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## **THE MECHANISM OF ADOPTING POLITICAL DECISIONS IN THE EU ON THE EXAMPLE OF EUROPEAN RAIL INFRASTRUCTURE MANAGERS**

### **Abstract**

The process of decision-making, lobbying and negotiating formal and legal documents is a complex but also very interesting issue. Referring to the findings of the studies in the field of shaping public policy, in particular the process of making political decisions on the example of European Rail Infrastructure Managers, one of the leading interest group organisations, the thesis put forward in the research process: “The decision-making process in the European Union is a difficult art of seeking compromise and understanding for stakeholders” appears to be justified.

**Keywords:** decision, the European Union, public policy, European studies, Europeanisation, institutionalism, interest groups, economy

**JEL Classification Code:** J68

## Introduction

For over 15 years Poland has been a Member State of the European Union. The period that passes from Poland's accession to the EU induced the author to undertake the task of analysing the decision-making processes at the level of interest groups, on the example of one of the leading organisations supporting the development of the infrastructure sector, i.e. EIM – a Brussels-based international association which represents the common interests of European Rail Infrastructure Managers.

The research problem, which is the basis for the author's considerations was formulated as follows: Is the decision-making scheme in the EU institutions rational and based on compromise? A review of literature on the subject suggests that the hypothesis formulated in this way is not justified and it should be examined. The article cites scientific publications and working papers of the EU institutions related to EIM's activity as an example of an industry lobbying organisation.

It is worth noting that the theoretical paradigm of social sciences, which also comprises the present study, is public policy in the context of considerations of the rational paradigm. D. Stone summarised the assumptions of the rationalistic approach, pointing to three elements:

- reasoning model;
- society model;
- policymaking model.

The concept of public policy analysis adopts the model of reasoning in the form of rational decision-making. Society is seen as a market, i.e. a collection of autonomous entities, which in their interactions with others focus solely on promoting their own interests. In turn, making policies is similar to a production line, where the first general and vague ideas are being processed and at the end, there emerges a product that is subject to quality control (incremental model).<sup>1</sup>

The research methods were used in this article include:

- monographic method, which focuses on the examination of one selected institution, i.e. EIM which is being considered in the context of the research problem presented above;
- empirical method – encompassing the author's professional experience resulting from everyday cooperation with EIM's representatives;
- quantitative research method (case study analysis).

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<sup>1</sup> D. Stone, *Policy Paradox: The Art of Political Decision Making*, New York 2002, pp. 8–11.

The case study analysis presents a decision-making process in one of the leading lobbying organisations in the EU railway sector: European Rail Infrastructure Managers (EIM).

The article covers research in the field of science related to political sciences and administration, in the scope of public policy.<sup>2</sup> The author undertakes to examine the influence of the stakeholder group's compromise on the process of adopting decisions in the EU. British political scientist David Robertson defines the verb 'to lobby' as: "exerting pressure, presenting arguments or other incentives in order to persuade political decision-makers to support the position (of a particular group)".<sup>3</sup>

Public policy is perceived as the process where public authorities take inter-related decisions and actions aimed at achieving specific objectives, in the situation when market mechanisms do not apply or they alone would not be efficient enough. Public policy sciences, originally emerging as a branch of political sciences, have now gained their own individual identity as a discipline belonging to a group of social sciences. In the scientific literature, many different definitions of the term 'public policy' are proposed. However, there are certain common elements which can be distinguished within various definitions. They are as follows: public policy is initiated by public authorities on behalf of society/local community; public policy is defined, interpreted and implemented mainly by public entities, less frequently by private and non-governmental entities; public policy refers to the areas which the public authorities decide not to cover.<sup>4</sup> According to R. Szarfenberg, the concept of public policy is wide, which is related to the extensive area of activity of modern countries and contemporary governments as well as its diversity both with regard to its content and forms. In addition to several traditional areas, such as internal order, defence, treasury and foreign affairs, the governments in the twentieth century have begun to deal with, among others, economy, including the labour market, education, health, public health and social security for citizens and residents. The processes of dispersing the power of central governments towards supranational entities (organisations such as the EU and the regionalisation process), sub-national (self-government

<sup>2</sup> [https://www.archiwum.nauka.gov.pl/g2/oryginal/2018\\_09/e6ec2585f0b58322bf49062971e11b56.pdf](https://www.archiwum.nauka.gov.pl/g2/oryginal/2018_09/e6ec2585f0b58322bf49062971e11b56.pdf) [retrieved 03.04.2019].

