exceptions are not envisaged, however their formulation has character of exceptions as they limit the sphere of application of general norms which are not considered principles of law.

Key words: principles of law, legal system, normative-legal act, evaluation concepts.

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Educational Migration Processes from the Perspective of History, Law and Sociology

The article presents an overview of educational migration processes from the perspective of history, law and sociology. It aims to introduce the reader to the general issues connected with migration flows of students around the globe and in Poland. Author points out and specifies the difference between a foreign student and a mobile student, what is of vital importance for the research. To give a better structure to the article, author decides to present all the data in accordance with three main groups: presenting main destination points for foreign students, defining main donor-countries of the mobile students and the reasons for choosing the country to study. Author also pays attention to Polish migration processes, trying to analyze the evolution of these processes in a historical flow.

Key words: right to education, educational migration, European educational programs, international student, mobile student.

Presentation of the scientific problem and its significance. For a long time, migration flows were and still are of growing interest of researchers. Most of the researchers pay much attention to the movement of migrant workers, as well as irregular migrants. Still not many scientific researchers pay attention to educational migration. Presented paper aims to fill the gap in the migration topic.

Main content and justification of the study results. The cross-border higher education in the last twenty years may be basically described in just two words: growth and diversity. Growth refers to the amount of international students around the globe, the number of which grows steadily each year. Diversity refers to the student mobility as a new form of a global migration process standing «in the front row», right behind the migration leader – the labor migration.

The visible growth of the migration movements in the past years can be analyzed from different angles. The major part of the existing studies and publications present the situation from the point of view of economic migration, concentrating on the specific regions. This can be explained by the fact, that labor (economic) migration is the biggest part of the global migration processes in the world. The educational migration naturally took a back seat.

The increased interest in cross-border education can be associated with the 90’s – that is when it became a dynamically growing issue. Few elements that probably affected this process were:

1) Easier movement of persons connected f. e. with the collapse of the Eastern Bloc and the fast growth of the European Union;
2) The launch of European Educational Programs (Erasmus, Socrates);
3) Change in the government’s attitude, who started to see foreign students as a chance for economic development of the country, not a threat towards it;
4) The reduction in the costs of traveling;
5) Change in the approach of the universities that have begun active recruitment of foreign candidates, as a mean to generate more income, as well as an element of raising the prestige of the institution.

Before going straight to the statistic data, it is worth mentioning, that it is rather hard to present the precise and absolute picture of the issue of international students around the globe. The complications are created by the fact, that there are some solid gaps in information available in this sphere. Existing data come from different sources, different periods, and often present the situation partially or only from some angle [1]. Despite constant efforts to improve international statistical data on international student mobility, some serious imperfections still exist. Although most researchers attempt to list non-resident foreign students who
have entered a country for study purposes, the national data for some countries include both resident and non-resident students. That is why «foreign» students are generally an over-estimation of truly mobile international students.

In 2006, the OECD published, for the first time, data on mobile international students as separate ones from foreign students. The foreign students (generally speaking) are identified by their nationality, while the mobile students are identified by the country where they had previously studied or by their residence.

For some countries for which the data are available, mobile students account for an average of 70 per cent of foreign students, although there may be large variations. In Norway and Spain less than 40 per cent of foreign students are mobile, as compared with over 80 per cent in Australia, Austria, Canada, Hungary, Japan and the United Kingdom. In principle, the data do not reflect the fact that foreign students who enroll in programmes for at least one semester count as full-time students. Students sent abroad for short periods (less than a full academic year) and who remain enrolled in their institutions should not be recorded as foreign students in the host country. Vice versa, a student from country A, registered in a programme offered in country B via distance learning, should, in principle, be counted as a foreign student of country B, which is not always the case in practice. Although foreign students may not be (mobile) international students, this is why the author often uses the data on foreign students as an approximation of student mobility. This is done for practical reasons, as such data are available for a greater number of countries.

Main destinations. The dynamics of the cross-border education is greatly depicted in numbers. For instance since 1995 [2] till 2009, the number of international students rose more than twice and reached the level of 3.7 million people [3, p. 318]. It is obvious, that this numbers will continue to grow each year. The number of people studying outside their country of citizenship rose by 6.7 % between 2008 and 2009. In 2010 the global number of international students was at the point of 4,1 million people, and during 2011 it reached the point of 4,3 million people [3, p. 304].

