
ECONOMICS

Sociology

Kedziora, D., Karri, T., Kraslawski, A., Halasa, M. (2017), Nearshore Service Transfers in the EU: Legal and Economic Issues, *Economics and Sociology*, Vol. 10, No. 1, pp. 290-309. DOI: 10.14254/2071-789X.2017/10-1/21

Damian Kedziora,
*Lappeenranta University of
Technology,
Lappeenranta, Finland,
E-mail:
damian.kedziora@student.lut.fi*

Timo Karri,
*Lappeenranta University of
Technology,
Lappeenranta, Finland,
E-mail: timo.karri@lut.fi*

Andrzej Kraslawski,
*Lappeenranta University of
Technology,
Lappeenranta, Finland,
Lodz University of Technology,
Lodz, Poland,
E-mail: andrzej.kraslawski@lut.fi*

Michal Halasa,
*John Paul II Catholic University of
Lublin,
Lublin, Poland,
E-mail: michal.halasa@kul.pl*

Received: July, 2016
1st Revision: October, 2016
Accepted: December, 2016

DOI: 10.14254/2071-
789X.2017/10-1/21

JEL Classification: O17

Keywords: service, transfer, Europe.

Introduction

Business process offshoring has been growing worldwide in the last few years (Tamayo, Huergo, 2015) and the rapid development of this industry has been visible in Poland and other Central European countries (ABSL, 2016). It has impacted the regional economy's spatial organization which has drastically changed in recent decades (Ledyeva *et al.*, 2015). Every foreign direct investment (FDI) has significant impact on the economic geography of global political and financial networks (Haberly, Wójcik, 2015). The rapid

growth of foreign investments in Business Process Outsourcing (BPO), Shared Services Centres (SSC), Research and Development (R&D), so as Information and Communication Technology (ICT) enhances regional effectiveness and efficiency in its key economic domains (Emerging Europe, 2016). At present, service offshoring industry is the most dynamic sector of Polish economy, stimulated by EU subsidies and domestic incentives designed particularly for supporting foreign investors (Polish Ministry of Treasury, 2013). Such policies and programs wield significant influence on economies and societies of the member states, reinforcing global competitiveness of the European economy (Balcerzak, 2016). Among the key investment advantages of Poland we can list: well-qualified and relatively cheap labour force, with strong working incentives and extensive foreign language skills; public support; EU standards and stable economy (PAIIZ, PwC, 2012). Arising from the growing organizational and technological ability to coordinate a relocated set of operational tasks, offshore service transfers enabled many firms to integrate their business processes into a global web of activities (Levy, 2005). There are various factors that can facilitate such multinational corporate transformations, through which many companies can achieve lower cost structure that may bring new revenue opportunities, so as other business advantages (Farrell, 2005; Lisin and Strielkowski, 2014). Among such factors, we can mention cost reduction, service optimization, so as the search for workforce capabilities or better technology (Winkler, 2009, p. 68).

Modern economic and social studies encourage seeking for transdisciplinary insights derived from specialized disciplines, to aid various societies in finding solutions to contemporary problems. Managerial community involved in offshore operations is constantly struggling with various challenges and tries to find quick and successful solutions to reoccurring problems at different stages of organizational changes (Strielkowski and Weyskrabova, 2014; Kedziora *et al.*, 2016). The core aim of this work is to provide the review of selected legal issues identified as most challenging for the service offshoring managerial community at the pre-transition stage (during the assessment and preparation for the strategic decision of transferring services to a different EU country), in the light of economic and social aspects. A need for strengthening this area of knowledge was identified from the insights expressed by the interviewees, emphasizing lack of such easily available study, presenting topic in a consistent and understandable way, not merely for law professionals. In this paper, the following research questions shall be addressed:

1. How can we identify and classify potential challenges that might present themselves before the start of a service offshoring transition project?
2. How can we present the legal regulations important for the business offshoring managerial community in a straightforward and cohesive way?
3. What impact may these issues have on the economies and societies of the EU member states involved?

1. Theoretical background

Service offshoring should be understood as “the transnational relocation or dispersion of service activities”, previously performed by companies in their home country, including captive (internal) and outsourced (external) operational models (Doh *et al.*, 2009). Outsourcing corresponds to turning over company’s operational processes to an external provider for a specified period of time that generally lasts at least a few years (Plannenstein, Tsai, 2004). In captive offshoring, all business activities are performed inside the boundaries of a company, but in a different country than its headquarters (Baier *et al.*, 2015). We can speak about service nearshoring when the company moves their operations closer from a distant offshore country but to a location with lower work expenses (Aspray *et al.*, 2006). The

execution of such service transfers is realized through a transition project, which is supposed to coordinate and manage its stakeholders, phases and stages (van den Ende, van Marrewijk, 2014). Being an integral component of portfolio management, the key role of business transition management is to coordinate a change in investment strategy with the aim of preserving business values and mitigating risk (Willis Towers Watson, 2015). Transition management is often a multidimensional and demanding challenge (Mani, 2005).

Following the stable growth of over 20% annually in the past decade, Poland gained a position of a regional sector leader, with over 200 000 employees and 936 service centres at present (including over 100 that employ more than 500 people) (ABSL, Deloitte, Hays Specialist Recruitment, JLL, 2016).

