SUMMARY OF PROFESSIONAL ACCOMPLISHMENTS

1**. Name and surname:**

Mariusz Wieczorek

2. **Acquired diplomas and scientific degrees, with the name, place and year of their acquisition and the title of the PhD dissertation**

1999 – Master of Law, Faculty of Law and Administration at the Marie Curie-Sklodowska (UMCS) University in Lublin,

1999 – 2004 PhD studies at the Faculty of Law and Administration at UMCS,

2005 – PhD in legal studies, degree awarded by a resolution of the Faculty of Law and Administration at the Marie Sklodowska-Curie University in Lublin of 11 May 2005; dissertation entitled *"Renta z tytułu niezdolności ("renta inwalidzka") do pracy w prawie polskim na tle prawa europejskiego" [Annuity due to incapacity (disability annuity) to work in Polish law vs European law],* prepared under a scientific guidance of prof. dr hab. Teresa Liszcz

3. Information on previous employment in scientific entities

2005 – still – assistant professor, K. Pulaski University of Technology and Humanities in Radom.

2005 – 2009 – assistant professor, Higher School of Business and Entrepreneurship in Ostrowiec Świętokrzyski.

In the years 2005 – 2014 I also delivered lectures and held classes in the field of labour law and social insurance law during first and second-degree courses as well as postgraduate studies, cooperating with: KEN Pedagogical University of Cracow, Higher School of Public Administration in Kielce, Higher School of Internal and Personal Security APEIRON in Cracow and the Higher School of Business and Entrepreneurship in Ostrowiec Świętokrzystki.

In the years 2005 – 2007 I was the president of the board of the Science-Development-Education Society in Ostrowiec Świętokrzyski.

4. Indicated achievements resulting from art. 16, par. 2 of the Act of 14 March 2003, on scientific degrees and the academic title, and degrees and the academic title in the field of arts (i.e. Journal of Laws. of 2014, No. 1852 with respective amendments.)

The achievement, resulting from the a/m regulation is a monograph, which was published by Adam Marszałek Publishing House, entitled:

"***Charakter prawny stosunku służbowego funkcjonariuszy służb mundurowych" [Legal character of the service relationship of uniformed services officers]*** (Toruń 2017 ISBN 978-83-8019-788-6, ss. 407).

reviewers:

1) dr hab. Teresa Liszcz

2) prof. dr hab. Jacek Sobczak

Discussion about the scientific objective of the above-mentioned elaboration and the drawn conclusions, together with the discussion about their potential application.

The starting point for the discussion of the scientific objective of the monograph *Legal character of the service relationship of uniformed services officers* was the statement that governing the employment of uniformed services officers was addressed by the science of law to a relatively very small extent. Although a few years ago, P. Szustakiewicz published a book titled *Stosunki służbowe funkcjonariuszy służb mundurowych i żołnierzy zawodowych jako sprawa administracyjna [Service relationships of uniformed services and professional soldiers as an administrative matter]* (Warszawa 2012), which made up for the deficit in this area, I believe there is still a wide research field, which can be covered by research cogitation. Publications other than the a/m book, devoted to employing officers in uniformed services, do not constitute an attempt to comprehensively present the legal character issue of the service relationship (M. Liwo *Status służb mundurowych i funkcjonariuszy w nich zatrudnionych – Status of uniformed services and the officers employed therein*; Warszawa 2013) or, despite a significant substantive value, concentrate on the service relationship of civil service officials (T. Kuczyński, J. Stelina, E. Mazurczak-Jasińska, *Stosunek służbowy [Service relationship]* in:
R. Hauser, Z. Niewiadomski, A. Wróbel (ed.) *System Prawa Administracyjnego [System of Administrative Law]*. *Tom 11 [Volume 11]*, Warszawa 2011).

The work addressed the legal nature of the relationship binding the entities, which co-participate in achieving the goals of the State in the form of ensuring the safety of the citizens and the State, defined as uniformed services with officers. These entities include: The Internal Security Agency (ABW), the Intelligence Agency (AW), Government Protection Bureau (BOR), Central Anticorruption Bureau (CBA), Prison Service (SW), Border Patrol (SG), Military Counterintelligence Service (SKW), Military Intelligence Service (SWW) and the National Fire Department (PSP). *Prima facie* it might seem that the scope of the elaboration should also include the legal relations governed by administrative law, in which professional soldiers are on military duty. However, I share the view of the Constitutional Court, according to which the sole fact that the employment of professional soldiers, as well as other uniformed services are not labour relations, but are of administrative-legal character, is not a sufficient condition to treat all uniformed services, including the armed forces, as belonging to the same relevant group. Professional soldiers constitute a corps of a special legal status, resulting from both, the essence of military duty, as well as its objective. The scope of the elaboration also did not cover the service relationship of Customs-Tax Service formed as a result of the act of 16 November 2016 on the National Tax Administration. This service relationship is governed by the regulations of the administrative law but was not analysed in the monograph due to the adapted definition of service. At the same time, it is an employment relationship, very close to the ones discussed in this elaboration.

Two basic objectives of the elaboration can be indicated. The first one is to define the legal character of a service relationship. I adapted the assumption that it is a relationship of public law. As far as branch adherence is concerned, it is governed by the regulation of administrative law. In Polish, as well as foreign literature, we can find views about the worthlessness of the legal system division into public and private, but the author of this elaboration does not share them.

The second objective is to prove the need to adopt an act including general regulations governing the service relationship of uniformed services officers. In the current legal situation, this employment relationship is governed by the regulation of several acts (referred to hereinafter as service regulations). They show significant discrepancies, which, given the essential identity of the regulation subject, cannot be justified. Due to the fact that it seems appropriate to adopt an act which would uniformly determine such issues as, in particular, the conditions of admission to the service (qualification procedures), rights and duties of the officers and dismissal from service. At the same time, this stipulation cannot be understood as

eliminating all the possible separations within the legal regulations of service relationships. Certain differences in this scope are indeed necessary, and are determined by different tasks of individual uniformed services. Adopting generic regulations does not, indeed, exclude the introduction of specific regulations in acts, forming individual uniformed formations, defining their tasks, the form of their execution and organization. It is worth to highlight that the suggested regulating model of the issue in question was applied by the Polish legislator, by regulation the functioning of the Military Intelligence Service and the Military Counter-intelligence Service. I decided that in order to reach the objective it was not necessary to indicate all the issues which should be defined by regulations of the suggested act. Deliberating over issues such associated with such conditions of the service as, in particular: the emolument of the officers, period of service, right to rest or housing allowances, would direct us to digressions, which could dilute the keynote of the elaboration. For similar reasons I did not approach the concept of disciplinary responsibility of the officers, which alone could constitute a research subject, similar to the one undertaken in this paper. This is why, in the presented monograph, I focused on issues essential from the point of view of the service relationship legal nature, which determined the structure of the elaboration.

