Circular economy in the policies of the European Union in terms of the Republican concept

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Abstract

The purpose of the article is to analyze the EU law on the circular economy (CE) in the context of the key principles of republicanism, related to civic engagement. The text presents the principles of CE in EU regulations and the conditions for the primacy of EU law over national law. An analysis of the impact of pro-environmental directives in the EU on national law was also carried out, particularly in the context of the core principles of republicanism. By relating the main assumptions of republicanism to this process, three main problems accompanying the community's pro-environmental policy were identified: the expansion of EU law - citizens' concern for the environment - the republican concept of freedom. Taking these elements into account can have a key impact on the success of the EU's CE policy. The article also benefited from an analysis of the foundational data, especially primary (treaties) and secondary (directives and regulations) EU sources. In addition, pilot quantitative surveys conducted by the author were used.

Keywords: republicanism, circular economy, European Union law, directive, environment

1. Introduction

The last three decades have seen the expansion of the area of European integration, going far beyond the scope defined in the Treaties of Rome and other "founding" documents. One such area is the circular economy (CE), or, more broadly, pro-environmental policies. The primary goal of European integration, which began in the 1950s, was political and economic cooperation. With the deepening of integration, the spectrum of interest of the authorities of the Community, and later the European Union, covered new spheres, in addition to CE were, for example, social or cultural issues. Parallel to the expansion of the area of integration, there was also the consolidation of EU law in the broadest sense, primarily the principle of the primacy of Community regulations over the legislation of member states. When this principle is juxtaposed with the growth of CE law, the question of the limits of European Union (EU) regulation seems interesting. Regulations in the field of pro-environmental measures are issued in the form of directives, which provide for the discretion of member states on how to implement the provisions of the Community bodies. This discretion, however, does not change the fact that it is at the EU forum that solutions are worked out, often very far-reaching, as far as the actions of business entities are concerned.
The issue of the peculiar expansion of Community regulations is worth supplementing with a republican perspective, which assumes the involvement of citizens in public life to a greater extent than just "standard" electoral participation. In this context, it is possible to look at the EU's CE policy as an opportunity to introduce regulations that will allow a fuller implementation of pro-environmental demands put forward by citizens, which are often impossible to meet without the support of the authorities. At the same time, there is a problem related to another issue taken up in the Republican discourse, namely the arbitrariness of the EU authority.

The author tries to answer the following questions:

- do EU laws contradict one of the guiding ideas of republicanism, namely, the right to freedom from arbitrary power?
- to what extent does the EU's "ambitious" policy allow for the inclusion of one of the chief demands of republicanism, i.e. greater involvement of citizens?
- what are the chances of implementing the demands contained in the EU directives in a way that will take into account the expectations of the citizens of the member states?

The article uses the method of source criticism analysis, as well as conceptual and theoretical analysis of the assumptions of republicanism. It also reviewed the literature on the subject, particularly in the area of understanding neo-republican demands. An analysis of foundational data in relation to EU legislation was also used.

2. Circular Economy in the European Union

Over the past few decades, CE has advanced to a group of issues that are of interest to the European Community (EC) and later EU bodies. This fact is primarily related to the increasingly intensive exploitation of the environment that accompanies economic development. This, in turn, has led to the spread of the position that it is necessary to transform the economic system to take into account not only profit, but also sustainability. The CE concept of global circulation has been around for at least five decades. It was first addressed by the EC in the 1970s. Since then, there have been a great many definitions of CE, often differing significantly from each other. A universal view of CE has been put forward by the Ellen MacArthur Foundation, according to which it is the consideration in design of repair and remanufacturing and maintaining the highest utility and value of products, components and materials at all times, separating technical and biological cycles (Ellen MacArthur Foundation, 2015).

Discussion of this topic at the EC level was prompted after the publication of a Club of Rome report entitled Limits to Growth (Meadows 1972). The authors, researchers at the Massachusetts Institute of Technology, prepared the report, which can be read as a warning to humanity that there are limits to economic growth. The European Council in 1972 indicated the need to develop an environmental policy linked to economic development. However, this was only a declaration, which did not lead to legal consequences. It was not until the Single European Act of 1986 that the title "Environment" was introduced, which provided the legal basis for a common environmental policy (Single European Act 1986).