In 2011, more than half of the total amount of international students were enrolled in Canada, Germany, Australia, France, United Kingdom and the United States [4]. If we move on to numbers, the United States, with its 17%, hosted the most of these students. It was followed by the United Kingdom (13 %), Australia (6 %), France (6 %), Germany (6 %) and Canada (5 %). Although these destinations account more than half of all tertiary students pursuing their studies abroad, significant numbers of foreign students were enrolled in the Russian Federation (4 %), Japan (4 %) and Spain (2 %) in 2011.

Besides the six major destinations, some new players-countries have appeared on the international education field in the past few years. During 11 years the amount of international students who chose the United States as a destination-country for higher education dropped by six per cent, from 23% in 2000 to 17 % in 2011. The similar situation was observed in Germany, where this number dropped by almost three per cent. Vice versa, the number of international students who chose Korea, Australia, Spain or New Zealand as their country of destination during this period grew by at least one per cent. The share of students who chose the United Kingdom or the Russian Federation improved even more and grew by around two per cent in each state.

At the same time, the clear dominance of English-speaking countries was observed throughout these years. The top five English-speaking host countries (United States, United Kingdom, Australia, Canada and New Zealand) alone receive more than 42 per cent of the total number of foreign students. Of the ten countries hosting the largest share of foreign students (65 % of the world total) only Russia and South Africa are not OECD members. The 18 leading host countries [5] for foreign students account for 78 per cent of all foreign students enrolled throughout the world.

Main countries of origin. In 2011, students from China accounted for 21 % of all international students enrolled in higher education in the OECD area, the highest share among all reporting countries [6]. Some 25 % of all Chinese students studying abroad are enrolled in the United States, while 12% choose Australia, 7 % choose Korea, 13 % choose Japan, and 10 % study in the United Kingdom. The second-largest proportion of international students in OECD countries comes from India (6.5 %). Some 46 % of Indian students abroad are enrolled in the United States; 22 % are in the United Kingdom; 6 % in Australia; and 5 % are in Canada.

A large proportion of foreign students in OECD countries come from neighboring countries. In all OECD countries in 2011, an average of 21 % of all foreign students came from countries that share land or maritime borders with the host country. Higher levels of mobility from neighboring countries are not only the result of being in a particular geographic situation, as in the case of Czech Republic, but may also reveal costs, quality and enrolment advantages that are more apparent to students in neighboring countries. Higher percentages of foreign students from countries beyond the immediate borders are seen in countries that have
Among OECD countries, the highest percentages of students from neighboring countries are found in Japan (80 %), Korea (78 %), Estonia (where 74 % of foreign students come from Finland, Latvia, the Russian Federation or Sweden), Greece (70 %), and the Czech Republic (where 67 % of foreign students come from Austria, Germany, Poland or the Slovak Republic). Foreign students from neighboring countries are also strongly represented in Austria, Belgium, Hungary, the Netherlands, Poland, the Russian Federation, the Slovak Republic, Slovenia and Switzerland. In contrast, only 5 % of foreign students in Canada come from the United States; and only 7 % of students in the United States come from the Bahamas, Canada, Mexico or the Russian Federation. Language is the main attraction for students coming to Portugal to study: 64% of foreign students in Portugal come from Angola, Brazil, Cape Verde, Guinea-Bissau, Mozambique, Sao Tomé and Principe or Timor-Leste. The reason for this is that all of them are countries, where Portuguese is an official language.

Language and cultural considerations, geographic proximity and similarity of education systems are all factors that students consider when determining the country where they will study. Geographic considerations and differences in entry requirements are the most likely explanations for the concentration of students from Germany in Austria, from Belgium in France and the Netherlands, from France in Belgium, from Canada in the United States, from New Zealand in Australia, etc. Language and academic traditions also explain the tendency of English-speaking students to concentrate in other countries of the British Commonwealth or in the United States, even if they are geographically distant. Migration networks also play a role, as illustrated by the concentration of students with Portuguese citizenship in France, students from Turkey in Germany or those from Mexico in the United States.

