from Article 298(1) TFEU referring to the independent European administration, is not fully reflected in the Treaties. Indeed, regulatory agencies were acknowledged in the institutional system of the EU after the changes introduced by the Lisbon Treaty, but the primary law still does not provide for a specific provision that could be used in a universal way upon establishing them or designating a distinct catalogue of tasks for them (clarified in the founding regulations). Such postulates in fact have appeared for years in the legal doctrine, especially in Germany[4], yet due to the lack of political will from the member states it is hard to anticipate a quick change in this respect.

An interesting phenomenon in this context is the limited interest of researchers in the complex theoretical approach to the legitimization of the activities of the EU regulatory agencies. In many elaborations one can find a mere fragmentary reference to this issue. In

[3] EU regulatory agencies also play an important role in the newest regulation agenda of the European Commission concerning better law making: *Better Regulation for Better Results – An EU Agenda*, 19.5.2015, COM(2015) 215 final.

[4] See e.g. C. Görisch, *Demokratische Verwaltung durch Unionsagenturen*, Mohr Siebeck, Tübingen 2009; A. Orator, *Möglichkeiten und Grenzen der Einrichtung von Unionsagenturen*, Mohr Siebeck, Tübingen 2017; T. Wörner, *Rechtlich weiche Verhaltenssteuerungsformen Europäischer Agenturen als Bewährungsprobe der Rechtsunion*, Mohr Siebeck, Tübingen 2017.

the context of numerous analyses referring to the practical aspects of holding agencies accountable[5], this deficiency, connected with the meagre interest of scholars in the theoretical conceptualization of how the agencies function, is quite peculiar. In some texts that deliver a comprehensive analysis of various aspects concerning the existence of these bodies one can even find direct passages concerning the omission of this aspect of comprehending the agency system[6].

The fundamental research assumption of my work was, therefore, to conduct an in-depth analysis of the legal status as well as the place of the regulatory agencies in the institutional structure of the EU, taking into consideration the context of legitimizing the activities of these bodies. The monograph includes a theoretical analysis. I intentionally refer to several concepts of legitimacy developed in the context of EU institutional structures. Most of the analysed theoretical models were created by lawyers. Among these the proposition of the German theoretician of law, Fritz Scharpf, whose dichotomic division between legitimacy oriented on the *input* and the one oriented on the *output* became the point of departure for most deliberations on the theoretical justification of EU regulatory agencies. In my monograph it is also the starting point for a broader critical juxtaposition of numerous more or less mature theoretical concepts which are useful for the purpose of explaining and justifying the activities of regulatory agencies in a dynamically evolving European institutional system.

I was able to illustrate the theoretical perspective with practical examples referring to the competencies of the selected agencies. My practical perspective consisted of an in-depth interpretation of the status, competencies and control mechanisms used in the founding regulations as well as other legal acts, in particular relating to four agencies: EFSA, ECHA, Frontex and EBA. Their changing prerogatives confirm the thesis on the slow emerging of a new type of EU agency which in fact has regulatory competencies.

The analysis was purposely conducted in English. First, it fits the ministerial assumptions referring to the popularization of Polish sciences as well as into the guidelines of the National Science Centre concerning the publication of the results of grants funded by them in publishing houses with an international range. Second, despite an intensive European debate on the topic of regulatory agencies, so far there is no broad theoretical study referring to the legitimization of supranational public administration bodies with the practical analysis of their competences. The described monograph is intended to fill in this void and participate in the general European discourse.

[5] In recent years several studies on the topic of the supervision over the activity of regulation agencies as well as mechanisms of holding them accountable have been published. See M. Busuioc, *European Agencies. Law and Practices of Accountability*, Oxford University Press, Oxford 2013; M. Scholten, *The Political Accountability of EU and US Independent Regulatory Agencies*, Brill/Nijhoff, Leiden/Boston 2014; M. Chamon, *EU Agencies. Legal and Political Limits to the Transformation of the EU Administration*, Oxford University Press, Oxford 2016.

[6] D. Curtin, R. Dehousse, "European Union Agencies: Tipping the Balance?", in: M. Busuioc et al. (ed.), *The Agency Phenomenon in the European Union. Emergence, Institutionalisation and Everyday Decision-Making*, Manchester University Press, Manchester/New York 2014, p. 200.

b) The scientific objective of the dissertation

The purpose of the conducted analysis has been to address the following questions:

- Can we apply the classical understanding of democratic legitimization in relation to regulatory agencies, or do we rather need to search for other methods for legitimizing the actions of these sort of bodies;
- Where is the place of EU regulatory agencies in the European regulative space?
  - Are they on of the so-called "soft instruments" or inter-governmental cooperation,
  - or do they rather constitute a dominant mechanism in the processes of the harmonization of the law and activities within specific sectors of the internal market;
- What role do they play in the processes of formulating the European executive order, i.e.:
  - How do their tasks evolve in the context of the implementation of European law in reference to nation-state level legal orders
  - and how does their significance grow in the context of the sectoral Europeanization of administrative law;
- To what extent can agencies remain autonomous in reference to the bodies of the European Union;
- How does the issue of their responsibility before the European Commission, the European Parliament and the Council look like;
- Does the participation of regulatory agencies in the formulation of politically conditioned solutions for many sectors of the internal market increase the deficit of democracy, on which there is a discussion in the context of how the European Union functions.

I have attempted to answer these questions referring to the EU Treaty provisions, specific sectoral regulations, judgements of the Court of Justice of the European Union as well as texts written predominantly by German, British, Dutch and French legal scholars. Referring to the aforementioned sources served the purpose of conducting an independent critical analysis of the processes legitimizing the European administration activities with a particular emphasis on EU regulatory agencies.

The final assumption was the construction of an as complete as possible theoretical framework that would serve the justification of the agency system's functioning. For this purpose, apart from legal analyses, I used numerous concepts from the field of the theory and philosophy of law, supplementing them, in accordance with the newest trends in international law analysis, with theoretical paradigms developed within the theory of international relations.

c) Research methodology

According to renowned legal scholars dealing with European law – Rob van Gestel (*Tilburg Law School*) and Hans-Wolfgang Micklitz (*European University Institute Florence*) – one can currently observe a progressing instrumentalization of international law, in particular European law, resulting in the instrumentalization of the research concerning that law. This leads to the depreciation of methodological approaches and specific ambivalence when it comes to the will for constructing mature theories within the European legal doctrine. The result of such phenomena according to the aforementioned scholars is the insufficient objectivism within the analysis of the processes of the institutionalization of the European normative order[7].

Nonetheless, one must notice that it is not the easiest research matter when it comes to formulating models and abstract solutions. These difficulties are caused most of all by its complexity. The European executive order, as the conglomerate of EU and nation-state level institutions that create and implement European law is often called, is a peculiar "mosaic" of languages as well as various cultures and legal traditions. Separate semantic systems condition the varying understanding of legal norms, even when they emerge as a result of long-lasting negotiations which are ultimately completed with a compromise and the acknowledgment of an elaborated solution as one that applies to all participants of the collaboration[8].

On account of that the classical formal-dogmatic method connected with the analysis of the applicable law is insufficient. This sort of narrow approach which limits the research perspective to interpretation of the law has been represented for many years by the German doctrine. However, even in the German school of legal sciences, which is considered conservative in Europe, one can observe changes in this respect during the last several years and notice the development of a methodology consisting of the inclusion of methods which are not typical for legal studies, such as an axiological, sociological or economical approach[9].

