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## The problem of statelessness in Poland and the Czech Republic in the context of the principle of popular sovereignty

### 1. Constitutional principle of sovereignty of the nation/people

The constitutional formation of the principle of the sovereignty of the nation/people in the Republic of Poland and the Czech Republic contains some similarities, but also differences. According to Article 4 of the 1997 Constitution of the Republic of Poland<sup>1</sup>, supreme authority belongs to the Nation, which exercises it through its representatives or directly. According to Article 2 of the Constitution of the Czech Republic<sup>2</sup>, the source of all state authority is the people. This authority is exercised through the legislative, executive and judicial branches of government, and a constitutional law may specify when the people exercise state authority directly. State authority serves all citizens and can only be exercised on the basis, within the limits and forms prescribed by law. In both constitutions, supreme authority is exercised by the collective subject of sovereignty and the principle of indirect democracy takes precedence over the principle of direct democracy. With the Czech regulation combining the principle of the supremacy of the people with the principles of the tri-partite government and legalism/rule of law<sup>3</sup>.

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<sup>1</sup> Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws No. 78, item 483 as amended), hereinafter "Polish Constitution".

<sup>2</sup> Constitution of the Czech Republic of 16 December 1992, translated by M. Kruk-Jarosz, <https://biblioteka.sejm.gov.pl> (dostęp: 31.12.2023), hereinafter "Czech Constitution".

<sup>3</sup> Art. 2 Section 1 and 2 of the Czech Constitution.

The term "the people" is something of a tradition in Czech constitutionalism. As K. Skotnicki points out, it has been used since the 1920 constitution<sup>4</sup>. In addition, it seems that in the case of the Czech tradition, the concept of "people" is not equated with the concept of "nation," which was also used in the preamble to the 1920 constitution with regard to emphasizing the existence of a unified Czechoslovak nation<sup>5</sup>. The term "the people" is used to the broadest layers of society, its general public. K. Klíma is in favour of defining the concept of "the people", as a set of voters, that is, citizens, who are entitled to exercise voting rights because they have reached a certain age and in relation to whom there are no negative conditions that prevent the exercise of voting rights<sup>6</sup>. In Poland, the term "nation" is used, which also stems from the history of the country, since the nation was defined by the nobility of the 16th century in contrast to the commoners, or lower social strata: the bourgeoisie and peasantry<sup>7</sup>. The term "nation" has become a permanent part of the constitutional principle of sovereignty in Poland.

According to the Polish Constitution, supreme authority belongs to the people. Thus, it is the one that concentrates all power within itself, only under the terms of the constitution does it entrust its exercise to its representatives or choose to exercise it directly. From the formulation in Article 2 of the Czech Constitution, it follows that the people are the source of authority, which can be understood to mean that they themselves are not directly authorized to rule<sup>8</sup>. As K. Skotnitsky points out, this means that the people have the duty "to constitute the state, which is manifested in the creation of a system of values, institutions and procedures by which it is to be governed"<sup>9</sup>.

A value worth emphasizing in the context under discussion is the principle expressed in Article 6 of the Czech Constitution that decisions are based on the will of the majority, but its determinations take into account the protection of minorities. This indication, can be interpreted as a supplement to the principle of the supremacy of the people by referring to the ways and values of exercising power by the sovereign or its representatives, which are characteristic of democratic states. Such a principle is not known to the Polish Constitution and, as M. Kruk, "in the light of practice in some political periods its absence is felt"<sup>10</sup>.

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<sup>4</sup> K. Skotnicki, *Podmiot władzy państwowej w Republice Czeskiej oraz formy jej wykonywania*, [in:] *Zagadnienia prawa konstytucyjnego. Zasada suwerenności. Problemy wybrane. Księga dedykowana Profesorowi Michałowi Domagale*, eds. A. Domańska, K. Skotnicki, Łódź 2017, p. 126.

<sup>5</sup> *Ibidem*, p. 127.

