

ARTICLE

‘Nesting’ as a legal issue – Polish example with comparison to other jurisdictions?

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1. Introduction

Currently, we are witnessing an increase in the scale of the phenomenon described as ‘nesting’. More and more often adults, despite adulthood, completed education, and having a job, continue to live with their parents. In Poland, such young adults are colloquially called *gniazdownik* (‘nestlers’).¹ In Italy nestlers are called *bamboccioni*, in Great Britain *boomerang kids*,² in Spain *hijos búmeran*, in Germany *kidults*, in Francetanguy, in Finland *aikuinen lapsi*, in the United States K.I.P.P.E.R.S. (short for *kids in parents’ pockets eroding retirement savings*) and in Japan *parasaito shinguru*.³ In South Korea, adults who live with their parents are referred to as *kangaroos*.

- 1 In Poland, this term was used for the first time by T. Szlendak, *Sociologia rodziny. Ewolucja, historia, różnicowanie*, Warsaw 2010, p. 180. More on the genesis of the phenomenon and terminology, see P. Barszcz, ‘Zjawisko gniazdownictwa w krajach Unii Europejskiej – skala, przyczyny, skutki. Casus Polski’, *Acta Universitatis Lodzensis. Folia Sociologica* 2019, no. 69, p. 36.
- 2 Rather, the term refers to children who have left home and then returned to it, e.g. due to graduation, job loss or divorce.
- 3 See B. Majerek, ‘Młody prekariat, czyli codzienna niepewność’, in: M. Humeniuk & I. Paszenda (eds.), *Codziennosc jako wyzwanie edukacyjne*, Wrocław 2017, p. 99. See also M. Bieńko, A. Kwak & M. Rosochacka-Gmitrzuk (eds.), *Wciąż jeszcze w gnieździe rodzinnym? Socjologiczne spojrzenia na młodych dorosłych*, Warsaw 2017, p. 65.

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The consequences of this phenomenon were noticed by sociologists and psychologists in many countries.⁴ Therefore, it is crucial to decide whether this phenomenon should also be analyzed from the legal perspective. There are two main arguments for such analysis: firstly, there is no doubt that the law provides a practical method of solving problems in social relations, and, secondly, so far the issues related to nesting have not been subject to a comprehensive legal analysis. The article is based on an assumption that nesting is a legal issue.⁵ The purpose of this description is to decide which elements of 'nesting' should be included in the legal analysis of this phenomenon. The purpose of the article is to indicate possible research areas, which will allow development of a legal model (perhaps also on the basis of European law) of the protection of nestlers in the future, while also taking into account the rights of their parents. It should be assumed that 'nestlers', due to the lack of full 'social maturity', require protection, but it is also necessary to motivate them to become independent from their parents.