<sup>3</sup> D. Robertson, *A Dictionary of Modern Politics: Political Terms and References in Current Use*, London 1985, p. 190.

Cf. J. Strzyk-Sulejewska, *Mechanizm podejmowania decyzji w zakresie stosunków zewnętrznych UE*, "Roczniki Nauk Społecznych", No. 46/2018, Towarzystwo Naukowe KUL & Katolicki Uniwersytet Lubelski Jana Pawła II, pp. 7–27.

<sup>4</sup> J. Woźnicki, *Nowa dyscyplina – "nauki o polityce publicznej" usytuowana w dziedzinie nauk społecznych*, "NAUKA" 1/2012, pp. 133–151, [http://scholar.googleusercontent.com/scholar?q=cache:HXixToa1KIC:scholar.google.com/+Teoria+decyzji+politycznych&hl=pl&as\\_sdt=0,5](http://scholar.googleusercontent.com/scholar?q=cache:HXixToa1KIC:scholar.google.com/+Teoria+decyzji+politycznych&hl=pl&as_sdt=0,5) [retrieved 03.04.2019].

and decentralising process) and quasi-state (agencies, councils independent of the government with regulatory competence) have brought the attention of researchers to a greater extent to multi-stakeholder and multi-level governance process.<sup>5</sup>

## 1. Institutionalism in the European Union

The European Union (hereinafter referred to as the EU) is a unique economic and political union among 28 European countries, which together occupy a larger part of the continent.

The main driving force of the EU economy is its internal single market, which allows free movement of people, goods, services and capital. The EU is striving to develop vast opportunities, offered by the union, also in the areas of energy, knowledge and capital market so that Europeans can obtain maximum benefits from this political and economic arrangement.<sup>6</sup>

The EU strives to increase the transparency of the operations of its institutions and strengthen their democratic character. The powers of the European Parliament, elected in direct elections, have been expanded, and national parliaments play a greater role through cooperation with EU institutions. In turn, EU citizens are increasingly able to participate in the policy-making process. The principle of representative democracy is applied across the EU, where citizens are directly represented in the European Parliament at the Union level, and the Member States – in the European Council and the Council of the EU. The EU standard decision-making procedure is referred to as the ordinary legislative procedure (formerly: co-decision). This means that the directly elected European Parliament must adopt the EU legislation together with the Council.<sup>7</sup>

Institutionalism in the economy means acknowledging that economics is a social science, thus understanding the complexity of economic processes requires consideration of their institutional conditions. Classic economists understood this perfectly well, focusing their attention not only on the actions of isolated individuals or entities but also on the many aspects of their participation in the economic life.

<sup>5</sup> R. Szarfenberg, *Polityka publiczna – zagadnienia i nurty teoretyczne*, [http://kolegia.sgh.waw.pl/pl/KES/czasopisma/kwartalnik\\_szpp/Documents/numer%201\(9\)%202016/058\\_02\\_Szaefenberg.pdf](http://kolegia.sgh.waw.pl/pl/KES/czasopisma/kwartalnik_szpp/Documents/numer%201(9)%202016/058_02_Szaefenberg.pdf) [retrieved 05.04.2019].

<sup>6</sup> *Jeden rynek bez granic*, [https://europa.eu/european-union/topics/single-market\\_pl](https://europa.eu/european-union/topics/single-market_pl) [retrieved 10.10.2018].

<sup>7</sup> *Zasady podejmowania decyzji w UE*, [https://europa.eu/european-union/eu-law/decision-making/procedures\\_pl](https://europa.eu/european-union/eu-law/decision-making/procedures_pl) [retrieved 11.05.2019]. Cf. M. Witkowska, *Zasady funkcjonowania Unii Europejskiej*, Wydawnictwo Akademickie i Profesjonalne, Warszawa 2008, p. 152 and subsequent pages.

A. Smith was far from claiming that an invisible hand of the market automatically ensures social harmony. He was absorbed by “the attempts to determine the right institutional structure which would ensure the beneficial actions of market forces. His cynical remarks on the class interests and «ideological» weapon that various classes use in their fight for economic and political dominance, indicate the clear understanding that personal interest can both thwart and facilitate social well-being, and that the market mechanism will promote harmony, but only in the environment of an appropriate legal and institutional system”<sup>8</sup>

It should be stated, following K. Minkner, that researchers are usually in agreement that the beginning of political sciences in the second half of the 19<sup>th</sup> century is associated with the study of the institution of state power. It is widely recognised that for traditional institutionalists, policy-making was primarily of highly organised nature, denoting the sphere of activity of state authorities. The prevailing view is that the researchers focused on formal government rules and organisations, not on informal and routine restrictions on governance. As a result, politics was seen from a narrow perspective, not through generally understood political life.<sup>9</sup>

