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# The Implementation of European Union Law Into the Legal System of the Republic of Poland. Theoretical and Legal Aspects

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## **SUMMARY**

This paper aims to review the process of implementing EU law into the legal system of the Republic of Poland concerning its membership in the EU. Over the years, the implementation process has improved significantly. EU law is, therefore, more effective in the legal system of the Republic of Poland. Moreover, later judgements of the Constitutional Court have asserted the primacy of the Constitution of the Republic of Poland, also about EU law.

## **KEY WORDS**

Implementation; European Union Law; Constitution of the Republic of Poland; Legislative Process, Legislative Power; Executive Power

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At the beginning of the paper analysing the implementation of European Union law into the legal system of the Republic of Poland, we ought to recognise that this process is founded on the Constitution of the Republic of Poland.<sup>3</sup> The mechanisms provided by the Basic Law ensure the effectiveness of EU law in the national legal order. The authors of the Constitution of 1997 were aware that a contemporary constitution must anticipate and accommodate the various challenges of European integration. Moreover, it is important to underline that clear constitutional grounds are necessary for implementation of the European Union legal regulations. This is primarily since the Polish Constitution establishes a closed system of sources of universally binding law.<sup>4</sup> In fact, the European Union operates on the basis of treaties, that is, international agreements.

Considerations on the constitutional basis for implementing EU law into the Polish legal system ought to involve the content of Article 9 of the Constitution of the Republic of Poland. It demonstrates, namely, that the Republic of Poland respects the international law by which it is bound.<sup>5</sup> This regulation is of fundamental importance for the entire system of international law, including EU treaty law, to be valid and observed in the territory of the Republic of Poland. The listed law sources of have features

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<sup>3</sup> Journal of Laws of 1997, No. 78, item 483, as amended.

<sup>4</sup> P. Sarnecki. *System źródeł prawa w Konstytucji Rzeczypospolitej Polskiej*. Warszawa, Wydawnictwo Sejmowe, 2002, p. 14; L. Garlicki. *Polskie prawo konstytucyjne*. Warszawa, Wydawnictwo Sejmowe, 2009, p. 118 *et seq.*; S. Wronkowska, Zamknięty system źródeł prawa a implementacja prawa Unii Europejskiej. *J. Wawrzyniak, M. Laskowska (Eds.). Instytucje prawa konstytucyjnego w dobie integracji europejskiej*. Warszawa, Wydawnictwo Sejmowe, 2009, pp. 594 – 596.

<sup>5</sup> A. Wasilkowski. Przestrzeganie prawa międzynarodowego (art. 9 Konstytucji RP). *K. Wójtowicz (Ed.). Otwarcie Konstytucji RP na prawo międzynarodowe i procesy integracyjne*. Warszawa, Wydawnictwo Sejmowe, 2006, pp. 9 – 17; A. Trubalski. Wybrane aspekty implementacji dyrektyw Unii Europejskiej do systemu prawnego Rzeczypospolitej Polskiej. *Przegląd Prawa Konstytucyjnego* 1, 43 (2013), pp. 173 – 197, p. 46 *et seq.*

that classify them as international law.<sup>6</sup> There are two types of international law in the case of European Union law as well, i.e., primary, and secondary law. The first includes multilateral treaties, while the latter encompasses all the regulations, directives, decisions, and other legal acts of the European Union passed by its competent bodies.

These two foundations mentioned above are the starting point for considerations on the constitutional basis for implementing European Union law into the legal system of the Republic of Poland. It reasonably involves ensuring the validity and effectiveness of EU law in the Polish legal system. With the regulations discussed, the implementation of an institution becomes even more obligatory and subject to a constitutional sanction. On the other hand, the provision of Article 8 (2) of the Constitution of the Republic of Poland stipulates that the Constitution is the supreme law of the Republic of Poland.<sup>7</sup> Therefore, it seems correct to say that it may treat a breach of the obligation to implement European Union law as a constitutional violation. A constitutional tort is a violation of one's constitutional rights by a government employee. The alleged constitutional violation creates a cause of action that is distinct from any otherwise available state tort remedy. Considering the provisions of Article 198 (1) and (2) of the Constitution of the Republic of Poland, however, it will be difficult to indicate the liable body (or bodies) under the Constitution.