In the first chapter I analysed the sources of commonly applicable law, in order to define the meaning which the legislator assigns to the term service . Due to the lack off a legal definition of the term service , in the search for the designate of this concept, we would need to approach its common understanding. Hence the need to consider the relationship between service and human work.

The second chapter focuses on analysing the subjective nature of a service relationship. A service relationship is a variation of a legal relationship in general, which makes the discussion of the legal capacity of participating entities legitimate. Therefore, I analysed the conditions, which have to be satisfied by a person interested in serving. In this part of the dissertation, I made reference to the issue of civil-law subjectivity, confining my attention to bodies employing officers.

I devoted chapter three to establishing a service relationship. I presented the models of the qualification procedures preceding the establishment of a service relationship, drawing attention to the issues of the application of the law, resulting from the existing legal situation in this regard. I put the strongest emphasis on appointment, which is an administrative decision, which results in establishing a service relationship. An administrative decision is a

classic, and even archetypal, form of action by the public administration, which plainly indicates the legal nature of a service relationship. This part of the elaboration also attempts to place appointment in the theoretic classification of administrative decisions.

In the third chapter, I presented a change of a legal relationship. I pointed out legal instruments which are used to modify a service relationship and the scope of transformations.

The fourth chapter concerns the termination of a service relationship. In this part the monograph, I classified the modes of termination, and by applying this criterion, I analysed the regulations governing the waiver of a service relationship.

In the fifth chapter, I described particular properties of a service relationship. Whereas a service, as a subject of legal regulation, may be considered as an axiological cause for a specific regulation of a service relationship, in this part I pointed out the features that distinguish a service relationship from other employment relationships.

Chapter six, the final chapter of the monograph, concerns the variations of a service relationship. Pragmatic acts provide for several types of service, namely: preparatory service, constant service, contractual service and candidate service. The type of the service determines the legal status of an officer, and the considerations in this part of the elaboration were concentrated on settling the merits of maintaining the existing differences in the future act on service relationship.

Each of the chapters ends with conclusions, which indicate regulations confirming the public-legal nature of a service relationship on one hand, and the directions of the solutions in the postulated act including general provisions regarding a service relationship on the other hand. Regardless of that fact, the specific comments *de lege ferenda* were added on the occasion of the partial analysis of the issues.

The subject of the elaboration determined the selection of the research methods applied in the course of developing this elaboration. The dogmatic method was of essential significance, while the theoretical-legal method was applied as a supplement. The comparative method was also used to a certain degree, since the regulations regarding employing persons by the civil service are determined by historical and ideological factors. Non the less, considering the objective of this treatise, a detailed presentation of the model of employing officers, would not contribute to achieving it. However, this observation does not

release us from using the acquis of the doctrine of the law of foreign countries to such an extent to which it was considered relevant due to the nature and objective of the elaboration.

As a result of conducted research, I evidenced that a service relationship should be classified as public law, and further, as administrative law. Among many arguments supporting the presented thesis, the one deemed most momentous should be the one associated with the legal form of a service provider s actions in the field of establishing, changing and terminating a service relationship. It therefore arises, gets transformed and waived by means of an administrative decision. Appointment, as an act creating a service relationship and other decisions issued in terms of personal matters are individually and specifically applied acts of law, issued by relevant units of a service provider in terms of personal matters.

The observation that an appointment may also be the basis to establish an employment relationship, does not contradict adding importance to the decision, which deal with personal matters in uniformed services. However, there is no doubt that the appointment in uniformed services is an act, which does not lead to establishing a legal relationship governed by the provisions of the labour law, but instead, of the administrative law. Of course, the similarity of certain powers granted to certain officers and employees is understandable, since both the officers and the employees remain in employment relationships, and mainly due to the human aspect of work. Therefore, a congenial regulation of certain social rights to which employees and officers are entitled, by virtue of the widely understood professional work is not surprising.

This is where we need to accept the fundamental difference between the effects of an appointment establishing an employment relationship, and an appointment, which is the bases for an employment relationship. In the first case, an obligation to perform work is created, whereas in the second case, an obligation to serve. Both terms, namely, employment relationship and service relationship are definitions of the legal language, while the legislator defined only the employment relationship. The legal literature assumes that an employee performs voluntarily subordinated work. The criteria of distinguishing cases from the widely understood human labour concept, which allow to call it voluntarily subordinate , are defined in art. 22 § 1 of the Labour code. In the regulations governing a service relationship of uniformed services officers, we will be unable to find an equivalent of art. 22 § 1 of the Labour Code, as well as, so clearly defined properties of work performed by

officers, which allow to call it a service . However, I have no doubt that such a difference exists. After all, the legislator provided for the possibility of employment of both employees and officers effected by such uniformed formations as: The Internal Security Agency, the Intelligence Agency, Government Protection Bureau, Central Anticorruption Bureau, Police, National Fire Service, Prison Service, Border Patrol, Military Counterintelligence Service and Military Intelligence Service. Therefore, the assumption of the rationality of a legislator dictates a search for specific features of a duty of officers in a service relationship. Those cannot be only voluntariness, personal nature of a service or its payment, since such properties are also characteristic for a voluntarily subordinate work. The fact that a service is associated with performing public tasks also cannot be deemed a service s *differentia specifica.* Uniformed formations were created to perform such tasks, and as noted above, in order to execute them, they also utilize voluntarily subordinate work. However, it does not mean that the issue of executing public tasks is completely useless in determining the nature of the service.