Historically, the concept related to institution refers to a wide range of epistemological concepts and traditions, derived from both *Corpus Iuris Civilis* by Justinian and ‘Staatswissenschaft’ interests. The institutionalist position appears together with the emergence of modern social sciences.<sup>10</sup>

In the theoretical dimension, it seems reasonable to refer to the complex of inspiration, which is common to the theoretical area of sociology and social strands of economics. Institutionalism in terms of the philosophical approach is associated with the European tradition; however, perceived as a direction of considerations, under its own name, it was being developed as part of the American economics. As a theoretical stance, it combined European traditions (questioning the validity of economics, such as the chrematistics described by Stanisław Ossowski) and ‘endemic’ features of the American social thought. On the one hand, it was influenced by the continental economics of Menger, von Wieser and von Schmoller, on the other – it drew inspiration from the social evolutionism and Spencer’s organicism as well as the 19<sup>th</sup>-century anthropology. It was characterised by involvement in observations and collecting quantitative data, and simultaneously, also by specific radicalism of

<sup>8</sup> B. Radzka, *Stary i nowy instytucjonalizm. Spotkanie socjologii i ekonomii*, <https://mbace.eu/api/files/view/1366.pdf> p. 68 [retrieved 11.05.2019], Cf. M. Blaug, *Metodologia ekonomii*, PWN, Warszawa, 1995, p. 20.

<sup>9</sup> K. Minkner, *Tradycyjny instytucjonalizm i jego znaczenie dla nauk politycznych*, “Historia i Polityka” No. 13(20)/2015, pp. 9–10.

<sup>10</sup> M. Nowak, *Instytucjonalizm w socjologii i ekonomii*, “Ruch prawniczy, ekonomiczny i socjologiczny” 2004, LXVI–Iss. 1, p. 189.

the assessments dominating the social and economic interpretations of the related phenomena and even a certain specific cultural radicalism.<sup>11</sup>

For representatives of institutionalism, 'institution' is a way of thinking based on tradition and reflecting the mentality of a social group, their customs, behaviour, sanctioned by legal or moral norms, which are respected in a given society. The process of institutional changes is a key aspect of subsequent civilisation evolutions. The sources of economic crises lie in the contradiction between technology and institutions. According to institutionalism, the driving force of economic development is technical progress, and the resistance of old institutions is the factor that inhibits the process of changes. Social and economic progress occurs as a result of the evolution of the institutional forms of the society, which necessitates the changes in the mentality and legislation, enabling the society to face the challenges of civilizational progress resulting from the implementation of new technologies. It is against this background of contradictions between technology and institution that the conflict between the world of interest and the world of industry emerges. Institutionalism showed a man as a social being guided by instincts and motivated by the need to be accepted, distinguished among others and to gain prestige in a given social group to which he or she belongs. The economic progress is determined by the instinct of good work that guides the world of industry; and the instinct of greed, which often sets the path for the world of interest, can lead to the fall of civilization or return to the barbaric phase.<sup>12</sup>

## 2. European Rail Infrastructure Managers as an example of a business organisation in the European Union

As U. Kurczewska rightly states, due to Poland's accession to the European Union in 2004 and the deepening process of integration of the Member States, also national public policy is increasingly subject to Europeanization.<sup>13</sup>

According to A. Gąsior-Niemiec, the concept of Europeanization – despite the obvious theoretical and methodological shortcomings – gives hope for improved conceptualisation and operationalisation of the subject of the research in this field, i.e. formal and informal changes which occur in the institutional and social systems

<sup>11</sup> M. Nowak, *Instytucjonalizm w socjologii i ekonomii*, op.cit., p. 193.

<sup>12</sup> *Instytucjonalizm*, <https://encyklopedia.pwn.pl/haslo/instytucjonalizm;3914914.html> [retrieved 30.11.2018].