It should analyse another provision to continue the considerations on the constitutional basis for EU law implementation, the Article 89 (1)(3) of the Constitution of the Republic of Poland. It stipulates the ratification of the act of expressing consent for the membership of the Republic of Poland in an international organisation. In other words, it requires in advance to adopt a law ratifying the consent that the Republic of Poland becomes a member of the international organisation. The Republic of Poland

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<sup>6</sup> A. Wyrozumska. *Prawo międzynarodowe oraz prawo Unii Europejskiej a konstytucyjny system źródeł prawa*. K. Wójtowicz (Ed.). *Otwarcie Konstytucji RP na prawo międzynarodowe i procesy integracyjne*. Warszawa, Wydawnictwo Sejmowe, 2006, pp. 32 – 36.

<sup>7</sup> *Cfr.* Justification for the Judgment of the Constitutional Tribunal of October 7, 2021, file ref. K 3/21 and the case law cited therein.

joined the European Union precisely in this fashion.<sup>8</sup> By accessing this international organisation, Poland conferred certain competencies of its state authorities to the EU. The Constitution of the Republic of Poland provides such a possibility in Article 90 (1).<sup>9</sup> The scope and nature of the transferable competencies wrote down in the provision require deeper analysis. However, it should emphasise that this cannot include the entirety of the competencies of a given authority (authorities). The Constitutional Court's interpretation of the said provision shows that only a strictly defined scope of powers is subject to conferral. Therefore, it may not transfer any competencies in a comprehensive sense or competencies constituting the essence of the operation of a given authority.<sup>10</sup>

The scope of the transfer may not violate the core competencies of the conferring authority. It must retain that it cannot transfer the essence of its competencies. The indicated case law of the Constitutional Court and the constitutional courts of the European Union Member States have defined and interpreted both the term „competencies of state authorities in certain matters“ as well as the core competencies of these authorities, which are not subject to transfer.<sup>11</sup> Fundamental to European integra-

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<sup>8</sup> M. Kruk. Tryb przystąpienia Polski do Unii Europejskiej i konsekwencje członkostwa dla funkcjonowania organów państwa. *K. Wójtowicz (Ed.). Otwarcie Konstytucji RP na prawo międzynarodowe i procesy integracyjne*, Warszawa, Wydawnictwo Sejmowe, 2006, pp. 140 – 150; J. Jaskiernia. Wielka, duża i mała ratyfikacja – typy procedur wyrażania zgody na ratyfikację umowy międzynarodowej przez Prezydenta w świetle Konstytucji RP. *J. Wawrzyniak, M. Laskowska (Eds.). Instytucje prawa konstytucyjnego w dobie integracji europejskiej*, Warszawa, Wydawnictwo Sejmowe, 2009, pp. 463 – 466.

<sup>9</sup> R. Balicki. *Funkcja europejska Sejmu RP*. Wrocław, E-Wydawnictwo. Prawnicza i Ekonomiczna Biblioteka Cyfrowa. Wydział Prawa, Administracji i Ekonomii Uniwersytetu Wrocławskiego, 2019, pp. 102 – 103; K. Wojtyczek. *Przekazanie kompetencji państwa organizacjom międzynarodowym*. Kraków, Wydawnictwo Uniwersytetu Jagiellońskiego, 2007, pp. 189 – 195.

<sup>10</sup> P. Radziejewicz. Przedmiot ustawy ratyfikacyjnej wyrażającej zgodę na przekazanie organizacji międzynarodowej kompetencji organów władzy państwowej. *J. Wawrzyniak, M. Laskowska (Eds.). Instytucje prawa konstytucyjnego w dobie integracji europejskiej*, Warszawa, Wydawnictwo Sejmowe, 2009, pp. 485 – 489.