- 4 For example: J.J. Arnett, *Emerging Adulthood: The Winding Road from the Late Teens Through the Twenties* (2nd edn.), Oxford University Press 2019; M. Boyd & D. Norris, 'The Crowded Nest: Young Adults at Home', *Canadian Social Trends* 1999, no. 11-008, p. 2; D. Hartmann & T.T. Swartz, 'The New Adulthood? The Transition to Adulthood from the Perspective of Transitioning Young Adults', *Advances in Life Course Research* 2006, vol. 11, no. 3, p. 253; J.C. Lee & J.T. Mortimer, 'Family Socialization, Economic Self-Efficacy, and the Attainment of Financial Independence in Early Adulthood', *Longit Life Course Studies* 2009, vol. 1, no. 1, p. 45; J.J. Xiao, S. Chatterjee & J. Kim, 'Factors Associated with Financial Independence of young Adults', *International Journal of Consumer Studies* 2014, no. 38, p. 394; A. West, J. Lewis, J. Roberts & P. Noden, 'Young Adult Graduates Living in the Parental Home: Expectations, Negotiations and Parental Financial Support', *Journal of Family Issues* 2017, vol. 38, no. 17, p. 2449; S. Dupont, 'Les jeunes adultes et leurs parents face à l'entrée dans la vie: une nouvelle étape du cycle de vie familial', *Thérapie Familiale* 2016, vol. 37, no. 4, p. 407-420; S. Dupont, 'Les jeunes adultes et leurs parents face à l'entrée dans la vie: une nouvelle étape du cycle de vie familial', in: M. Bieńko, A. Kwak & M. Rosochacka-Gmitrzuk, *Le cycle de vie des familles contemporaines*, 2022, p. 153-169. See also W. Gierańczyk, 'Sytuacja osób młodych w Polsce na tle państw europejskich', *Wiadomości Statystyczne* 2016, no. 10 (665), p. 33; E. Krzaklewska, 'Odrzucanie dorosłości czy nowa dorosłość? Dylematy i dyskusje w badaniu procesów wchodzenia w dorosłość', *Societas/Communitas* 2014, no. 2-1,18-1, p. 47; M. Bieńko, 'Psychosocial and Economic Aspects of Nesting as Perceived by Adult Children Living with their Parents', *Studia Humanistyczne AGH* 2018, vol. 17, no. 4, p. 43; M. Sińczuch, 'Młodzi dorośli w Polsce w latach 2000-2015, w kontekście procesu uzyskiwania niezależności od rodziny pochodzenia', *Societas/Communitas* 2017, vol. 24, no. 2, p. 53; B. Szluz, 'O dorosłych dzieciach mieszkających z rodzicami (na przykładzie wybranych państw)', *Societas/Communitas* 2017, vol. 24, no. 2, p. 73; M. Rosochacka-Gmitrzak, 'Młodzi dorośli mieszkający z rodzicami – analiza wybranych interpretacji zjawiska', *Societas/Communitas* 2017, vol. 24, no. 242, p. 89; A. Kwak, 'Dorośle dzieci nadal w 'gnieździe' – bo jest im dobrze czy mimo że jest im źle w nim?', *Societas/Communitas* 2017, vol. 24, no. 2, p. 107; E. Krzaklewska, 'W stronę międzypokoleniowej współpracy? – wyprowadzenie się z domu rodzinnego z perspektywy dorosłych dzieci i ich rodziców', *Societas/Communitas* 2017, vol. 24, no. 2, p. 159; M. Piszczatowska-Oleksiewicz, 'Odraczanie wyprowadzki z rodzinnego gniazda – konieczność czy strategia? Analiza zjawiska w Polsce', *Societas/Communitas* 2017, vol. 24, no. 2, p. 177; M. Kokociński, 'Kiedy wyprowadzę się z domu?'. Postawy młodzieży wobec momentu usamodzielnienia się', *Societas/Communitas* 2017, vol. 24, no. 2, p. 189; J. Grotowska-Leder, A. Dziedziczak-Foltyn, M. Gońda & M. Kotras, *Completed Adulthood & Public Policies*, Lodz 2022.
- 5 XYZ, 'Czy prawo powinno zajmować się zjawiskiem 'gniazdownictwa'? – Prolegomena'. Sent to the editorial board of *The State and the Law*. The article presents the phenomenon of nesting in Polish law. The article shows that nesting is a social phenomenon that the law should also address.

In Poland, the issue of protection of nestlers fits into the theory of 'protection of the weak'. Naturally, the protection of the weak (whether dependent nestlers or their parents) relies on providing them legal instruments which compensate for their 'weaknesses' by providing them appropriate support. The protection of the vulnerable leads to an intentional differentiation of the legal standard by the legislator due to the specific needs of a particular social group. The risk of exceeding the reasonable limits of increased protection for certain groups or categories of people may be reduced through the application of appropriate mechanisms for weighing the rationale and determining the balance (the principle of proportionality). Establishing that 'nesting' is an issue that should be dealt with by law makes it possible to move on to an assessment whether nestlers and their parents should be given special legal protection (including constitutional protection), and whether specific regulations should therefore be introduced to differentiate between nestlers and non-nestlers adults? This is important in Poland because the Constitution imposes on the state the obligation to protect and care for families,⁶ although naturally specific actions in this area, their scale and intensity depend on the policies pursued.⁷

The aim of the article is also to draw attention to the different levels of dissemination of 'nesting' in different countries (covered in detail in Section 2 on the scale of the phenomenon) and to reflect on whether the differences⁸ between the national legal systems and the solutions adopted in them support and/or discourage young people from moving away from their parents and decrease or increase the number of nestlers.

The article also outlines the effects of this phenomenon. Among other things, it may be observed that nesting does not encourage family formation and reduces the population. In addition, it does not encourage productive work, which means that nestlers do not accumulate adequate resources to 'secure their old age', which in turn may lead to them becoming a burden on society.