<sup>6</sup> K. Klíma, *O právu ústavním*, Praga 2012, p. 32.

<sup>7</sup> K. Skotnicki, *op. cit.*, p. 128.

<sup>8</sup> M. Bankowicz, *Systemy władzy państwowej Czechosłowacji i Czech. Studium Instytucjonalno-polityczne*, Kraków 1998, p. 130.

<sup>9</sup> K. Skotnicki, *op. cit.*, p. 130.

<sup>10</sup> M. Kruk, *100 lat państwowości czechosłowackiej i polskiej. Podobieństwa i różnice*, „Krytyka Prawa” 1/2019, vol. 11, p. 209.

## 2. The problem of statelessness - general issues

*Statelessness as an important problem of international law has been faced by Europe since the end of the First World War. Initially, the measures taken and remedies adopted focused on the issue of avoiding statelessness. After World War II, the optics changed and the focus began to shift to the creation of legal regulations guaranteeing the protection of stateless persons and the comprehensive regulation of mechanisms to prevent statelessness<sup>11</sup>.*

Many international law regulations focus on the formulation of the right to nationality<sup>12</sup>. For example, one can cite Article 1 of the 1930 Hague Convention<sup>13</sup>, Article 15 of the 1948 Universal Declaration of Human Rights<sup>14</sup>. In addition, the Council of Europe adopted, among other things, the 1997 European Convention on Nationality<sup>15</sup>, according to which states, when enacting citizenship legislation, should take into account that everyone has the right to a nationality and that statelessness should be avoided. In addition, as a general rule, no one may lose his or her citizenship if, as a result, he or she would become stateless if he or she leaves his or her country of citizenship, lives abroad, fails to register, or for any other similar reason.

The UN General Assembly has entrusted the United Nations High Commissioner for Refugees (UNHCR) with tasks aimed at identifying, preventing and reducing the incidence of statelessness and protecting stateless persons. This includes dealing with statelessness around the world and assisting in resolving cases that may arise from the application of international law. The UNHCR Representation in Poland, as in the Czech Republic, has been operating since 1992. As part of the tasks entrusted to it, the High Commissioner undertakes activities to eliminate the phenomenon of statelessness. Examples include the #IBelong campaign or the campaign to eliminate statelessness by 2024. He is engaged in collecting and analysing quantitative and qualitative data on the phenomenon of statelessness in Poland as well, profiling stateless persons, determining their needs, the scope of protection and presenting a comprehensive picture of their situation. Takes steps to have countries such as Poland and the Czech Republic join international conventions on statelessness<sup>16</sup>.

<sup>11</sup> D. Pudzianowska, *Bezpaństwowość w prawie publicznym*, Warszawa 2019, p. 61 et seq.

<sup>12</sup> M. Zdanowicz, *Wielokrotne obywatelstwo w prawie międzynarodowym i krajowym*, Warszawa 2001, p.152.

<sup>13</sup> Convention on Certain Questions Relating to the Conflict of Nationality Laws and Protocol concerning the Case of Statelessness, signed at The Hague on 12 April 1930, (Journal of Laws of the Republic of Poland. No. 27, item 217).

<sup>14</sup> Universal Declaration of Human Rights, adopted and proclaimed by UNGA resolution 217 A (III) on 10 December 1948.

<sup>15</sup> European Convention on Nationality of 6 November 1997, [www.sejm.gov.pl](http://www.sejm.gov.pl), accessed on: 31.10.2023.

<sup>16</sup> A. Gajda, *Problems related to statelessness as a consequence of the war in Ukraine*, "Eastern European Journal of Transnational Relations" 2023, vol. 7, No. 2, p. 29–30.