Choice of a country to study. The decision to study abroad and where depends on a broad spectrum of cultural, educational, economic and social factors. One of the factors determining the choice of a foreign destination is the language of teaching. The language spoken and used in instruction sometimes determines the country in which a student chooses to study. Countries whose language of instruction is widely spoken and read, such as English, French, German, Russian and Spanish, are therefore leading destinations for foreign students, both in absolute and relative terms. Japan is a notable exception: despite a language of instruction that is not widely used around the world, it enrolls large number (3,5%) of foreign students, 93 % of whom are from Asia.

The frequency of predominantly English-speaking destinations, such as Canada, Australia, New Zealand, the United Kingdom and the United States, reflects the progressive adoption of English as a global language. It may also reflect the fact that students intending to study abroad are likely to have learned English in their home country or wish to improve their English-language skills through dipping into a native English-speaking environment. The large number of countries, in which English is either an official state language or the bridge language, so called lingua franca [8] reinforces this pattern. Between twenty and thirty per cent of foreign students in all English-speaking OECD countries (and a half in New Zealand) come from other English-speaking countries. On average across all OECD countries in 2011, around one in four foreign students came from a country with the same official or widely-spoken language as the country of destination [3, p. 307-308]. This situation results in the fact, that an increasing number of institutions in non-English-speaking countries now offer courses in English.

Another important issue for international students in choosing the destination point for their studies is tuition fee. Among most EU countries, including Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Italy, the Netherlands, Poland, the Slovak Republic, Spain, Sweden and the United Kingdom, international students from other EU countries are treated as domestic students with respect to tuition fee charges. This is also true in Ireland, but only if the EU student has lived in Ireland for three out of the five previous years. If this condition is satisfied, the EU student is eligible for free tuition in a given academic year. In Finland, Germany and Italy, this applies to non-EU international students as well.

While there are no tuition fees charged in Finland, Iceland and Norway, in Germany, tuition fees are collected in all government-dependent private institutions and, in some Bundesländer, tuition fees have been introduced in public higher education institutions as well. In Denmark, students from Norway, Iceland and EU countries are treated like domestic students and pay no tuition fees, as their education is fully subsidized. Most international students from non-EU or non-European Economic Area (EEA) countries, however, must pay the full amount of tuition fees, although a limited number of talented students from non-EU/EEA countries can obtain scholarships covering all or part of their tuition fees.

Among some non-EU countries, including Iceland, Japan, Korea, Norway and the United States, the same treatment applies to all domestic and international students. In Norway, tuition fees are the same for
both domestic and international students: no fees in public institutions, but fees in some private institutions. In Iceland, all students have to pay registration fees, and students in private institutions have to pay tuition fees as well. In Japan, domestic and international students are generally charged the same tuition fees, although international students with Japanese government scholarships do not have to pay tuition fees.

In Korea, tuition fees and subsidies for international students vary, depending on the contract between their school of origin and the school they attend in Korea. In general, most international students in Korea pay tuition fees that are somewhat lower than those paid by domestic students. In New Zealand, international students, except those in advanced research programs, generally pay higher tuition fees; but international students from Australia receive the same subsidies as domestic students. Typically in Australia and in Canada, all international students pay higher tuition fees than domestic students. This is also true in the Russian Federation, unless students are subsidized by the Russian government.

Another important factor influencing the student’s choice is the recognition of skills and, consequently, employment possibilities in the host country and the country of origin. A host country will be more attractive if students can work there after completing their studies, or if their qualifications are highly regarded on the local job market when they return home.

Recognition of skills and foreign qualifications in the country of origin and the host country is of vital importance for the students. On the one hand, the lack of recognition of degrees and professional qualifications obtained at home can increase students’ mobility. Students may choose to pursue studies in another country because they want to establish themselves and work there, so they have no choice but to obtain the local qualifications and degrees that would allow them to do so. Moreover, the degrees and qualifications obtained in the host country may enjoy greater international recognition. On the other hand, the lack of recognition of foreign qualifications inhibits mobility as it may oblige students to take up their studies again from scratch abroad or limit their job prospects on return to their country of origin. The frequent absence of a formal framework for such recognition partly explains the success of student mobility under joint university programmes or partnerships between establishments - leading to double degrees or automatic recognition of credits obtained in the partner establishment.