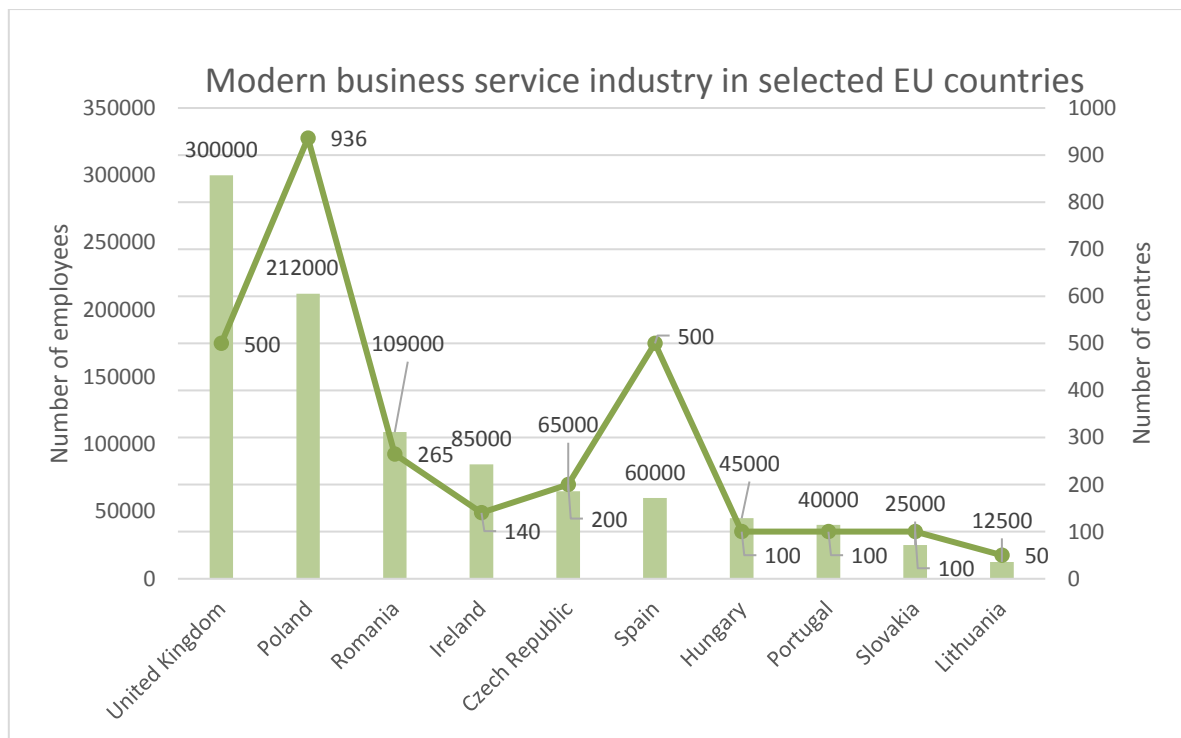


Figure 1. Number of employees and business services centres in in selected EU countries
Source: self-study based on ABSL, Deloitte, Hays Specialist Recruitment, JLL (2016).

Such development has significant impact on various facets of Polish economy, enhancing cities ready to supply favourable workforce, office and logistic conditions, in the same time leveraging competitiveness on education and recruitment services (Baranowska-Skimina, 2015). In a broad perspective, it reasserts the global turn towards the servicization of Polish economy (Lichniak, 2010). Offshore services may include a wide spectrum of activities, ranging from medical transcription to software development (Pisani, Ricart, 2016). Even though initially business process offshoring referred mainly to manufacturing goods, over the last few years, the production of physical objects offshore has been superseded by the services offshoring, due to the growing demand for the advanced administrative and technical corporate processes (Metters and Verma, 2008). The key types of processes executed in Polish shared service centres are: IT services, Finance and Accounting, Banking, Financial Services, Customer Operations, Supply Chain Management, Research and Development, Human Resources, Procurement and Document Management (ABSL, Deloitte, Hays Specialist Recruitment, JLL, 2016).

Business offshoring has been a widely implemented corporate strategy, aiming mainly for creating and maintaining sustainable competitive advantage (Ferdows, 1997). The facilitation of international service transfers is often stipulated by multiple reasons, creating both opportunities and challenges for various industries, (Hummels *et al.*, 2012). Among the factors encouraging companies to strengthen their competitive advantage through offshoring transitions are: labour cost reduction, highly skilled workforce availability, back office work specialization and developed technology services (Chilimoniuk-Przedziecka, 2011). In many destination locations, the savings derived from lower salaries and other operational costs can be substantial (Rodríguez, Nieto, 2015). Although the cost may still remain the most important decision-making determining the global outsourcing, the quality-related attributes, ranging from product to service quality are becoming increasingly more important, and services that used to be considered as non-offshorable, has lately started to be relocated due to the rapid development of information and communications technology (ICT), so as the globalization trends, including corporate culture (Tambe and Hitt, 2012). The definition of services themselves can be found in Article 57 of the Treaty on the Functioning of the EU (TFEU, p. 70):

„Services shall be considered to be ‘services’ within the meaning of the Treaties where they are normally provided for remuneration, in so far as they are not governed by the provisions relating to freedom of movement for goods, capital and persons.

‘Services’ shall in particular include:

- activities of an industrial character;
- activities of a commercial character;
- activities of craftsmen;
- activities of the professions.

Without prejudice to the provisions of the Chapter relating to the right of establishment, the person providing a service may, in order to do so, temporarily pursue his activity in the Member State where the service is provided, under the same conditions as are imposed by that State on its own nationals”.

The regulation identifies remuneration as a prerequisite. Wording of the second paragraph of Article 57 unquestionably presents that the enumeration of activities that constitute a service featured there is not final. Identified activities shall be “particularly” considered services within the meaning of the Treaty. The third paragraph of the definition stipulates the objective scope of the freedom as well as necessitates the provision of the service in another Member State to be of temporary character. Since the authority to interpret the Treaties by giving preliminary rulings is granted exclusively to the Court of Justice of the EU in Art. 267 of TFEU (p. 164), the profound understanding of the definition can be found throughout judgments of the Court. The notion of ‘services’ covers services which are not governed by other freedoms, in order to ensure that all economic activity falls within the scope of the fundamental freedoms”. The Court also dismissed the argument that such an order of priority may be inferred from Article 58 (2) of the Treaty, justifying that the provision is primarily addressed to the Community legislature and is explained by the fact that the freedom to provide services and the free movement of capital may progress at different rates.

2. Research process

The research conducted in this study is focused on legal regulations governing the service offshoring industry, particularly important for the managerial community in the pre-transition phase of organizational changes. The empirical approach was assumed in gathering the data, which has taken place in between March 2015 and January 2016. The input has been

collected by conducting numerous interviews in person (followed by an intensive email exchange) with the managerial community of service offshoring corporations based in Poland, Finland, Ireland, Slovakia and the Netherlands, originating from the regions of the United States of America, the EU and Asia. The practical insights were gathered from 60 managers responsible for Senior Management (Operations/Service Delivery Managers), Transition and Transformation Management (Transition/Migration Managers), People Management (Team Managers/Leaders) and Product Portfolio (Product Design, Development and Sales). The interviewees were employed in 49 companies from the business sectors of Accounting (Accounts Payable, Account Receivable and General Ledger), Banking (Payments and Account Operations) and Information Technology (IT Service Desk and Remote Infrastructure Management). Each interlocutor has been interviewed personally one or two times, and after the sessions were completed- all of them received the final paper version with a gentle request for feedback and necessary adjustment suggestions.

While performing the interviews, the respondents were inquired about the challenges and problems with which they needed to struggle in their career, together with real cases and their corporate experiences. The research focused on the stage before processes are transferred abroad and the decision on the offshoring transition strategy has to be assessed and thoroughly considered. After the data had been collected, the outputs were discussed and evaluated, so that the research questions would have been assessed and responded. Then, the problems had been divided into 5 categories (FREQUENCY, MODEL, SECTOR, SIDE, TYPE, and PROBLEM). The first (FREQUENCY), presents the number of the managers interviewed, reflecting how many of them stated a given problem (whether it was all 60 of them, or only one person). For this category, the following scale was applied: only 1 manager (individual), 2-20 managers (few), 21-35 (many), 36-50 (majority), 51-60 (vast majority). The second class (MODEL) tells whether a given issue is subject to only one of the two most popular operational models of offshoring, or both of them: business process outsourcing (BPO) or in-house (captive). Another category (SECTOR) addresses the sector in which a given problem can be found, i.e. Banking, IT, or Accounting. The category (SIDE) defines in which of the two common sides of the transitional change (service vendor or service buyer) a given issue is more likely to present itself. Another group of problems (TYPE) answers the question whether a given function corresponds merely to the outsourcing business (a service is transferred to some different company based in the same country), or to its offshoring variant (when the vendor company is located in a different country). The results are presented in *Table 1*.