The Maastricht Treaty recognized the environment as one of the EU's policies (Maastricht Treaty, 1992). The Treaty of Amsterdam, on the other hand, indicated that all EU sectoral strategies would include an obligation to protect the environment (Treaty of Amsterdam
The issue, defined as combating climate change, did not formally enter the EU’s top goals until the Lisbon Treaty (Lisbon Treaty 2007). The EU’s approach to environmental protection, since 1986, has evolved and can now be characterized as an effort to prevent and clean up pollution at the source, with enforcement of the polluter’s responsibility, including companies. Operators engaged in activities that generate pollution and environmentally hazardous substances are obliged to take preventive measures and remedy any damage, which in scientific discourse is newly known as extended producer responsibility (European Parliament 2021). An expression of this approach was the Communication Closing the loop issued by the European Commission in 2016. It enshrined a package of actions that were to contribute to maximizing value and ensuring the use of all raw materials, products and waste, while contributing to energy savings and reducing greenhouse gas emissions. These actions were to cover the entire life cycle: from production and consumption to waste management and the market for secondary raw materials. An EU target of 65 percent recycling of municipal waste by 2030, 75 percent recycling of packaging waste by 2030, and a reduction of landfill to a maximum of 10 percent by 2030 was also set (European Commission 2016). The goals described in Closing the Cycle proved to be too unambitious for the European Commission, and in March 2020 it issued the Communication "A New EU Action Plan for a Closed Cycle Economy for a Cleaner and More Competitive Europe" (European Commission 2020), one of the main elements of the European Green Deal. Today, it is the European Green Deal that articulates the EU’s position on pro-environmental measures. It is a strategy that sets the direction for the transformation of the entire community. It is intended to contribute to the transformation of the EU into a modern, resource-efficient and competitive economy that will achieve zero net greenhouse gas emissions in 2050. Additionally, according to the demands of the Deal, there is to be a decoupling of economic growth from resource consumption (European Commission 2019). June 30, 2021 was passed. European climate law, which set a target - to reduce net greenhouse gas emissions (i.e. emissions minus removals) by at least 55% by 2030 compared to 1990 levels (European Council 2021). This 55% reduction in emissions gave its name to the Fit for 55 package, a set of legislative proposals to amend and update EU regulations to bring them into compliance with the climate targets set by the Council and the European Parliament (European Council 2022). Fit for 55 is thus a signpost to be followed by EU bodies and member states.

3. Primacy of EU law over national law vs. environmental directives

The "acceleration" in the EU’s pro-environmental policies observed in recent years can be seen as an expression of the concern of state leaders and the European Commission to implement the provisions of the Paris Agreement, developed by the 21st UN Climate Change Conference (Paris Agreement 2016). It is accepted that pro-environmental demands are formulated at the EU level, and then member countries implement them with varying degrees of intensity. At the same time, it is worth noting that the process that passes from the formulation of strategic concepts at the EU level to implementation in the laws of member states, as a rule, tends to be relatively long. However, in the case of the CE, a relatively short process of procedural legislation can be observed, which, on the one hand, may be due to the rapidly advancing climate change, on the other hand, to the changing perception of the nation-state in recent years, in relation to EU structures. The adop-
tion of ambitious pro-environmental legislation by member states is linked to a specifically European identity. It can be said that the pre-EC nation-state was based on an ethnic group, supplemented by a common language and culture (Heller & Renyi 2007). As a result of integration, the Old Continent has seen the birth of an identity expressed by a common European law, independent of the borders of the countries of the community. In the economic sphere, this has led to the paradox that states cannot formulate independent economic policies, although formally their sovereignty has not been affected in any way. In practice, this means that EU countries, when making decisions in the economic sphere, must reckon with their consequences in other countries of the community (Richardson & Stähler 2019). This process is particularly evident in the context of pro-environmental policies.