<sup>11</sup> Jaskiernia (2009), p. 103 *et seq.*

tion,<sup>12</sup> the principle of integration-friendly interpretation of the Constitution of the Republic of Poland, has become crucial to the interpretation and understanding of the transfer of power, and especially its scope.

The provisions of Article 90 (2) of the Constitution of the Republic of Poland orders the applications of the procedure in such situations, which proved essential properly to transfer the competencies within the meaning of Article 90 (1) of the Constitution. Because transferring part of the powers of state authorities to an international organization or body involves reducing of those powers of the national institution and transferring it to an international organisation, the authors of the Constitution imposed stricter conditions for adopting a law consenting to the ratification of an international agreement than in the case of an ordinary act.<sup>13</sup> A parliamentary decision of this sequence requires a much broader consensus than usual. Becoming a member of an international organization and granting it the powers of the state authority in some fields is a decision with an impact that lasts for a time that significantly exceeds the mandate of the legislative authority. It leads to gaining the membership rights in an international organization and, more important, accepting the related obligations. The considerable time horizon in such cases requires the broadest possible coalition to approve such measures. Therefore, under the provision of Article 90 (2) of the Constitution of the Republic of Poland, the adoption of an act consenting to the ratification of an international agreement transferring the powers of state authorities in some fields to an international organization or an international body requires a qualified majority of at least 2/3 votes in the presence of at least half of the statutory number of deputies. The same requisite for a qualified majority postulated for the Senate voting on that act.<sup>14</sup> Besides, consent to the ratification of an international agreement

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<sup>12</sup> K. Działocha. Podstawy prounijnej wykładni Konstytucji RP. *Państwo i Prawo* 11 (2004), p. 28 *et seq.*

<sup>13</sup> K. Wójtowicz. Konstytucja Rzeczypospolitej Polskiej z członkostwo w UE. *E. Popławska (Ed.). Konstytucja dla rozszerzającej się Europy*. Warszawa, Wydawnictwo Sejmowe, 2000, pp. 167 – 169.

<sup>14</sup> Wojtyczek (2007), pp. 225 – 235; M. Masternak-Kubiak. Konstytucyjnoprawne podstawy procedury przystąpienia Polski do Unii Europejskiej. *Przegląd Sejmowy* 5 (2003), p. 43 *et seq.*

referred to in Article 90 (1) of the Constitution of the Republic of Poland may be sought in a nationwide referendum.<sup>15</sup>

Continuing the considerations on the constitutional basis for the implementation of EU law into the legal system of the Republic of Poland, we ought to pay special attention to the provisions of Article 91 of its Constitution.<sup>16</sup> It is the regulation held therein that provides the direct basis for the application of EU law in the legal system of the Republic of Poland. It concerns both primary and secondary laws of the European Union. According to the provisions of Article 90 (1) of the Constitution of the Republic of Poland, an international treaty ratified in Poland then forms part of the national legal order and is directly applicable, unless its application depends on the enactment of a statute. Based on Article 90 (2), an international treaty shall take precedence over a statute if ratified with prior consent expressed in an act and if the act cannot reconcile with the treaty. Under the provision of Article 91 (3) of the Constitution of the Republic of Poland, however, the law enacted by an international organisation is to be applied directly and takes precedence over national acts in the event of a conflict between them.

It should note in the analysis of the statutory basis for the implementation of European Union law into the legal system of the Republic of Poland that they result from the provisions of the Constitution discussed above. The adoption of relevant statutory provisions is necessary to create an appropriate procedure for EU law implementation into the legal system of the Republic of Poland. The legal act currently regulating the principles of implementing European Union law into the legal system of the Republic of Poland is the Act of 8 October 2010 on cooperation between the Council of Ministers, the Sejm and the Senate in matters related to the Republic of Poland's membership in the European Union (hereafter: the Cooperation Act).<sup>17</sup> The area of regulation

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<sup>15</sup> P. Uziębło. Konstrukcja instytucji demokracji bezpośredniej w Konstytucji RP na tle współczesnych rozwiązań ustrojowych, *Gdańskie Studia Prawnicze* 12 (2004), pp. 303 – 309.