6 In accordance with Art. 18 The Constitution of the Republic of Poland 1997 (available at: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19640090059>) marriage, being a union of a man and a woman, as well as the family, motherhood and parenthood, shall be placed under the protection and care of the Republic of Poland. See also P. Bucoń, 'Konstytucyjne podstawy wspierania rodziny przez władze publiczne w Polsce', *Przegląd Prawa Konstytucyjnego* 2019, n.o 4, p. 113 *et seq.*

7 A. Feja-Paszkiewicz, 'Ochrona i opieka państwa w stosunku do rodzin – uwagi konstytucyjnoprawne', *Przegląd Prawa Publicznego* 2020, no. 7-8, p. 193. The author emphasizes that 'legal mechanisms of a protective and caring character addressed to families should be evaluated globally and not through the scope of individual isolated solutions and benefits from the state should not create a random set, but harmonized, thoughtful, comprehensive system, which will not eliminate the parent's maintenance obligation toward their children, which solutions shall not be contradictory and which will respect constitutional principle of subsidiarity and family autonomy and which will not make families permanently dependent on state benefits'.

8 See Table 1 at the end of the article.

2. The scale of the nesting phenomenon

On average, in 2019 young people in the European Union left the parental household at the age of 26.2 years. However, this age varied significantly across the EU Member States. In 2019, young people left home earliest in Sweden (17.8 years), Denmark (21.1 years) and Finland (21.8 years), as well as in Luxembourg (20.1 years). Young people also left home before the age of 25 in Estonia (22.2 years), France (23.6 years), Germany and the Netherlands (both at 23.7 years). In the southern EU Member States young people move out at around 30. Young adults stay the longest in their parents' household in Croatia and Slovakia. They left home on average at the age of 31.8 and 30.9 years respectively. Young adults in Italy (30.1 years), Bulgaria (30.0 years), Malta (29.9 years), Spain (29.5 years), Portugal (29.0 years) and Greece (28.9 years) also remained with their parents for longer.⁹

It was also reported that the COVID-19 pandemic resulted in adult children returning to the 'nest' in unprecedented numbers.¹⁰

In addition, the results of the European Union Statistics on Income and Living Conditions (EU-SILC) survey carried out in countries of the European Union indicate that 'children' leave their family home later and later. According to data from the EU-SILC survey in 2018, 45.1% of Poles aged 25-34 lived with at least one of their parents. At the same time, the scale of nesting in Poland is much higher than the average for the European Union, which in 2018 amounted to 28.6%. Compared to 2005, the percentage of people in the analyzed age group who lived with their parents increased in Poland by nearly 9%.¹¹

9 <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/edn-20200812-1> (access to all links: 1.3.2023 r.). In China, many families live in multi-generational homes. Traditionally, adult children live with their parents and even grandparents until they marry (Karson Yiu from Pekin ABC News). In Hong Kong, a whopping 76 % of adults aged 18 to 35 still live with their parents, according to the Urban Research Group at City University of Hong Kong. See <https://abcnews.go.com/International/adults-parts-globe-live-home-parents/story?id=55457188>. The share of young adults in the United States who are living with a parent has grown considerably in recent decades, a trend that many Americans perceive as negative for society, according to a Pew Research Center survey conducted in October 2021. See www.pewresearch.org/fact-tank/2022/08/24/americans-more-likely-to-say-its-a-bad-thing-than-a-good-thing-that-more-young-adults-live-with-their-parents.

10 <https://thehill.com/policy/finance/3777185-more-adult-children-are-living-with-their-parents-parents-are-not-pleased>.

11 K. Peszat, M. Cybulska, E. Murawska & G. Nowakowska, *Generation of Young Adults Living with their Parents in Poland*, Warsaw 2021 – Content-related works. Statistical Office in Warsaw, p. 8. See also Eurostat: https://ec.europa.eu/eurostat/databrowser/view/ilc_lvps08/default/table?lang=en; <https://landgeist.com/2022/06/04/young-adults-living-with-their-parents>.

See R. Fry, 'For the First Time in Modern Era, Living with Parents Edges out Other Living Arrangements for 18- to 34-year-olds', 2016, www.pewresearch.org/social-trends/2016/05/24/for-first-time-in-modern-era-living-with-parents-edges-out-other-living-arrangements-for-18-to-34-year-olds. More on whether nesting is a global problem, see B. Bartosz, A. Lewandowska & I. Antczak, 'The Nestling – Waiting for Adulthood?', *Polish Journal of Applied Psychology* 2014, vol. 12, no. 3, p. 68 et seq.

3. The concept of 'nestler' and the proposal of division of nestlers

The legal acts in force do not use the concept of nestler and do not contain a legal definition of this term. Meanwhile, this definition is required in order to give meaning to this concept and to determine the persons who should be granted protection and those who are not entitled to such protection. For the purposes of the article, the concept of nestler is a conventional designation of a person to whom future legal solutions shall to apply.