The choice of a host establishment by foreign students may be viewed as the result of the assessment of the financial and non-financial costs of studying abroad, and the financial and non-financial benefits that the students (and their families) hope to get from it. The tuition fees and cost of living in the host country for sure are far from being the only important factors. For instance, Asian students are often accustomed to paying relatively high tuition fees and hence do not necessarily consider the lack of subsidies as an barrier to mobility. In contrast, students originating from the EU, who benefit from sizeable subsidies and scholarships in their countries, are less willing to study in countries, where tuition fees are significantly higher. Even so, low tuition fees do not determine student mobility. Flows of foreign students are relatively irrelevant in some countries, where tuition fees are relatively low, or even non-existent, such as the Nordic countries. The issue of costs is undoubtedly more important for educational programmes in English-speaking countries. Similarly, there is no evidence to suggest that the wish to emigrate to a country is necessarily a deciding factor in the choice of a country in which to study. A student may well choose to study in one country and then emigrate to another or indeed return home.

Poland is the UE state neighboring with Ukraine which each year attracts more and more students from Ukraine. Foreign students represent only 1,2 per cent of total number of students in Poland. This can be connected with the fact, that foreigners appeared in polish universities pretty recently – only in the 50s of the XX century [9]. Most of them were studying medical sciences, what was supposed to be a kind of a practical support for the developing countries, from which originated almost all the students studying in Poland in those days. After the World War II Poland, along with other countries, responded to the call of the UN to provide educational assistance for developing countries and opened the doors of its universities for the students from so called Third World. According to UNESCO, polish universities hosted 183 foreigners in 1950 y.[10]. Over the years the number of foreign students grew slowly. Only in the mid-sixties of the twentieth century, the number of international students has exceeded one thousand, in the late sixties - 2000, and in the eighties - 3000 people.

Significant acceleration of influx of foreigners in the Polish universities could be seen only in the nineties, f. e. in 1999 more than 6000 people came to study here, in 2001 - 7000. This happened for several reasons. As a result of the political changes, coming to Poland has become much more easier and thanks to a wider and more diverse educational offer, Polish educational institutions have benefited and increased its attractiveness. Of key importance in these processes were new scholarship programs, especially the Polish government scholarships for people of Polish origin living in the East. As a consequence, people with Polish roots began to dominate in the group of foreign students. The main goal of this new state policy was to
increase the education level of young people of polish origin, to increase the presence of Polish culture beyond its borders, as well as the effort to develop economic, social and cultural relations with Poland.

At the same time, clearly the ranking of the preferred universities and courses has changed. The number of foreigners, who chose technical courses was decreasing, at the same time, there was noticed the increasing interest in humanitarian and economical courses. This change was probably a consequence of the change in the national structure of foreign students in Poland – along with the decreasing number of students coming from the Third World, the group of people interested in areas associated with the technical development was decreasing as well.

The beginning of the twenty-first century is characterized by a systematic increase in the number of foreign students. Generally since 1989 to 2013, the total number of international students studying in Poland has increase almost six times (from 4118 to 29172). The reason for this is the much bigger wider availability of the studies in Poland as a consequence of expansion of higher education offers in institutions of higher education, mainly private. Of great importance for development of cross-border education was the gradual expansion of educational offers in foreign languages. It is important to mention, that the emergence of lectures in foreign languages and steady growing importance of those lectures for the different universities, was the biggest prerequisite connected with the participation of polish higher educational institutions in the European Student Exchange Program – LLP Erasmus [11]. Despite the fact, that most of those foreign language lectures were created in particular for student exchange programmes, all the students can participate in them.

In the academic year 2013/2014 in Poland were studying 29 172 [12] foreigners from 142 countries, which is over 4000 more than the previous year (an increase of almost 17%), and they represent 1,74% [13] of the total number of students in Poland. The numbers seem to be quite big, but it is not only significantly less than in most developed countries of the West or in China, but also less than our neighbors in the Czech Republic, Slovakia, Slovenia, Lithuania, Latvia, Estonia, Hungary and even in Bulgaria and Romania. Poland, along with Croatia, is the least internationalized country in the European Union and one of the least internationalized in the OECD. Jet a gradual improvement of this situation should be noted, as even six years ago, the presence of foreign students at Polish universities accounted for only 0,6% of all students. It should be noted at the same time, that the number of students in Poland falls from year to year; in the academic year 2012/2013 here studied a total of 1,675,815 people – more than 60 thousand less than in 2011/2012.