I believe that the fact which allows us to distinguish a service as a type of a widely understood human work, performed within the service relationships is the readiness of the officers to risk their lives in order to protect certain values. This type of readiness is not only a heartfelt belief of an officer but, as a result of taking a vow, transforms into a duty of executing the orders/instructions of the superiors, even if it is associated with risking the life of an officer. Bearing in mind the tasks of uniformed services, we can say that the officers serve the common good. However, I am convinced that an officer serving the common good, serves also the individual (private) good. At first glance, it seems that it is not so, and an officer risking his/her own life cannot gain anything but instead only lose – suffer from a damage to health or even lose the his/her life. However, such a conclusion seems too superficial, and the contradiction between the interest of an individual and the public interest – at least to a certain degree – seems apparent. A human is a social being and is predestined to play multiple social roles. One of them is work which, besides satisfying the economic needs of a human being, significantly impacts the self-esteem of an individual. It is hard not to refer at this point to the words of John Paul II, included in the Encyclical *Laborem exercens*, who recognized work as the good of a man and a decent good, expressing human dignity and multiplying it *Work is a good thing for man – a good thing for his humanity – because through work man not only transforms nature, adapting it to his own needs, but he also achieves fulfilment as a human being and indeed, in a sense, becomes more of a human*

being . By risking his/her life or even making a sacrifice in the form of a damage to health, an officer achieves fulfilment as a human. Hence, he/she proves the words delivered during the vows and strengthens the self-esteem in their own eyes and in the view of the society.

The service of officers must, at the same time, be recognized as a variation of public service and a form of human occupational activity. However, it is not an ordinary salaried work and goes beyond the duties, the performance of which can be expected from a party, obliged to perform paid work within a private-legal employment relationship. As it may seem, it is that property of a service, which caused the legislator, by regulating the service relationship, to equip a superior in personal matters with legal instruments which allow him/her to administer an officer to a degree unknown to the labour law, and even more to civil law, and applied a public-legal service relationship regulation method.

As shown by myself in this elaboration, it is the public interest category which is one of the most important arguments allowing the recognition of the service relationship as a civil-legal relationship. The public interest, or the interest of a uniformed service is not, in itself, a sufficient tool to delimit the regulation of the legal system, hence, also the legal relationships, but in combination with such criteria as the regulation method and the joint position of entities participating in a legal relationship, allows a description and systematization of legal institutions.

A service relationship is a specific form of an administrative relationship in general. I do not share the view that it may be considered as a relationship similar to the enforcement relationship in administration. In a democratic State of law, the concept developed already by the 19th century German administrative law, according to which public-legal service relationships were classified as particular ruling relationships becomes obsolete. I believe, it is relevant to include it in the so-called administrative-legal status relationships. An officer remaining in a service relationship determines not only his/her legal situation as a professionally active person, utilizing employment freedom, but to a significant extent, impacts the legal status of an officer in a wider legal context. The sphere which is most strongly impacted by a service relationship are the restrictions in the utilization of rights and constitutional freedoms by an officer. The regulations introducing these restrictions find their axiological justification in the need to protect the public interest. It is downright impossible to indicate a group of citizens, apart from professional soldiers, with its rights and constitutional

freedoms restricted to such an extent as the rights and constitutional freedoms of uniformed services.

The aim of the treatise, apart from discussing the legal nature of a service relationship, was to indicate the need to adopt a new act containing general regulations regarding a service relationship and to indicate fundamental problems of the suggested regulation, which included issues strongly associated with the legal nature of a service relationship. In the current legal situation, the service relationships in which the officers of ABW, AW, BOR, CBA, the Police, PSP SG, SW, SKW and SWW remain are governed by 8 service regulations, adopted over a period of 20 years (1990-2010). The differences in the status of officers of individual uniformed services found during the analysis, are only partially substantiated by the specifics of the tasks of these services. Standardization of the regulations governing a service relationship could, of course, take the form of amendments to the individual service regulations, but the consideration of legislative economics and the benefits of ordering the legal language, sufficiently justify the need to undertake works on an act including general provisions regarding a service relationship. However, in my opinion, the most important argument in favour of adopting an act of service relationships is the duty of self-sacrifice (devotion), which is a relevant feature of a service by officers of the a/m uniformed services.

The basic assumption underlying the stipulation to adopt an act on the service relationship is the division, with some exceptions, of the regulations governing the establishment, modification and termination of a service relationship in uniformed services, and the provisions governing the institutional-organizational aspect of such formations. A template for such a solution can be the acts on SKW and SWW, and the act of the service of SKW and SWW officers. In the first one, the legislator governs the issues associated with the tasks and organization of these formations, whereas in the second one, the matters regarding solely the service relationship of SKW and SWW officers. Therefore, we can say that currently only the act on the service of SKW and SWW officers fully deserves to be considered as service regulations . Hence, my proposal is aimed at utilizing and significantly expanding the solution already successfully functioning in our legal space.

When it comes to the detailed issues, which in my opinion should be governed in the future act, first of all it should define the qualification criteria for candidates for a given type of service. They should include, as common requirements for candidates for each of the

formations: the readiness to be subject to duty discipline, psychophysical capability to serve, no criminal record and a benefit of the entirety of public rights, as well as appropriate education.

Establishing a service relationship is preceded by a qualification procedure. I believe that this matter should be – as it is now the case – governed by regulations. However, at the level of an act, it would be necessary to determine the competition character of the proceedings, as is provided for in, e.g., the act of the National Fire Service. As a result, no doubts would arise, as is currently the case with several formations, in terms of the results of a conducted procedure for the establishment of a service relationship. I believe it is inappropriate to leave, in the hands of an authority relevant in the case of establishing a service relationship, freedom to select a person that will be employed out of a group of people, who completed a qualification procedure with a positive result but an inconsistent assessment. Such a freedom is not acceptable due to praxeological reasons and carries an undesired risk of unequal treatment of the candidates.

Appointment is, and should remain, the basis for establishing a service relationship. Therefore, an element of a proposed act should be the provisions regarding the contens, form and delivery of an appointment. Besides the above, it should include provisions governing the relevancy of uniformed services bodies in regard of the officers personal matters.