The process of closer union among European countries itself began after the end of World War II, but took strictly defined forms in 1957, when the Economic Community (EEC) was established as a result of the Treaties of Rome. One of the reasons for establishing the EEC was the need to increase economic and political integration of selected Western European countries. Over time, integration took increasingly advanced forms to establish the need for an economic and monetary union in 1969 at the Hague Summit (Fendel & Frenkel 2019). Since the establishment of the Single European Act, these efforts have taken on a new dynamic, which found expression in the Treaty on the Functioning of the European Union (Maastricht Treaty 1992).

Parallel to the unequivocally articulated economic integration efforts, a second process took place, not as spectacular, but equally momentous in terms of the relations of the member states. This is the principle of the primacy of EU law over national law. The phrase used in the text, according to which this process was not "spectacular," refers to the mode of its introduction, as it did not take place at European Council summits, but through the jurisprudence of the Court of Justice of the European Union (CJEU). It is worth noting that in 2004 an attempt was made to codify this principle, which was to be reflected in the enactment of the Constitution for Europe, but as a result of the unsuccessful ratification process this treaty did not enter into force (Albi 2007). It is true that during the Intergovernmental Conference preparing for the enactment of the Lisbon Treaty, the so-called Declaration No. 17 was adopted, in which it was written that in accordance with the established case law of the CJEU, treaties and law adopted by the Union take precedence over the law of the Member States under the conditions established by the said case law, but the weight of this document is not very high. This makes it possible to formulate that the primacy of EU law is the result of CJEU case law. It is understood that this process had its origin in two judgments from 1963 and 1964. The first of these is started by a lawsuit by the transportation company Van Gend & Loos filed against the Dutch customs authority for imposing a higher duty than before on a chemical product imported from Germany. According to the company, this violated Article 12 of the EEC Treaty, which prohibits member states from introducing new customs duties or increasing existing ones in the common market. The judgment says that "the Community constitutes a new legal order in international law, in favor of which states have limited, however only in narrow fields, their sovereign rights, and whose norms apply not only to member states but also to individuals from them" (CJEU 1963). As a result of the second judgment, Costa v. ENEL, this theme was further developed, while its conclusion recorded that "unlike ordinary international agreements, the EEC Treaty created its own legal order, which, after the entry into force of the Treaty, was incorporated into the legal orders of the Member States and must be applied by their courts" (CJEU 1964). The Costa v. ENEL ruling concerned the
compatibility with the Treaty of the provisions of the Italian law on the nationalization of the energy industry.

As a result of the judgments described above, a line of jurisprudence developed that introduced the possibility of direct implementation of EU law, which was intended to guarantee full and uniform application of EU rules in all member states, as well as impose certain rights and obligations on countries and its citizens. In subsequent case law, this position was consistently upheld. It is worth noting that the described line of jurisprudence concerns economic issues, which puts it in the area of public law (Mik 2010; Helios 2011). European administrative law, which is part of public law, is increasingly "decoupled" from member states. Although the original purpose of establishing the community was to establish a common market, by seeking to address inequalities between residents, EU bodies have encroached on the competence of member states in the public sphere.

Sources of law in the EU are divided into primary and secondary. The former are primarily the Treaty on European Union, the Treaty on the Functioning of the European Union, together with protocols, annexes and declarations; treaties on the accession of member states to the EU; and other treaties and international agreements. Secondary sources, on the other hand, include acts such as regulation, directive, decision, recommendation and opinion (Schütze 2021). In the context of pro-environmental policy, the most common legislation is directives, which set a goal to be achieved by all member countries, but the way to achieve them must be established by the countries themselves. The directive is adopted through joint adoption by the European Parliament and the Council on a proposal from the European Commission. The second type, somewhat rarer in the context of pro-environmental policy, are regulations. In the EU, the Council of the European Union and the European Commission are authorized to issue them. The basis of their legal force is 288 of the Treaty on the Functioning of the European Union. Regulations can be issued jointly by the European Parliament and the Council of the European Union in accordance with the so-called ordinary legislative procedure, by the Council of the EU itself or by the European Commission. A regulation is a binding legislative act and must be applied in its entirety throughout the EU, although it is general in nature. A directive is therefore a document that obliges member states to take specific legislative steps, so their power is not automatically as great as that of regulations (European Parliament 2022).