UNHCR participated in the development of two global instruments on statelessness - the Convention relating to the Status of Stateless Persons adopted on 28 August 1954 and the 1961 Convention on the Reduction of Statelessness. According to Article 1 of the 1954 Convention, a stateless person is a person who is not recognised as a national of any state within the scope of its laws. This definition is recognised under customary international law. Stateless persons should be afforded treatment no worse than that enjoyed by foreigners. However, the solutions adopted in this convention are assessed as ineffective, due to the failure to provide stateless persons with diplomatic protection from their home state<sup>17</sup>. The 1961 convention provides guidelines to be taken into account in national legislation to ensure the avoidance of statelessness<sup>18</sup>. Poland is not a party to any of the conventions indicated above. The Czech Republic acceded to the 1961 Convention on 19 December 2001. Since 1974, the UNHCR has been open to persons seeking to realize the rights granted in the 1961 Convention by processing claims and assisting in their presentation to state authorities. Events compounding the problem of statelessness, such as the breakup of the USSR, Yugoslavia and Czechoslovakia, and the emergence of additional states in the early 1990s, have brought home the need for a more effective international response to the problem.

### 3. The phenomenon of statelessness in the Czech Republic and the Republic of Poland

The existence of statelessness is most often a consequence of the collapse of a state or the deprivation of certain groups of the population of citizenship. Such situations occurred, among others, in the USSR in 1921 and 1925, Italy in 1926, the Third Reich in 1933, but also with regard to persons of German nationality or collaborating with the occupying forces in Poland, Czechoslovakia and Belgium after World War II. However, there are cases of statelessness arising as a result of conflicting legislation of different states<sup>19</sup>. As UNHCR has pointed out, statelessness

can result from disputes between States over the legal personality of individuals, the succession of States, the chronic marginalization of particular social groups, and the deprivation of individuals or groups of citizenship. Statelessness is generally associated with periods of significant change in international relations. Changes in international borders, the manipulation of political systems by leaders to achieve morally questionable political

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<sup>17</sup> A. Szklanna, *Ochrona prawna cudzoziemca w świetle orzecznictwa Europejskiego Trybunału Praw Człowieka*, Warszawa 2010, p. 40.

<sup>18</sup> Ibidem.

<sup>19</sup> W. Czaplinski, *Problematyka obywatelstwa w aktualnych pracach Rady Europy*, „Studia Europejskie” 1998, nr 2, p. 59-60.

goals, and/or the denial or deprivation of citizenship to exclude and marginalize unpopular racial, religious or ethnic minorities are causes of statelessness around the world<sup>20</sup>.

The Czech Republic, in its history, has also faced the problem of statelessness. The solutions adopted at that time are set as a model for other European countries. The situation took place after the dissolution of the former Czechoslovakia in 1993. The Czech Republic and the Slovak Republic, which were created as a result of the breakup of the state, adopted their own new citizenship laws. For both laws, the model was the 1969 document previously in force in Czechoslovakia. In the new citizenship laws, the initial population of citizens and the rules for acquiring citizenship were defined. Persons born before 1954 were considered to be citizens of the Czech Republic or the Slovak Republic if they were born in their respective territories. Thus, the principle of the law of the land (*ius soli*) was applied. In contrast, persons born after 1954 were considered citizens of these two countries either on the basis of the law of the land or on the basis of the principle of the law of blood, that is, on the basis of the citizenship of the parents (*ius sanguinis*), if both parents were citizens of the same country. In practice, this meant that many people residing in the Czech Republic, for example, as a result of the legal regulations adopted, were granted Slovak citizenship. This largely applied to members of the Roma ethnic minority. To obtain citizenship of the Czech Republic, one had to, among other things: 1) reside and be registered as a permanent resident of the territory of the Czech Republic for at least two years prior to the dissolution of the federation; 2) renounce Slovak citizenship; 3) not be convicted of an intentional crime within the last five years<sup>21</sup>.