In response to the developmental dynamics of legal research methodology, I have attempted to combine a variety of methodological instruments in my monograph:

- The first part consists of an analysis applied in relation to regulatory agency provisions. This means predominantly Treaty norms and selected sectoral legal acts, including most of all founding regulations and sectoral regulations and directives. In the study of the position of the regulatory agencies in the EU institutional system the acquis of the Court of Justice of the EU was also included.

[7] See R. van Gestel, H.-W. Micklitz, *Why Methods Matter in European Legal Scholarship*, "European Law Journal" 2014, Vol. 20, No. 3, p. 292 ff.

[8] More on the influence of national identity, culture and tradition on legal doctrine, see F. Cownie, *Legal Academics. Culture and Identities*, Hart Publishing, Oxford/Portland 2004.

[9] See The Report of the German Scientific Council (Ger. *Wissenschaftsrat*), *Perspektiven der Rechtswissenschaft in Deutschland. Situation, Analysen, Empfehlungen*, 9.11.2012, https://www.wissenschaftsrat.de/download/archiv/2558-12.pdf (15.3.2019). This report was widely commented in the German legal doctrine, see e.g. C. Wolff, *Perspektiven der Rechtswissenschaft und der Juristenausbildung. Kritische Anmerkungen zu den Empfehlungen des Wissenschaftsrats*, "Zeitschrift für Rechtspolitik" 2013, Vol. 46, No. 1, p. 20 ff.

- In the second part I conducted an in-depth theoretical analysis of the existing concepts legitimizing the activities of public administration. Apart from traditional theories of democratic legitimacy alternative approaches were also taken into account, such as social, axiological or technocratic legitimization. In this part I used the method of comparative law juxtaposing, among others, theoretical models used in the studies of European and German constitutional law.

- The third part, which concludes the theoretical considerations, is supplemented by considerations of a practical nature. The body of empirical evidence, that is referring to specific practices, prerogatives granted to the agencies in sectoral regulations and control mechanisms used in relation to selected offices, served the formulation of a theoretical model legitimizing the activities of these bodies. Its basic foundation is the concept of normative legitimization, the supplement of which, but not a full equivalent, is the technocratic or participative legitimization. These practical considerations were possible thanks to confronting the wording of the provisions (mainly regulations for a specific market sector) with the practices of nation-state level regulative offices which cooperate on a daily basis with EU agencies in the food, pharmaceutical, chemical and financial sector (I consulted, among others, employees of the German Federal Financial Supervisory Authority in Bonn, BaFin and agricultural engineers from the Warsaw University of Life Sciences, SGGW).

On account of the broad and in-depth library query in several leading European libraries one can state that the conducted research covered practically all of the publications relating to the selected subject matter which were published on EU regulatory agencies in English by the end of 2018, as well as most elaborations on the topic that were published in German. I referred also to Polish and French literature on the matter. In this context I mean scientific elaborations; both ones that analyse problems connected with the entirety of the functioning of the agency system in an in-depth way and ones that concentrate on specific issues, in this case on specific sectoral solutions (e.g. the REACH system).

The library query was carried out in the libraries of the law departments at the universities in Berlin, Bonn, Jena and Helsinki, the Library of the German Bundestag (Ger. *Bibliothek des Deutschen Bundestages*), the State Library in Berlin (Ger. *Staatsbibliothek zu Berlin*), the Tritonia Academic Library, University of Vaasa (the leading academic centre in Northern Europe specialized in administrative and management studies) as well as the Apila Seinäjoki Public Library (the two latter ones located in Finland). The final results of my research was supplemented by a library query in the Library at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg (in August 2018) and the Helsinki Central Library Oodi (in December 2018).

d) Structure of the monograph

The book consists of three main parts divided into chapters. In the entire work a continuous numeration of the chapters has been maintained: from the first chapter to the eighth, according to the Anglo-Saxon style of constructing a conspectus in scientific treatises.

The first part has an introductory and defining character. **In the first chapter** there is a presentation of the EU agency system, focusing on the terminological difficulties, the historical perspective of the development of these bodies, their tasks and the legal framework that conditions their functioning and organizational structure.

The second chapter consists of a presentation of four selected agencies (EFSA, ECHA, Frontex and EBA) in the context of their particular regulative prerogatives and their influence on the evolution of the European executive order via agency mechanisms. In this chapter attention was drawn to the sectoral Europeanization of administrative law in such areas within the internal market as: food safety, marketing chemicals, integrated management of the external borders of the EU and the consolidated banking supervision.

The concluding section of the first part of my monograph is the **third chapter** in which I referred to the most important rulings of the Court of Justice of the EU that modify the understanding of these bodies and their status in the institutional system of the EU. This chapter situates regulatory agencies in comparison with other EU institutions in the context of the concept of the separation of powers and the concepts referring to the delegation of prerogatives between the organs of public administration.

The core of my work is present in the **second part** of my monograph, where I conducted an analysis of the most important theories of legitimacy that were formulated in relation to institutions of the European Union. This part consists of theoretical legal considerations which are based on an in-depth interpretation of the most important theoretical concepts in the field of administrative law relating to the legalization of the bodies of public administration to act. I have conducted a critical analysis of these theories, considering among others their relevance to the dynamically changing mechanisms of the European executive order.

The fourth chapter refers to terminological issues. I have juxtaposed the fundamental concepts for discourse on the legalization of the activities of public institutions such as legitimacy, autonomy and responsibility. I referred to the problem stated in the title of my work. It seems, however, that there are no mature theories legitimizing them and probably due to the specificity of the agency system there will be none for a long time; ones that would fully explain the issues connected with the justification of the functioning of these specific bodies within the EU administration. Therefore, I consciously write of “theorising on” on this topic, that is on the numerous efforts of researchers from various disciplines concentrating on the issues of validating the functioning of the EU’s administrative apparatus. Regulatory agencies in these theoretical discussion usually play a marginal role. Hence the efforts made to juxtapose their tasks and their status with the existing catalogue of theoretical concepts.

In chapter five I analysed the theoretical explanations concentrating on the classically understood democratic legitimization, connected with the “democratic input”, that is the active influence of the citizens on the functioning of public administration. The distance from direct election mechanisms, which is understandable in the case of international organizations and especially such unique ones like in the European Union, makes it impossible to create a “legitimizing chain” indicating a direct civic mandate authorizing them to act.

In the **sixth chapter** I have carried out an evaluation of alternative legitimizing concepts which in the intentions of the scholars who formulated them are supposed to constitute a

specific remedy for the weakness of explicitly democratic justifications. I concentrated on the issues linked with the broadly understood functional legalization. This is connected, among others, with the expertise of the bureaucratic personnel of EU agencies, the transparency and effectiveness of these bodies as well as mechanisms of inclusion and participation of various social groups consulted in broadly understood decision-making processes coordinated by the agencies. The sixth chapter is concluded by a critical reflection on normative legitimization in the context of agency activity. Legitimacy of this sort is not unambiguous in the case of agencies due to their relatively weak "anchoring" (Ger. *Verankerung*) in the Treaties. The ordering of a rather chaotically expanded agency system takes place in the form of legally non-binding declarations of EU bodies. Specific prerogatives and detailed tasks are, nonetheless, formulated in the founding regulations and other sectoral legal acts which were often modified in a such a way to expand the competence catalogue of a specific agency in accordance to the changes of the internal market.

An important, concluding, element of my considerations is the **third part** of my work, in which I conducted a practical analysis of specific mechanisms that are inscribed into theoretical concepts. These sort of considerations – exemplifying the utility of legitimizing theories based on selected examples of agency offices functioning within the framework of the European administration – in this form were first constructed in the literature dedicated to the EU's institutional system. Most of the elaborations so far concentrate either on the sectoral activity of specific agencies or on discussions concerning the agency system in a general perspective. These sort of publications, usually, lack references to theoretical concepts which analyse mechanisms that legitimize the functioning of public administration.