The implementation of EU law stems from two principles: efficiency and assimilation. At the root of the former is the assumption that for the EU to function effectively, it is necessary for member states to ensure that EU law is applied with the same rigor and efficiency as national law. The principle of assimilation, on the other hand, involves the assumption that member states will take such implementing measures as will provide equivalent protection for legal acts and the demands contained therein as in the case of national law. The latter principle is particularly important in the case of regulations, as in their case there is no principle of implementation directly into national law, but they are valid throughout the community in an unchanged form (Łacny 2011).

It is the secondary legislation in the EU that regulates specific solutions for the closed-loop economy. Primary legislation can be seen as a kind of guidepost. The Lisbon Treaty, currently in force, emphasizes the importance of environmental protection and the obligations of member countries to promote sustainable development. On its basis, secondary legislation is being created. Such documents as the aforementioned Package for a Closed Circuit Economy can be treated as some kind of supplement, but without legal force.
An example of a pro-environmental area that is subject to numerous regulations, in the form of directives, is the aforementioned extended producer responsibility (EPR). EPR was first explicitly defined in 1990 by Thomas Lindquist (Lindhqvist & Lidgren 1990), although the idea itself is related to the much earlier concept of the product life cycle, understood as successive, interrelated stages, beginning with the research and development phase, through the acquisition and processing of raw materials needed to produce a particular product or provide a service, the phase of manufacturing the product or providing a service, distribution and use of the product, up to the management and final disposal of waste generated at the end of use (the cycle can apply to a product or service). The concept was described as early as the 1960s (Levitt 1965).

In 1994, the OECD’s Pollution Prevention and Control Group began its work. The following year, a report was presented that presented the key assumptions of the strategy for in the area of waste reduction. Further work developed the key elements of the EPR, which can be summarized around the assumptions:

- minimizing the amount of waste generated in connection with business activities,
- realization of the assumed levels of recovery and recycling,
- causing a reduction in the demand for primary raw materials and energy, realized through the recovery of secondary raw materials from waste,
- encouraging the creation of legislative instruments to encourage producers to take measures that will prevent waste (OECD 2001).

In 2018, directives were adopted to regulate this area:

- Directive 2018/849 amending the Directives on end-of-life vehicles, on batteries and accumulators and waste batteries and accumulators, and on waste electrical and electronic equipment (Directive 2018/849);

In the EU, the first mention of extended producer responsibility on legal grounds appeared in the Waste Framework Directive (Directive 2008/98/EC). You concept quickly found recognition in the community, which led to the adoption of the aforementioned legislation in 2018. The EPR concept is the quintessence of the principles implemented in the EU in the field of CE, so it can be used as an exemplification of the application of EU law in the form of secondary acts, mainly directives.

4. Impact of EU pro-environmental directives on national law

It is worth reiterating that in the EU, a directive is a legal form that implies a certain voluntariness in how its principals are implemented. Directive 2018/851 can be read as an encouragement of the waste hierarchy. The directive stipulates that preparation for reuse and recycling are preferred methods over incineration or landfilling. However, the same document does not prohibit waste management by incineration or landfilling. Annex IVa lists examples of instruments that encourage the waste hierarchy. An example of an instrument included in the annex to discourage incineration and landfilling is the possibility of applying appropriate fees by national authorities. The text of the directive also stipulates that member states should "take the necessary measures" to ensure that the amount
of financial contributions, paid by the producer as part of its obligations, will cover the costs of separate collection of waste, together with transport and treatment, while not exceeding the costs necessary to provide waste management services. The listed "necessary measures" that member states must take are precisely the way that member states will choose to enforce the EPR rules. This latitude in implementing the rules of the directives is the starting point for a key question: to what extent does the EU’s interference in the laws of member countries affect economic governance in the states. In addition, a troubling question is whether the legislation of individual countries, following the adopted directives, expresses the will of their citizens.