In connection with establishing a service relationship, I deem the provisions of the act on CBA providing for its creation on the basis of an appointment and the entrusting of responsibilities (this applies to the position of the Head of the CBA and the position of Deputy Head of the CBA) as highly questionable. The legislator, by amending the act on CBA in order to guarantee a status of a CBA officer to a person, who directly before being appointed (being entrusted with the responsibilities) was not such a person, made an unjustified, in my opinion, breach in the assumption underlying the provisions governing a service relationship. The reason for a negative assessment of these regulations is the withdrawal from determining the ability to serve in the mode provided for candidates for service in the CBA. Since the legislator conditioned the possibility to establish a service relationship from possessing the ability to serve, a withdrawal from satisfying that requirement is completely illogical. Whereas the specific status of the people that could be employed by the CBA on the basis of an appointment or entrusting the responsibilities, justifies non-subjection of a candidate to a qualification procedure, I don't see any reason to

abandon the verification of the ability to serve. The critical assessment is not mitigated in any way by the limited circle of positions at CBA which can be filled in this manner.

Due to the uniqueness of the provisions on establishing a service relationship at CBA whilst of appointing or entrusting the responsibilities, they should not be included in the postulated act. I also believe that the act on the CBA should be amended in this field, e.g., by replacing the regulations regarding the appointment and entrusting the duties via a nomination, forming a fixed time service relationship, limited by the period of holding the function.

It comes without doubt that one of the most important features of a service relationship is subordination, covering the subordination and availability of an officer. The first aspect of service subordination comes down to the duty of performing the commands of the superiors, which specify: the time, location and manner of performing service duties. Availability means a unilateral transformation of a service relationship with a decision of a relevant superior. I believe that the future act should distinguish between the two dimensions of service subordination. It would be possible through modifying and standardizing the terminology. I suggest for the instrument, which expresses the service discipline, to be defined as a command , modelled on the legal definition of a military order, included in the Penal Code. At the same time, the term order should be reserved for the act, which deals with personal matters of the officers. Therefore, an order would be a variation of administrative decisions addressed to officers of uniformed services, which would result in the establishment, modification or termination of a service relationship. At the same time, I deem defining an exhaustive catalogue of the officers personal matters in the future act as desirable. This way, undesired and unjustified differences in terms of issues, which are considered as personal issues addressed by administrative decisions would be removed from the provisions governing a service relationship. The implementation of the presented postulate would also enable the differentiation between the sphere of service subordination of the officers, where the provisions of the administrative code do not apply – the sphere of service subordination – from the sphere governed by the provisions of the administrative code.

I consider the issues associated with the termination of a service relationship as requiring far-reaching unification. The essential differences in the regulations regarding the issue in different service pragmatic are incomprehensible. *De lege lata*, a service relationship is terminated by means of a dismissal of an officer from service or an expiry of a service

relationship. I am unable to indicate arguments supporting the fact that the same actual event may be the basis for the dismissal from service in one regulation, while causing the expiry of a service relationship in another. I also believe that the legal nature of a service relationship justifies rather the application of the legal relationship expiry structure, than a termination by an obligatory decision of a relevant superior. Therefore, could as the provisions of the act on the Prison Service, regarding the termination, which are consistent with my concept of regulating the termination of a service relationship a model for a future regulation. At the same time, the advantage of the provisions of the act on the Prison Service is that it includes abandoning a service by an officer or a disappearance of an officer in the catalogue of event resulting in the termination of the relationship. It would enable to ensure consistency between the legal status and the actual status, and would also protect the interest of a uniformed service, thanks to unlocking a service position.

In connection with regulating the dismissal of officers from service, the feature of durability, attributed to the service relationship by the doctrine and judicial decisions, should also be addressed. Due to the fact that most regulations provide for the possibility to dismiss and officer due to an important interest of the service , the view about the durability of a service relationship has to be verified. The consequence of an important interest of the service is that the basis of dismissing officers are not only events clearly defined by the legislator in the regulations but also actual circumstances, which in the individual cases may be considered by a superior as a sufficient base for the termination of a service relationship. An officer may, of course, appeal against a dismissal decision but it should be noted, that the role of an administrative court is limited to control the correctness of the decision regarding a dismissal of an officer. Therefore, it guarantees a lower level of the durability of a service relationship than the one guaranteed by the common court, which considers an appeal by an employee against the termination of an indefinite time-period employment contract, in which the employee questioned the veracity of the termination. I believe that the postulated act should not include any provisions allowing the dismissal of an officer due to important interest of the service . In my opinion, the catalogue of bases for a dismissal, yet very broad, should be specified and should not include any loopholes allowing a superior to make potentially arbitrary decisions regarding the dismissal of an officer from service.

Whit regard to the postulate to adopt an act including general provisions concerning a service relationship, one should consider implementing provisions regarding a candidate service in the act. Currently, the opportunity to serve a candidate service is provided for in

only four regulations. It could suggest that the postulated act should not include any provisions devoted to a candidate service. However, in my opinion, such a view is unjustified. The proposal for a candidate service in BOR, SG and the Police to be governed by one of the chapters of the postulated act, should not be rejected *a limine*. The treatise demonstrates that including the same provisions regulating the same issues in different regulations leads to the formation of unjustified discrepancies. Such is the case with the way a candidate service in BOR, SG and the Police is regulated, when there are no substantive arguments justifying the differences indicated in the treatise, between candidate services in these formations. It is different in the case of a candidate service in the PSP. Due to its specificity, there are no doubts that the provisions governing that service should not be included in the future act and should remain in the act on PSP. The treatise demonstrated that a candidate service relationship in the PSP is *sui generis* a service relationship, which differs significantly from a constant and preparatory service. The model applied by the legislator when regulating a candidate service in the PSP is relevant for this formation, hence, useless for other formations, which is why, it could not be used in the other services in the future.