INTERDISCIPLINARY APPROACH TO ECONOMICS AND SOCIOLOGY

Table 1. Common pre-transition problems in the offshoring industry

#	Frequency	Model	Sector	Side	Type	Problem
1	2	3	4	5	6	7
1	few	BPO/in-house	IT	Buyer	Outsourcing /Offshoring	diversity in the current client infrastructure (network topology)
2	many	BPO/in-house	All	Buyer	Outsourcing /Offshoring	diversity in the current client systems and apps
3	majority	BPO/in-house	All	Vendor/ Buyer	Outsourcing /Offshoring	developing a clear scope of duties for the parties involved
4	majority	BPO/in-house	All	Vendor/ Buyer	Outsourcing /Offshoring	issues understanding of the roles and responsibilities
5	vast majority	BPO/in-house	All	Vendor/ Buyer	Offshoring	how to migrate a worker to the destination country
6	few	BPO/in-house	IT	Buyer	Outsourcing /Offshoring	Issues with development of service design and test environment
7	many	BPO/in-house	All	Vendor/ Buyer	Outsourcing /Offshoring	which jurisdiction should be applied for the transition implementation
8	individual	BPO/in-house	All	Vendor/ Buyer	Outsourcing /Offshoring	problems with understanding the basics of the EU Acquired Rights Directive
9	few	BPO	IT	Buyer	Outsourcing	final product portfolio wrongly converted onto SLA
10	individual	BPO/in-house	All	Vendor/ Buyer	Outsourcing	how to define the termination conditions in the contract
11	vast majority	BPO/in-house	All	Vendor/ Buyer	Offshoring	how to set up an enterprise in a foreign country to start business activities
12	individual	BPO	Accounting	Vendor	Outsourcing /Offshoring	data access / disclosure risks
13	many	BPO	All	Vendor	Outsourcing	wrongly prepared product pipeline for offer
14	many	BPO/in-house	All	Vendor	Offshoring	risk of the job permits that can postpone the project
15	many	in-house	Banking	Buyer	Outsourcing /Offshoring	how and by whom is the legal risk assessment performed in the project
16	vast majority	in-house	Banking	Buyer	Outsourcing /Offshoring	how to protect personal data while processing sensitive information
17	majority	BPO/in-house	All	Buyer	Offshoring	how to find the remote location that is cost effective, but maintains the high delivery quality
18	many	BPO/in-house	Accounting	Vendor/ Buyer	Outsourcing /Offshoring	issues with defining sound taxing policy
19	many	BPO	All	Buyer	Outsourcing /Offshoring	how to verify the partner's know-how
20	few	BPO	All	Vendor/ Buyer	Outsourcing /Offshoring	lack of negotiation flexibility at the bid process
21	many	BPO	All	Buyer	Outsourcing /Offshoring	how to verify if the partner possesses a well-developed IT infrastructure available which is crucial for the stability of the service delivery

INTERDISCIPLINARY APPROACH TO ECONOMICS AND SOCIOLOGY

1	2	3	4	5	6	7
22	individual	in-house	All	Buyer	Outsourcing /Offshoring	how to maintain the company's functioning transparency during transformation
23	few	BPO/in-house	All	Buyer	Offshoring	what are the key government incentive schemes in the considered locations
24	few	BPO/in-house	All	Buyer	Offshoring	how to assess the availability of a high-profile and experienced managerial community in the target investment locations
25	vast majority	in-house	Banking	Buyer	Outsourcing /Offshoring	how to understand the legal acts regulating offshoring transitions that are often hard to comprehend
26	many	in-house	All	Vendor/ Buyer	Outsourcing /Offshoring	issues with planning the new business model enabling supervision costs reduction
27	individual	BPO/in-house	All	Vendor/ Buyer	Outsourcing /Offshoring	language barrier when transitioning services along with the suppliers, e.g. service is being moved from Finland to Poland, but all suppliers stay local and used to communicate in Finnish before (contract, invoices)
28	few	BPO	All	Vendor/ Buyer	Outsourcing /Offshoring	problems with establishing consistent and optimized service delivery model

Source: self-study.

After the assessment of the collected empirical data, it has been determined that the key pre-transition challenges, indicated by the vast majority of the managers interviewed (points 5, 11 and 16 and 25 in *Table 1*) are: 'how to migrate a worker to the destination country', 'how to set up an enterprise in a foreign country to start business activities', 'how to protect personal data while processing sensitive information', and 'how to understand the legal acts regulating offshoring transitions that are often hard to comprehend'. All of these four problems correspond to the legal regulations governing process transition, but while the first three refer to the specialist field knowledge, the fourth one is of a cognitive nature (pointing at the difficulties in the understanding of legal acts, often formulated for being used and applied by the lawyers' community). Thus, the authors decided to carry out the review of 3 core legal topics, focusing on its easiness of understanding in the socio-economic context. The three topics presented in *Figure 2*, had been phrased in the following way: 1) establishing and conducting business activity in a different country; 2) relocation of an employee to a different country; 3) sensitive data handling procedure in the light of international process transfers.

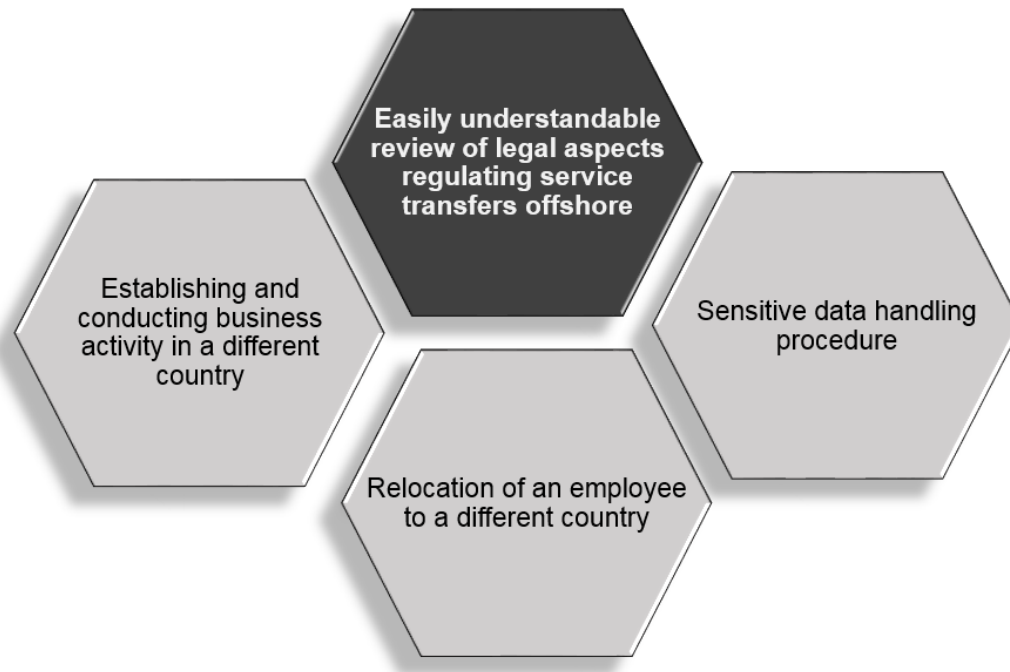


Figure 2. Key legal topics related to service transfers offshore
Source: case study.