The strong dominance in the group of international students have the Europeans (around three quarters). Most foreign students come to the Polish universities from Ukraine (9747) and Belarus (3388). Next in order are the Norwegians (1553) and Swedes (1160), who mostly take medical studies. A growing group of students at Polish universities are the Spaniards. At the moment there are 1327 of them studying in Poland, mainly technical studies. Every third foreign student is studying medicine, one in four – economy and business, over 16% of – social fields of studies, nearly 13% are on the technical faculties, and every tenth – humanistic faculties.

It is worth mentioning, that for the past few years among the foreign students are less and less people
of Polish origin – about 19%, although even five years ago there were almost 40%. This means that studies in Poland are actually becoming more and more international. An interesting phenomenon of the last four years is previously mentioned sharp increase in the number of students from Spain (since 2009 their number has increased eight times) and those of Saudi Arabia – since 2009 their number in Poland has tripled.

Compared to the global average, in Poland there are very few students from Asia - only 618 Chinese, 468 Taiwanese, 217 Hindu, 209 Vietnamese and 201 Malaysians. Seems to be strange, that contrary to the global trend, their number in Poland has stagnated. On the other hand rapidly increases the number of students from Belarus (the number of students from Belarus has tripled since 2005) and Ukraine. Each year there are more and more talks about the phenomenon of «Ukrainization» of Polish universities. Since 2005, the number increased more than five times. Poland has overtaken Germany in terms of the number of students from Ukrainians and became the second, after Russia, the most frequently chosen by them country of study. In the academic year 2012/2013 at the Polish universities studied 9747 Ukrainians, meaning almost every third foreign student came from this country. In many universities students from Ukraine are the largest and dominant national group of foreign students and sometimes – even the only one.

A characteristic feature of foreigners enrolled in Poland is their age. In 2007, those who are over twenty-five years accounted for over one-quarter of students (27%) and those over the age of thirty – 8%. Especially clear trend is noticeable at economic universities and in the group of men. The over-representation of older vintages is connected mainly to the fact that studies in Poland is taken often after graduation in the country of origin.

The vast majority of foreigners (around 79%) are educated in the full-time studies [14]. Nearly three-quarters (73%) of foreigners are studying at public universities, compared with 90’s of the twentieth century the proportion of foreigners in private schools, however, increased by nearly 10%, which is a consequence of the private institutions having developed a great learning curriculum in foreign languages, and being involved pretty badly into abroad student recruitment.

Foreigners mostly chose to study at universities (30%). Second place was taken by medical schools (24%), the third went to economic schools (16%). Comparing the 2010 years with 1998, it can be seen that there has been an outflow of foreigners from universities and technical colleges, while at the same time, clearly improved the position of economic schools and medical schools. Proportionally most foreign students are studying at the medical schools, where every 12th student comes from abroad (internationalization ratio here is 8,58 %) [15]. For comparison, in the economic schools, foreign students represent 2.08 % of the total students in the institution, in universities – only 1.5% of students, in technical universities even less – 0.8 %.

Summary. Around the world, more than 4 million people study outside their home country. According to forecasts, by 2020 this number will double. More than half of the foreign students are Asians (predominant among them are Chinese and Hindu). Most foreign students are hosted by the United States, Australia, United Kingdom, Germany and France. This «big five» gets more than half of all foreign students in the world. In recent years, to the list of the most preferable countries to study also joined China – around 7% of the total number of international students study there. It is estimated that globally the presence of international students brings to the host countries about $100 billion per year. In Poland, the estimated contribution of foreign students to the economy is about 100 million euro per year.