The issue of a contractual service, provided for in the Act on the Police should also be addressed. The regulations governing a contractual service are dead – since coming into force they had not been applied in practice by the Police. Contractual service comes down to establishing a service relationship for a defined time period, without the possibility to transform it into constant service. Without questioning the usefulness of such a solution in obtaining cadre by the Police, we cannot, however, accept the sole concept of using such a contract . A positive evaluation of the solution would be easier, if the contract constituted a base for establishing an employment relationship – it would be a specific civil-legal contract. However, *de lege lata*, it is, in my opinion, a clumsy and indeed, unnecessary attempt to utilise the civil-legal structures in public law. The conclusion of a contract does neither take care of a personal matter, nor does it provide a candidate – otherwise rightly – with any handicap in the qualification procedure. Establishing a service relationship within a contractual service is a result of an appointment. In my opinion, there is no basis for the regulations regarding contractual service to be included in the postulated act containing the general provisions on a service relationship, hence, to expand a contractual service onto other formations. I believe that the contractual service in its current form has no raison d être. However, we cannot rule out the inclusion of a time-defined service, other than a candidate or preparatory service, into the postulated act. I question not so much the feasibility of a

contractual service but rather its regulation assuming the need to precede an appointment with a contract. The literature on the administrative law devoted to contract in administration, notes, i.a., that they are a way to empower a citizen in contacts with the administration, through stressing the importance of his/her will. As demonstrated in the treatise, we cannot state that a contract with the Police actually serves such a purpose. Its role is limited to unambiguously determining the timeliness of a future service relationship. This is why I believe that a notice regarding a time-defined (contractual) service should clearly state the type of a service and the time period that the service relationship is planned for. The candidates, aware of the timeliness of the potential employment, would have sufficient data to make a decision as to whether such employment in a uniformed service would be beneficial to them.

The matter, which also requires consideration in connection with the postulated act, is the limitation of constitutional rights of the officers of uniformed services. Without questioning the sole need of such regulations, we cannot gloss over the differences stated in the paper, for I believe that these restrictions should be identical for the officers of all uniformed services.

The subject of the treatise, in my opinion, justified the elaboration scope excluding a number of regulations which are strictly associated with the legal nature of a service relationship, and which could be defined as the rights of working people . In particular, it s about such issues as: holiday leaves, occupational health and safety during service, service time or the right to emoluments. I believe that the future act should, of course include them, although under the assumption of the distinctions provided for in the acts on services".

In the final comments devoted to the scope of the act on service relationship, the issue of applying the provisions of the Labour code for this relationship requires individual addressing. Due to the difference between a voluntarily subordinate service and the service of officers, the postulated act cannot serve a similar function to the acts, referred to in art. 5 of the Labour code. However, it does not mean a lack of usefulness of the Labour code provisions in the determination of the rights of employed officers. The references to the Labour code should maintain, as is the case currently, the form of references to particular provisions of the Labour Code. The references to the provisions of the labour code associated with parenthood or salary protection shall be deemed particularly useful in this context. It is of no relevance to children whether their parents are employees or officers of uniformed

services. Therefore, there is no need for an act on service relationship to repeat the regulations governing the rights associated with parenthood, included in the Labour code. At the same time, it needs to be emphasized that in this context, as a rule, the provisions of the labour law regarding the rights associated with parenthood, should apply the officers directly.

Also, the similarity between the function (alimony) of the remuneration and emolument, allows to apply the provisions of the Labour code regarding the restrictions in calculating set-offs and the amount exempt from the set-offs.

We can also consider reference to at least some provisions of that Code, governing the prohibition of discrimination, although that issue could well be governed in the postulated service regulations.

I present a very critical assessment of the service regulations providing for the possibility to employ employees for a fixed time period in order to replace officers exercising their rights associated with parenthood. The source of a negative evaluation of this regulation is, of course, the difference between a voluntarily subordinated work and the service served by officers. This disparity lies indeed at the core of regulating the service relationships in uniformed services with the provisions of the administrative law. Therefore, it becomes reasonable to ask, whether the legislator, when expanding the regulations with provisions enabling the replacement of an officer with an employee, did not undermine the legitimacy of maintaining an administrative-legal regulation of a service relationship. A positive answer to a question formulated in such a way is, in my opinion, possible. If in the course of practical activities of a uniformed service, a situation arises in which an employee will be able to carry out duties in a work position, constantly hosted by an officer exercising the rights associated with parenthood then it will be justified to state a faulty determination of the nature of a given position. I believe that the position should be constantly held by a civil employee of a given uniformed formation and not by an officer. Recruiting officers in positions, which could successfully be posted by employees, is in my opinion, a debasement of a service s value. It can also contribute to the formation of tensions among the employees, due to a justified sense of unequal employment treatment. The source of those tensions may be, in particular, social benefits, mainly, pension benefits. This is why I believe that the regulations, which allow replacing officers with employees, should not find their place in the future act.

To end the discussions devoted to the scope of regulations of the proposed act on service relationship , it needs to be said that its potential adoption is not equivalent with the

elimination of specific rules governing certain aspects of the service relationship in the acts forming individual uniformed formations. The potential differences are not only imaginable but also, due to the difference in the tasks of individual formations, necessary.

5. Discussion on other scientific and research achievements

A) The nature of other research papers

If I were to choose a common thread of my research, I would go with legal regulations associated with the widely understood paid work, which is provided within a law-governed employment relationship, service relationship standardized with administrative law, as well as a civil-legal employment relationship. As a result, my research achievements include elaborations from the field of labour law and administrative law, as well as the social security law.

Elaborations, which are associated with employing academic teachers, take a special place in the group of publication from the **field of labour law.** A factor, which particularly stimulates research curiosity were my own observations and experience, associated with working as an academic teacher. In this context, I find the issue of the work time of this occupational group interesting, which I devoted my article to, entitled *Wybrane problemy przepisów o czasie pracy pracowników naukowo-dydaktycznych [Selected issues regarding the provisions of the work time of the faculty-academic employees]*, as well as the comments in: *Prawo o szkolnictwie wyższym. Praktyczny komentarz [The law on higher education. Practical comment]* (Warszawa 2015). In the work *Niektóre prawne problemy dodatkowego zatrudnienia nauczycieli akademickich [Certain legal issues of additional employment of academic teachers]* (Kielce 2014) I addressed the issue of compliance with the Constitution of the Republic of Poland, limiting the additional employment of academic teachers, and in the article titled *Wybrane praktyczne aspekty stosowania przepisów o minimum kadrowym [Selected practical aspects of the application of the provisions on the minimum personnel count]* (Radom 2010) I pointed to the questionable, in my opinion, interpretation by the National Accreditation Commission regarding the provisions governing the issue of the so-called minimum personnel count.