3. Selected legal topics review

3.1. *Establishing and conducting business activity in a different country*

One of the key challenges impacting the strategic decision making process of transferring some processes to remote location is the simplicity and convenience of establishing and conducting business activity by a business entity (capital) in a destination country. It needs to be considered from two angles. Firstly, from the perspective of the easiness of incorporating a business entity (partnership) under which the services shall be rendered in a target country. Secondly, the complexity of employee relocation procedure, especially for high-level workers responsible for project coordination, as well as specialists and subject matter experts responsible for recruitment, knowledge transfer and introductory trainings.

Important, but not critical in the decision making process of preparing service offshoring transition is the transparency and lucidity of the destination country's legal system, particularly in the light of establishing and conducting business activity by foreign entities. At the stage of arranging relocation activities, one needs to confront the target country's procedural elasticity with the economic factors of workers' migration. Depending on organizational needs, two basic forms can be considered: establishing a daughter company in a target country (branch of a foreign enterprise), and utilizing local entity's services, at the same time introducing appropriate control mechanisms, like delegating managerial crew responsible for process coordination in a destination country. According to the rule of free services movement, the citizens of the EU are allowed to establish and conduct business activity within the territory of another EU member state (together with Island, Norway and Lichtenstein), even though the administrative requirements may vary in particular EU member states. The formal and legal requirements are also determined by the legal form under which the business activities are to be conducted in the foreign country. As per the general

policy on supporting entrepreneurship in the EU, all the member states are obliged to implement such approaches as:

- the lead time of establishing company should not exceed 3 working days.
- the cost of establishing company should not exceed 100 EUR.
- application of the 'one-stop shopping' principle and online registration.

Nonetheless, it is important to mention that the above recommendations are merely of general character, aiming at simplification and facilitation of legal entity's establishment, but their implementation vary depending on legal forms of conducting business activity in a given country. Nowadays, the most popular form of conducting business activity in the EU is the private limited company (e.g. Sp. z o.o. in Poland, LTD in the UK, GmbH in Germany, S.R.L. in Spain, S.R.O in Slovakia and Oy in Finland).

Private limited companies are the share-holding companies in which equity partners are not personally responsible for the company's liabilities towards creditors. Their responsibility is limited in a way that only the company's equity is fully accountable (formed from its associates' contributions). In general, the functioning models of private limited companies are similar in all EU member states (based on the German Gesellschaft mit beschränkter Haftung, GmbH), but the detailed functioning models can vary. The regulations on establishing daughter companies by foreign enterprises from outside of the EU may differ in each member state. In Poland for instance, foreign citizens (remaining in the country on the grounds of visa), similarly like foreign partnerships (if their registration does not require their physical presence in Poland) are only allowed to establish and conduct business activity in the form of limited partnership, limited joint-stock partnership and private limited company. It is important to mention that bilateral agreements concluded between individual countries and Poland (or any other EU member state) can impose additional constraints or freedoms. Thus, before reaching the decision on incorporating a daughter company at the target country, one needs to verify possible conveniences and restrictions, related to the incorporation of the dependent subject in the target country. As a matter of principle, the incorporation of a daughter company in the destination country can happen without limitations, but if the mother company's Executive Board is supposed to be delegated to hold some functions in the daughter company, it can become necessary to arrange visas and work permits for performing some actions at a given position. In order to define the rules governing workers' migration to the destination country, it is important to determine and follow the regulations in the two areas: the legalization of the workers' stay within the target country's territory and legalization of the workers' employment in the target country.

A share-holding company constitutes the optimal form for the offshoring business activity due to a number of reasons:

- It can be established on the basis of capital share acquired from the mother company. It means that it is always necessary to obtain separate resources for the incorporation of the daughter company in the target country. The obvious advantage of such incorporation (as part of the division through assignation) is the possibility of establishing mother company on the capital share constituting the organized part of the mother company.
- Share-holding companies, as legal entities are represented by the organs forming them. It enables the optimization of surveillance model in the foreign country where the process shall be delivered. From one hand, designated managers are responsible for daily decision making process, holding positions in the senior executive boards. From the other hand, making strategic decision in key aspects of company's operations is possible via the remote voting and online shareholder summits. Such strategic decisions may concern the acknowledgement of the

financial statements, granting exoneration for the following year, termination of activity etc.

- In case the company has to be recapitalized, especially at the initial stage of cross-border process migration, in case of share-holding companies the additional financial resources can be acquired through surcharges or the increase of share capital.
- The legal construction of share-holding company enables relatively uncomplicated transfer of income from daughter to mother company. The incomes acquired by the daughter company can be transferred as dividends that can only be liquidized by the resolution of the shareholders' summit. Income transfer eliminates the issue of transfer prizing.

3.2. Relocation of an employee to a different country

The first step of a worker's relocation is the residence legalization within the territory of the destination country. Free movement of employees is one of the key four freedoms of EU law and workforce relocation is a form of efficient resources distribution on the EU labour market (Vasile, 2014). According to the current EU legislation, the main legal condition for entrance and residence of a foreigner in the territory of the receiving country is the ownership of valid identity document and a visa (if required by its law). This concept is related not only to international business transfers, but to the multidimensional phenomenon of international migrations that has recently been widely addressed in media and political discourse in both the geopolitical and civilizational aspect (Strielkowski, Bilan, 2016). Together with the strengthening of EU member states cooperation, all the in-border controls have been abolished, and the freedom of people and goods has been reinforced. Nonetheless, it is important to remember that in case of monitoring and control conducted by security services of a member state, the foreigner should hold a travel document (passport), and in case of EU or Schengen citizens- travel document or identity card. Currently, Schengen zone consists of Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, and Liechtenstein. It is worth to mention that Schengen zone borders do not exactly cover the EU borders. Cyprus, Bulgaria, Ireland, Romania, the United Kingdom and Croatia remain outside Schengen (being the EU member countries), whereas such Schengen zone countries as Liechtenstein and Switzerland do not belong to the EU. Moreover, some public institutions of EU member states (banks, public offices, hospitals etc.) recognize only passport as a valid identity document from a foreigner. In case of the EU countries that do not belong to Schengen zone, the stay in their territory for more than 3 months may lead to the need of visa arrangement, even for EU citizens. Visa is required for the citizens of many countries from outside the EU (together with the travel document). Within the EU territory, we can list the following visa types:

