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BEYOND PRIVATE AUTHORITY: SHARED AUTHORITY IN THE CREATION OF THE BANK FOR INTERNATIONAL SETTLEMENTS

This article examines the creation of the Bank for International Settlements (BIS) during a period of international financial instability in the late 1920s. It challenges the conventional wisdom that the existence of private authority in the global financial system is a relatively recent phenomenon. While countless studies have detailed how globalization has caused a shift in power away from states toward markets, including what I call ‘shared authority’, this change is associated almost exclusively with structural changes in the distribution of power among states and between states and market actors since the 1970s. However, analysis of the founding of the BIS demonstrates quite clearly that prominent features of the international financial system in the late 1920s-- e.g., a high degree of institutionalization (and legitimacy) of private participation in global financial governance; a widespread belief in market-based solutions to financial market problems; the blurring of the line demarcating the public and private spheres of activity; and, finally, the influence of private norms on public norms—were also salient features of the global financial system in the early 21st Century. Thus, analysis of the BIS’s founding offers important insights not only into different types of institutional innovation during times of systemic crisis, but also into patterns of state-market interaction in governing global finance.

Key words: Bank for International Settlements, (global) financial regulation, bank regulation, private authority, central banks, state-market relations

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“It [the BIS] must not become merely an agency for the collection and distribution of Reparations on behalf of the interested governments....It must be a sufficient business institution and not an eleemosynary institution. It must make money; it must be fairly paid for its services. It must be contemplated that it would receive suitable sums as deposits from governments and/or central banks.¹

- Jackson Reynolds, President, First National Bank of New York and Chairman of the Organizing Committee of the Bank for International Settlements, Baden-Baden, Germany, October 25, 1929.

1. Introduction

Recent scholarship has investigated new patterns and agents of change in the regulation of the global financial system since the emergence of financial globalization in the early 1970s.² Studies have identified ample evidence of market actors exercising greater power and authority in the setting of rules and standards by which the global financial system is governed.³ While global financial integration has largely been encouraged by states, powerful market players have greatly influenced the shift in recent decades from a state- to market-led system for regulating global finance, even in setting international standards.⁴ Although studies have demonstrated the existence of different forms of governance without the support of states, many associate this phenomenon with changes in the world economy since the 1970s. Broadly, this article challenges the conventional wisdom that private authority in the global financial system is a relatively recent phenomenon caused by structural changes in the distribution of power among states and between states and market actors stemming from globalization of finance since the 1970s.

Historically, states have been presumed to be the sole source of authority in the international system. Consequently, the fields of International Relations and Economic History have had strong state-centric biases. However, in recent decades, there has been a more obvious and growing disconnect between empirical evidence and academic treatment of authority in international affairs. Stud-

¹ Jackson Reynolds, “Summary of Conversation of 25 October, 1929,” J.P. Morgan Papers, Pierpoint Morgan Library (PML), Box 178. Also see Morgan to Young, October 25, 1929, J.P. Morgan Papers, PML, Box 178/3.

² Stijn Claessens, Geoffrey R.D. Underhill, and Xiaoke Zhang, “The Political Economy of Basle II: The Costs for Poor Countries,” *The World Economy*, 31(3) (2008), pp. 313-344; and Susanne Soederberg, *The Politics of the New International Financial Architecture: Reimposing Neoliberal Domination in the Global South* (London: Zed Books, 2004).

³ Benjamin J. Cohen, *International Political Economy: An Intellectual History* (Princeton: Princeton University Press, 2008).