<sup>13</sup> U. Kurczewska, *Organizacje biznesu w Unii Europejskiej*, Warszawa 2016, p. 7.

of the Member States under the influence of the adaptive pressure exerted by community institutions, policies and discourses.<sup>14</sup>

This means that interest groups, in particular business-related ones, to a large extent differ from political parties in terms of their purpose and subjectivity. Their aim is to represent the interests of their members and to influence the decisions taken by the authorities.<sup>15</sup> From a research perspective, the functioning of *European Rail Infrastructure Managers* (hereinafter: EIM) is a great example (case study) to be analysed in this article. European Rail Infrastructure Managers (EIM) is an industry organisation representing the European rail infrastructure governing units and executives. The permanent Secretariat of the association based in Brussels maintains contacts with institutions dealing with consultancy in the field of transport and coordinates the works of experts of affiliated companies. In total, all members of EIM employ over 113,000 workers in Europe. PKP Polskie Linie Kolejowe S.A. is a Polish member of the organisation representing the interests of our country with regard to rail transport.<sup>16</sup>

The European Rail Infrastructure Managers (EIM) association was established in 2002, following the liberalisation of the railway market in the EU, in order to support the interests of all rail infrastructure managers in the EU. EIM with its seat in Brussels is registered as an international non-profit association acting under the Belgian law. It is one of ten European rail organisations recognised by the European Commission as a “representative body of the railway sector”. In this regard, EIM supports the work of the European Union Agency for Railways (formerly: ERA) in industry working groups and has its place in its administrative board.<sup>17</sup>

As empirical studies carried out by the author suggest, EIM plays a crucial role in the process of ensuring a unified voice of the associated stakeholders. EIM constitutes a joint representation of the associated infrastructure managers in dealings with the European institutions, headed by the European Commission. EIM helps its members develop their activities by sharing experience related to the undertaken works, whose effect is the introduction of safe, effective and customer-friendly rail traffic at the EU scale. Safety is the main concern of modern transport. Each type of movement of people and cargo/loads in space causes a certain degree of threat; however, as K. Button emphasises, “this does not stop the development of transport”.

<sup>14</sup> A. Gąsior-Niemiec, *Pojęcie europeizacji. Wybrane problemy teoretyczne i metodologiczne* (Part 1); “Polityka i Społeczeństwo” 2/2005, p. 78.

<sup>15</sup> U. Kurczewska, *Organizacje biznesu w Unii Europejskiej*, op.cit. p. 17. Cf. K. Tarnawska, *Rozwój lobbingu w Unii Europejskiej*, “Sprawy Międzynarodowe”, No. 3–1999, pp. 25–40.

<sup>16</sup> *Stowarzyszenie Europejskich Zarządców Infrastruktury Kolejowej*, [https://pl.wikipedia.org/wiki/Stowarzyszenie\\_Europejskich\\_Zarz%C4%85dc%C3%B3w\\_Infrastruktury\\_Kolejowej](https://pl.wikipedia.org/wiki/Stowarzyszenie_Europejskich_Zarz%C4%85dc%C3%B3w_Infrastruktury_Kolejowej) [retrieved 30.11.2018].

<sup>17</sup> *Nasza historia i wartości*, <http://www.eimrail.org/pages/history> [retrieved 30.03.2019].

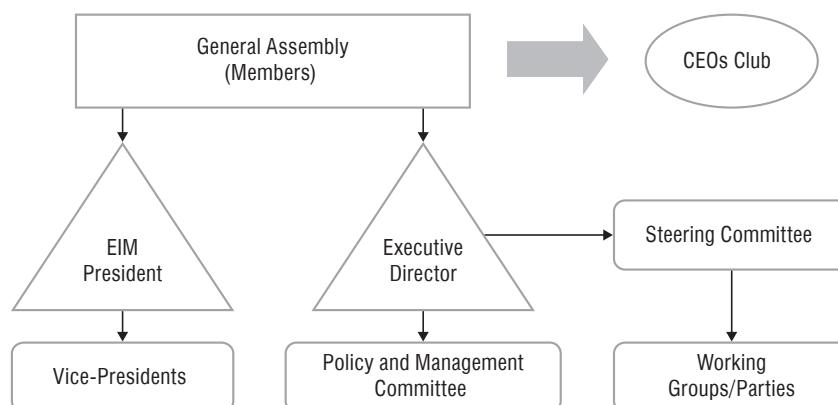
Together with the civilisation development there appear new manifestations of threats to mobility (modern terrorism, cybercrime) and simultaneously modern ways to prevent them. A potential passenger does not recognise all forms of threats, but the carrier and infrastructure manager is obliged to foresee them and ensure the passenger's safety to the highest possible extent.<sup>18</sup>

EIM promotes the development, improvement and effective provision of services related to the product, which in this case is selling access to the railway infrastructure in the EU. EIM and its members strive for market liberalisation to succeed in the countries where it has been implemented. EIM represents the public, technical and business interests of its members in relation to all competent EU institutions (ERA, European Commission, European Parliament).

EIM supports the development of business, providing a forum of cooperation to its stakeholders.<sup>19</sup>

The organisational structure of EIM is presented in Figure 1.