<sup>16</sup> A. Jamróz. Konstytucyjne gwarancje implementacji prawa międzynarodowego i wspólnotowego w Polsce. *M. Granat (Ed.). Stosowanie prawa międzynarodowego i wspólnotowego w wewnętrznym porządku prawnym Francji i Polski*, Warszawa, Wydawnictwo Sejmowe, 2007, p. 25 *et seq.*

<sup>17</sup> Journal of Laws of 2010, No. 213, item 1395.

which is the subject of this Act has been defined relatively broadly. It concerns the obligation of cooperation of the Council of Ministers with the Sejm and the Senate in matters related to Polish membership in the European Union. In addition, it sets up the obligation of the Council of Ministers to inform the Sejm and the Senate about issues related to the functioning of the Republic of Poland within the European Union. Another area of cooperation concerns cooperation in the field of creating European Union law.<sup>18</sup>

These concerns particularly the obligation of the Council of Ministers to provide both chambers of the parliament with the documents to consult in the EU Member States, the work plans of the Council, and the assessments of the annual legislative planning of the Commission (drawn up by the European Parliament and Council). The Council of Ministers also presents the justification of the position submitted by the Member State.

The Council of Ministers also gives draft position statements of the Republic of Poland about draft EU legislation and other EU acts. Attached to them is a justification, including an assessment of the expected legal consequences of the EU legislative act for the Polish legal system and consequences for the Republic of Poland of social, economic, and financial nature. In addition, the Council of Ministers communicates the type of law-making procedures that will apply upon adopting an EU legislative act. Another element is information on the compliance of the EU draft legislation with the principle of subsidiarity. Consequently, the competent authority under the Procedural Rules of the Sejm and the competent authority under the Senate Rules of Procedure is entitled to express an opinion on the draft. Failure to express such an opinion is tantamount to failure to give comments on the draft. The Council of Ministers has to give the draft legal acts of the European Union to the Sejm and the Senate. At the request of the body competent under the Rules of Procedure of the Sejm or the body competent under the Senate Procedure, the Council of Ministers present the draft position

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<sup>18</sup> C. Mik, i B. Pawłowski. *Współpraca Rady Ministrów z Sejmem i Senatem w sprawach związanych z członkostwem Rzeczypospolitej Polskiej w Unii Europejskiej. Ustawa z dnia 11 marca 2004 r. z komentarzem*. Warszawa, Wydawnictwo Sejmowe, 2009, pp. 37 – 45.

of Poland to the above acts. The relevant authorities, specified in the regulations of the chambers, may express their opinion on these acts. If the position of the Republic of Poland does not include the opinion of these bodies, the representative of the Council of Ministers is obliged to explain the reasons for the discrepancy. The Council of Ministers has to supply instantly the Sejm and the Senate with a written report on the procedures for enacting EU law and on the position of Poland during them. The competent bodies of the Sejm and the Senate have a right to express opinions on the taken positions. The above analysis shows that this cooperation is necessary for the Republic of Poland to properly fulfil its obligations and rights resulting from its EU membership. The presented regulatory frame clearly shows the mutual relations, position, and role of the Council of Ministers, Sejm, Senate, and their respective bodies regarding Polish membership in the EU.