Another important issue is the positioning of pro-environmental issues in the EU. CE has become one of the most important areas of interest and intervention of EU bodies. It is worth recalling that at the root of the creation of the community stood the need for cooperation in the creation of a common market. The area related to environmental protection, as mentioned, found its way onto the agenda of issues regulated in the community after the publication of the report "Limits to Growth," and only for the past twenty years has it grown to be one of the EU’s primary spheres of influence. This example shows how the EU’s emphasis has shifted, although it seems more accurate to say that the EU has gradually expanded its competence.

Using the EPR concept as an example, one can see how this interest of EU bodies is affecting legislation and the real functioning of the economy. In Poland, a legislative process has begun in 2021, meeting the provisions of the waste directives. A draft law on amending the Law on Packaging and Packaging Waste Management and some other laws has been drafted to establish a general framework for the application of EPR. Work has also begun on a draft law on the deposit system. Although the final shapes of the legislative acts under development are not known, their expected entry into force means very big changes in the functioning of Polish companies, or more broadly, the entire economy. It remains inconclusive whether such draft laws would have appeared in Poland without prior EU legislative acts. Taking into account the fact that in the Polish legal order solutions related to EPR appeared with a significant delay with respect to other developed countries, it can be hypothesized that EU directives became a decisive stimulus for work on legislation in this area.

As mentioned earlier, the application of directives involves the implementation of its principles by member states into their legal circuit. It is the member states that determine the mode of its implementation. However, the directive indicates the deadline for this implementation. On the one hand, this leaves a certain margin of action for individual states, but on the other it enforces a kind of rigor. This flexibility is supposed to make the meaning of the directives "fit" as much as possible into the national legal order, and also to take into account the legal culture of EU countries. At the same time, national regulations should be precise enough so that there is no need to refer to the content of the directive itself when applying and interpreting the law. Questions about whether solutions related to EPR, or CE more broadly, are the result of EU pressure, a real need, or greater consumer awareness, are difficult to answer unequivocally, but the concept of republicanism can bring us closer to understanding this phenomenon. Indeed, pro-environmental attitudes are an area where there is room for civic engagement beyond the obligations imposed by law.
5. Republicanism and CE

One of the key principles of republicanism, a concept dating back to antiquity and related to state order, is that a community of citizens of a republic whose citizens participate in public life. This approach implies the involvement of citizens in democracy to a greater extent than simply participating in the act of voting. This involvement can take place through participation in ventures for the common good, such as self-governing activities. However, republicanism from its origins, which can be traced back to Plato, touches on a broader perspective, which is primarily concerned with building a just state. According to the Greek philosopher's concept, a just state means, on the one hand, institutional order, and on the other hand, "empowerment" of the people at the helm of power, who should serve the people, pursue the common interest (Plato 2006). This idea developed over the centuries, with particular intensity in the early Renaissance in the Italian republics, in the 17th century in England and in the 18th century in North America (Rahe 1992). It is worth noting that the concept was also referred to in 16th century Poland (Pietrzyk-Reeves 2012). The key issue of republicanism in relation to the subject under analysis is the attitude of citizens to public affairs. The aforementioned stipulation that citizen involvement in democracy should go beyond the act of voting places republicanism in opposition to the model ascribed to the liberal tradition. This distinction is fundamental to neo-republican political philosophy, gaining increasing popularity in scholarly discourse in recent decades. One of the researchers who contributed to the renaissance of interest in this concept is Quentin Skinner, one of the founders of the i.e. Cambridge School (Skinner 1978; Skinner 1998). Since the late 1970s, an increase in publications on the subject can be observed, which, on the one hand, can be read as the result of applying new methodologies to the study of the history of ideas, and, on the other hand, as a process of searching for a normative justification of the political order and even constructing anew a certain "model" of democracy. These two areas - scientific and normative - have intertwined and it is difficult to speak of them separately. The aforementioned Cambridge school is responsible for the new methodology in the area of reflection on the history of ideas. Another of its co-authors, John G.A. Pocock, in his well-known book "The Machiavellian Moment: Florentine Political Thought and the Atlantic Republica Tradition" (Pocock 1975) focused on how in moments of crises - revolution, civil war - the people of the countries of England and North America form their concepts of democracy. The "Machiavellian moment" of the title is a situation in which the new state faces the problem of maintaining its institutions, but also its normative order. The author referred to the beginning of the 16th century, when Florence was in political and economic crisis, as a result of which Machiavelli tried to revive classical republican ideals. England after the Civil War and America after the Revolution faced similar challenges. This line of reasoning, as presented in Pocock's work, is representative of the Cambridge school, one of whose main demands is for a greater connection between the study of the history of ideas and the historical context. Pocock, along with Skinner and a third representative of the Cambridge School, John Dunn, questioned the method of studying historical texts at the time, which consisted of analyzing works considered "canonical" (Dunn 1968; Lamb 2009).