In sociology, various proposals for the definition of nestler might be found. For example, nestler was defined as a person aged 25-34 living with their parents, unmarried and not a parent themselves, and not divorced nor a widow(er).¹² According to another proposal of definition, a nestler is: 'an adult who for some reason does not want to "fly out of the nest" – does not want to leave the family home and start his own family'.¹³ It seems that such definition of nesting may be common in many countries.

From the legal point of view, however, it should be determined from what point in time we may classify a person as nestler and what is the deciding factor: the age of majority, the moment of completing education or the moment of actual independence. It is also necessary to assess whether the 'cut-off' moment should be different for specific groups (compare a.-d. below), taking into account that people completing their education in secondary or vocational school may become independent earlier in comparison to those graduating from university, gaining professional experience on the labour market that will enable them to support themselves. At the same time, this limit may be linked to the maintenance obligation (of the parent), and more precisely, with the moment of expiration of this obligation towards the child.

In European countries, the age of the child at which the obligation of the parents to maintain the child expires varies. As a result, therefore, the definition of *the* nestler may also be different in individual countries. However, the question arises whether,

12 Peszat et al., 2021, p. 9.

13 Szlendak 2010, p. 181. There, also about the 'returning young adult' syndrome and the fact that this problem was noticed already in 1987 by J. Jill Suitor & K. Pillemer, 'The Presence of Adult Children: A Source of Stress for Elderly Couples' Marriages?', *Journal of Marriage and Family* 1987, vol. 49, no. 4, p. 717 *et seq.*

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despite the differences, it would not be reasonable to strive to create one common, at least in European countries, definition of this concept.¹⁴

As a general rule, the maintenance obligation expires upon reaching the age of majority, which is the age of 18. Then the child's right to alimony expires. For example, in Sweden it expires when the child turns 18, and if he/she continues education the parents are obligated to provide for the child until the age of 21.¹⁵ In Belgium, the maintenance obligation usually expires when the child reaches the age of majority. However, it may continue if the child's education is still ongoing.¹⁶ In Ukraine, there is a parental obligation to provide for a child until he or she reaches the age of majority. Article 199 of the Ukrainian Family Code of 2002¹⁷ stipulates that parents are obligated to provide for adult children who continue their education. If an adult child continues his or her education and therefore needs financial support, the parents are obliged to support the child until the age of 23, as long as they are able to provide for the child with financial support. The right to maintenance expires when the child graduates. In Malta, parents are obliged to provide their children with adequate support, according to their means, until the age of 23 if the children are in full-time education and if the children are disabled as defined in the Equal Opportunities Act, regardless whether it is a physical or mental disability.¹⁸ In Hungary, children under the age of 18 are entitled to maintenance on the basis of a 'presumption of need', defined by law. Children

- 14 It should be assumed that the European Union is entitled to regulate some specific issues related to the discussed phenomenon. Compare Art. 5 Treaties of the European Union, Maastricht 2 July 1992: https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF and Art. 81 Treaty on the Functioning of the European Union, Rome 25 March 1957: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=PL>. For example, legal aid referred to in Art. 46 Council Regulation (EC) No. 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (Council Regulation (EC) No. 4/2009, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32009R0004>) could apply nestlers. A nestler may also be an adult with special needs (see below), and the European Union is taking action in this regard. Compare European Parliament Resolution of 1 June 2017 with recommendations to the Commission on the protection of vulnerable adults (2015/2085(INL)): <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017IP0235&from=EN>. The basis for the protection of nestlers and their parents can also be found in Convention for the Protection of Human Rights and Fundamental Freedoms (Rome 4 November 1950): www.cvce.eu/en/obj/convention_for_the_protection_of_human_rights_and_fundamental_freedoms_rome_4_november_1950-en-32a749bd-2ce0-4d3a-b26a-973e4b176e4f.html. This act does not contain provisions directly protecting adult children and their parents, which, however, does not mean that rights of a more general nature cannot be indicated, such as the right to respect for family life (Art. 8). See also Art. 16 European Social Charter (Turin, 18 October 1961), which provides for the family's right to social, legal and economic protection. In addition, see Art. 65 European Union Consolidated Versions of the Treaty on European Union and of the Treaty Establishing the European Community (2002) , <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12002E/TXT&from=EN>.
- 15 See Chapter 7 § 1 of the Swedish Family Code 1949 (*Föräldrabalk*, www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/foraldrabalk-1949381_sfs-1949-381).
- 16 See Art. 203 § 1 of the Belgian Civil Code 1804 (*Code Civil*, www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1804032130&table_name=loi).
- 17 Сімейний Кодекс України, <https://zakon.rada.gov.ua/laws/show/2947-14#Text>.
- 18 See Art. 3B of the Maltese Civil Code 1868 (Civil Code, <https://legislation.mt/eli/cap/16/eng/pdf>).