The situation presented has created a problem with statelessness. UNHCR was approached by the governments of the Czech Republic and the Slovak Republic in the 1990s hoping to assist in handling thousands of statelessness cases. In 1996, after a thorough investigation, a Prague-based Citizenship Counselling Center was established on UNHCR's initiative to support former Czechoslovak citizens who had lost their citizenship. The government of the Czech Republic in 1996 eased restrictions on access to citizenship by granting the Ministry of the Interior the ability to waive the no criminal record requirement for some applicants, and by 1999 allowing former Czechoslovak citizens permanently residing in the territory of the current Czech Republic without a residence permit to accept Czech citizenship. The range of evidence in the citizenship acquisition procedure was expanded. Eventually, as a result of cooperation between UNHCR, non-governmental organizations and the Czech authorities, former Czechoslovak citizens permanently residing in the Czech Republic since the dissolution of the federation gained unrestricted access to Czech citizenship<sup>22</sup>.

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<sup>20</sup> Wysoki Komisarz ds. Uchodźców ONZ, *Obywatelstwo i bezpieczeństwo. Przewodnik dla parlamentarzystów*, Losanna 2005, p. 6.

<sup>21</sup> *Ibidem*, pp. 37-38.

<sup>22</sup> *Ibidem*.

In Poland, the problem of statelessness has recently been recognized primarily in connection with the war in Ukraine that has been ongoing since 24 February 2022. As a result of Russian aggression, significant parts of Ukrainian territory are an area of armed conflict from which thousands of people have fled and are still fleeing<sup>23</sup>. According to information published by the Polish Ombudsman, in 2022 UNHCR estimated the number of stateless persons and persons at risk of statelessness residing in Ukraine at 35,000, indicating that some 69,400 children born in areas not controlled by the Ukrainian government have not received a Ukrainian birth certificate and are at risk of statelessness. In addition, due to the armed conflict in Ukraine and the arrival of war refugees in Poland, many of these individuals may now be on Polish territory. A group particularly at risk of statelessness in Ukraine is the Roma people, which may number between 120,000 and 400,000 people. The reported figures vary so much because many people have no documents, making it difficult to determine their exact number. The problem affects about 10-20% of these people<sup>24</sup>. Another group of people affected by statelessness are those internally displaced within Ukraine and those living in regions such as Crimea, parts of the Donetsk and Luhansk regions that have not been controlled by Ukrainian authorities. They have limited access to documents. Their citizenship is disputed. Ukrainian children, particularly unaccompanied and those separated from their parents since the beginning of the war in Ukraine, are particularly vulnerable to statelessness. Children born in territories not controlled by Ukrainian authorities have limited access to procedures to confirm Ukrainian citizenship, putting them at particular risk of statelessness. These children often do not have a passport, and it can be difficult to establish their citizenship because Ukrainian authorities do not currently have access to databases of births in the occupied territories, or such access may be difficult. Vulnerable to statelessness are children left unaccompanied or separated from their parents. After the outbreak of war, many of them may have entered the territories without a passport or other document proving

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<sup>23</sup> Stateless persons who can prove that prior to 24 February 2022 they were legally residing in Ukraine on the basis of a valid permanent residence permit and are unable to return to their country or region of origin in safe conditions, and stateless persons who prior to 24 February 2022 enjoyed international protection or equivalent national protection in Ukraine, are eligible for temporary protection. In Poland, a number of legal regulations apply to stateless persons. These are primarily the provisions of the Act on Polish Citizenship of 2 April 2009. (consolidated text, Journal of Laws of 2023, item 1989), the Act on foreigners of 12 December 2013, (consolidated text, Journal of Laws of 2023, item 519, as amended), and in the context of stateless persons from Ukraine, also the Act of 13 June 2003 on granting protection to foreigners on the territory of the Republic of Poland (Journal of Laws of 2023, item 1504, consolidated text) in accordance with the conditions set out in the Council (EU) Implementing Decision of 4 March 2022.