**Figure 1. EIM's organisational structure**



Source: own work on the basis of [http://www.eimrail.org/uploads/gallery/images/Slide1\\_GIF](http://www.eimrail.org/uploads/gallery/images/Slide1_GIF), retrieved 30.03.2019.

When discussing the organisational structure, we should pay attention to the fact that it is a typical divisional structure. The divisional structure belongs to a group of intermediate structures. The result is a hierarchical structure, which simultaneously constitutes a step towards organic structures, characterised by greater flexibility

<sup>18</sup> E. Załoga, *Bezpieczeństwo i ochrona pasażera w transporcie kolejowym w kontekście wyzwań mobilności starzejącego się społeczeństwa europejskiego*, "Studia i prace, Kolegium Zarządzania i Finansów, Scientific Journal" 166/2018, pp. 166–167.

<sup>19</sup> *Nasza historia i wartości*, <http://www.eimrail.org/pages/history>, op.cit. [retrieved 30.03.2019].



and greater diversification, suitable and adapted to the conditions of the environment. According to some authors, divisionalisation is sometimes referred to as federal decentralisation. For the first time, P.S. DuPont (in the 1920s) introduced the organisational structure of this kind in his family enterprise. Subsequently, A.P. Sloan in General Motors decided to implement it as well: he undertook to decentralise the structure through segmentation of production according to socio-economic income groups of purchasers.<sup>20</sup>

Citing J.A.F. Stoner, the divisional organisational structure makes it possible to bring the decision-making centres closer to places where the problems which need to be solved emerge. If the performed tasks go beyond the established competence of divisions, then central staff cells reporting directly to the top management are created, or the staff cells supporting the managers of particular divisions are established within the organisation. Only strategic functions are subject to centralisation, while all operational and tactical functions are carried out in autonomous divisions. The tasks of the top management focus on:

- formulating strategies for the entire organisation;
- supervision and control;
- coordination of the functioning of particular organisational units;
- allocation of limited resources among particular divisions.<sup>21</sup>

In the EIM hierarchical structure, the highest positions are held by the President and three Vice-Presidents. The President represents the association on the outside. The Vice-Presidents assist him in carrying out managerial tasks.

The association is governed by the Executive Director, who is responsible for the ongoing operations management of the association and leading the EIM Secretariat.

Another important link within the EIM organisational structure is the General Assembly (GA). GA is the highest and final governance authority of the association. GA is responsible for setting out general policy orientations of the group. The body also makes all the strategic and financial decisions concerning the association, including the annual budget and business plan.

Another body within the EIM structure is the CEOs Club. It is not a governing authority in EIM, but it constitutes a forum for the leaders of European Rail Infrastructure Managers to discuss the issues which are of mutual interest, e.g. common challenges connected with managing the national railway networks. The Meetings of the CEOs Club take place at least twice a year. The discussions concern the issue

<sup>20</sup> Statut Zgromadzenia Założycielskiego EIM z dnia 27 listopada 2013, <http://www.eimrail.org/uploads/gallery/pdf/2013-11-27-EIM%20New%20Statutes.pdf> [retrieved 30.03.2019].

<sup>21</sup> Statut Zgromadzenia Założycielskiego EIM z dnia 27 listopada 2013 (*Statute of the EIM Founding Assembly of 27 November 2013*, op.cit., p. 8).

of innovations and best practices in terms of management of railways infrastructure at the European scale:

- the development of events at the national and European scale;
- Key Performance Indicators (KPI).

The next body within EIM is the Policy and Management Committee (PMC). The PMC consists of delegates who represent the interests of EIM members, thanks to which the business entities affiliated within EIM have an ongoing influence on its activity.

The Technical Steering Group (TSG) is an important part of the EIM organisational structure. The TSG coordinates the participation of all members in the technical tasks of the association, including the selection of the so-called Speakers. These individuals are usually highly qualified, EIM experts-delegates, possessing unique technical and economic knowledge.

Working Groups play an important role in the organisational structure of EIM. The basic technical coordination of EIM between members is taking place with the involvement of several industry Working Groups. Experts from the Member States meet regularly to work on a number of technical issues, including the aspects which are essential for the operation of the railway sector (infrastructure, energy, ERTMS, safety, security, issues related to environmental protection, assets management and operations).

Working Groups support the work of the association preparing proposals of technical documents, which are then proceeded in the European Union, European Parliament or the EU Council.<sup>22</sup> The process of adopting political decisions is carried out in the form of the compromise to be reached.