Reaching beyond the labour law in the article *Dopuszczalność zawierania umów cywilnoprawnych jako prawnych podstaw prowadzenia zajęć dydaktycznych w szkole wyższej*

[Admissibility of concluding civil-legal contracts as legal basis to conduct courses at a higher school] (Kraków 2015), I indicated a certain inadequacy of the contracts governed in the Civil code to obtain people conducting courses at higher schools.

An important part of my research activities were publications devoted to employment based on a defined time-period contract. In the article *Umowa o pracę na czas określony jako podstawa nawiązania stosunku pracy [Specified time period employment contract as a basis to establish an employment relationship]* (Radom 2013) I criticised a part of the then applicable regulations of the Labour code, which in my opinion allowed, from the point of view of the legislator, the employers to avoid multiple conclusion of specified time period employment contracts. I returned to this issue in further elaborations, titled a) *Projekt nowego ujęcia w kodeksie pracy umowy o pracę na czas określony [A project of a new representation of an unspecified time period employment contract in the labour code]* (Lublin 2016) and b) *Umowa o pracę na czas określony po nowelizacji kodeksu pracy [Specified time period employment contract after an amendment to the labour code]* (Lwów 2016).

I devoted two articles to the so-called civil service labour law. In the first one, title *Uwagi dotyczące wyboru jako podstawy nawiązania stosunku pracy w świetle ustawy o pracownikach samorządowych [Comments regarding the selection as the basis for establishing an employment relationship in light of the act on local government employees]* (Radom 2012) I attempted to evidence that a selection, as the basis for employing local government employees, should be limited to the persons employed at the position of a voit (mayor, president) or a provincial staroste or marshal. In the second one, titled *Obsadzanie wyższych stanowisk w służbie cywilnej [Filling higher positions in the civil service]* I critically assessed the new manner of standardizing the way of filling higher positions in the civil service (Ostrowiec Św. 2016) pointing to the unconstitutionality of the current regulations.

In the elaboration *Podporządkowanie pracownika pracodawcy jako cecha stosunku pracy [Subordination of an employee to an employer as a feature of employment relationship]* (Kielce 2013) I took a stand that despite a change of the reality of work performance, it should still be an essential feature of an employment relationship. At the same time, I stated that it seemed reasonable to extend the labour law regulations onto employment relationships, which are difficult to be assigned the feature of traditionally understood assignment.

The paper titled *Prawo pracy a stosunek służbowy policjantów [Labour law versus service relationship of policemen] (*Rzeszów 2015) falls on the border of labour law and administrative law, and was devoted to the issues of applying labour law provisions to service

relationships of policemen. In the paper, I classified the regulations referring the acts on the Police to the labour law and indicated legislative irregularities.

The aftermath of my main, current field of interest, namely, the service relationship, are elaborations, in which I approached research issues in the scope of **administrative-legal** employment. They include: *Prawne podstawy zatrudnienia w Agencji Bezpieczeństwa Wewnętrznego[Legal basis of employment at the Internal Security Agency] (*Warszawa 2013), *Służba jako przesłanka udzielenia ochrony prawnej funkcjonariuszom [Service as a condition of granting legal protection to officers] (*Warszawa 2015*), Pełnienie służby przez strażaków Państwowej Straży Pożarnej a dobro wspólne [Service by firemen of the National Fire Service and the common good] (*Lublin 2016), *Czas służby funkcjonariuszy Policji [Service time of Police officers] (*Siedlce 2016), *Zwolnienie policjanta ze służby ze względu na wiek w świetle dyrektywy Rady nr 2000/78/WE z 27 listopada 2008 r. w sprawie ustanowienia ogólnych ram równego traktowania przy zatrudnieniu i wykonywaniu zawodu [Dismissing a policeman from service due to age in light of the directive of the Council no. 2000/78/EC of 27 November 2008 on establishing general framework for equal treatment in employment and work performance]* (Olsztyn 2016), *Komisje lekarskie podległe ministrowi właściwemu do spraw wewnętrznych [Medical boards subordinate to the minister competent for internal affairs]*, Warszawa -Radom 2016), *Postępowanie kwalifikacyjne wobec kandydatów do służby w formacjach mundurowych [Qualification procedure concerning candidates for duty in uniformed services] (*Kraków 2017) and *Podstawy nawiązania stosunku służbowego z funkcjonariuszami CBA [Basis for establishing a service relationship with CBA officers]* (Toruń 2017). In the above publications I focused on detailed matters associated with the governing of service in uniformed services, which I believe constituted an interesting research material.

Simultaneously to my scientific research activity in the field of employment relationships, I also dealt with the concept of **social security**, addressing the issues of legal regulations of social insurance law, social supply law and social welfare law. In the article *Prawne problemy prewencji rentowej [Legal issues of annuity prevention]* (Ostrowiec 2007) I raised the need of subjective and objective expansion of annuity prevention and I analysed the regulations regarding the contracting of rehabilitation services. In the publication *The right to special annuity in regard to the social security* (Kraków 2012) I pointed out the position of the regulations concerning the so-called pensions and special annuities, which I believe to be defective, and the too broad degree of freedom of the authorities granting these benefits. In

the paper *Kierunki zmian ubezpieczenia emerytalnego w Polsce w latach 1999-2014 [Direction of the changes in the pension insurance in Poland, in the years 1999-2014]* (Łuck 2014) I presented the main trends in the transformation of pension insurance in Poland.

In two elaborations devoted to social security I mainly focused on the constitutional aspects of social security. In the first one, titled *Zabezpieczenie społeczne funkcjonariuszy Służby Celnej w świetle konstytucyjnej zasady równości [Social security of the Customs Service officers in light of the constitutional principle of equality]* (Lublin 2015), I showed the compliance of the Customs Service officers social security regulations with the constitutional principle of equality. On the other hand, in the article titled *Ewolucja prawa do zabezpieczenia społecznego w polskich konstytucjach. Zarys zagadnienia [Evolution of the law for social security in Polish constitutions. Issue outline]* (Katowice 2016) I presented a manner, in which the constitutional legislator approached the matter of social security, starting from the March Constitution, and ending with the Constitution of 1997.