<sup>24</sup> *Roma Belong - Statelessness, discrimination and marginalisation of Roma in the Western Balkans and Ukraine*, European Network on Statelessness, European Roma Rights Centre, The Institute on Statelessness and Inclusion, Budapest, October 2017, p. 20 et seq.

their identity and origin. Due to limited access to Ukrainian databases and archives or the likelihood of their destruction due to hostilities, they may face difficulties in confirming their place of birth and, consequently, proving their citizenship. In doing so, it should be remembered that a child's right to citizenship is affirmed in a number of legal acts, including Article 24(3) of the International Covenant on Civil and Political Rights<sup>25</sup>, Article 7 of the Convention on the Rights of the Child<sup>26</sup>. Another group of people at risk of statelessness are citizens of the former Soviet Union who, due to lack of necessary documentation, were unable to prove permanent residence in Ukraine and therefore did not obtain Ukrainian citizenship, or Ukrainians who had permanent residence in other former Soviet republics when they disintegrated. In addition, there is an influx of people from the war zone who were living in Ukraine, being refugees in the process of obtaining international protection under refugee status<sup>27</sup>. This problem is also known in the Czech Republic, where Ukrainian residents fleeing the war have been arriving. More than 500,000 people have received temporary protection here, of whom about 330,000 remain in the Czech Republic.<sup>28</sup>

Citizenship is an important part of a person's identity, giving them a sense of belonging. In turn, the need to belong is considered one of the basic human needs<sup>29</sup>. It involves the provision of effective protection by the state and, for the individual, the ability to enjoy basic human rights<sup>30</sup>. Adopting the concept of treating stateless persons as foreigners does not change the fact that there are such rights that are granted only to citizens or the exercise of which is restricted due to lack of citizenship. As an example, one can point to electoral rights, rights to participate in a referendum, rights to make a citizen's legislative initiative, the right to form and become a member of political parties, the ability to practice certain professions, access to the public service, the right to diplomatic protection, the right to acquire real estate, etc. In addition, it is difficult for stateless persons to engage in legal gainful employment, to access social benefits and health care, but also to perform ordinary daily activities such as renting an apartment, collecting mail, opening bank accounts, registering a car, initiating legal proceedings, etc.<sup>31</sup>. *Statelessness also means the absence of an individual's re-*

<sup>25</sup> International Covenant on Civil and Political Rights opened for signature in New York on 16 December 1966; Poland ratified the Covenant in its entirety in 1977 (Journal of Laws, No. 38, item 167, 168).

<sup>26</sup> P. Ura, *Obywatelstwo w świetle prawa administracyjnego*, „Zeszyty Naukowe Uniwersytetu Rzeszowskiego” of 2014, No. 84, p. 190.

<sup>27</sup> RPO, *Wystąpienie Rzecznika Praw Obywatelskich kierowane do Szefa Urzędu do Spraw Cudzoziemców z dnia 28 sierpnia 2023 r.*, XI.540.136.2023.KM.

<sup>28</sup> More, see: Instytut Europy Środkowej, *Sytuacja uchodźców z Ukrainy w Republice Czeskiej: szanse i zagrożenia*, <https://ies.lublin.pl/komentarze/sytuacja-uchodzcow-z-ukrainy-w-republice-czeskiej-szansy-i-zagrozenia/> (accessed on 31.10.2023).

<sup>29</sup> A. Masłowski, *Motywacja i osobowość*, Warszawa 2023, p. 62 et seq.

<sup>30</sup> H. Suchocka, *Prawo do posiadania obywatelstwa*, [in:] *Prawa człowieka. Model prawny*, ed. R. Wieruszewski, Wrocław–Warszawa–Kraków 1991, p. 296 et seq.

<sup>31</sup> A. Gajda, op. cit.

relationship with the state externally. It is the lack of assignment of an individual to a specific state<sup>32</sup>. No state has certain rights and obligations under international law with respect to another state because of an individual, such as diplomatic guardianship, the obligation to accept its citizen expelled by another state. Stateless persons have difficulties in obtaining travel documents, going abroad. The problems arising from statelessness are also psychological. Stateless people live in constant tension and fear of services such as border guards and police. They fear being placed in guarded centres for foreigners<sup>33</sup>.