### **3. *Position papers* as an effect of the interest group compromise within EIM**

From an empirical point of view, *Position Papers* should be defined as an example of a model action of the interest group in EIM. It should be perceived as a compromise reached as a result of influencing the examined and adopted legislative changes, which affect the railway market in the EU forum.

<sup>22</sup> Cf. Rozporządzenie Komisji (UE) nr 1300/2014 z dnia 18 listopada 2014 r. w sprawie technicznych specyfikacji interoperacyjności odnoszących się do dostępności systemu kolei Unii dla osób niepełnosprawnych i osób o ograniczonej możliwości poruszania się [COMMISSION REGULATION (EU) No 1300/2014 of 18 November 2014 on the technical specifications for interoperability relating to accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility], <https://eur-lex.europa.eu/legal-content/pl/TXT/?uri=CELEX:32014R1300> [retrieved 17.10.2018].

*Position Paper on Recast Regulation (EU) 1371/2007 on Passengers' Rights and Obligations* published by EIM on 21 November 2017 is an example of cooperation between EIM stakeholders.

The Regulation (EU) 1371/2007 ('Regulation') aims to provide high-quality railway services to passengers, granting them significant rights on the same route as other modes of transport. The regulation builds on the existing "uniform principles concerning the agreement on international carriage of passengers and luggage (CIV)" and extends its scope to national rail passenger services. It should be emphasised that this Regulation (EC) no. 1371/2007 is a basic legal right which can be regarded as the foundation of the rail passenger rights protection system. In addition, the Interoperability Technical Specification regarding the accessibility of the Union rail system for disabled persons or persons with reduced mobility<sup>23</sup> is an important legal act in this regard. After the terrorist attacks on rail systems in Madrid (2004) as well as in Brussels and London (2015–2017) the pressure to improve the safety of rail transport increased. The fourth railway package and its successor, i.e. the 2016/798 (the so-called Safety) Directive, which regulates, among others, the issues related to safety management, defines common safety requirements (CST), common safety assessment methods (CSM), common safety indicators (CSI), as well as appoints rail safety authorities in the EU, including the establishment of the European Union Agency for Railways (Regulation (EU) 2016/796). In the acquis of the EU rail transport regulation, more attention is paid to the issue of safety than the security dimension. In the field of security measures, there is a regulation governing the rights and obligations of the rail passenger, which has been in force since October 2009 (Regulation 1371/2007, which is currently subject to amendment – Motion, 2017). An important EU regulatory message in terms of passengers' rights and obligations are common rules for individual transport branches, aimed at guaranteeing passengers the right to information and minimal assistance in the event of delay or cancellation of travel, establishing a compensation mechanism in the case of travel delay and special protection for passengers who are most vulnerable to threat. With regard to rail transport, the scope of application of the EU law in the presented area is limited due to the fact that the said regulation allows exemptions from its scope (in addition to certain mandatory requirements), namely, urban, suburban and regional (for an indefinite period), and long-distance transport (until 2024), as well as transport services largely carried out outside the EU (for a period of five years with the possibility of extension). Only five EU countries have

<sup>23</sup> Cf. Ustawa z dnia 28 marca 2003 r. o transporcie kolejowym [The Law of 28 March 2003 on Rail Transport], JOL, 2017, No. 0, Item 2117, consolidated text.

not exercised their powers, the remaining countries apply different types of exemption. In Poland, the basic scope of protection covers only passengers of domestic and international long-distance trains. The amendment to Regulation 1371/2007 is moving towards limiting the allowed time of exemptions in domestic long-distance rail traffic (from 2024 to 2020). An important element of the amendment to the regulation is to impose on railway enterprises (including the railway station and infrastructure managers) the obligation to develop a plan for dealing with unforeseen situations in order to provide passengers with protection and assistance in the event of serious transport disruptions. Greater importance was also given to the requirement to define and monitor service quality standards in relation to railway connections and to control the threats to passengers' personal safety.<sup>24</sup>

It is worth emphasising that the obligation to implement the interoperability requirements in the rail network in Poland results from the act on rail transport which transposed the European Union legislation into national regulations, including the Directive 2008/57/UE on the interoperability of the rail system in the European Union.

The Position Paper is the 'voice' of railway infrastructure managers associated in EIM which is to optimise the requirements, obligations and expectations in this matter. It takes the form of a constructive compromise of all beneficiaries on the abovementioned regulation. The empirical research shows that good cooperation, participation in negotiations and looking for effective ways to reach compromise play an important role in such a complex (in terms of its formal and legal context) business, institutional and political market. They facilitate the process of optimising the changing, consistently updated, legal regulations, which strongly influence the rail market in the entire EU, in particular affecting all EIM stakeholders.