⁴ Michael King and Timothy Sinclair, “Private Actors and Public Policy: A Requiem for the New Basel Capital Accord,” *International Political Science Review*, 24 (July 2003), pp. 345-362.

ies have shown nonstate actors performing authoritative roles in the international system, challenging traditional conceptions of state sovereignty. According to Hall and Biersteker, these actors “perform the role of authorship over some important issue or domain,” and “[t]hey claim to be, perform as, and are recognized as legitimate by some larger public...as authors of policies, of practices, of rules, and of norms.”⁵

Much of the literature on the state conceptualizes sovereignty in terms of control, or the ability of states to control activities within and across national frontiers.⁶ Defining sovereignty in terms of authority, Janice Thompson developed the concept of “meta-political authority,” arguing that “states do not simply have ultimate authority over things political; they have the authority to relegate activities, issues and practices to the economic, social, cultural and scientific realms of authority.”⁷ Yet, the primary shortcoming of this and other rationalist interpretations of authority in the international political economy is their tendency to view authority as a relative phenomenon that is “monopolized,” exercised by private-sector actors only when it is implicitly or explicitly delegated by states.

The dominance of this approach has led so many to over-emphasize the role of states in shaping outcomes in the international system. Instead of presuming that authority is monopolized by states, this study simultaneously employs its relative and absolute dimensions. Even though states have historically monopolized authority in national settings, it does not logically follow that the existence of state authority in the international system precludes the exercise of authority by actors other than states. Analysis of the founding of the BIS demonstrates that theoretical gains about institution-building at the international level and about the nature of international relations can be made by allowing for the operation of authority outside the parameters of the state.

A growing number of authors is attempting to conceptualize the emergence of nonstate actors in international affairs. Some have pointed to the existence of

⁵ Rodney Bruce Hall and Thomas J. Biersteker, “The Emergence of Private Authority in the International System,” in Rodney Bruce Hall and Thomas J. Biersteker, eds., *The Emergence of Private Authority in Global Governance* (Cambridge: Cambridge University Press, 2002), p. 4.

⁶ Stephen Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999); Eric Helleiner, “Electronic Money: A Challenge to the Sovereign State?,” *Journal of International Affairs*, 51 (Spring 1998), pp. 387-409; Saskia Sassen, *Losing Control: Sovereignty in the Age of Globalization* (New York: Columbia University Press, 1996); Peter Evans, “The Eclipse of the State? Reflections on Stateness in an Era of Globalization,” *World Politics*, 50 (October 1997), pp. 62-87; David M. Andrews, “Capital Mobility and State Autonomy: Toward a Theory of International Monetary Relations,” *International Studies Quarterly*, 38 (1994), pp. 193-218.

⁷ Janice Thompson, “State Sovereignty in International Relations: Bridging the Gap Between Theory and Empirical Research,” *International Studies Quarterly*, 39 (1995), pp. 214.

“private authority.”⁸To this, one may add the notion of “shared authority” among state and nonstate actors over a particular political, economic or social function or process. States, as Thompson asserts, may even possess “ultimate authority.” But insofar as states defer to or consult with private-sector actors in devising public policies or effecting desired outcomes in markets, such behavior itself attests to the existence of private authority. There is vast historical evidence of private-sector actors performing public functions and of governments complying with normative appeals for such action based on the belief that doing so is legitimate and right.

Shared authority among state and market actors is particularly observable in the area of banking and finance. Historically, commercial banks have regularly been central to the process of rescheduling government debt.⁹ In addition, state behavior often reinforces the market as authoritative. As Hall and Biesteker explain, “[w]hen state leaders proclaim that ‘the forces of the global market’ give them little room for maneuver or independent policy choice,” not only are they “ceding claims of authority to the market; they are creating the authority of the market.”¹⁰ The role of private-sector actors in reaching a “final and complete settlement to the German debt problem,” which resulted in the proposal to create the BIS, is one glaring case in point.

This article analyzes the creation of the BIS, a remarkably understudied subject compared to organizations like the International Monetary Fund and the World Bank.¹¹ In her seminal article on its founding, Beth Simmons applied dynamic contracting theory in arguing that, despite pronounced international political conflict during the interwar years, the BIS’s creation can be explained as “a function of the benefits that lenders and borrowers expect to gain from smoother and more efficient capital market operation.”¹² According to this approach, “the impulse to innovate...flows from the structural inability of states

⁸ Private authority should not be conflated with private power, which in relational terms connotes influence. The basic difference between the two concepts is that private authority is based on the combination of *power* and *legitimacy*. This definition of private authority draws on that of Hall and Biersteker, eds., p. 4. Also see Cutler, Haufler, and Porter, eds., *Private Authority and International Affairs*.