On normative grounds, neorepublicanism refers to the classical republican tradition, although in this case the tradition is not understood uniformly. An author who has numerous publications on neorepublicanism is Philip Pettit. This author refers to the Roman tradition, in which freedom is seen as the absence of domination, which is closer to the negative definition of democracy as non-interference. Pettit identifies the republican tradition with
such a political order that ensures citizens function in a free state, devoid of arbitrary power (Pettit 1997). A different understanding of the republican tradition is presented by Michael Sandel, who refers to the Athenian tradition, in which freedom is seen as self-government and democratic participation (Sandel, 1982). The described opposition between Neo-Roman and Neo-Athenian scholars reflects well the spectrum of problems present in the Neo-Republican discourse. Neo-Roman scholars were alluded to by Skinner, who, in describing the republican tradition, acknowledged that key authors emphasized the negative meaning of freedom, which can be encapsulated in the statement that people do not want to be ruled arbitrarily. The alternative is to live in a state organism, which is a common thing (res publica). At the same time, the author acknowledged, especially in later writings and speeches, that while classical republicanism more strongly emphasizes the area of negative freedom, the call for a free state is more important (Skinner 2002). As Skinner argued, in order to be free as understood by the neo-Romans, "mere negative freedom" was not enough, for freedom required not only freedom from interference, but also freedom from dependence. Skinner emphasized that according to the understanding of the Neo-Romans, freedom is limited not only by actual interference or the threat of interference, but also by the mere knowledge that one lives in dependence on the goodwill of others (Skinner 2006). The differences between Neo-Roman and Neo-Athenian approaches cannot therefore be reduced to just positive and negative approaches to freedom (Besson & Martí 2009).

The question of understanding freedom is also an important part of this discussion. In this regard, it is worth citing the position presented by Hannah Arendt. The author points out that in the Western tradition freedom is identified with security, with reference to the "fundamental process of life." Meanwhile, according to Arendt, this is too narrow an understanding, for the freedom of a free person consists in setting something in motion (Arendt 1977) This can be presented as starting a process, but also governing. According to Arendt, people engaging in action are free, which is also expressed by engaging in politics, because through politics, that is, by being with others in a way characteristic of politics, the right kind of creativity can arise. Freedom has its origin in politics, and can come into existence through it. Such an understanding of freedom could indicate that Arendt’s famous question "what is freedom" leads to the answer that it involves a positive understanding, meanwhile the thing seems more complex. As Eric Nelson notes, in fact, the statement about freedom expressed by action does not mean that the latter constitutes freedom in a new sense, but that simply the act makes us free. Rather, it is about freedom from constraint (Nelson 2005). This can be reduced to saying that a person who self-actualizes, including through politics, is free. This understanding coincides in its main theses: republican freedom clearly understands itself as constituted by and through specific social forms.