The seventh chapter refers to direct democratic legitimization connected to the participation of the citizens in the formation of the agency itself and its tasks. Such elements were distinguished which decide about the democratic legitimization of public institutions, such as the authorisation of their activities, safeguards – predominantly of a normative nature, and accountability, analysed in the context of mechanisms checking the way regulatory offices function. These elements have been presented on the basis of specific examples, constructing a basic foundation of the ultimate theoretical concept serving the legalization of the activities of the EU regulatory agencies. These mechanisms in the case of the analysed bodies of the European administration have a complex character and separate monographs have been dedicated to them in the literature. In my book I draw special attention to the practical solutions used in the founding regulations of the agencies described in the first part of my monograph: EFSA, ECHA, Frontex and EBA. They constitute a practical illustration of the theoretical assumptions broadly discussed in the second part of the monograph.

In the closing **eighth chapter** I evaluated from the empirical perspective output legitimacy as well as throughput legitimacy that are inscribed in alternative models of validating public administration. They constitute the second pillar of the theoretical concept which serves the legitimization of EU regulatory agencies.

The monograph is concluded by several closing remarks that indicate the weaknesses of the theoretical framework shaping the legitimacy for the activities of the EU regulatory agencies. Its weakness is predominantly a result of the insufficient normative component, i.e. weak safeguards for the status of the agencies in the Treaties. This has particular significance in the context of the expansion of their competencies and the evolution of their prerogatives in

relation to private entities (natural and legal ones). This evolution is taking place on an implicitly understood rule through informal practices (repetitive behaviours of specific offices which are accepted in particular sectors of the market within the network connections between the nation-state level and the European one) and through formalized solutions regulated exclusively via a system of safeguards in EU secondary legislation (mainly founding regulations and specific rulings for various market sectors).

e) Conclusion / research results

I conducted a cross-sectional analysis of many theories of legitimacy in my monograph, referring to considerations of the German, British, American, Polish and Scandinavian legal doctrines. These theoretical concepts serve the legalization of the activities of public administration and seldom and only in-passing are related to the EU agency system. My monograph is the first comprehensive academic elaboration of this sort. The analysis conducted allowed me to formulate the following conclusions:

1. Achieving democratic legalization similar to the one that is ascribed to public institutions on a member-state level is not possible in the case of EU regulatory agencies. This is a direct result of the natural distance from the citizens, long chains of delegations when it comes to the transfer of particular tasks to the level of supranational and inter-governmental cooperation as well as a distinct area of operation of the activities of the particular agencies that are secluded from the layperson. This final fact means that even the opening of EU agencies to the broadly understood contact with those potentially interested has ended with not much success. Since the recipients of these efforts are the stakeholders of a given sector of the market, they are already insiders. Agency *expertocracy* functions in specific networks of dependencies with private and public entities closely linked to a specific area of the internal market. These relations are to a large extent based on trust, informal contacts, the authority of the institutions engaged and the recognition of the expertise of the regulatory and decision-making bodies. The social legalization is inscribed into the deliberative institutionalism which is specific for the European Union's institutional structures is a weak equivalent to democratic legitimization (see Article 10(2) TUE).

2. A certain alternative is provided by affinity to the idea of administrative legitimacy which springs still from the 19th century Weberian thought. This legitimacy is supposed to be a result of acknowledging and accepting particular actions of specific organs of the public administration. This acknowledgement is derived from the conviction of the unique expertise of the bureaucrats as well as their "service" in the name of the public interest. This is connected with the faith in the legality of existing structures, that is their functioning with a particular legal framework which precisely define the range of the granted prerogatives. According to such an understanding of the legalization of the administration, bureaucrats, although unelected, become representatives of society.

3. The main argument for the sake of creating regulatory agencies both on a state as on a European level was the depoliticization of the way public administration functions; it was supposed to act in a transparent, open and independent way (see Article 298(1) TFEU). Regulatory agencies are the main platform for working out common positions in the

most important sectoral policies. The autonomy of the agencies must be balanced by appropriate control mechanisms, the basis in primary law of which is most of all Article 17 TEU. The provision regulates the status of the Commission as a "guardian of the Treaties", that is the main organ if one speaks of the tasks with a managerial and administrative nature within the European institutional system.

Apart from the detailed provisions present mainly in sectoral regulations, many of the mechanisms of control used by the Commission has an informal nature, which serves to elaborate compromising solutions and which are inscribed into a broader strategy elaborated usually by the legal department of the Directorate-General active within a particular sector of the market. Relations with the European Commission have, therefore, a rather "parent" character than a "partner" one. Its close relations with satellite regulatory agencies play a crucial legitimizing role.

4. In many scientific elaborations on the topic of legitimizing of the activities of regulatory agencies is treated as equivalent to their accountability. It is necessary, however, to explicitly separate these two phenomena. Broad control mechanisms which were expanded as the agency system evolved are not a sufficient answer to the question about the legitimacy and legalization of these bodies. They constitute an important safeguard for the actions of "unelected bureaucrats", but they cannot replace traditional legitimizing mechanisms.

5. Regulatory agencies are not EU bodies. They have not been included, despite them being discussed in the doctrine, in the altered Article 13 TEU of the Lisbon Treaty, which specifies the EU institutions. They were, however, noticed in the new normative framework after the changes introduced by the Lisbon Treaty as a part of the European administration, but their status, procedure for establishing them, range of competences as well as organizational model have not been directly regulated in the primary law. These issues were only included in documents that had a declarative character, yet were non-binding legally. It is necessary to primarily mention the "Common Approach" of 2012 which is the effect of long-lasting negotiations between the Commission, the Council and the European Parliament on the topic of formulating a common framework for the chaotically expanding agency system.

6. In practice this means that the normative legitimacy of the EU regulatory agencies is not strong. Its strengthening is guaranteed by the provisions of secondary law. Most of all by the norms of founding regulations which emerge often as a result of stormy debates between all interested parties: member state/the Council, the European Parliament and the Commission. The catalogue of prerogatives is expanded with the aid of sectoral rulings and directives. An important safeguard is also the controlling function of the Court of Justice of the EU which on the basis of Article 263 TFEU guarantees the protection from the lawlessness of regulatory agencies. The Tribunal plays an important role in legitimizing the existence of the agencies through its case law which one can observe since its ruling in the *ENISA* case from 2006. It found its confirmation in the ruling in the *Short selling* case from 2014. One can also sense the acceptance of the Tribunal for institutional solutions of a technocratic kind, such as regulatory agencies, which are supposed to support the securing of stability on the internal market and its subsequent intensive development.

7. EU agencies are inscribed in the idea of a "regulatory state", which was formulated in the 1990's by Giandomenico Majone, the foundation of which is supposed to be a common law executed in a homogenous, harmonious way. The European Union and its administration is supposed to arise from the rule of law. An important element which legitimizes it is the preservation of the rule of institutional balance within the organizational structure of the EU.

8. Delegation chains within the complex institutional structures of the European Union are much longer than in the case of state systems. There is no clearly defined subject of legitimacy which could validate a particular object of legitimacy to act. The legitimizing subject is not the people but many nations. The European Union itself is not a liberal democracy like the democracies in the nation-states. The point is for the way it functions to be based on rules specific of representative democracies. Legalization is a result not only of direct election to the European Parliament, but also from the legitimacy achieved via the member states represented by representatives elected in democratic elections. According to such assumptions the manner in which the European administration functions should also be democratic. A guarantee of the "democratic input" is supposed consist of instruments of authorization and control.