The process of developing a common position for national rail infrastructure managers associated with EIM is extremely interesting since it is a multi-stage and multi-threaded procedure. The findings carried out by the author suggest that the process is carried out in a schematic but orderly manner.

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<sup>24</sup> E. Załoga, *op.cit.*, p. 173.

### Case study: The legislation problem – change of Resolution 1307 on the rights of passengers<sup>25</sup> on the EIM forum

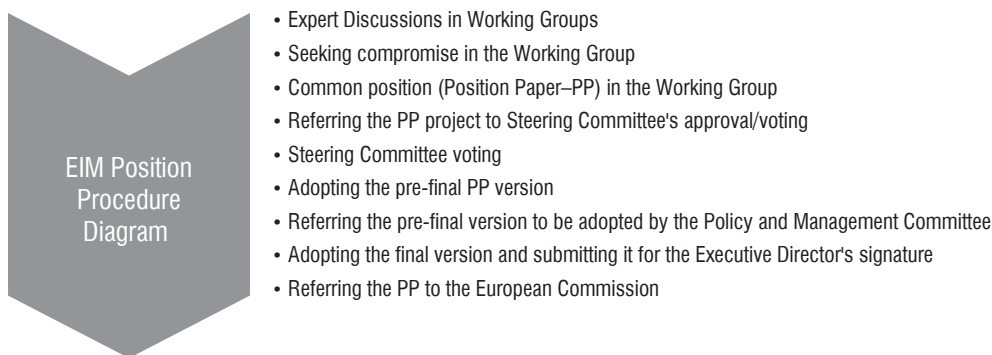
EIM operations are usually multi-layered. In the first phase of proceedings related to the abovementioned resolution, lengthy meetings of Working Groups were organised, during which the working version of the remarks to the abovementioned project was prepared as a result of the compromise of all the parties involved.

The main comments of EIM concerned, among others, the information which should be presented according to *General principles* in terms of dealing with the disturbances in railway traffic. In the evaluation of EIM – the requirements which fall within the scope of responsibility of rail station managers were unclear. First of all, EIM drew attention to the fact that, in the unfortunate situation of traffic disruption, the main goal of all entities involved, including the managers of stations, is to restore normal rail customer service as quickly and as safely as possible. Thus, the obligation of rail station managers concerning reporting the number of passengers provided with assistance during traffic disturbances seemed irrationally burdensome – and could divert the efforts of the station manager from the safe provision of regular services. Secondly, reporting the ‘costs’ of care and assistance appears to be, in EIM’s opinion, rather inappropriate. According to EIM, ‘customer satisfaction surveys’ should not include ‘punctuality’ of train/platform times. As a result of the EIM lobbying, among others, the abovementioned provisions were not included in the version of the draft amendment to the regulation proceeded in the European Parliament.<sup>26</sup>

The document *EIM Position Paper – draft*, developed as a result of the compromise, was submitted to the EIM Steering Committee. The effect of the work carried out by this body was voting on the pre-final version referred to the authority of the higher level, i.e. the Policy and Management Committee. After adopting the final version of the document entitled *EIM Position Paper*, the document was presented to the Executive Director to be signed. Finally, on 21 November 2017, the document was sent to the European Commission.

<sup>25</sup> Cf. Wniosek ROZPORZĄDZENIE PARLAMENTU EUROPEJSKIEGO I RADY *dotyczące praw i obowiązków pasażerów w ruchu kolejowym* (wersja przekształcona) COM/2017/0548 final version – 2017/0237 (COD) REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on rail passengers’ rights and obligations (recast), <https://eur-lex.europa.eu/legal-content/PL/TXT/?uri=COM:2017:548:FIN> [retrieved 20.08.2019].

<sup>26</sup> Cf. Wniosek ROZPORZĄDZENIE PARLAMENTU EUROPEJSKIEGO I RADY *dotyczące praw i obowiązków pasażerów w ruchu kolejowym*, op.cit. and Position Paper, *RECAST REGULATION (EU) 1371/2007 On Passengers’ Rights and Obligations*, EIM, Brussels, 21 November 2017 pp. 3–12.

**Figure 2. EIM position procedure diagram**

Source: own work.