⁹ Susan Strange, “Territory, State, Authority and Economy: A New Ontology of Global Political Economy,” in Robert W. Cox (ed.) *The New Realisms: Perspectives on Multilateralism and World Order* (Tokyo: United Nations Press, 1997), p. 9.

¹⁰ Hall and Biersteker, “The Emergence of Private Authority in the International System,” p. 6.

¹¹ For exceptions, see Simmons, “Why Innovate? Founding the Bank for International Settlements,” *World Politics*, 45 (April 1993), 361-405; Frank Costigliola, “The Other Side of Isolation: Establishment of the First World Bank, 1929-30,” *Journal of American History*, 59 (December 1972), pp. 602-20; Henry Hans Schloss, *The Bank for International Settlements Reconsidered* (Ann Arbor: Michigan University Press, 1970); Eleanor Lansing Dulles, *The Bank for International Settlements at Work* (New York: Macmillan, 1932).

¹² Simmons, “Why Innovate?,” p. 362.

to make credible commitments under anarchy.”¹³ Also, the costs of enforcement and default to citizens of creditor states force governments to consider making “side payments to assure the rescheduling agreement.” Such “side payments may include not only debt concessions [to government debtors] but also organizational and financial support for international institutions.”¹⁴ Thus, for Simmons, government support for the BIS’s founding represents a “side payment” or “the price of private cooperation” to central bankers and private international bankers for securitizing Germany’s reparations debts.¹⁵

Simmons clearly demonstrates that the BIS was conceived and designed by dominant international and central bankers who sought to stabilize international markets and saw the BIS as a catalyst in this regard. In fact, archival sources strongly support this thesis. Still, Simmons’ explanation is only partial, for dynamic contracting methodology glosses over important historical developments that influenced the BIS’s founding. Apart from “incorporating the interests of debtor, private creditors, and creditor governments,” dynamic contracting theory does not explain why private bankers played such a prominent role in designing and organizing the world’s first and oldest international financial institution.¹⁶

Do the vested interests of private creditors in German debts and in stable capital markets alone explain why these actors were so instrumental in creating the BIS? Why was such a specific type of institution as a limited share company with access to central bank funds yet not subject to formal government oversight created? Various realist and rationalist bargaining models would lead us to expect that the BIS’s establishment was ultimately explainable from a cost-benefit analysis from the point of view of governments, with private-sector involvement and actions simply being factored in as a cost or benefit from the government actors’ point of view. The evidence shows this approach to be inadequate. By introducing ‘shared authority’ as a concept, it is possible not only to explain why governments complied with private bankers’ normative appeals to take leadership roles in creating the BIS, but also why they believed doing so was right and legitimate. Not one study of the BIS has made a basic connection between long-term trends in institution-building at the international level and the conditions under which it was established.¹⁷ Only by placing the creation of the BIS in a longer historical

¹³ Ibid., p. 372.

¹⁴ Ibid., p. 373.

¹⁵ Ibid., p. 400. In this article, securitization and commercialization are used synonymously. Government debt is transformed into an asset that can be bought and sold on the market as bond shares, the proceeds of which are used to eradicate government debts.

¹⁶ Ibid., p. 373.