9. A complementary role in relation to input legitimacy is played by output legitimacy. Legalization is supposed to be a result of the expert-specialist character of the independent European administration. In this context a certain paradox arises: autonomy must mean the independence to act and an autonomous position in reference to EU organs. Full autonomy would, however, be a negation of input oriented legitimacy which in the case of regulatory agencies is connected with the aforementioned legitimizing triad, i.e. authorisation, safeguards and accountability. A crucial element combining both concepts, input and output legitimacy, is throughput legitimacy. In this case what is important is the quality of the procedures determining the functioning of a particular public administration body. In the case of regulatory agencies a large role is played by openness and transparency. They are connected with the idea of including the broadest possible groups of stakeholders in the consultation processes and elaborating compromise solutions.

10. There is no single theory of legitimacy which can be considered as a universal theory applicable for the entire agency system. One must rather speak of a multitude of theoretical efforts which are aimed at finding an answer to the question about the legalization, or else justification, of the functioning of regulatory agencies in the EU's institutional system. In many presented theoretical concepts in which mature legitimization concepts have not been yet developed one can find descriptive and explanatory elements. Most often what is missing is a prognostic element that could enable the inscription of regulatory agencies into broader discussions on the development of the European Union as a whole. Authors theorizing on the topic of the legitimacy of regulatory agencies most often replicate the dichotomic division, suggested by Fritz Scharpf, into input and output legitimacy. New elements or even more so critical arguments referring to the weak legalization of the European administration appear rarely. Without disregarding the merit of EU agencies in the field of harmonizing regulation and the coordination of regulative actions of many entities engaged in multi-level management, one must say that their legitimacy should be strengthened. Such a breakthrough could be the regulation of their status and mode of establishment directly

in the Treaty law.

Among the discussed and critically analysed concepts of legitimacy which can apply in relation to regulatory agencies, the most convincing ones are those that relate to normative stability. The authority of administrative organs emerges from their anchoring in a specific legal system. Practice itself, which in the case of regulatory agencies is going on for several decades, indeed serves the "familiarization" of these bodies, but legitimizes their existence only in a limited way.

5) An overview of other scientific and research accomplishments

My remaining scientific and research accomplishments have been presented according to the requirements included in the ruling of the Minister of Science and Higher Education of 1 September 2011 on the criteria of evaluating the accomplishments of persons applying for a habilitation (post-doctoral) degree (Journal of Laws No. 196, pos. 1165)[10].

One can include in my scientific work after acquiring my doctoral title scientific publications in Polish and German, including a monograph entitled *Hybrid Law in the Normative Order of the European Union* [Pol. *Prawo hybrydowe w porządku normatywnym Unii Europejskiej*], ASPRA-JR, Warsaw 2019 (forthcoming).

Moreover, according to the provisions based on Paragraph 4 of the aforementioned ruling, the coordination of research projects financed by Polish and international grants as well as the active participation (with a paper) in Polish and international scientific conferences can also be included.

When evaluating the scientific work of a habilitation candidate one must take into account that the doctoral defence took place in the fall of 2011. In 2014–2015 there was a hiatus in scientific work on account of giving birth to a child and a many-monthlong stay at the hospital preceding it.

a) Scientific publications

aa) Introduction

From 2011 I am employed at the Institute of International Law, the European Union and International Law at the Faculty of Law and Administration of the Cardinal Stefan Wyszyński University, which according to the idea of its founders was supposed to address up-to-date tendencies in European science through joining research within various disciplines. Legal scholars who examine international public law, European law or issues connected with the internationalization of national legal orders, e.g. in the scope of administrative law, often enough use research instruments from other disciplines such as economics, political, administrative and management science. In accordance with the guidelines of my home research institution, in my publications I attempted to supplement legal analysis of the

[10] The provisions which introduced the Act of 3 July 2018 Law on higher education and science (Journal of Laws of 2018, pos. 1669) repealed the legal basis for the aforementioned Ruling of 1 September 2011. On account of that this act is inapplicable. Since the provisions of the repealed Act of 14 March 2003 on scientific degrees and the scientific title as well as degrees and titles in the arts (i.e. – Journal of Laws of 2017, pos. 1789 with amendments) are applicable for habilitation procedures initiated before 30 April 2019, one can accept the systematics of scientific work formulated in the Ruling of the 1 of September 2011 as one that is binding for applications submitted in this period.

issues from other scientific disciplines or subdisciplines, including predominantly those in the field of the theory of international relations. This sort of practice occurs more and more often in the leading research and academic centres in Europe[11].

It is worth mentioning in this context the publications that are broadly commented in the doctrine such as:

- R. Kolb, *Theory of International Law*, Bloomsbury, Portland 2016.
- J.L. Dunoff, M.A. Pollack (ed.), *Interdisciplinary Perspectives on International Law and International Relations. The State of the Art*, Cambridge University Press, Cambridge 2013.
- D. Armstrong et al., *International Law and International Relations*, Cambridge University Press, Cambridge 2012.
- A. Sinclair, *International Relations Theory and International Law. A Critical Approach*, Cambridge University Press, Cambridge 2010.
- M. Herdegen, *Der Kampf um die Weltordnung. Eine strategische Betrachtung*, C.H. Beck, München 2019.

Their authors point to the necessity of combining theoretical approaches and supplementing the theoretical-legal perspective with paradigms from the field of the theory of politics and international relations for the sake of a better understanding of a dynamically changing international environment and, what is strictly connected with that, a better understanding of the needs and possibilities for creating an institutional-normative framework in this environment.

bb) The main research currents

My research interests concentrate on issues in the field of:

(A) Theory of European and administrative law

(B) European institutional law

(C) Europeanization of administrative law and public administration

(D) The role of national legal cultures in the formulation of European law

(A) Theory of European and administrative law

One of the most important currents presented in my works are theoretical-legal considerations in the field of European and administrative law. The monograph discussed above fits into this current, but it does not exhaust the topic which is the subject of my research interests. I am interested in the analyses referring to the desovereignization of the nation-state in the aspect of law making that are developed on the grounds of European law, philosophy of law and political as well as international relations theory. Currently, as a result of globalization, internationalization and the Europeanization of normative and institutional

[11] See the interdisciplinary cooperation Sciences Po, the University of Heidelberg and the Max Planck Institute in Heidelberg enabling me the participation in the doctoral studies programme combining such disciplines as international law, political science, international relations, history and sociology, http://www.sciencespo.fr/en/news/news/agreement-universit%C3%A4t-heidelberg-and-max-planck-institute-comparative-public-law-and-internat-0/1387 (15.3.2019).

orders the state is ceasing to be the only entity endowed with the prerogatives of having the power to formulate specific regulations.

In the Anglo-Saxon doctrine the concept of cosmopolitanism in international law was formulated in this context. It replaces the pluralism of normative orders, i.e. the coexistence of many systems characterized by various legal cultures, traditions or institutional structures. The processes of globalization and internationalization of different spheres of public life, including also the sphere connected with law making, condition the creation of many complex forms of international cooperation within which there is a reference to common values and ideas that are not connected with a particular state or national identity. "Artificial" institutionalized identities are established which legitimize the functioning of a particular international organization.