## Conclusion

In practice, stateless persons can be not only those without any citizenship, but also those without regularized residency or without a valid identity or travel document. This makes it difficult to identify stateless persons and results in their underrepresentation. The adopted procedures for determining statelessness are often not adapted to the resulting exceptional situation related to the war in Ukraine. Lack of legal status is an obstacle for stateless persons to obtain a residence card and can be a reason for detention. Possession of a tolerated stay permit is not enough for such persons to access social benefits, employment or the naturalization process. Hence the importance of creating special procedures, perhaps even for this particular group of stateless persons, which would enable them to stay legally and enjoy their rights and freedoms, on the territory of host countries.

The literature recognizes the different situation of a stateless person who has not received citizenship automatically or by administrative decision in any country. He is then considered a "de jure stateless person." However, it is possible to be stateless when a potential real link can be shown to exist between a person and a state, but for various reasons the person is unable to prove his citizenship, or when he has renounced the protection of the state of which he is a citizen." In such a case, one speaks of a "de facto stateless person," with those fleeing persecution being a particular example. Such a stateless person may be recognized as a refugee and be granted special international protection, including the 1951 Refugee Convention, also applied by the European Union<sup>34</sup>.

Addressing the problem of statelessness, particularly in the context of those affected by the armed conflict in Ukraine, is a complex issue. On the one hand,

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<sup>32</sup> P. Spiro, *Mandated membership, diluted identity. Citizenship, globalization, and international law* [in:] *People out of place. Globalization, human rights, and the citizenship gap*, eds. A. Brysk, G. Shafir, New York 2004, p. 92.

<sup>33</sup> A. Gajda, op. cit.

<sup>34</sup> J. Dyduch, *Bezpaństwowość*, [in:] *Bezpaństwowość Organizacje międzynarodowe w działaniu*, red. A. Florczak, A. Lisowska, Wrocław 2014. pp. 399–411.



the temporary nature of the statelessness created by this war is recognized, hoping for a quick end to it and the return of those fleeing the war to their homeland. On the other hand, assuming the irreversibility of the consequences of the war, such as the unregulated legal status of war orphans, or the factual and legal impossibility of documenting citizenship, there should be an effort to regulate the status and nationality of these people, to simplify procedures aimed at granting them the citizenship to which the human individual is entitled. However, the granting of citizenship of the host country in this special situation forced by war has far-reaching consequences not only in the sphere of national law, but also in the sphere of European Union law.

Citizenship of any of the European Union member states guarantees access to the rights and freedoms and liberties guaranteed by Community law. The individual gains not only citizenship, but also influence on EU policy<sup>35</sup>. Union citizenship is ancillary to, but not a substitute for, national citizenship.

The two concepts are both intrinsically linked and autonomous from each other. Citizenship of the Union presupposes the existence of citizenship of a member state, but at the same time it is a legal and political concept that is separate from the concept of citizenship of a member state. Citizenship of a member state not only opens access to the rights granted by Community law, but also makes us citizens of the Union. European citizenship is not only a set of rights that, as such, could be granted even to those who do not have it. It presupposes a bond of a political nature between European citizens, although it is not a bond based on belonging to a single nation. [...] It is based on their mutual commitment to open their political communities to other European citizens and to establish a new form of civic and political solidarity on a European scale<sup>36</sup>.

Therefore, it is worth emphasizing once again that every person has the right to citizenship, which largely determines his social status and is a condition for exercising the right to live in dignity.