continuing education are entitled to maintenance, regardless of the presumption of need, if they require maintenance in order to continue their education for a reasonable period of time. The child must immediately inform the parent of their intention to continue education.¹⁹ In exceptional cases, parents may be obligated to provide maintenance for a child aged 25 or over (Art. 4:220(5)). In certain cases, however, parents do not have a maintenance obligation towards an adult child continuing education. An adult child is also considered undeserving of maintenance if, without good reason, the child does not maintain relations with the parent (Art. 4:220 (3) and (4)). In Romania, according to Article 499(3) of the Romanian Civil Code 2009,²⁰ parents are obliged to support their adult child if they continue their education until the end of education, but not after the age of 26.

In the Czech Republic, if a child is unable to support itself, the maintenance obligation does not end even after the child reaches the age of majority. In exceptional cases, the maintenance obligation may last for the entire life of the child (disability).²¹ In France, there is no statutory age limit for child maintenance payments. Parental maintenance obligation does not expire automatically either when parental authority is taken away or when the child reaches the age of majority.²² In Germany, the maintenance obligation is also not age-limited and lasts as long as the child's education continues.²³ Similarly, in Italy, parents support their children until they are economically self-sufficient. Therefore, neither the age of majority nor the completion of school result in an expiration of the obligation to provide for a child.²⁴

In Poland, there is currently no clear age limit beyond which the maintenance obligation expires.²⁵ Parents have a maintenance obligation towards a child who is not yet able to maintain itself, unless income from the child's property is sufficient to cover the costs of their maintenance and upbringing.

It is also worth noting that in Council Regulation (EC) No. 4/2009, which applies to maintenance obligations arising from a family relationship, parentage, marriage or affinity, it is stipulated that free legal aid is provided for all claims made by the

19 See Art. 4:220(1) of the Hungarian Civil Code 2013 (*Polgári törvénykönyv*, https://tdziegler.files.wordpress.com/2014/06/civil_code.pdf).

20 *Codul Civil*, <http://legislatie.just.ro/Public/DetaliiDocument/175630>.

21 See § 85(1), § 86(3) of the Czech Family Act 1963 (*Zákon o rodine* 94/1963 Sb., www.zakonyprolidi.cz/cs/1963-94). About the maintenance obligation, see also § 910 *et seq.* of the Czech Civil Code 2012 (*Zákon č. 89/2012 Sb.*, www.zakonyprolidi.cz/cs/2012-89).

22 See Art. 371-2 of the French Civil Code 1804 (*Code civil*, www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070721).

23 See § 1610 ust. 2 of the German Civil Code 1896 (*Bürgerliches Gesetzbuch*, <http://www.gesetze-im-internet.de/bgb/>).

24 See Art. 337 *septies* of the Italian Civil Code 1942 (*Codice civile*, www.brocardi.it/codice-civile/), according to which the judge, after assessing the circumstances, may order the payment of a periodic allowance to adult children that are not economically independent. About the age limit of the maintenance obligation in Italy, see www.diritto.it/la-corte-di-cassazione-fissa-leta-limite-dei-bamboccioni-a-30-anni/. There is also more information about the fact that the Italian court emphasized the principle of the child's self-responsibility and their readiness to give up one's own ambitions in favour of the appropriate implementation of the limitation of the right to maintenance.

25 See Art. 133 of the Polish Family Code 1964 (*Kodeks rodzinny i opiekuńczy*, <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19640090059>).

creditor for maintenance obligations arising from a relationship between parents and children under the age of 21 (Art. 46).

The abovementioned regulations show a large variety of solutions in terms of how long the maintenance obligation exists. It seems, therefore, that a possible common definition of nestler could not be developed on this criterion, and it should rather be suggested to define the age limit from which one might be classified as nestler by referring to the moment of actually becoming independent or reaching a certain age, regardless of the duration of the maintenance obligation.

Defining the nestler may prove difficult due to the fact that while the legal boundaries of adulthood do not raise any major doubts, for psychologists and sociologists they may be fluid and different in individual lives of people. In addition, due to the lack of objective and unambiguous indicators for 'reaching maturity', the perspective of young people themselves and how they perceive adulthood may also be important.