¹⁷ Paolo Baffi, *The Origins of Central Bank Cooperation: The Establishment of the Bank for International Settlements*. Historical Publications of the Bank of Italy. Rome, Laterza & Figli.; Barry Eichengreen, *Golden Fetters: The Gold Standard and the Great Depression*,

perspective is it possible to fully comprehend why, during a period punctuated by interstate conflict, governments supported the founding of the BIS. In fact, its founding marked the culmination of an era in which private actors performed public functions by proposing and designing new international institutions.¹⁸

2. International financial governance before and after the First World War

In the classical liberal era before the First World War, international financial collaboration was largely left to private initiative. Central banking predominantly is a twentieth century phenomenon.¹⁹ Even though a small number of central banks were established before the twentieth century with monopoly rights over the issuance of money, these institutions did not perform the function of lender of last resort, a central purpose of central banking. Explicit government deposit insurance developed later than the lender-of-last-resort function of central banks. As Gorton and Huang show, private bank coalitions have historically been replaced by nationalized central banks and government deposit insurance schemes, marking an important development in the evolution of national central banks during the twentieth century.²⁰ Thus, the modernization of central banks is a relatively recent historical development.

Prior to and during the evolution of central banks major banking houses regularly performed public functions, responding to financial crises by providing key credits and loans to central banks and governments as part of currency stabilization projects.²¹ In the European context much is known about the role played by the Rothschilds. In United States, the House of Morgan regularly performed the role of lender of last resort, as in the financial crisis of 1907, well before the establishment of the Federal Reserve System in 1914. J. P. Morgan was also a banker for the British and United States Treasuries.

The significance of private-sector actors was not limited to banking and finance but reflected a well-established norm in the international system. In 33 international institutions studied by Murphy that were created between 1865 and 1914, private-sector actors provided financial sponsorship, organizational

1919-1939 (New York: Oxford University Press, 1995); Simmons, esp. pp. 361-364; and Costigliola.

¹⁸ Craig N. Murphy, *International Organization and Industrial Change: Global Governance Since 1850* (New York: Oxford University Press, 1994), particularly pp. 1-10.

¹⁹ Only eighteen central banks existed by 1900. See Forrest Capie, "The Evolution of Central Banking," in *Reforming the Financial System: Some Lessons from History* (Cambridge: Cambridge University Press, 1997).

²⁰ Gary Gorton and Lixin Huang, "Banking Panics and the Origin of Central Banking," Wharton Business School, the Wharton Financial Institutions Center Working Paper Series, 02-31 (August, 2001), pp. 1-42.

²¹ BIS, HA, Fraser to Reynolds, May 30, 1930, 7.18(2), MCG7/49.

resources and political leadership in establishing new institutions to cope with the unprecedented problems created by the expanding industrial system. International cooperation among aristocrats was facilitated by the European conference system which “helped mute conflicts among the powers.”²² In short, before World War I there was a well-established norm of private actors regularly performing public functions, particularly in fostering and regulating financial and industrial development and promoting the international expansion of the regulatory role of states.

The First World War completely disrupted international financial and economic relations, both between governments and private institutions, inside as well as outside the sphere of countries directly involved in the war. The Treaty of Versailles fundamentally redefined international relations for generations to come by redrawing territorial boundaries, legitimizing military occupation, imposing schedules and conditions for demilitarization. Attempts to reconstruct international finance, culminating in the creation of the BIS, were broadly related to the Versailles Treaty’s attempt to rewrite international relations, with the reparations issue ensuring that political and financial questions would be directly connected. Before the war, governments had regularly sought political ends by economic and financial means; following it, however, financial considerations dominated foreign policy-making.²³ Moreover, in the 1920s, leading central and private bankers tried with a gathering sense of urgency to construct a world economy. As Pauly shows, the achievement of peace among nations hinged on the attainment of a classical liberal international consensus in the form of a workable gold standard, stable exchange rates and more open capital markets. “The effort failed,” writes Pauly, “and it failed catastrophically.”²⁴

Despite the devastation of World War I, the state system was strengthened in the years that immediately followed it. In the area of finance treasury officials and central bankers came to the fore. In every country a group of financial diplomats developed.²⁵ Meanwhile, the enhanced importance of economic questions bolstered the belief that businessmen, not politicians or bureaucrats, possessed the flexibility and technical expertise required to stabilize markets. Policy-making elites openly announced that fiscal degeneration and economic downturns could only be avoided, and world peace and prosperity could only be

²² Murphy, pp. 48-49.