The provision of Article 18 of the Act in question has a detailed description of the procedure for the Council of Ministers to give acts implementing the law of the European Union for consideration in the Sejm. It shows the entities responsible for preparing and starting the legislative process concerning implementing EU law into the legal system of the Republic of Poland and the time frames for completing the procedure.<sup>19</sup> It often referred to these laws as implementing ones. According to the provision of Article 18 of the Cooperation Act, the Council of Ministers provides the Sejm with draft acts implementing the law of the European Union. At the same time, EU law requires the Council of Ministers to do so no later than three months before the expiry of the performance deadline. Therefore, the indicated provision not only sanctions the entity whose task is to start the legislative process by giving a draft act but also specifies the deadline for launching it. Indicating the Council of Ministers as the entity competent to exercise legislative initiative concerning the implementation of EU law does not exclude other authorised entities from starting the legislative process. Draft bills implementing EU law may be given to the Sejm by entities specified in Article 118 (1) and (2) of the Constitution of the Republic of Poland. The creators of the Cooperation Act wrote down the Council of

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<sup>19</sup> Mik, Pawłowski (2009), pp. 90 – 104.



Ministers as the entity most competent to give acts implementing the EU law to the Sejm.

The Council of Ministers is, in compliance with the provision of Article 10 (2) of the Constitution of the Republic of Poland, one of the subjects of the executive. On the other hand, following the provision of Article 146 (1) of the Constitution of the Republic of Poland, the Council of Ministers conducts the domestic and foreign policy of the state. It handles state policy matters not reserved for the other state bodies and the local government.<sup>20</sup> Such a definition of the position of the Council of Ministers within the political system, its competencies and tasks demonstrate and corroborate the solutions contained in the Cooperation Act. The Council of Ministers is responsible for EU law conduct, coordination, and implementation.

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It is to underline that the process of implementing EU law into the legal system of the Republic of Poland relates to the national legislative process,<sup>21</sup> A significant shift in the burden of the legislative initiative to the Council of Ministers is visible. As a natural consequence, it gives a limited role of other entities endowed with the legislative initiative. At the same time, the Council of Ministers has the proper infrastructure and facilities to prepare the acts implementing EU law. The increasing role of the Council of Ministers as a subject of executive power generally seems to be in line with the trend seen throughout the functioning of the Republic of Poland in the EU, where the executive's role of the Member States became significant.<sup>22</sup> This stems from

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<sup>20</sup> *Cfr.* Article 146 (2) of the Constitution of the Republic of Poland.

<sup>21</sup> Trubalski (2013), p. 57 et seq.

<sup>22</sup> R. Mojak, A. Trubalski. Rola i zadania Rady Ministrów w procesie transpozycji prawa Unii Europejskiej do systemu prawnego Rzeczypospolitej Polskiej. *M. Grzybowski, G. Kuca, P. Mikuli (Eds.). Ustroje. Historia i współczesność. Polska – Europa – Ameryka Łacińska*, Kraków, Wydawnictwo Uniwersytetu Jagiellońskiego, 2013, pp. 594 – 600; M. Grzybowski. Rada Ministrów i administracja rządowa RP a członkostwo w Unii Europejskiej. *E. Gdulewicz, H.*

the need to streamline the domestic decision-making process concerning the European Union. In turn, this translates into streamlining the decision-making process within the European Union itself and simplifying the procedures for creating law at the EU level.

The above considerations show that implementing EU law has strengthened the position of the executive power. The entire burden of competencies and tasks shifts significantly towards the executive. However, there have been no changes in the Constitution of the Republic of Poland which would formally increase the powers of the executive authorities, the Council of Ministers in particular. Furthermore, the powers and the bodies of the legislation, even formally keeping their previous competence, have no longer the character of the cases out of the implementing laws. The relations between the executive and the legislative authorities have changed as seen through the lens of Polish EU membership and its functioning within the European community.<sup>23</sup> Certain elements constituting the legislative function have become the attributes of the Council of Ministers as its representatives work within EU institutions. Moreover, the Sejm and its bodies have lesser control over the executive representatives who co-create law at the EU level.