The reasons for the phenomenon of nesting may be traced to personal and economic factors. It seems that these reasons may be common to citizens of many countries. For example, nesting may be caused by continuing education, lack of work, housing or money. The reason for nesting may also be convenience and laziness or emotional immaturity, as well as the need to provide assistance to the parents or one's own illness. In the literature, there are several theories explaining the causes of nesting. The first was presented by sociologist Masahiro Yamada. The second, by economist Yuji Genda, is believed to refute Yamada's theory. The third theory concerns a feminist approach that applies only to women.²⁶ According to the Yamada's theory, the reasons for nesting is found in the will of parents to provide their children with a prosperous life which they themselves did not have. Genda puts emphasis on the need to live with parents for economic reasons, and the third feminist theory is a manifestation of women's rebellion against traditionally understood gender roles that are associated with marriage – for this reason women who are nestlers postpone or completely resign from marriage, remaining with their parents.

The phenomenon of nesting, contrary to assumptions, is not only a choice of young people, but may be influenced by many circumstances. From a legal point of view, it is therefore worth proposing a division based on the criterion of the will to live together with parents, and as a result distinguish:

- a. adult children living with their parents regardless of their will (including disabled adult children or incapacitated children due to illness²⁷/addiction²⁸) – *soft nestler without the possibility of becoming independent*;
- b. adult children living with their parents who want to become independent, but cannot achieve this result due to objective obstacles, e.g. lack of sufficient financial resources/income for maintenance or purchase/rent of a flat, in particular due to education – *soft nestler with the intention of becoming independent*;

26 M. Tran, 'Unable or Unwilling to Leave the Nest? An Analysis and Evaluation of Japanese Parasite Single Theories', 2006, www.japanesestudies.org.uk/discussionpapers/2006/Tran.html.

27 Compare, e.g., M. Glinowiecki, 'Specyfika gniazdowania osób chorych na schizofrenię', *Societas/Communitas* 2017, vol. 24, no. 2, p. 209.

28 The question of whether addicted people should be treated as nestlers requires a deeper analysis and perhaps clarification (specification), taking into account the degree of addiction.

c. adult children living with their parents voluntarily motivated by their parents' needs (due to a strong and positive bond with their parents, the need to take care of them) – *hard positive nestler*;

d. adult children living with their parents voluntarily motivated by their own needs (because of comfort, laziness, lack of ambition) – *hard negative nestler*.

The distinction between hard and soft nestler results from the significant differences between the two groups, which may affect the scope of their targeted protection. A hard nestler is a person who does not become independent by making an autonomous and conscious decision in this regard. Such person prefers to continue living with their parents. Decision is largely mature (but subjective). A soft nestler is a person who is unable to make an uninhibited decision to become independent due to the accompanying objective obstacles and factual circumstances. A positive nestler is a person who does not move out from his or hers parents house for reasons that may be objectively considered justified, and a negative nestler is a person who, when making such decision, is guided by their needs, which usually does not deserve approval.

4. Consequences of the nesting phenomenon

The growing phenomenon of nesting results in a delay of achieving adulthood by young people. Thus, they start families later, which results in changes in the demographic and sociological structure of society.

The consequences of prolonged cohabitation of young adults with their parents are common to many countries and may be observed on three levels of social life: economic, psychological and social. Among the economic effects, the sense of economic dependence of 'children' on their parents is mentioned above all. Nesting may also cause a weakening of demand on the real estate market, which has farreaching economic effects. Therefore, the question arises whether economists should also study this phenomenon. In the psychological dimension, attention is drawn to the lower self-confidence of nestlers because they do not have to run a household on their own, and therefore do not get used to the situation of people leading an independent life. In addition, in this aspect, the problem of psychological dependence of adult children on their parents and a complete lack of attempts to become independent are also noticed. At the same time, the dominance of the 'nest' lifestyle may lead to conflicts within families. Leaving the family late may also have social effects – e.g., it does not help in creating a permanent relationship and postpones the decision to enter into a lasting interpersonal relationship with another person.²⁹ The literature also draws attention to the effects of the phenomenon from the perspective of the parents of nestlers. On one hand, there are positive aspects of living together with an adult child (e.g., emotional support), and on the other hand, the frustration caused by the presence of an adult child. For

29 Barszcz, 2019, p. 49.

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example, it was reported that this presence may increase the frequency of quarrels between spouses (parents).³⁰

At the same time leaving the parental home and attaining self-sufficiency is such a major life event it may no longer be viewed as a singular composite experience, but rather a series of experiences which produce the intended result. Parents need to accept that young adults may not attain economic self-sufficiency on their first attempt, and must plan for their *boomerangers* to return home once or maybe multiple times before they succeed. The 'boomerang' phenomenon represents a major shift in cultural and societal expectations. Positive social change may occur when families and social groups learn to accept the boomerang child as being representative of a new phase of life transition.³¹

5. Problems requiring legal analyses

Taking into account the problems faced by nestlers, it is worth focusing on legal issues that affect their economic and personal situation. Nesting is undoubtedly also a legal problem, although from this perspective it has not yet been properly studied. Meanwhile, the introduction of appropriate legal regulations could affect the scope and consequences of the discussed phenomenon and change the tendency of young people achieving adulthood later and later. It should be determined whether the relevant regulations should be introduced in individual countries or at a common European level. In both cases, however, it is important to conduct comparative legal research.