Three elaborations, that is *Wybrane prawne problemy zabezpieczenia Społecznego funkcjonariuszy Agencji Bezpieczeństwa Wewnętrznego [Selected legal issues of social security of Internal Security Agency officers]* (Kraków 2013), *Zmiany w systemie zaopatrzenia społecznego funkcjonariuszy służb mundurowych w latach 2012 – 2014 [Changes in the social provision of uniformed services officers in the years 2012 – 2014]*, (Lublin 2014), and *Wybrane aspekty zmian w zakresie zabezpieczenia chorobowego funkcjonariuszy służb mundurowych [Selected aspects of changes in the scope of sickness insurance of uniformed services officers]* (Kraków 2016) were inspired by the modifications of the regulations standardizing the social security in uniformed formations. I assessed the amendments of relevant normative acts, accepting, in principle, the direction of the changes.

My achievements in the scope of social security are completed with the elaboration *Prawo do pomocy społecznej [The right to social care]* in: *ABC Administracji [ABC of Administration]* (Radom 2013).

B) Participation in research-scientific projects, international research cooperation and other aspects of research work

a) Within the framework of the scientific-research activities, I participated in the implementation of a scientific-research project no. ROB 0021 01/ID 21/2 financed by NCBiR, titled *Nowoczesne technologie dla/w procesie karnym i ich wykorzystane – aspekty*

techniczne, kryminalistyczne, kryminologiczne i prawne [Modern technologies for/in the criminal proceedings and their application – technical, criminological and legal aspects] . Moreover, I was the head of a project no. 3296/11/P-DBUPB/2016/036; 2016-2017 *Charakter prawny stosunku służbowego funkcjonariuszy służb mundurowych [Legal character of the service relationship of uniformed services officers]* . The research work was executed as statutory work. I was the sole executor of the project.

b) In May of this year, I completed a scientific internship at the Hochschule für öffentliche Verwaltung in Kehl (Germany). In cooperation with prof. Stefan Stehle from the Hochschule für öffentliche Verwaltung im Kehl I prepared a research paper titled *Obywatelstwo jako przesłanek zatrudnienia urzędnika w Niemczech i w Polsce [Citizenship as a precondition for employing an official in Germany and in Poland]*, which was delivered during a scientific conference *Prawo Unii Europejskiej w orzecznictwie sądów konstytucyjnych i administracyjnych oraz administracji publicznej państw członkowskich [EU Law in the judicial decisions of constitutional and administrative courts and the public administration of Member States]* organised in 2017 by the KEN Pedagogigcal University of Cracow within the Jean Monnet Module (National Public Administration And European Integration – NAPU). In addition, in 2016 I participated in an international scientific conference *V Annual International Scientific-Practical Conference "Relevant Aspects of International Relations: Political, Economics, Law, Philosophy* organised by the I. Franko National University in Lviv. In the course of the conference, I gave a lecture *The contract of employment for a fixed-term after the amendment to the labour code.*

c) Since 2011, every two years, within the ERASMUS programme, I have been giving lectures to students of the Hochschule für öffentliche Verwaltung w Kehl (Germany). The lectures are devoted to the structure of the Polish social security system.

d) Within the development of domestic and international cooperation, I participated in the following domestic and international scientific conferences.

1. M. Wieczorek, 2010, research paper: *Renty specjalne Prezesa Rady Ministrów [Special annuities of the Prime Minister,* Nationwide Scientific Conference *Funkcjonowanie państwa w kontekście katastrofy smoleńskiej [Functioning of a State in the context of the Smolensk plane crash]*, University of Technology and Humanities, Radom.
2. 2010, *Zbiorowe prawo pracy w XXI wieku [Collective labur law in the 21st century]* – Internatonal Scientific Conference on the thirtieth anniversary of the founding of NSZZ Solidarność.

3. 2011, *Ewolucja ubezpieczeń społecznych w okresie transformacji ustrojowe [Evolution of social insurance in the period of political system transformation]*, Nationwide Scientific Conference organized by ZUS and PSUS, Bydgoszcz.

4. M. Wieczorek, 2012, research paper: *Pojęcie niepełnosprawności w prawie socjalnym [The concept of disability in social law]*, Nationwide Scientific Conference *Niepełnosprawni na rynku pracy [The disabled on the labour market]*, University of Technology and Humanities, Radom.

5. M. Wieczorek, 2013, research paper: *Umowa o pracę na czas określony jako podstawa stosunku pracy [A specified time period employment contract as basis of an employment relationship]*, Nationwide scientific conference *Prawo pracy czynnikiem skutecznego kierowania ludźmi [Labour law as a factor of efficient human management]*, Higher School of Social and Technical Sciences, Radom.

6. 2013, Nationwide Scientific Conference organized by ZUS and PSUS *Ubezpieczenia społeczne dawniej i dziś [Social insurance in the past and today]* – on the 80th anniversary of adopting the Social Security Act, 2013, Wrocław.

7. 2013, Nationwide Scientific Conference organized by ZUS and PSUS *Niezdolność do pracy jako ryzyko w ubezpieczeniu rentowym [Inability to work as a pension insurance risk]*, Chorzów.

8. M. Wieczorek, 2013, research paper: *Podporządkowanie pracownika jako cecha stosunku pracy [Subordination of an employee as a feature of an employment relationship]* Nationwide Scientific Conference *Świadczenie pracy jako przedmiot zobowiązania umownego [Performing work as a subject of a contractual obligation]*, Higher School of Economics, Law and Medical Sciences (WSEPiNM), Kielce.

9. M. Wieczorek, 2014, research paper *Niektóre prawne problemy dodatkowego zatrudnienia nauczycieli akademickich [Certain legal issues of additional employment of academic teachers]*, Nationwide scientific conference *Świadczenie pracy jako przedmiot zobowiązania umownego –. część II [Performing work as a subject of a contractual obligation – [part II]*, WSEPiNM, Kielce.

10. 2014, Nationwide Scientific Conference organised by ZUS and PSUS *Składki na ubezpieczenie społeczne [Social insurance contributions]*, Poznań.

11. M. Wieczorek, 2014, research paper: *Prawne podstawy zatrudnienia w SP ZOZ [Legal basis for employment at SP ZOZ – Independent Public Health Care Units]*, International Scientific Conference *Styl życia a zdrowie [Lifestyle and health]*, Medical University, Lublin 2014.