- airport visa (type A), valid only for people travelling by plane, not allowing to leave the airport transit zone;
- Schengen visa (type C), allowing the residence in the Schengen zone territory for less than 90 days, within 6 months after the first entrance [Art. 2, points 2-5 of the Council Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009, establishing a Community Code on Visas (Visa Code);
- Country visas (type D), legalizing the residence within the territory of a given member state for longer than 90 days in the defined validity period. Type D visas are most frequently used to legalize the residence of migrated employees, as they can be granted for maximum 12 months. The awarding of visas is the independent

competence of a particular EU member state. According to Schengen acquis – Convention on the gradual abolition of checks at their common borders, the long-term visas are the country visas for the period of more than 3 months that can be awarded by one of the member states on the basis of their internal regulations and procedures [Art. 18 of Schengen acquis – Convention implementing Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders]. Country visas are awarded by a consulate of the receiving country on the basis of the residence aim an applicant declares. In case of a migrated employee, the residence aim is often pronounced as undertaking employment in the territory of the receiving country. In order to prove this fact, it is necessary to arrange additional documents legalizing the employment commencement in the receiving country's territory, such as work permit, or the statement of future employer about the intention of employing a foreigner, if the receiving country's work permit is not obligatory.

It is worth to remember that before initiating an employee's migration procedure, the detailed legal conditions regulating this aspect between two countries need to be investigated. Moreover, the general conditions regulating the visa policy of a given country can be tightened or released in particular situations. In case of extending the employee's relocation period for more than the visa's validity, the procedure that legalizes employee's residence needs to be applied. In most cases, the legalization comes to the application for the temporal residency and employment.

Another element that needs to be identified during the employee's relocation process is the expected legalization of worker's employment in the destination country. The general rule for the EU citizens is the lack of obligation for arranging separate work permit within the EU member states. In most cases, the lack of such obligation concerns also Schengen zone's citizens. The exceptions to the freedom of employment in the affiliated countries concern such countries as Croatia, Lichtenstein and Switzerland. In the forthcoming years, the public opinion shall be observing the freedom of worker flows in Europe, in the light of the Brexit decision undertaken by the United Kingdom citizens and the general trends across the entire continent (Bachmann, Sidaway, 2016). Moreover, equal gender opportunities are particularly relevant in the EU labour environment (Alonso *et al.*, 2017). In case of migrating workers from outside the EU, it is obligatory to arrange the work permit. For instance, within the territory of the Republic of Poland, the procedure and type of the necessary permit depends on the location and the type of work a foreign employee is supposed to perform.

If a migrated employee is supposed to work in Poland under the standard contract of employment or civil law contract with the employer based in Poland, the Type A work permit shall be issued. In case of relocating an employee to perform the board member role at the employer's partnership registered in Poland, and when he is supposed to remain in the country for more than 6 months within the period of the following 12 months, the Type B work permit shall be issued. In case of performing duties in a foreign company that is not registered, nor conducting any organized business activities in Poland, the employee delegated to perform only export services in the foreign country (only temporary and occasional), needs to apply for the Type D work permit. If the migrated worker is to work at the foreign company and shall be delegated to Poland for more than 3 months in the subsequent 6 months for different purpose than defined in work permits Types B, C and D, the Type E work permit shall be issued. The work permits are issued for some definite period, determined in the decision on granting the permit, but no longer than 3 months. In case of foreigners holding the board member positions in enterprises of more than 25 employees on the day of applying for permit, the work permit can be granted for up to 5 years.

In the process of worker's migration, for the purpose of cost optimization and improving the comfort of employment commencement, it is worth to take advantage of applying for the integrated permit. The integrated permit (i.e. permit for residence and employment) is only one document (obtained as part of only one application procedure), legalizing both the residence and the employment of a worker [Article 115 and the following of the Act on Foreigners of 12 December 2013 (Journal of Laws of the Republic of Poland of 2016, Item 1650)]. The institution of integrated permit in Poland implements the provisions of the Directive 2011/98/UE of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State. Analogous solutions can be found in the other European legal systems where the Directive has been implemented. It is essential the even the Directive imposes the duty of developing one, common administrative procedure in all member states, the substantive conditions of granting the integrated permit in different EU countries can vary, as the decision on its final structure lies exclusively with the member state legislators.

The key social aspect related to the migration of a worker is the separation from their families. In order to prevent unnecessary situations resulting in the downfall of the employees effectiveness (often resulting from the yearning to family), the European law allows the localization of stay for a spouse or an underage child (not only biological, also adopted or any other the employee hold the foster care over), as defined in Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification. The family of the worker may apply for the residence permit for the period of 3 years with the possibility of extending. A drawback of this regulation is the fact that it does not refer to adult children (on which member states can apply separate regulations), and it does not apply to Schengen citizens.

3.3. The sensitive data handling procedure in the light of international process transfers

The procedure of protecting the sensitive personal data in the EU is defined in the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). This text is also applicable within the territory of the European Economic Area. The sensitive data handling aspects are also addressed in the "Madrid Resolution" on international privacy standards aimed at strengthening of the international cooperation in the field of data and privacy protection. On the 6th of November 2009, the International Standards for the Protection of Privacy has been signed by Protection Authorities of 50 countries gathered at the 31st International Conference of Data Protection and Privacy Commissioners in Madrid. The aim of the documents is to define the set of rules and laws that shall assure efficient and homogenous personal data privacy protection in the EU member states, in the same time bringing about the improvement in the transnational personal data flows that are inevitable in the globalized world, in the business process offshoring industry in particular. The Regulation (EU) 2016/679 of the European Parliament and of the Council has to be applied in the totally or partially automatized personal data processing, so as the processing of data that are the part of the dataset or are supposed to function as the part of the data set in other than automatized way. From the other hand, the "Madrid Resolution" is applicable for all the kinds of data processing that are conducted by means of the automatized tools, or in other organized way, both in the private and public sectors.

According to the Regulation (EU) 2016/679 of the European Parliament and of the Council, in order to maintain the coherent degree of natural persons' protection in the EU (in

the same time preventing the discrepancies that are preventing the free movement of the personal data in the internal European market), such regulation needs to be implemented, which guarantees business entities (including the micro-companies and small-and-medium enterprises) the certainty and transparency of law, and natural persons the equal level of legally executed appurtenances, as well as the appurtenances of administrator and processing units in all EU member states. It shall enable the coherent monitoring of the processed data, so as the equal penalty standards in all the member states, and the effective cooperation of surveillance authorities in all the EU countries. In order for the internal market to function properly, the free flow of data within the EU cannot be restricted or abolished due to the reasons related to the natural persons' protection, when it comes to the personal data processing. Due to the special situation of micro-companies and small-and-medium-sized enterprises (SMEs), the above mentioned regulation allows the exceptions concerning the processing activities' registration for the business entities employing less than 250 people. Moreover, it encourages the institutions and administration bodies of the EU member states, to take into account particular needs of the micro-companies and SMEs.