At this point, it is crucial to ask whether the influence of the Sejm and the Senate, now limited to merely consultative bodies, is sufficient to take part in the European legislative process. To examine this issue, however, it is necessary to define the mutual relations and nature of the legislative functions of the Sejm and the Senate as well as the control function of the Sejm. Following the provisions of Article 95 (1) of the Constitution of the Republic of Poland, the Sejm and the Senate execute legislative power in the Republic of Poland. Yet the provision of Article 95 (2) of the Constitution of the Republic of Poland stipulates that the Sejm oversees the activities of the Council of Ministers within

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*Zięba, Załucka (Eds.). Dziesięć lat Konstytucji Rzeczypospolitej Polskiej.* Rzeszów, Wydawnictwo Uniwersytetu Rzeszowskiego, 2007, pp. 80 – 85.

<sup>23</sup> M. Grzybowski. Władza wykonawcza w Rzeczypospolitej Polskiej w warunkach członkostwa w Unii Europejskiej (wybrane zagadnienia). *M. Kruk, J. Wawrzyniak (Eds.). Polska w Unii Europejskiej.* Kraków, Wydawnictwo Uniwersytetu Jagiellońskiego, 2005, pp. 34 – 44.

the scope specified in the Constitution and statutes.<sup>24</sup> The upper house of the parliament has been deprived of control over the Council of Ministers.

Given the non-binding nature of the parliamentary bodies' opinions and the lack of legal sanctions, aside from the possible discrepancies, it is disputable whether the executive exerts any actual influence on the legislative process at the EU level. Thus, generally, it calls questions about the legislative function exercised by the Parliament, which practically means relinquishing some of its authority because of exercising legislative power. Consequently, the burden of fulfilling legislative duties shifts towards the executive, and the Council of Ministers in particular.<sup>25</sup>

Another issue to address is the character of the opinions issued by the competent authority under the Rules of Procedure of both the Sejm and the Senate. The Council of Ministers is, namely, not bound by them. The question arises, therefore, whether the non-binding nature of the opinion allows the legislative authorities to gain a real influence on the process of creating EU legislation and, thus, perform their legislative function. On that account, there is an argument that the Council of Ministers has got *quasi*-legislative powers at the EU level.

Considering the Polish participation in the EU and non-standard relations between the legislative and executive powers, it is necessary to leave the conventional belief in their interpretation and definition. In its function, the EU and its bodies have given rise to a situation where the classic description of the legislative and executive authorities, their functioning and their mutual relations does not give a whole picture.

However, it is to correct the traditional division and balance of the legislative and executive powers without violating their essence. As mentioned above, this involves two core elements. On the one hand, it should weaken the legislature role reducing its participation in the law-making process. On the other, it should enhance the executive position increasing its role. It is reasona-

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<sup>24</sup> R. Mojak. *Parlament a rząd w ustroju trzeciej Rzeczypospolitej Polskiej*. Lublin, Wydawnictwo UMCS, 2007, p. 291 *et seq.*

<sup>25</sup> S. Patyra. *Mechanizmy racjonalizacji procesu ustawodawczego w Polsce w zakresie rządowych projektów ustaw*. Toruń, Wydawnictwo Adam Marszałek, 2012, pp. 154 – 159.

ble only to accept the transfer of the selected competencies of the legislative power to the executive based on Article 90 (1) of the Polish Constitution through the agency of the EU and its bodies. Therefore, the discussed provisions of the Constitution give the legal grounds for adjusting the classic interpretation of the relations specified in Article 10 (1) of the Constitution of the Republic of Poland.

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A detailed implementation of EU law process analysis into the Polish legal system requires finding the principles for considering it as correct. The process consists of several elements.<sup>26</sup>

First, its implementation needs a legal instrument with a universally binding force. By the provisions of Article 87 (1) of the Constitution of the Republic of Poland, it may take the form of an act or a regulation. The legislative acts are practically the best instrument for EU law implementation within the legal system of the Republic of Poland.<sup>27</sup> The issue of the relevant regulation for implementing EU law is a question not resolved unequivocally.