First, however, in addition to the already signaled need to define the concept of the nestler (or more precisely, a person who is to be affected by the provisions regulating the model of their protection), it is necessary to answer the questions that may be common to many countries:

- 1 Should the applicable law (national or European law) affect the situation of adult children living with their parents?
- 2 Should the law protect adult children living with their parents, and if the answer to this question is positive, is the current scope of this protection sufficient?
- 3 Should the law encourage adults to be independent – including whether the current legal status encourages or discourages nesting?
- 4 Are the parents with whom their adult children live are/should be protected/supported by the law?

Next, it would be necessary to define the legal relations between parents and their adult children in each of the abovementioned groups (a.-d.) as well as the differences between them.

30 M. Turcotte, 'Parents with Adult Children Living at Home', *Canadian Social Trends* 2006, no. 11-008, p. 6-7.

31 B.K. Lary, *Perceptions of Empty Nest Mothers From Diverse Socioeconomic Backgrounds With Boomerang Kids*, Walden University 2015, p. 232-233.

The answer to the above questions requires, above all, an assessment of the current legal regulations concerning:

- 1 maintenance obligation between parents and children and determining the moment of its cessation;
- 2 the obligation for adult children to participate in the costs of maintaining the family (including minor siblings);
- 3 consequences of the use by adult children of the premises occupied by their parents (including co-responsibility for any debts of the family).

It would also be necessary to answer the question whether the income from the property of nestlers should basically be used for their maintenance, and only the possible surplus for other justified needs of the family, and what claims to continue living with their parents should be vested in persons belonging to particular groups (a.-d.). For example, the soft nestler should have such a claim unlike the hard negative nestler.

As part of the comparative law research on the phenomenon, it is worth referring to the scope of the obligation to participate in the family's maintenance costs. For example, it should be specified to exactly what costs this obligation would apply, whether for those related to housing, food, or others, *e.g.* related to the parent's personal expenses for treatment.

Another aspect that should be investigated relates to actions by parents against dependent adult children (*e.g.*, for eviction,³² for payment of part of the nestler's income, for redress/compensation), and for actions by dependent adult children against parents (*e.g.*, regarding the claim to continue living in the family home).

The analysis of the abovementioned issues should make it possible to develop a theoretical model of legal protection of adult children living with both or one of their parents, while taking into account the rights of parents. This model may be discussed in terms of the maintenance rules for adult dependent children, but also the maintenance of parents by adult children. In this context, it is necessary to consider whether it is advisable to maintain or change the existing rules and to determine the abovementioned issues of participation of nestlers in the family's maintenance costs and co-responsibility for any debts related to the family life. The aspect of extending/maintaining/resigning from public law regulations 'supporting' adult children and their parents may be distinguished separately, and the need to introduce other forms of financial support for such people, *e.g.* for the purchase of a flat, may be considered.

Referring to taking into account the rights of parents or creating a model of their protection, it is worth emphasizing the need to support parents, and, at the same time, pay attention to the issue of obedience of nestlers towards them. It is necessary to answer a more general question: what is and what should be the scope of the duties of the nestler living with their parents.

32 See www.bbc.com/news/world-us-canada-44215648.

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Table 1 *Comparison of nesting in selected countries,³³ taking into account the scale of this phenomenon and factors influencing its level*

Country	Share of young adults aged 18-34 living with their parents ³⁴	Average age at which children leave home ³⁵	Age limit for	Examples of legal solutions affecting the level of the phenomenon
Poland	64%	26 years	Until the child becomes	<ul style="list-style-type: none"> – Tax exemptions for people up to 26 years of age. – Lack of responsibility for the payment of rent and other fees due in the situation of cohabitation with parents by persons who are unable to support themselves.
Sweden	17%	18 years	18 years old, unless the child is continuing education, then 21 years old ³⁸	About two-thirds of the Swedish municipalities implement different kinds of policies with the aim of making it easier for young people to find housing. In Stockholm, for example, young adults between 18 and 25 can apply for so-called youth housing, which are smaller apartments with affordable rent. In some cases, a higher age limit of 27 or 30 years applies. These rental contracts are usually limited in time.
Finland	18%	22 years	As a rule 18 years old ³⁹	Help for first time homebuyers. This includes tax-exempt interest and bonus interest on deposits saved for the purpose of purchasing a home, along with interest subsidies paid for the housing loan. Also, first-time homebuyers do not have to pay transfer tax – either 2% or 4% – if certain conditions are met.