In the topic of the personal data protection, it is important to explain a few basic definitions. The understanding of 'micro-companies' and 'small-and-medium-sized enterprises' needs to be based on the Article 2 of the Appendix to the Recommendation 2003/361/EC – Definition of micro, small and medium-sized enterprises. According to the Article 4 of the Regulation:

- 'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
- 'processing' means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
- 'restriction of processing' means the marking of stored personal data with the aim of limiting their processing in the future;
- 'profiling' means any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements;
- 'pseudonymisation' means the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person;
- 'filing system' means any structured set of personal data which are accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographical basis;
- 'controller' means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are

determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law;

- ‘processor’ means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller;
- ‘recipient’ means a natural or legal person, public authority, agency or another body, to which the personal data are disclosed, whether a third party or not. However, public authorities which may receive personal data in the framework of a particular inquiry in accordance with Union or Member State law shall not be regarded as recipients; the processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purposes of the processing;
- ‘third party’ means a natural or legal person, public authority, agency or body other than the data subject, controller, processor and persons who, under the direct authority of the controller or processor, are authorised to process personal data;
- ‘consent’ of the data subject means any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her;
- ‘personal data breach’ means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;
- ‘binding corporate rules’ means personal data protection policies which are adhered to by a controller or processor established on the territory of a Member State for transfers or a set of transfers of personal data to a controller or processor in one or more third countries within a group of undertakings, or group of enterprises engaged in a joint economic activity;
- ‘supervisory authority’ means an independent public authority which is established by a Member State pursuant to Article 51;
- ‘cross-border processing’ means either:
 - a) processing of personal data which takes place in the context of the activities of establishments in more than one Member State of a controller or processor in the Union where the controller or processor is established in more than one Member State; or
 - b) processing of personal data which takes place in the context of the activities of a single establishment of a controller or processor in the Union but which substantially affects or is likely to substantially affect data subjects in more than one Member State.

The processing of personal data that leads to the improper or illegal human discrimination of people concerned needs to be recognized as unreliable. Another condition is to define the purpose of data processing that shall only be restricted to fulfilling precisely defined goal and legitimately towards the responsible unit (meaning it can only be processed for the purpose which it was collected). Processing personal data shall be arranged according to the proportionality rule, which means it shall be restricted only to the processing that is appropriate, important and sufficient in the light of the personal data processing aim. Person responsible from processing data (person responsible) shall aim for the minimization of the amount of the data processed and is obliged to ensure the correctness of updated data, so that it can meet the predefined goal. Another rule governing the personal data processing mechanism is the openness, according to which the responsible person is obliged to inform the people concerned about the processing person's identity, aim of processing, people to whom the data shall be disclosed, so as the means of their rights exercising. If the personal data was collected directly from the person subject to personal data processing (data subject),

the information shall be passed during the data collection process. Still, if the personal data had not been collected directly from the data subject, the person responsible is obliged to inform the data subject about the origin of the data. This information shall be aligned in the proper period of time, even though other means can also be ensured, as long as ensuring its validity not possible, or would require excessive efforts at the responsible person's side. All kinds of information delivered to the data subject shall be shared in a clear and understandable way. If the personal data are collected only via an electronic communication, the above obligations can be fulfilled by locating the privacy policy at the easily visible and accessible place.

Processing of personal data shall be aligned with the responsibility rule, which means that the responsible persons needs to be undertake actions aiming for compliance with regulations and rules defined in the EU and domestic law. Another rule is the legitimacy, which means that the personal data can be processed only if approved by the data subject, or in case of the legally justified good of the person responsible for data processing (if not subject to the legally justified goods of law and order, personal freedom etc.), and when the processing is required for maintaining the legal relationship between the data subject and responsible. Personal data can also be processed, if required by the domestic legislation to fulfil the obligation imposed by the proper public authority, as part of exercising its entitlements or responding to the situation of the life, health or security threat of the data subject. The person responsible is obliged to ensure the simple and efficient withdrawal procedure of the concerned person's data at all times. It is important to mention that the particularly protected data (such as one impacting a person's personal zone) that can cause discrimination or serious danger for the data subject can be particularly protected from mishandling. The sensitive data particularly protected consist of the information on racial and ethnic parentage; political, religious and philosophical views; so as the information related to the sexual life and health conditions of the data subject. In the area of personal data processing, person responsible can make use one or more supplier (not treating it as sharing personal data with the 3rd party unit), if the minimal data protection level is ensured, as defined in the "Madrid Resolution" and relevant domestic legislation, and furthermore, if the legal relationship is established by signing the contract or other legal instrument that proves its existence, scope, content, and defines the obligation of the data processing services' supplier to obey these warranties and assurance of the process to be align with the person's concerned requirements.

In case of the cross-border data sharing, the Regulation defines the international data sharing as happening within the territory of the EU, as part of the public authorities' activity in more than one member state of the processor and controller that owns organizational units in more than one member state, or the data processing that takes place in the EU as part of the individual organizational activity of the processor and controller in the EU, but may have the essential impact of the people concerned in more than one EU member state. The processing data offshore is possible, if the country to which the data is transferred ensured the minimum protection level. It is possible to transfer the data for some offshore country that does not ensure the minimum protection level, if the sender is able to ensure that the receiver unit will provide required protection level. Such assurance can result from the contractual clauses. Such situation occurs if such sharing takes place within the international corporation or group, and the warranties are defined in the internal privacy security policy. Business units planning to share personal data to some offshore units are obliged to make all possible efforts to properly consider whether the safety level offered by the new service supplier is sufficient.

Another important aspect is the access rights of the data subject to the information on certain personal data that are subject to the processing of data, together with its origin, processing aim and units or persons acting as receivers. Information supplied to the data

subject should be delivered in an understandable way. Data subject can request from the person responsible to delete or update the personal data, if they are outdated. Person responsible for data processing is obliged to update or delete the requested data. The update or deletion of personal data cannot be treated as justified, if blocking such transfer is justified in order to execute the obligation imposed on the responsible person by the domestic law or the bilateral agreement between data subject and responsible. Both the Regulation (EU) 2016/679 of the European Parliament and Directive 95/46/EC (General Data Protection Regulation), determine the objection right of a data subject. Each person subject to data processing can place an objection towards the processing of their personal data, if there is a legally justified reason related to the particular situation. The controller is not allowed to process the data, unless he demonstrates justified reasons, to superior to the interests, rights and freedoms of the data subject (or their grounds for investigating and defend possible claims). Moreover, according to the Article 18 of the Regulation (EU) 2016/679 of the European Parliament and of the Council, data subject shall have the right to obtain from the controller restriction of processing where one of the following applies:

- a) the accuracy of the personal data is contested by the data subject, for a period enabling the controller to verify the accuracy of the personal data;
- b) the processing is unlawful and the data subject opposes the erasure of the personal data and requests the restriction of their use instead;
- c) the controller no longer needs the personal data for the purposes of the processing, but they are required by the data subject for the establishment, exercise or defence of legal claims;
- d) the data subject has objected to processing pursuant to Article 21(1) pending the verification whether the legitimate grounds of the controller override those of the data subject.