Another implementation principle is that the implementation procedure must occur promptly. The Republic of Poland should follow specific deadlines to ensure the effectiveness of EU law in the legal system of the Republic of Poland.

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<sup>26</sup> A. Trubalski. *Prawne aspekty implementacji prawa UE do systemu prawnego RP*. Warszawa, Beck, 2016, p. 67 *et seq.*; J. Galster. Teoretycznoprawne aspekty obowiązywania, stosowania i przestrzegania prawa wspólnotowego w porządku krajowym. C. Mik (Ed.). *Implementacja prawa integracji europejskiej w krajowych porządkach prawnych*. Toruń, TNOiK, 1998, pp. 9 – 17; C. Mik. Metodologia implementacji europejskiego prawa wspólnotowego w krajowych porządkach prawnych. C. Mik (Ed.). *Implementacja prawa integracji europejskiej w krajowych porządkach prawnych*. Toruń, TNOiK, 1998, p. 21 *et seq.*

<sup>27</sup> J. Karczewski. Konstytucyjny system źródeł prawa powszechnie obowiązującego a efektywne wdrażanie prawa europejskiego – zarys podstawowych problemów. M. Zubik, R. Puchty (Eds.). *Źródła i prawa z perspektywy piętnastu lat obowiązywania Konstytucji*. Warszawa, Wydawnictwo Uniwersytetu Warszawskiego, 2013, p. 53 *et seq.*

Only a complete process aimed at implementing EU law in the legal system of the Republic of Poland may be an implementation process *de facto*. This term does not infer a process without at least one of its necessary elements. It is also indispensable to define the expected results, which should serve as a reference for assessing the effectiveness of EU law in the legal system of the Republic of Poland. Aside from ensuring its effectiveness, the correct implementation of EU law calls for ensuring its actual application.

Considering the effects of a properly conducted implementation process, it is crucial again to underline the role of applicable implementation rules. The final effect of a properly conducted implementation process is the effectiveness of EU law within the legal system of the Republic of Poland. In the practice of law execution, it may happen that the provisions of national law and the provisions of EU law clash. In case of such a contradiction, ensuring the effectiveness of EU law will involve not only its application but also the priority of its application over national law. The analysis of the case discussed shows that two contradictory legal norms apply to one factual situation. Therefore, the authority enforcing the legal norm applicable to a given situation should apply the norm of EU law and, thus, dismiss the norm of national law. Only such a decision may ensure the effectiveness of EU law in the legal system of the Republic of Poland.

When trying to define the process of implementing EU law into the legal system of the Republic of Poland, it comes out the existence of a sequence of measures undertaken by the executive, legislature and the law enforcing institutions serving the duties of EU membership. The implementation process forms three main stages.<sup>28</sup> Firstly, the body holding the right of legislative initiative drafts a legal act EU law implementing into the legal system of the Republic of Poland, then prepares a legislative proposal and transmits the draft to the Sejm. Among the entities with legislative initiative, the competent entity in this respect is the Council of Ministers by the content of the Cooperation Act. The other entities listed in the provision of Article 118 (1) of the Constitution of the Republic of Poland may naturally also prepare a draft implementing act and send it to the Sejm. However,

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<sup>28</sup> Trubalski (2013), p. 176 *et seq.*

the Council of Ministers practically implements this. The second stage of the implementation process involves activities related to the legislative process, leading to the promulgation of a legal act implementing EU law into the legal system of the Republic of Poland. Although the Constitution of the Republic of Poland does not set up a separate legislative procedure for implementing acts, the legislative process about EU law implementation in the currently binding system of the Republic of Poland involves the participation of both Parliament chambers' corpses. It is also possible for the legislator to use the provision on the procedure for the urgent laws' adoption, stipulated in Article 123 of the Constitution of the Republic of Poland. The third and final stage of the implementation process requires the authorities applying the law to make notification of EU law and ensure its proper enforcement within the system of the Republic of Poland.

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