³³ Apart from Poland, these are examples of countries where the scale of nesting is one of the highest and lowest. Additionally, Belgium was also indicated as a country with an average score.

'Nesting' as a legal issue – Polish example with comparison to other jurisdictions?

Table 1 (Continued)

Country	Share of young adults aged 18-34 living with their parents ³⁴	Average age at which children leave home ³⁵	Age limit for	Examples of legal solutions affecting the level of the phenomenon
Greece	73%	29 years	Until the child becomes	In Greece, there are some newly emerging regulations that encourage young adults to live on their own. For instance, the 'Coverage' (Κάλυψη). The scheme covers the cost of renting the house for three years and also the costs of repairs of damage to the property during the lease and at the end of the lease.
Belgium	45%	25 years	Until the child becomes	There are various tax incentives at regional level to promote the acquisition of the first home for anyone wishing to access a property of his/her own. From a general point of view, the trend observed is aimed at increasing people's autonomy as much as possible. Since the summer of 2018, for example, the Flemish Government has systematically reduced registration fees for any purchase of a home for people will live in it. Since 1 January 2022, anyone who buys a home, with the intention to live there within two years, has been paying only 3% registration fees instead of 6%. By offering lower registration taxes, the Flemish Government intends to make the purchase of a first home more affordable.

³⁴https://ec.europa.eu/eurostat/databrowser/view/ilc_lvps08/default/table?lang=en;%20https:%2F%2Flandgeist.com%2F2022%2F06%2F04%2Fyoung-adults-living-with-their-parents%2F.

³⁵<https://ec.europa.eu/eurostat/web/products-eurostat-news/-/edn-20200812-1>. Estimating the age of leaving home is complicated as it is not a one-time event; it is rather a fluid process that is often characterized by temporary returns to the parental home prior to permanent independent residence. This implies a methodological dilemma as to whether to count the first time a person leaves home or the last time. Many young adults also remain registered at their parents' address while they stay in sublet rentals or study abroad for example.

³⁶Compare https://e-justice.europa.eu/47/EN/family_maintenance?POLAND&member=1.

³⁷See Art. 133 of the Polish Family Code 1964 (*Kodeks rodzinny i opiekuńczy*, <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19640090059>).

³⁸See Chapter 7 § 1 of the Swedish Family Code 1949 (*Föräldrabalk*, www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/foraldrabalk-1949381-sfs-1949-381).

³⁹See § 6 of the Finnish Child Support Act 1975 (*Laki lapsen elatuksesta*, www.finlex.fi/fi/laki/ajantasa/1975/19750704).

⁴⁰See Art. 1486 of the Greek Civil Code 1984 (ΑΣΤΙΚΟΣ ΚΩΔΙΚΑΣ ΚΑΙ ΕΙΣΑΓΩΓΙΚΟΣ ΤΟΥ ΝΟΜΟΥ, www.kodiko.gr/nomothesia/document/437467).

⁴¹See Art. 203 § 1 of the Belgian Civil Code 1804 (*Code Civil*, www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1804032130&table_name=loi).

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Conclusion

The phenomenon of ‘nesting’ results in many important legal problems that require in-depth analysis, also from a comparative legal perspective. First of all, it is necessary to create a definition of a person who may be protected by the provisions (‘nestlers’), which would be the basis for further legal research. Then, an assessment of the current legal situation (in individual countries and in European terms) of adult children living with their parents or one of them is required, taking into account, among other factors, issues such as: maintenance obligation between parents and children, obligation of adult children to participate in family’s maintenance costs, consequences of adult children using the house occupied by their parents (co-responsibility for possible ‘family debts’), claims to continue living with parents, facilitation in obtaining employment or in starting a business. It may be assumed that with the increasing number of nestlers, the development of an appropriate legal model of supporting them in becoming independent at the European level would help to influence the scale of the discussed phenomenon. For this purpose, it may be reasonable to relay on the experience of individual EU Member States. At the same time, thanks to comparative law research, countries where nesting is a significant social problem, might introduce legal instruments based on the solutions adopted in other countries where this phenomenon occurs on a smaller scale to shape their own policy in this area.

The analysis of the presented foreign regulations leads to the conclusion that the age limit up to which parents should support their children does not always coincide with their obtaining legal independence.