Both the subject processing the data, as well as the person responsible are obliged to maintain required security measures in order to protect the personal data. The person responsible is also obliged to control it after the legal relationship with the data subject is terminated. Aside from the above requirements, the business units processing personal data are obliged to introduce the relevant data protection security measures. Such measures may include implementing procedures which can prevent and detect potential breaches of the data protection regulations. These procedures shall be based on the unified management systems and information security control policies. Business units processing personal data are also obliged to implement binding corporate rules. Another measure that may improve the data protection is the implementation of training, education and information programmes among business units responsible for data processing that shall enhance the understanding of secure data processing regulations. Another valuable solution can be performing internal audits, which shall additionally strengthen the compatibility of actions undertaken with binding data protection regulations. Aside from that, the information systems and technologies used to process personal data need to be adjusted to the binding data protection regulations and the business units that are supposed to process the data should implement the respond policies (in cases the data protection regulations are breached).

Conclusions

In the paper, the concept of business process offshoring in the context of social and economic issues has been addressed. The managerial community of the service industry regularly struggles with various problems at different stages of organizational changes, formally executed through the transition project. In this work, the authors focused at the pre-transition stage (during the assessment and preparation of the strategic decision governing

details of a subsequent service transfer). The researchers identified key challenges that are most important for service offshoring community. The core aim of this work was to answer the research questions that concerned identification and classification of the most challenging pre-transitional problems, and to respond to the findings by presenting selected legal topics in the light of economic and social aspects. What is important, the vast majority of the interlocutors emphasized the need for developing such review in an easily understandable and approachable way, as most of the available materials is hard to comprehend and appears to be prepared merely for law professionals.

Thus, the study presents three legal aspects related to the international service transfers, identified through the empirical research process: 1) establishing and conducting business activity in a different country, 2) relocation of an employee to a different country, 3) sensitive data handling procedure in the light of international process transfers. As for the first topic, while establishing and conducting business activity by a given business entity (capital) in a destination country, the simplicity and transparency of the destination country's legal system needs to be considered. The authors elaborated on the subjects of setting up private limited company, which is the most popular form of conducting business activity in the EU, as well as incorporating of a daughter company in the target location. As for the aspect of worker's relocation to a different country, the legalization of residence in the destination country has been discussed, with the brief summary of the visa and work permit regulations (that in some EU member states can be arranged in the form of the integrated permit). Moreover, the review of the sensitive data handling procedure within the EU, subject to the "Madrid Resolution" and the Regulation (EU) 2016/679 of the European Parliament, was provided in detail. Personal data protection rights are among the most important values of the European law, encompassing the legitimacy, accuracy, statement of purpose, proportionality, openness, confidentiality and responsibility in matters of personal data processing. It is worth to emphasize the importance of data subject's right to access the information on the background and details of the data processed. The EU legislation provides legal instruments that are supposed to maintain the personal data security and one of the key instruments is the right of data subject to restrict the processor's data handling rights. In general, the EU legislation aims for guaranteeing high-level, unified personal data protection at the territory of the whole EU, in the same time enhancing the sense of legal certainty in this respect.

The authors believe that such review can become profitable for the service offshoring society in the decision making process and proper strategic assessment at the pre-transition period. Moreover, the brief review of selected legal topics regulating offshoring transitions has been developed in the possibly concise and intelligible way, taking into consideration their economic and social implications and influence. As far as the research limitations are concerned, the input data had been gathered only from a defined number of interviewees and the review of legal aspects represents the subjective analysis of cases selected. Every company needs to adjust their efforts and corporate strategies to particular market conditions and business needs, but in general, the subject shall be perceived as important and in the future, more investigations shall definitely be appreciated by the community consulted.

References

- Alonso, P., Moscoso, P., Salgado, J. F. (2017), Structured behavioral interview as a legal guarantee for ensuring equal employment opportunities for women: A meta-analysis, *The European Journal of Psychology Applied to Legal Context*, Vol. 9, No. 1, pp. 15-23.
- Aspray, W., Moyadas, F., Vardi, M. Y. (2006), *Globalization and offshoring of software: A report of the ACM migration taskforce*. New York, NY: Association for Computing