12. M. Wieczorek, 2014, research paper *Pełnienie służby przez strażaków Państwowej Straży Pożarnej [Service by the firemen of the National Fire Service],* Nationwide scientific conference *Służąc dobru wspólnemu [Serving the commong good]*, Catholic University of Lublin.

13. M. Wieczorek, 2015, research paper: *Zabezpieczenie społeczne funkcjonariuszy Służby Celnej w świetle konstytucyjnej zasady równości [Social security of Customs Service officers in light of the constitutional principle of equality]*, XX Convention of the Chairs of Labour Law *Równość i sprawiedliwość w zatrudnieniu [Equality and justice in employment]*, UMCS, Lublin.

14. M. Wieczorek, 2015, *Komisje lekarskie podległe ministrowi właściwemu ds. wewnętrznych [Medical boards subordinate to the minister competent for internal affairs]*, Nationwide Scientific Conference *"Zabezpieczenie społeczne a zdrowie publiczne [Social security and public health]*; Radom.

15. M. Wieczorek, 2015, research paper: *Wybrane aspekty prawne orzekania przez komisje lekarskie podległe ministrowi właściwemu do spraw wewnętrznych [Selected aspects of decisions by medical boards subordinate to the minister responsible for internal affairs];* International scientific conference *Aktualne procesy modernizacyjne w administracji publicznej – doświadczenia polskie i europejskie [Current modernization processes in public administration – Polish and European experiences]*, Pedagogical University of Cracow.

16. M. Wieczorek, 2015, research paper, *Zaopatrzenie emerytalne funkcjonariuszy służb mundurowych [Pension provisions for officers of uniformed services]*, A meeting of the Radom Branch of the Polish Social Security Association, Radom.

17. M. Wieczorek, 2015, research paper: *Odpowiedzialność dyscyplinarna członków korpusu służby cywilnej – ujęcie normatywne i orzecznictwo [Disciplinary responsibility of the civil service corps members – normative approach and judicial decisions]*, Nationwide Scientific Conference *Odpowiedzialność administracji i w administracji [Responsibility of the administration and in the administration]*, University of Technology and Humanitites in Radom.

18. M. Wieczorek, 2016, research paper: *Ograniczenie zawierania umów o pracę na czas określony jako przykład europeizacji prawa pracy [Restricting the conclusion of definite employment contracts as an example of the Europeanization of the labour law]*; Nationwide Scientific Conference *Europeizacja prawa publicznego i prywatnego – aktualne problemy i nowe wyzwania [Europeanization of public and private law – current issues and new challenges]*, University of Technology and Humanities in Radom.

19. M. Wieczorek, 2016, research paper: *Postępowanie kwalifikacyjne wobec kandydatów do służby w formacjach mundurowych [Qualification procedure regarding the candidates for serving in uniformed services]*, International Scientific Conference – *"Procesy decyzyjne w administracji publicznej w Polsce i innych państwach Unii Europejskiej [Decision making process in public administration in Poland and other States of the European Union]*, Pedagogical University of Cracow.

20. M. Wieczorek, 2016, research paper: *The contract of employment for a fixed-term after the amendment of the labour code; V Annual International Scientific-Practical Conference "Relevant Aspects of International Relations: Political, Economics, Law, Philosophy* , I. Franko National University in Lviv.

21. M. Wieczorek, 2017, XXI Convention of Chairs of Labour Law and Social Security, research paper: *Podstawy zatrudnienia funkcjonariuszy CBA [The basis for employment of CBA officers]*.

e. I was a member of the organisational committees of the following, international scientific conferences.

1)

Aktualne procesy modernizacyjne w administracji publicznej – doświadczenia polskie i europejskie [Current modernization processes in public administration – Polish experiences], at the Pedagogical KEN University in Cracow and the University of Technology and Humanities in Radom, held in Cracow on 22-23 April 2015 (participated by ca. 60 people from 11 countries: England, the Ukraine, France, Germany, Belgium, Israel, Poland, Czech Republic, Slovakia, Macedonia, Croatia.

2) *Procesy decyzyjne w administracji publicznej w Polsce i innych państwach Unii Europejskiej [Decision making process in public administration in Poland and other States of the European Union]*, Pedagogical University of Cracow, 5-6 October 2016

3) *Prawo Unii Europejskiej w orzecznictwie sądów konstytucyjnych i administracyjnych oraz administracji publicznej państw członkowskich [EU Law in the judicial decisions of constitutional and administrative courts and the public administration of Member States]*, KEN Pedagogical University of Cracow, 18-19 October 2017.

f. Since 2014, I have been a member of the Editorial Board of the Rocznik Administracji Publicznej *[Public Administration Yearbook]* published by the KEN Pedagogical University of Cracow. Three yearbooks had been published up to date. Currently, the editors are preparing to carry out the parametrization process of the magazine. Furthermore, I am the deputy Editor-in-chief of the Studia Ekonomiczne i Prawno-Administracyjne *[Economical and Legal-Administrative Studies]*, published by the Faculty of Economical and Legal Studies since 2015. I am also a member of the Scientific Board of Socjologia Prawa *[Sociology of the Law]*, published by the Faculty of International Law at the T. Shevchenko University in Kiev.

Since 2008 I have been a member of the Polskie Stowarzyszenie Ubezpieczeń Społecznych *[PSUS – Polish Social Insurance Association]*. I currently hold the position of Deputy Chairman of the PSUS Radom Branch. In turn, since 2009, I have been a member of the Ostrowieckie Towarzystwo Naukowe *[Scientific Society in Ostrowiec]*.

To sum up my academic records, I would like to emphasize that after obtaining the title of a PhD. in law, I significantly expanded my research methodology. This is evidenced by my scientific statements of varied character, with particular consideration of the monograph, comments, legal opinions ordered by i.a. bodies of local government units or chapters in monographs. A new dimension of my scientific-research activities after achieving the academic degree of a doctor was also the performance of ordered research projects, and also contribution in the creation of new scientific journals. The establishment of international scientific cooperation and my active participation in the life of the domestic scientific environment are also worth mentioning.

Marian Wiecorek