Sources and Literature

1. For instance the Education at a Glance, prepared by the Organization for Economic Co-operation and Development (OECD), presents one of the best statistic researches in education field, yet still the researchers concentrate mainly on the issue of educational migration within the OECD countries. Despite the fact, that the OECD countries are hosting more than 85-90 per cent of the global educational migration, the rest 10-15 per cent should not be forgotten.
2. According to OECD and UNESCO Institute for Statistics, the number of foreign students in 1995 was estimated at around 1,7 million people.
4. The further statistics are based on the latest data published by the Organization for Economic Co-operation and Development (OECD) in Education at a Glance 2013: OECD Indicators. Despite the fact, that the publication was released in 2013 (2012/2013 academic year), all data relate to the year 2011 (meaning 2011/2012 academic year).
5. United States, United Kingdom, Germany, France, Australia, Canada, Russia Federation, Japan, Spain, South Africa, China, Italy, New Zealand, Austria, Korea, Switzerland, the Netherlands, Belgium.
7. See tables at: http://dx.doi.org/10.1787/888932850851 and http://dx.doi.org/10.1787/888932850813.
8. Lingua franca – the language, systematically used to make communication possible between persons, who do not share a common mother tongue.
9. We can talk only about post-World War II period, as in the interwar period the number of foreign students in Poland
was negligible.
11. Previously – Socrates-Erasmus. Since 2014 the new Erasmus+ program was launched. The new program combines all the EU's current schemes for education, training, youth and sport, including the Lifelong Learning Program (Erasmus, Leonardo da Vinci, Comenius, Grundtvig), Youth in Action and five international cooperation programs (Erasmus Mundus, Tempus, Alfa, Edulink and the program for cooperation with industrialized countries).
12. Data from the Main Statistical Office (GUS) from the year 2013/2014.
13. So called «internationalization index». The most commonly used indicator of the internationalization of higher education. It is the share of foreign students in the total number of students in the country. In the leading countries in this respect foreign students represent 10-15% of the total number of students (in Australia even 21.5%). The OECD average is around 8%, the EU average is 7%. In the academic year 2012/13 Poland had 29172 foreign students – a proportion of the total number of students (1 675 815 people) gives an index of internationalization of 1.74%.

Gołman Ю., Гофман Юл. Освітні міграційні процеси з точки зору історії, права та соціології. Довгий час міграційні процеси були і надалі залишаються цікавим явищем для дослідження серед науки і культури. Досить багато досліджень присвячуються тематиці міграційних рухів економічних та нелегальних мігрантів, тим не менш, не багато з них звертають увагу на міграційні процеси, пов’язані із навчанням та здобуванням освіти. Стаття являє собою огляд міграційних освітніх процесів з точки зору історії, права та соціології. Метою статті є ознайомлення читача з правовим регулюванням, загальними поняттями, пов’язаними із міграційними потоками студентів у світі та у Польщі. Автор вказує і намагається розмежувати поняття «іноземний студент» і «мобільний студент», що, власне, має ключове значення для даного дослідження. Щоб певною мірою структурувати статтю, автор презентує всі дані відповідно до трьох основних критеріїв дослідження: основні «пункти призначення» іноземних студентів, визначення основних країн-донорів мобільних студентів та причини вибору конкретної країни для навчання. Автор також звертає увагу на міграційні процеси студентів у Польщі, намагаючись проаналізувати еволюцію цих процесів в історичному розвитку.

**Ключові слова:** право на освіту, освітня міграція, європейські освітні програми, іноземний студент, мобільний студент.

Gołman Ю., Гофман Юл. Образовательные миграционные процессы с точки зрения истории, права и социологии. Долгое время миграционные процессы были и остаются интересным явлением для исследования учеными. Достаточно много исследований посвящается тематике экономических миграционных движений и нелегальной миграции. Тем не менее, редко обращают внимание на миграционные процессы, связанные с обучением и получением образования. Статья представляет собой обзор миграционных образовательных процессов с точки зрения истории, права и социологии. Целью статьи является ознакомление читателя с правовыми регулированием, общими понятиями, связанными с миграционными потоками студентов в мире и в Польше. Автор пытается разграничить понятия «иностранный студент» и «мобильный студент», что, собственно, имеет ключевое значение для данного исследования. Чтобы в определенной степени структурировать статью, автор представляет все данные в соответствии с тремя основными критериями исследования: основные «пункты назначения» для иностранных студентов, определения основных стран-доноров мобильных студентов и причины выбора конкретной страны для обучения. Автор также обращает внимание на миграционные процессы студентов в Польше, пытаясь проанализировать эволюцию этих процессов в историческом развитии.

**Ключевые слова:** право на образование, образовательная миграция, европейские образовательные программы, иностранный студент, мобильный студент.