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<sup>35</sup> M. Dąbrowski, *Obywatelstwo polskie a obywatelstwo Unii Europejskiej*, „Państwo i Prawo” 2005, vol. 2, pp. 71–72; M. Jabłoński, *Obywatelstwo RP i obywatelstwo UE na płaszczyźnie realizacji podstawowych obowiązków jednostki*, [in:] *Współczesne koncepcje ochrony wolności i praw podstawowych*, eds. A. Bator, M. Jabłoński, M. Maciejewski, K. Wójtowicz Wrocław 2013, p. 190.

<sup>36</sup> Judgment of the CJEU of 2 March 2010, in Case C-135/08 Janko Rottman v Freistaat Bayern (OJ EU. C. 2010, no. 113, item 4/1).

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Powszechna Deklaracja Praw Człowieka, przyjęta i proklamowana rezolucją ZO ONZ 217 A (III) w dniu 10 grudnia 1948 r.

Konwencja w sprawie pewnych zagadnień dotyczących kolizji ustaw o obywatelstwie oraz protokół dotyczący przypadku bezpieczeństwa, podpisane w Hadze dnia 12 kwietnia 1930 r. (Dz. U.R.P. nr 27, poz. 217).

Ustawa o obywatelskim polskim z 2 kwietnia 2009 r. (Dz. U. z 2023, poz. 1989, t.j.).

Ustawa o cudzoziemcach z 12 grudnia 2013 (Dz. U. z 2023, poz. 519 ze zm., t.j.).

Ustawa z dnia 13 czerwca 2003 r. o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej (Dz. U. z 2023 r. poz. 1504, t.j.) zgodnie z warunkami określonymi w decyzji wykonawczej Rady (UE) z dnia 4 marca 2022 r.

## **Orzecznictwo**

Wyrok TSUE z dnia 2 marca 2010, w sprawie C-135/08 Janko Rottman przeciwko Freistaat Bayern (Dz. U. UE. C. 2010, nr 113, poz. 4/1).

## **Problem bezpieczeństwa w Polsce i w Republice Czeskiej w kontekście zasady suwerenności narodu/ludu**

### **Streszczenie**

Konstytucyjne rozwiązania odnoszące się do zasady suwerenności narodu/ludu w Rzeczypospolitej Polskiej i Republice Czeskiej wykazują zarówno podobieństwa, jak i różnice. Autorka wskazuje je poprzez analizę dogmatycznoprawną i prawnoporównawczą. Na tle tych rozważań zauważa, że doświadczenie bezpieczeństwa ma konsekwencje nie tylko w sferze prawa krajowego, ale również w sferze prawa Unii Europejskiej.

Autorka opisuje problem bezpieczeństwa, z którym mierzyła się Republika Czeska od 1993 r., uznając przyjęte w tym państwie, we współpracy z UNHCR, rozwiązania za wzorcowe. Ponadto wskazuje na doświadczenia Polski, która od czasu wybuchu wojny w Ukrainie zmaga się z zwiększonym problemem bezpieczeństwa. Autorka zastanawia się nad niedoskonałością obowiązujących przepisów prawa, ich interpretacji, ale również praktyki stosowania prowadzącej do odcho-

dzenia od standardów ochrony praw człowieka. Wykazuje, że prawna i rzeczywista sytuacja bezpaństwowców jest gorsza niż osób posiadających obywatelstwo. Dochodzi do wniosku, że należy stworzyć wewnętrzną, kompleksową regulację prawną dotyczącą bezpaństwowców, która zapewniłaby im ochronę, w tym szczególne procedury, które umożliwiłyby legalny pobyt i korzystanie z praw i wolności uciekającym przed wojną Ukraińcom na terytorium państw przyjmujących. W pracy zastosowano również metodę analizy aktów prawnych i materiałów źródłowych.

**Słowa kluczowe:** suwerenność narodu/ludu, konstytucja, Rzeczpospolita Polska, Republika Czeska, bezpaństwowość, wojna w Ukrainie, obywatelstwo, Wysoki Komisarz ONZ ds. Uchodźców.