Legal cosmopolitanism would in this context be an expression of blurring the boundaries between the legal order on the nation-state and supranational level. Legal norms formulated by international institutions are starting to be applied to legal systems of nation-states. More frequently they do not require to be transposed into legal systems at a nation-state level as it was in the case in classical international law. Global administrative law most often functions in the form of non-binding acts of law which de facto – for various reasons, predominantly due to good will, trust, willingness to maintain stability in the markets – are obeyed by the countries that participate in the cooperation. These are phenomena that are worrying in the context of the questionable legitimacy of international organizations to make laws that have a direct influence on the lives of citizens in particular countries.

The issues in the last several years have been arousing the interest of scholars[12]. Dynamic changes in the creation, implementation and execution of administrative law inspire representatives of the doctrine to construct particular explanations of a theoretical nature which usually have the character of postulates and react to the dynamic changes in the international environment with a slight delay.

One of the most important inspirations for analysing this topic was the opportunity of participating in scientific debates at the Max Planck Institute in Heidelberg. The school of studies on the theory of international law supervised by professor Armin von Bogdandy belongs to most acknowledged in the world. Legal theoreticians from this institute have worked for years on the concept of the "exercise of international public authority"[13].

[12] It is worth drawing attention especially to the Italian doctrine, for instance: S. Cassese, *Global Administrative Law: The State of the Art*, "International Journal of Constitutional Law" 2015, Vol. 13, No. 2; L. Casini, *Global Administrative Law*, in: J.L. Dunhoff, M.A. Pollack (ed.), *International Legal Theory. Foundations and Frontiers*, Cambridge University Press, Cambridge as well as the German doctrine: C.D. Classen, *Die Entwicklung eines Internationalen Verwaltungsrechts als Aufgabe der Rechtswissenschaft*, "Veröffentlichungen der Vereinigung der Deutschen Staatsrechtslehrer" 2008, Vol. 67. In Polish literature on the topic it is e.g. *Globalna administracja i globalne prawo administracyjne: informacja przed władztwem*, in: J. Łukaszewicz (ed.), *Władztwo administracyjne. Administracja publiczna w sferze imperium i dominium*, TNOiK, Rzeszów 2012; P. Szwedo, *O pojęciu globalnego prawa administracyjnego*, "Forum Prawnicze", November 2011; M. Dybowski, M. Romanowski, *Próba interpretacji koncepcji prawa globalnego*, "Ruch Prawniczy, Ekonomiczny i Socjologiczny" 2014, Vol. LXXVI, No. 4.

[13] See A. von Bogdandy *et al.*, *The Exercise of Public Authority by International Institutions: Advancing International Institutional Law (Beiträge zum ausländischen öffentlichen Recht und Völkerrecht)*, Springer Verlag, Heidelberg/London/New York 2010.

The willingness to participate in the interesting and dynamically developing debate on the evolution of international law in the context of the changes occurring in the world today resulted in the monograph: *Hybrid Law in the Normative Order of the European Union* [Pol. *Prawo hybrydowe w porządku normatywnym Unii Europejskiej*], ASPRA-JR, Warsaw 2019 (forthcoming).

In this monograph I attempted to explain the evolution of European "soft law" which currently in many sectors of the market "distanced" itself from the original model of legally nob-binding guidelines and opinions. In the Anglo-Saxon doctrine even such concepts as "post-legislative guidance" and "postnational rule-making" have been formulated in this context. Apart from the traditional law making system which is regulated in the primary law, normative acts are created which determine to an ever greater extent legislation at a nation-state level. The nation-state ceases to be the basic subject shaping regulations: e.g. in the financial, telecommunication, energetical and other sectors. A good example is especially the banking or insurance sector, in case of which one speaks of maximum harmonization. Not only the guidelines of European institutions have an influence on that, but also those of other international organizations which to a great extent shape the wording of nation-state level legislation. This is a peculiar revolution, if we take into consideration the approach of the member states to a unified sectoral codification still in existence in the 1980s and 1990s. The main motive for these changes is the willingness to preserve stability in particular sectors of the market which due to their decades-long integration as well as the deregulation connected with it are closely interrelated.

The remaining publications which can be qualified to this current of research are:

- *The Internationalization of Law as an Instrument of Anti-Crisis Management* [Pol. *Internacjonalizacja prawa jako instrument zarządzania antykryzysowego*], „Przegląd Zachodni" 2019 (forthcoming).

  The intensification of legislative efforts both on an national level and an international one take place especially during a crisis situation when re-regulating specific sectors of the integrated market is supposed to constitute a remedy preventing future crises and stabilizing the existing disruptions in a particular segment of the economy. The article contains a critical discussion of several theoretical takes on the internationalization of the law in international multi-level management structures in the context of cyclically repeating crisis situations.

- *The Concept of Democratic Legitimization According to the Constructivist Interpretation* [Pol. *Pojęcie legitymizacji demokratycznej w interpretacji konstruktywistycznej*], "Przegląd Sejmowy" 2018, Vol. 144, No. 1, pp. 13-30.

  In the article an analysis of the constructivist paradigm took place in the context of its legitimizing function. The main assumption of the theoretical current is the socialization of the behaviour of nation-states in the process of their complex, multi-level interactions. These lead to the elaboration of one common set of ideas, values, as well as shaping a consistent catalogue of meanings ascribed to particular states of affairs and normative acts resulting from them. Legitimization, in such an understanding, shall be in practice a phenomenon experienced within a collective and closely connected with

gaining social acceptance for particular normative solutions.

(B) European institutional law

My second leading area of interest is European institutional law with a particular inclusion of the issues connected with institutional integration in specific sectors of the internal market. I have researched this topic for more than ten years. The inspiration for taking on this subject matter was my encounter in an interdisciplinary field, primarily within law and economics, with researchers from the "Global Financial Markets" College at the Faculty of Law at the Friedrich Schiller University in Jena. The research program of the institute concentrated on issues connected with the processes of institutionalization in the context of the financial crisis of 2008–2010 both in a European and an international dimension.

The effect of my work in the College in Jena was a monograph titled *The Reform of Banking Supervision in the European Union* [Ger. *Die Reform der Bankenaufsicht in der Europäischen Union*], *Studien zum europäischen und deutschen Öffentlichen Recht*, Vol. 2, Verlag Mohr Siebeck, Tübingen 2012, ISBN 978-3-16-151791-4, pp. 250 et XVIII (this is a revised and updated version of my doctoral dissertation). In this study I examined the issue of institutional changes in the European banking sector which in 2011 included the establishment of the European System of Financial Supervision with an array of organizations, in the context of my book among these entities the European Banking Authority had particular significance.

The regulating authority for the banking sector emerged as a result of a complex institutional evolution covering several decades of cooperation between supervisory authorities in the field of banking oversight (it replaced one of the third level committees within the so-called Lamfalussy procedure). While still in the early 2000s a common European institution coordinating supervisory actions in the banking market in a manner binding for regulators at the national level and financial institutions engaged in transboundary activities was unheard of, the global financial crisis radically altered the stance of the member states and forced subsequent changes which in practice meant the progressing institutionalization on a supranational level, including the European one.

A continuation of my research started in Jena are my publications:

- *The European Banking Authority in the EU Financial Security System* [Pol. *Europejska agencja nadzoru bankowego w systemie bezpieczeństwa finansowego Unii Europejskiej*], "Stosunki Międzynarodowe – International Relations" 2016, Vol. 52, No. 1, pp. 93-108.
- *The Europeanization of the Financial Supervision* [Pol. *Europeizacja nadzoru finansowego*], "Stosunki Międzynarodowe – International Relations" 2012, Vol. 45, No. 1, pp. 49-74.