- Machinery*, http://usacm.acm.org/images/documents/full_final1.pdf (referred on 20/11/2016).
- Association of Business Service Leaders ABSL (2016), *Business Services in Central & Eastern Europe 2015, in cooperation with Baker & McKenzie*, JLL, Randstad, <https://www.absl.pl/web/guest/home/> (referred on 15/01/2016).
- Association of Business Service Leaders ABSL, Deloitte, Hays Specialist Recruitment, JLL (2016), *Europe's business Services destinations A journey across 10 countries and 20 cities*, http://abslreport.com/wp-content/uploads/2016/11/EURO2016_official.pdf (referred on 15/01/2017).
- Bachmann, V., Sidaway, J. D. (2016), Brexit geopolitics, *Geoforum*, Vol. 77, pp. 47-50.
- Baier, E., Rammer, C., Schubert, T. (2015), The Impact of Captive Innovation Offshoring on the Effectiveness of Organizational Adaptation, *Journal of International Management*, Vol. 21, No. 2, pp. 150-165.
- Balcerzak, A. P. (2016), Multiple-criteria Evaluation of Quality of Human Capital in the European Union Countries, *Economics and Sociology*, Vol. 9, No. 2, pp. 11-26.
- Baranowska-Skimina, A. (2015), *Kto korzysta na rozwoju sektora BPO/SSC w Polsce?* <http://www.egospodarka.pl/124822,Kto-korzysta-na-rozwoju-sektora-BPO-SSC-w-Polsce,1,39,1.html> (referred on 10/11/2016).
- Chilimoniuk-Przedziecka, E. (2011), Offshoring in business services sector over the business cycle: A case of growth of the international cooperation, *Folia Oeconomica Stetinensia*, Vol. 10, No. 1, pp. 7-19.
- Doh, J. P., Bunyaratavej, K., Hahn, E. D. (2009), Separable but not equal: the location determinants of discrete services offshoring activities, *Journal of International Business Studies*, Vol. 40, No. 6, pp. 926-943.
- Emerging Europe (2016), Polish Economy – Invest In Poland, <http://emerging-europe.com/regional-opportunities/poland/polish-economy-invest-gdp-growth/> (referred on 15/01/2017).
- Farrell, D. (2005), Offshoring: value creation through economic change, *Journal of Management Studies*, Vol. 42, No. 3, pp. 675-683.
- Ferdows, K. (1997), Made in the world: the global spread of production, *Production and Operations Management*, Vol. 6, No. 2, pp. 102-109.
- Haberly, D., Wójcik, D. (2015), Regional Blocks and Imperial Legacies: Mapping the Global Offshore FDI Network, *Economic Geography*, Vol. 91, No. 3, pp. 251-280.
- Hummels, D., Munch, J. R., Skipper, L., Xiang, C. (2012), Offshoring, Transition, and Training: Evidence from Danish Matched Worker-Firm Data, *The American Economic Review*, Vol. 102, No. 3, pp. 424-428.
- Kedziora, D., Kraslawski, A., Karri, T. (2016), Offshored Service Cost Model as a Key Post-Transition Challenge, *Journal of International Studies*, Vol. 9, No. 3, pp. 229-240.
- Lisin, E., & Strielkowski, W. (2014), Modelling new economic approaches for the wholesale energy markets in Russia and the EU, *Transformation in Business & Economics*, 13(2B), pp. 566-580.
- Ledyaeva, S., Karhunen, P., Kosonen, R., Whalley, J. (2015), Offshore Foreign Direct Investment, Capital Round-Tripping, and Corruption: Empirical Analysis of Russian Regions, *Economic Geography*, Vol. 91, No. 3, pp. 305-341.
- Levy, D. L. (2005), Offshoring in the New Global Political Economy, *Journal of Management Studies*, Vol. 42, No. 3, pp. 685-693.
- Lichniak, I. (2010), *Serwicyzacja Polskiej Gospodarki*, Warsaw School of Economics Academic Press, Warsaw, Poland.
- Mani, V. (2005), Transitioning to offshore service delivery, *Plant*, Vol. 64, No. 11, p. 24.

- Metters, R., Verma, R. (2008), History of Offshoring Knowledge Services, *Journal of Operations Management*, Vol. 26, No. 2, pp. 141-147.
- Pisani, N., Ricart, J. E. (2016), Offshoring of Services: A Review of the Literature and Organizing Framework, *Management International Review*, Vol. 56, No. 3, pp. 385-424.
- Plannenstein, L. L., Tsai, R. J. (2004), Offshore outsourcing: current and future effects on american it industry, *Information Systems Management*, Vol. 21, No. 4, pp. 72-80.
- Rodríguez, A., Nieto, M. J. (2015), Does R&D offshoring lead to SME growth? Different governance modes and the mediating role of innovation, *Strategic Management Journal*, Vol. 37, No. 8, pp. 1734-1753.
- Strielkowski, W., & Weyskrabova, B. (2014), Ukrainian labour migration and remittances in the Czech Republic, *Tijdschrift voor economische en sociale geografie*, 105(1), pp. 30-45, doi: <https://doi.org/10.1111/tesg.12052>.
- Strielkowski, W., Bilan, Y. (2016), Migration aspirations & decisions: A comparative study of Turkey and Ukraine, *Intellectual Economics*, Vol. 10, No. 1, pp. 18-27.
- Tamayo, M. P., Huergo, E. (2016), The Effect of R&D Services Offshoring on Skilled Employment: Firm Evidence, *The World Economy*, Vol. 39, No. 9, pp. 1414-1433.
- Tambe, P., Hitt, L. M. (2012), Now IT's personal: offshoring and the shifting skill composition of the US information technology workforce, *Management Science*, Vol. 58, No. 4, pp. 678-695.
- Polish Information and Foreign Investment Agency PAIiZ, PwC (2012) *Why Poland?* https://www.pwc.pl/pl/publikacje/assets/why_poland_2012.pdf (referred on 21.12.2016).
- Polish Ministry of Treasury (2013), *BPO sector in Poland – a chance for rapid growth*, <https://www.msp.gov.pl/en/polish-economy/economic-news/4340,BPO-sector-in-Poland-a-chance-for-rapid-growth.html> (referred on 11.12.2016).
- Willis Towers Watson (2015), *Transition Management: Expert Oversight Can Help Transition Success*, <https://www.towerswatson.com/en-US/Insights/IC-Types/Technical-Regulatory/2015/03/transition-management> (referred on 11.11.2016).
- Winkler, D. (2009), Services Offshoring and its Impact on the Labor Market. Theoretical Insights, Empirical Evidence, and Economic Policy Recommendations for Germany, *Physica-Verlag Heidelberg*, Berlin, Germany.
- van den Ende, L., van Marrewijk, A. (2014), The ritualization of transitions in the project life cycle: A study of transition rituals in construction projects, *International Journal of Project Management*, Vol. 32, No. 7, pp. 1134-1145.
- Vasile, V. (2014), Labour mobility impact on sending countries: Romanian EU workers case study, *Procedia Economics and Finance*, Vol. 8, pp. 737-46.

Legal Acts

- Act on Foreigners of 12 December 2013 (Journal of Laws of the Republic of Poland of 2016, Item 1650), <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20130001650> (referred on 15.12.2016).
- Council Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009, establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.09.2009, p. 1, as amended), <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009R0810> (referred on 12.12.2016).
- Directive 2011/98/UE of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-

country workers legally residing in a Member State (OJ L 343, 23.12.2011, p. 1, as amended), <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32011L0098&qid=1466877463927> (referred on 15.12.2016).

Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 03/10/2003 P. 0012 – 0018), <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32003L0086> (referred on 12.12.2016).

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1–88, as amended), <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32016R0679> (referred on 15.12.2016).

Schengen acquis – Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders (OJ L 239, 22.09.2000, p. 19, as amended), [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:42000A0922\(02\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:42000A0922(02)) (referred on 14.12.2016).

Treaty establishing the European Community (Consolidated version 2002) (OJ C 325, 24.12.2002, p. 33-184, as amended), <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12002E%2FTXT> (referred on 11.12.2016).

Consolidated version of the Treaty on the Functioning of the European Union (OJ C 326, 26.10.2012, p. 47-390, as amended), <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012E/TXT> (referred on 12.12.2016).

Case Law

Case C-110/13: Judgment of the Court (Seventh Chamber) of 27 February 2014 (request for a preliminary ruling from the Bundesfinanzhof – Germany) – HaTeFo GmbH v Finanzamt Haldensleben (Reference for a preliminary ruling – Company law – Recommendation 2003/361/EC – Definition of micro, small and medium-sized enterprises – Types of enterprises taken into consideration in calculating staff numbers and financial amounts – Linked enterprises – Notion of ‘group of natural persons acting jointly’), <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A62013CA0110> (referred on 17.12.2016).