Relating this understanding of republican freedom, or social commitment, to pro-environmental demands can be seen as an opportunity to more fully realize the CE. As societies become more aware, there is a growing need to incorporate these demands into national legislation. These regulations are often associated with restrictions, with consequences mainly for entrepreneurs. This case is particularly evident in the context of the described EPR concept. Member countries, especially the new EU states, are somewhat late in implementing these demands, as some of them presuppose significant changes in the operation of companies. Pro-environmental measures require legislation enacted at the state level, often unpopular with entrepreneurs. The postulates cannot be implemented on the basis of civic activity alone.
This triangle of interdependence, namely the expansion of EU law - citizens’ concern for the environment - the republican concept of freedom, is full of tension, difficult to resolve. The first apex of the triangle, related to the EU’s ambitious package of legislation, is a factor that expresses the widely expressed need by agitators of the EU states to strengthen environmental protection, including through the implementation of EPR principles. The third apex of this triangle, theoretically difficult to reconcile with the "imposition" of laws by Community authorities, is worth analyzing in the context of both the negative and positive concept of neorepublicanism. For although, on the one hand, EU legislation to some extent touches the space of freedom of the member states, on the other hand, this space is created, through regulations favorable to citizens, where national authorities might be reluctant to introduce such restrictive regulations, costly for entrepreneurs. The area of public support for this type of legislation is not sufficiently identified at the Polish level. Pilot surveys conducted by the article's author in this area may indicate that support for solutions that deepen producer responsibility is high. More than 73% of respondents are of the opinion that the producer should bear the costs of packaging recycling, while only 12% believe that the municipality or the state is responsible. At the same time, nearly 82% of those surveyed agree with the statement that reducing packaging production is more important than waste separation. In addition, more than 71% of those surveyed would be willing to pay a higher fee for food products knowing that they are packaged in biodegradable materials. The research was conducted in December 2021-January 2022. It involved adult residents of the Małopolska region, through an online survey questionnaire. The research had a pilot character, the sample was 94 people. The results of the survey are a contribution to an in-depth analysis of the topic, but nevertheless allow us to observe a trend according to which the main theses of the EPR concept, or more broadly, the product life cycle, are perceived positively. Assuming acceptance of the postulates of the EPR, it can be assumed that EU policy creates a space conducive to civic activity, understood very broadly.

6. Conclusions

Consideration of economic regulation should take into account the fact that it is subject to social relations and rules of reciprocity, exchanges between different parties. The debate should not be narrowed down to the issue of legislation itself, but also to the social consequences. This is especially true for the closed-loop economy, meanwhile the social aspect is often overlooked in the discussion of this topic (Geissdoerffer 2017). Looking at the CE in relation to the concept of republicanism creates space to discuss supplementing pro-environmental policies with social considerations, related to civic engagement. Given the growing interest in CE, as well as the demands of some researchers for a broader view of the concept (Blomsma & Brennan 2017), republicanism may be one of the keys to opening up to a more comprehensive view. The EU’s pro-environmental policies expressed in secondary legislation should take into account the civic perspective and enable greater involvement of the population.

Facing climate challenges, modern states face a trilemma, expressed through the aforementioned concept of a triangle stretched between EU law, civic engagement and the republican concept of freedom, or, treating things more broadly, the right to their own legislative solutions. The key to unraveling it is the understanding of freedom, or more pre-
cisely, such a translation of EU directives into national legislation that will take into account the space of citizens to implement demands, but at the same time negative freedom, i.e. the lack of imposition of law by community bodies in a form incompatible with the will of the majority. Thus, the wording of directives is important, but no less important is the creation of legislation in member countries, preceded by public consultation and taking into account the position of all stakeholders in the process.

The contemporary threat to the environment, as diagnosed and described by OECD experts, can certainly hardly be called a Machiavellian moment, but nevertheless there is an increasingly widespread position about the real threat coming from resource exploitation. This is an opportunity to create a law that will raise the least possible objections from both member state authorities and citizens. The challenges of pro-environmental policy can therefore be seen as an opportunity to put into practice some of the demands of republicanism.

References