These publications present the further evolution of the European supervisory system within the banking sector which is signified by the shaping of elements of a financial security network on a EU level. This network encompasses mainly the so-called bank union, i.e. an integrated system serving the purpose of supervising banks as well as their restructuration and orderly liquidation.

Apart from the European Banking Authority two "sister" institutions have been founded for

the remaining sectors of the financial markets: the capital one and the one dedicated to insurance agencies. From the point of view of the development of EU institutional law European Securities and Markets Authority (capital markets) has particular significance. Its unique role is a result of the special prerogatives which it received not only in its founding rulings but also on account of specific regulations e.g. referring to so-called short selling[14]. Acknowledging these prerogatives by the Court of Justice of the EU to be compatible with the primary law constitutes a breakthrough in the perception of the satellite administrative system of the European Commission. I refer to the abovementioned ruling of the Tribunal in two articles, in Polish and in German. These are not the same texts.

- *Intervention Powers of the European Securities and Markets Authority* [Pol. *Uprawnienia interwencyjne Europejskiego Urzędu Giełd i Papierów Wartościowych*], "Internetowy Kwartalnik Antymonopolowy i Regulacyjny" 2014, Vol. 3, No. 5, pp. 113-122.
- *The ESMA Can Regulate Short Selling* [Ger. *Die ESMA darf Leerverkäufe regeln*], "Europarecht" 2014, Vol. 49, No. 3, pp. 321-332.

The article in German is not a typical commentary; it is rather a broader critical reflection on the topic of the Tribunal's jurisprudence in the context of the institutional expansion of European technocratic structures.

The following articles supplement my considerations on the changes in the European institutional system:

- *The Institutional Autonomy of the EU Regulatory Agencies: The Case of the European Aviation Safety Agency* [Pol. *Autonomia instytucjonalna urzędów regulacyjnych Unii Europejskiej: przykład Europejskiej Agencji Bezpieczeństwa Lotniczego*], "Internetowy Kwartalnik Antymonopolowy i Regulacyjny" 2016, Vol. 5, No. 2, pp. 56-69.
- *The Role of Experts in the Legitimizing the Activity of the European Food Safety Authority* [Pol. *Rola ekspertów w procesie legitymizacji działań Europejskiego Urzędu ds. Bezpieczeństwa Żywności*], "Zeszyty Naukowe SGGW. Problemy Rolnictwa Światowego. Problems of World Agriculture" 2017, Vol. 17, No. 1, pp. 84-94.

The articles were published in prestigious, specialist periodicals focused on regulations for specific market sectors. "Internetowy Kwartalnik Antymonopolowy i Regulacyjny" [Eng. "The Internet Antimonopoly and Regulation Quarterly"] is a periodical published by the Centre for Antimonopoly and Regulation Studies: a unit that conducts interdisciplinary research (most of all in the field of legal, management and administration studies) at the Faculty of Management at the Warsaw University. My article focusing on the autonomous status of the European Aviation Safety Agency (EASA) appeared in a special issue of the periodical dedicated to air transport security, mainly from the perspective of normative solutions at a national and EU level.

"Zeszyty Naukowe SGGW. Problemy Rolnictwa Światowego. Problems of World Agriculture", on the other hand, is a specialist periodical of the Faculty of Economic Studies at the Warsaw University of Life Science which is dedicated to the economic issues of the agricultural-food sector of the economy from an international aspect. The article concerning the role of the

[14] Regulation (EU) No. 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps, OJ 2012 L 86/1.

European Food Safety Authority is about the role of experts in the processes of harmonizing regulation in the area of the food market's safety.

(C) Europeanization of administrative law and public administration

The processes of the Europeanization of public administration in the context of EU integration processes have long covered not only the Europeanization of the law in the aspect of complex codifications, but also the Europeanization of public administration, i.e. the unification of the institutional models of member states (e.g. financial supervision), as well as the creation of institutional network connections within the so-called European administrative union (Ger. *Europäischer Verwaltungsverbund*). Such a complex, or in other words composite administration encompassing various offices of different levels does not have a hierarchical character and for many years has been a fact in particular sectors of the internal market (e.g. the creation and implementation of regulations in the field of permitting certain chemical substances into circulation – the REACH system coordinated by ECHA or allowing medicaments to be marketed – a system coordinated by EMA). Citing Irena Lipowicz one can say that for a long time "(public) administration finds its norms and point of reference (…) somewhere else (beyond the structures of the state) – in a broader European platform"[15].

The following publications were dedicated to the issue of the synchronization of administrative-legal solutions:

- *The Legal Force of European Medicines Agency's Guidelines* [Pol*. Moc prawna wytycznych Europejskiej Agencji Leków*], in: M. Świerczyński , Z. Więckowski (ed.), *Leczenie biologiczne a prawa pacjenta*, Wolters Kluwer, Warszawa 2019 (forthcoming).
- *The EU Better Regulation Agenda. Breakthrough or Stagnation in the Evolution of Rulemaking in the EU Internal Market* [Pol. *Agenda Unii Europejskiej na rzecz lepszego stanowienia prawa. Przełom czy stagnacja w rozwoju mechanizmów regulowania rynku wewnętrznego*], "Polski Przegląd Stosunków Międzynarodowych" (forthcoming).
- *EU Regulatory Agencies in the EU Decision-Making-Process. The Technocratic Dimension of the European Administrative Space* [Pol. *Agencje regulacyjne UE w europejskim procesie decyzyjnym – o technokratycznym wymiarze europejskiej przestrzeni administracyjnej*], in: T. Czapiewski, M. Smolaga (ed.), *Studia europejskie w Polsce*, IPiE US, Szczecin 2018, pp. 309-330.
- *Nordic Countries within the Europeanisation' Processes in the EU Regulatory Agencie* [Pol. *Państwa nordyckie wobec procesów europeizacji w agencjach regulacyjnych Unii Europejskiej*], "Kultura i Polityka" 2017, No. 21, pp. 103-116.
- *The Role of Financial Supervisory Authorities in the Building of the Financial European Single Market* [Ger. *Beitrag der europäischen Finanzaufsichtsagenturen zur Gestaltung des Finanzbinnenmarktes*], "Folia Iuridica Wratislaviensis" 2017, No. 1, pp. 43-60.

Studies on the influence of institutional and normative Europeanization on the processes of shaping the identity in an international environment deserve particular attention. These considerations relate to the research that has been conducted for many years by leading

[15] I. Lipowicz, *Europeizacja administracji publicznej*, "Ruch Prawniczy, Ekonomiczny i Socjologiczny" 2008, Vol. LXX, No. 1, pp. 6 ff.

Polish legal scholars focusing on international law, including professors Lech Antonowicz and Janusz Symonides[16].

- *The Processes of Shaping European Identity in the Structures of Multi-Level Management of the European Union* [Pol. *Procesy kształtowania tożsamości europejskiej w strukturach zarządzania wielopoziomowego Unii Europejskiej*], "Przegląd Zachodni" 2017, Vol. 365, No. 4, pp. 41-56.
- *The Influence of the Financial Crisis on the European Identity. The Case of European Financial Supervision Authorities* [Pol. *Wpływ kryzysu finansowego na kształtowanie się tożsamości europejskiej. Przykład procedur decyzyjnych w nadzorczych agencjach regulacyjnych Unii Europejskiej*], in: K.A. Wojtaszczyk, J. Tymanowski, P. Stawarz (ed.), *Integracja europejska. Główne obszary badawcze*, WDiNP UW, Warsaw 2015, pp. 151-162.