The abovementioned proposal was developed in line with the co-decision procedure (COD). As a result, the European Commission adopted the motion at the first reading, and afterwards, on 17 January 2018, the European Economic and Social Committee issued its opinion on the subject. On 15 November 2018, the first examination of the above-described motion took place in the European Parliament, as a result of which a resolution of the European Parliament was adopted.<sup>27</sup> Simultaneously, since 21 November 2017, the motion has been examined by the Council of the European Union. On 5 October 2017, the impact assessment of the regulations was carried out. This motion was also presented to the Working Group on Consumer Protection and Information for information purposes. On 5 December 2017 the Council (TTE, Transport), as part of the point concerning miscellaneous matters, was informed about the progress of work after the first examination (14637/17). The first analysis was completed in the spring of 2018, and the progress report was presented at the Council meeting (TTE, Transport) on 7 June 2018 (8721/18). The second progress report was presented at the meeting of the TTE Council (Transport) on 3 December 2018 (14277/18). The analysis of all the provisions was continued in the spring of 2019 on 11 and 22 of March and on 1 April. As a result, the Romanian Presidency developed a compromise proposal (8673/19), which was analysed

<sup>27</sup> Rezolucja ustawodawcza Parlamentu Europejskiego z dnia 15 listopada 2018 r. w sprawie wniosku dotyczącego rozporządzenia Parlamentu Europejskiego i Rady dotyczącego praw i obowiązków pasażerów w ruchu kolejowym (wersja przekształcona) (COM(2017)0548 – C8-0324/2017–2017/0237(COD)), *European Parliament legislative resolution of 15 November 2018 on the proposal for a regulation of the European Parliament and of the Council on rail passengers' rights and obligations (recast)* (COM(2017)0548 – C8-0324/2017–2017/0237(COD)) TA/2018/0462, [https://eur-lex.europa.eu/legal-content/PL/TXT/?uri=EP:P8\\_TA\(2018\)0462](https://eur-lex.europa.eu/legal-content/PL/TXT/?uri=EP:P8_TA(2018)0462) [retrieved 20.08.2019].

by the Working Party on Land Transport on 14 May 2019. Denmark and the United Kingdom submitted a parliamentary scrutiny reservation to the motion. All Member States uphold scrutiny reservations related to the Presidency compromise proposal. The Commission reiterated a general reservation to the motion. At present, further efforts are needed to develop a satisfactory compromise as a result of the work of the Finnish Presidency.<sup>28</sup>

## Conclusion

The decision-making process in the group of 28 Member States is very complex and complicated (even too bureaucratic) and it is rooted in the far-reaching search for satisfying the common interest. This is demonstrated by the analysis of the decision-making process in the EU presented in this article on the example of EIM.

The effectiveness of the decision-making process in this group is a function of compromise (the most convergent) solutions, despite the problems arising from the frequently divergent interests of individual stakeholders.

The lobbying of stakeholder groups presented on the example of EIM is a time-consuming process which requires organisational investment. However, we need to admit that it may be seen as the most effective method.<sup>29</sup> When formulating the EU policy, apart from formal procedures and division of institutional competence, less formalised practices such as unofficial negotiations, seeking to reach compromise, networking as well as forming alliances and coalitions have also been developed.<sup>30</sup> All of these activities were aimed to achieve the common goal.

In this example, we may see that the groundwork, the so-called 'work at the grass-roots', carried out by the representatives of the Polish railway sector in the interest groups such as EIM is crucial. As a result of proper preparation, we have an opportunity to take care of the interests of the Polish state in line with the practice adopted in the European Union.

<sup>28</sup> Cf. Rada Unii Europejskiej, *Wniosek w sprawie rozporządzenia Parlamentu Europejskiego i Rady dotyczącego praw i obowiązków pasażerów w ruchu kolejowym – Sprawozdanie z postępu prac*, ST 9333 2019. *Proposal for a Regulation of the European Parliament and of the Council on rail passengers' rights and obligations – Progress report* INIT, [https://eur-lex.europa.eu/legal-content/PL/TXT/?uri=consil:ST\\_9333\\_2019\\_INIT](https://eur-lex.europa.eu/legal-content/PL/TXT/?uri=consil:ST_9333_2019_INIT), [retrieved: 20.08.2019].

<sup>29</sup> Cf. U. Kurczewska, *Organizacje biznesu w Unii Europejskiej*, op. cit. p. 87.

<sup>30</sup> Cf. U. Kurczewska, *Organizacje biznesu w Unii Europejskiej*, op.cit. p. 144. Cf. W. Maliniak, *Lobbying w Unii Europejskiej*, Security, Economy & Law, Wyższa Szkoła Bezpieczeństwa Publicznego i Indywidualnego "Apeiron" w Krakowie, pp. 61–92.

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