(D) The role of national legal cultures in the formulation of European law

An important current in my research are the studies concerning the development of European legal culture. Publications in this current refer to on the one hand the EU dimension – and the top-down influence of EU institutions (e.g. regulatory agencies) on the intensive co-shaping of the European legal culture. On the other hand, also the opposite relation was analysed: i.e. the influence of national cultures on the modelling of supranational normative orders. In this context the legal culture must be understood broadly, also within the context of the organizational culture of particular institutions. I also analyzed the influence of national legal cultures on the shaping of the so-called motivational potential of a particular state in an international environment (with Germany and Russia as examples).

My publications fitting into this current are the following:

- *Regulatory Institutions' Role in the Development of the European Administrative Culture Exemplified by the EU Authority of a New Type: The European Securities and Markets Authority* [Pol. *Rola agencji regulacyjnych w tworzeniu europejskiej kultury administracyjnej na przykładzie unijnej agencji nowego typu – Europejskiego Urzędu Nadzoru Giełd i Papierów Wartościowych*], "Ius Novum" 2016, No. 3, pp. 329-346.
- *Organizational Culture in the EU Regulatory Agencies* [Pol. *Kultura organizacyjna w agencjach regulacyjnych Unii Europejskiej*], "Polski Przegląd Stosunków Międzynarodowych" 2015, No. 5, pp. 67-87.
- *The Realisation of National Interests in the EU: The Case of the Autonomic Regulatory Agencies* [Pol. *Realizacja interesu narodowego w strukturach Unii Europejskiej na przykładzie autonomicznych agencji regulacyjnych*], "Annales Universitatis Paedagogicae Cracoviensis" 2017, Vol. 17, No. 214, pp. 127-142.
- *Culture as an Element of the Motivational Power in the Foreign Policy of the Federal Republic of Germany* [Pol. *Kultura jako podstawa potencjału motywacyjnego w polityce zagranicznej Republiki Federalnej Niemiec*], "Polski Przegląd Stosunków Międzynarodowych" 2013, No. 3, pp. 153-177.

[16] See L. Antonowicz, *Rzecz o państwach i prawie międzynarodowym*, WSEI, Lublin 2012, pp. 114 ff.; J. Symonides, S. Parzymies, *Rola prawa międzynarodowego w rozwoju nauki o stosunkach międzynarodowych*, "Przegląd Strategiczny" 2012, No. 1.

- *The Russian Culture within the Globalization Porcesses* [Pol. *Rosyjska kultura w procesach globalizacji*], in: S. Bieleń (ed.), *Rosja w procesach globalizacji*, ASPRA-JR, Warsaw 2013, pp. 295-316.

cc) Bibliometric data

Taking into account the specificity of the scientific discipline – law, one must notice that the citation index in case of legal scholars is lower than in other disciplines. It is difficult for scholars who publish in the field of legal studies and other disciplines within social studies on account of that to formulate an adequate assessment of their scientific achievements in bibliometric categories according to Paragraph 3(2) of the ruling of the Minister of Education and Higher Education of the 1 of September 2011 on the criteria for a person applying for a habilitation degree (Journal of Laws No. 196, pos. 1165). This provision indicated the need to show publications located in the *Web of Science* (WoS) database or on the *European Reference Index of Humanities* (ERIH) list. In these databases there are no Polish scientific journals in the field of legal studies. There also are not that many prestigious periodicals in the field of legal studies publishing in German or French[17].

The Hirsch index, which is taken into consideration when assessing grant applications to the National Science Centre may serve as a certain type of indicator, but it is not very adequate in the case of legal studies. In the light of the *Publish or Perish* database my Hirsch index equals 2 and the number of my citations - 38.

One must note that this number of citations shown in Google Scholar does not reflect the actual number of my articles' citation rate. Many current academic studies on EU regulatory agencies both in English and in German cite my works published in German on this particular topic (among others the status of EBA and ESMA, or the changes in the European banking supervisory system) [see the citations of leading publications on the topic of the European administrative space from 2012 to 2018 by scholars from Belgium, Holland, Great Britain, Austria and Germany, among others: M. Chamon, N. Moloney, M. Scholten, E. Fahey, M. Ruffert, T. Groß, J. Saurer, M. Busuioc, N. Raschauer, N. Sölter, B. Hagen, W. Weiß, C. Manger-Nestler, C. Ohler, K. Weißgärber, S. Griller, A. Orator et al. – most of the publications of the abovementioned academics – leading European legal scholars – are not indicated by Google Scholar – therefore, they are not included in citation indexes].

b) Management of international or national research projects or participation in such projects

In the years 2014–2018 I was the **manager of a research project financed by a grant from the National Science Centre (NCN) Sonata 5 (decision number DEC-2013/09/D/HS5/01277)**. More than a dozen articles were published in high-ranking

[17] See the information in the Letter of Deans of Law Faculties at Public Universities on the list of scientific journals (15.3.2019): https://wpia.uksw.edu.pl/sites/default/files/stosunki-miedzynarodowe-niestacjonarne/List%20dziekano%CC%81w%20w%20sprawie%20%20listy%20czasopism%20punktowanych.pdf.

scientific journals as a result of this grant (see Appendix No. 4 to this habilitation initiation procedure application).

The main publication resulting from this project is the **monograph in English: *Theorising the Legitimacy of EU Regulatory Agencies*,** which is the basis for initiating this habilitation (post-doctoral) procedure. Publishing it in one of the largest European academic publishing houses was possible thanks to the funding from National Science Centre grant.

While carrying out this project I made contacts with scholars from leading European universities and research institutions, e.g. from the Humboldt University in Berlin (Germany), University of Helsinki (Finland), the Boccioni University in Milan (Italy), Zeppelin University in Friedrichshafen (Germany), the Mannheim Centre for European Social Research (Germany), as well as the European Institute at the London School of Economics and Political Science (Great Britain) and the University of Vaasa (Finland), who deal with the broadly understood issue of European sectoral regulations (among others, migration law, digitalization of the public services sector, democratization of decision-making processes in public administration etc.) from an interdisciplinary perspective (law, administration studies, economics, management, political science). Detailed information on this topic can be found in Annex No. 5 of the application for the habilitation procedure (in Polish).

During the course of the project I had research stays in Germany and Finland (see point 4c of this Summary).

In August 2018 **I was the head of a research project financed by the Max Planck Institute for Comparative Public Law and International Law in Heidelberg**. The fellowship was granted on account of professor Armin von Bogdandy's invitation. The research project was called *The Power of Experts' Advice in the European Governanc*e and it included a library query in the Institute's Library (the largest library of this sort in Europe), participation in the weekly academic staff meetings at the institute, participation in panel discussions during doctoral seminars held twice a week in the Institute in German and in English with invited guests attending (legal scholars from prestigious universities from all over the world), and also elaborating a monograph concerning the evolution of soft law in the EU's normative order (*Prawo hybrydowe w porządku normatywnym Unii Europejskiej*, Eng. *Hybrid Law in the Normative Order of the European Union*, ASPRA-JR, Warszawa 2019, forthcoming).

In September 2018 I submitted an **application for acquiring funding for a research project titled *Wyzwania prawne innowacyjnych form zarządzania publicznego* (Eng. *The Legal Challenges of Innovative Public Governance*;** the entire application was formulated in English according to National Science Centre guidelines) as a part of the Harmonia 10 Competition for projects realized in an international cooperation. At the moment I submitted my application for the habilitation procedure the application to the National Science Centre is still being evaluated in an appeal procedure due to formal defects at the first stage of its substantive evaluation.

In the application reviews the following opinions could be found:

"A strong side of the application is the Project manager. She is a highly experienced scholar, who publishes in renowned national level and international periodicals".

"The project manager has a good or even excellent level of scientific achievements. She publishes in

renowned foreign as well as highly evaluated national level periodicals"[18].

In 2014 **I submitted a project referring to the evolution of the European administrative space to a competition announced by the Faculty of Law at the University of Turku (Post-Doc Fellowship, Finland)**. Several hundred applications were submitted from all over Europe, out of which only a little over a dozen made it to the final stage (including the project that I submitted). The application were assessed by prominent Finnish legal scholars (including the Finnish Supreme Court and the Supreme Administrative Court)[19]. Ultimately three projects received funding; they belonged to Finnish scholars who were hitherto connected, among others, through participating in doctoral studies with the University of Turku. One of the arguments for this decision was the desire to support local academics in the discipline of law.

In January of 2012 I **carried out a research project relating to the Europeanization of regulatory policies in the area of migration law (primarily the activity of the EU agencies Frontex and EASO) during a DAAD fellowship in Passau ("Perspektive Osteuropa" Research Initiative, Universität Passau).** The project was selected from several dozen submissions. Among other participants of the program there were scientists and professionals (attorneys, judges and officials from national regulatory authorities) from Hungary, Czech Republic, Russia, Macedonia, Romania, Bulgaria and Serbia.

c) Delivering papers at international and national theme conferences[20]

- University of Passau, Research Initiative "Perspektive Osteuropa", January 2012, Passau: Conference "Migration im Ost-West-Kontakt",

  Paper title: *Legal Framework of Polish-German Relations in the Context of Migration Movements in the 20th Century. The Issue of Sectoral Regulations* (The presentation was held in German);

- Łazarski University, Faculty of Law and Administration, April 2014, Warsaw: Conference "Dokąd zmierza UE, czyli kierunki i zadania UE w przyszłości. Aspekty prawne, gospodarcze i polityczne" [Eng. "Where is the EU Headed to, or the Future Trends and Tasks of the EU. Legal, Economic and Political Aspects"],

[18] The opinions can be found in the personal account in the OSF system (NCN internal application system).

[19] Among the reviews of my project there were such opinions: "The applicant has sufficient academic merits for the position and especially her merits in the field of EU-law are remarkable"; "The applicant seems to be capable of scientific co-operation as well as of working independently"; "Her previous studies witness of a person, who is not afraid of difficult questions and is able to carry out a research project to its final". The reviews were sent to participants via e-mail.

[20] In accordance with the requirements included in the Regulation of 1 September 2011 concerning the criteria for the evaluation of the academic achievement of a person applying for the postdoctoral degree (Journal of Laws No. 196, pos. 1165) papers delivered at academic conferences are considered as part of his or her academic achievement. Participation in such conferences, on the other hand, is an element of the didactic and popularizing achievement. Due to the above it will be presented in Annex No. 5 to the proposal to initiate the habilitation procedure.

Paper title: *A New Type of a Regulatory Agency on the Example of the European Securities and Markets Authority, ESMA* [Pol. *Nowy typ unijnej agencji regulacyjnej na przykładzie Europejskiego Urzędu Nadzoru Rynków i Papierów Wartościowych (ESMA)*];

- University of Warsaw, Faculty of Political Science and International Studies, September 2014, Warszawa: I Nationwide Congress of European Studies "Polska w procesie integracji europejskiej. Dekada doświadczeń" [Eng. "Poland in the Process of European Integration. A Decade of Experiences"],

  Paper title: *The Influence of the Financial Crisis on the Shaping of European Identity: The Example of Decision-Making Procedures in Supervisory Regulatory Agencies of the European Union (ESAs)* [Pol. *Wpływ kryzysu finansowego na kształtowanie się tożsamości europejskiej: Przykład procedur decyzyjnych w nadzorczych agencjach regulacyjnych Unii Europejskiej (ESAs)*];

- Friedrich Schiller University, *Global Financial Markets* College, October 2014, Jena: academic seminar "Fundamental Principles of Globalized Financial Markets – Stability and Change",

  Paper title: *Legal Aspects of the European Banking Supervisory System Reform* (The presentation was held in German);

- Jagiellonian University, Faculty of International and Political Studies, September 2015, Krakow: Nationwide conference "Odsłony polityki" [Eng. "Views on Politics"],

  Paper title: *Autonomous EU Regulatory Agencies in the Process of Shaping European Identity. The Legal Perspective* [Pol. *Autonomiczne agencje regulacyjne Unii Europejskiej w procesie kształtowania tożsamości europejskiej. Perspektywa prawna*];

- Warsaw University of Life Science, Faculty of Economic Studies, May 2016, Kociszew: Conference "Aktualne tendencje w międzynarodowych stosunkach gospodarczych" [Eng. "Current Tendencies in International Economic Relations"],

  Paper title: *The Role of EU Regulatory Agencies in Anti-Crisis Management. Legal Perspective* [Pol. *Rola agencji regulacyjnych UE w zarządzaniu antykryzysowym. Uwarunkowania prawne*];

- University of Szczecin, Faculty of Humanities, September 2017, Szczecin: II Nationwide European Studies Congress "The Nation-state in the European Union ",

  Paper title: *EU Regulatory Agencies in the European Decision-Making Process* [Pol. *Agencje regulacyjne Unii Europejskiej w europejskim procesie decyzyjnym (Ramy normatywne)*];

- Cardinal Stefan Wyszyński University, Faculty of Law and Administration, September 2017, Warsaw: Conference "Future of Europe – Polish and German point-of-view" [Legal aspects. Conference with the participation of guests from, among others, the Faculty of Law at the University of Osnabrück],

  Paper title: *Searching for New Solutions in Multi-Level Management in the Context of the European Union's Crisis. The Europeanization of Administrative Law* [Pol. : *Poszukiwanie nowych rozwiązań w zarządzaniu wielopoziomowym wobec kryzysu Unii Europejskiej.*

Europeizacja prawa administracyjnego];

- Max Planck Institute for Comparative Public Law and International Law, August 2018, Heidelberg: seminar for doctoral students (open for the public) on Niklas Luhmann's theories of legitimacy,

  Paper title*: Democratic Legitimacy of European Bureaucracy* (The presentation was held in German);

- Cardinal Stefan Wyszyński University, Faculty of Law and Administration, December 2018, Warsaw: III Nationwide Conference "Leki biologiczne. Aspekty prawne" [Eng. "Biological Medicines. Legal aspects"],

  Paper title: *Regulatory Autonomy of the European Medicine Agency in Terms of Formulating Guidelines for Biological Medicinal Products* [Pol. *Autonomia regulacyjna Europejskiej Agencji Leków w zakresie tworzenia wytycznych dotyczących leków biologicznych*].

d) International or national awards for activities, respectively, scientific or artistic

As a special recognition one must consider accepting for publication my corrected and updated doctoral dissertation *Die Reform der Bankenaufsicht in der Europäischen Union* [Eng. *The Reform of Banking Supervision in the European Union*] in the prestigious series issued by the Mohr Siebeck publishing house from Tübingen: *Studien zum Europäischen und Deutschen Öffentlichen Recht* (Eng. *Studies on German and European Public Law*) in 2012. My monograph was one of two (apart from the work by Dr. Enrico Peuker) which open the series that currently consists of several dozen titles. These are predominantly doctoral dissertations which received the highest grades at the Faculties of Law of European universities from the German speaking countries (mainly Germany and Austria but also Switzerland and Luxemburg). The possibility to qualify a text for publication is decided by prominent German lawyers who deal with European and German administrative law.

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