²³ Frank C. Costigliola, “Anglo-American Financial Rivalry in the 1920s,” *The Journal of Economic History*, 37 (December, 1977), p. 911; Eichengreen, *Golden Fetters*, pp. 127-28.

²⁴ See Louis W. Pauly, *Who Elected the Bankers? Surveillance and Control in the World Economy* (Ithaca: Cornell University Press, 1997), p. 35.

²⁵ See Richard Hemmig Meyer, *Bankers’ Diplomacy: Monetary Stabilization in the Twenties* (New York: Columbia University Press, 1970), esp. pp. 3, 13-14; Paul Einzig, *Bankers, Statesmen and Economists* (New York: Books for Libraries Press, 1967) and *Behind the Scenes of International Finance* (London: Macmillan, 1932).

achieved, by forces entirely divorced from politics, through “the healing power of assistance of private finance and commerce.”²⁶

Many trace the origins of central bank cooperation to the BIS’s founding.²⁷ But as Charles Kindleberger points out, central bank cooperation predated the BIS.²⁸ A considerable amount of coordinated international financial assistance occurred before 1930, by central banks and private individuals like the Rothschilds, Morgans and Warburgs, governments, and cities like Hamburg. The Bank of England and the Bank of France assisted each other as lenders of last resort in financial crises in 1825, 1836-39, 1856, 1866, 1890, and 1907, and the Federal Reserve Bank of New York provided the Bank of England with financial assistance in the 1920s. All of this was “episodic” and far from institutionalized.

Throughout the 1920s Bank of England Governor Montagu Norman encouraged greater contact and consultation among central banks on an official and personal level. Periodically, he met with Benjamin Strong, Governor of the Federal Reserve Bank of New York, Hjalmar Schacht, President of the German Reichsbank, and Emile Moreau, Governor of the Bank of France. Central bankers valued these meetings, because they gave them an opportunity both to influence one another’s monetary policy and to exchange views. However, these meetings attracted an undesirable amount of publicity, risking a possible fluctuation in exchange rates and verbal and financial speculation. For the central bankers, secrecy and confidentiality were indispensable criteria in building bonds of monetary solidarity.

Meanwhile, many came to see the creation of more coherent international monetary order, with central bank collaboration as its centerpiece, as a precondition for reconstituting world trade and finance. This movement was not unprecedented, as before World War I various proposals had been made. After the war, however, the rate and scope of such proposals intensified and broadened. For instance, the Genoa Conference of 1922 endorsed the international gold exchange standard and called for continuous cooperation among central banks to maintain it.²⁹ Bankers particularly wanted to economize gold movements by developing an international clearing union predicated on nondiscrimination, convertibility and symmetry in adjustment obligations between surplus

²⁶ Herbert Hoover to Benjamin Strong, August 30, 1921, Herbert Hoover Papers, Herbert Hoover Presidential Library, Box 284, cited in Costigliola, p. 912.

²⁷ This view is espoused by a number of publications by one-time BIS officials. See Paolo Baffi and the BIS, Fn. 17; Gunter D. Baer, “Sixty-Five Years of Central Bank Cooperation at the Bank for International Settlements,” in Carl-L. Holtfrerich, James Reis, and Gianni Toniolo, eds., *The Emergence of Modern Central Banking from 1918 to the Present* (Aldershot: Ashgate, 1999); Roger Auboin, *The Bank for International Settlements, 1930-1955* (Princeton: Princeton University Press, 1955).

²⁸ Charles Kindleberger, “Introduction,” in Paolo Baffi and BIS, pp. xxv-xxxiv.

²⁹ Stephen V. O. Clarke, *The Reconstruction of the International Monetary System: The Attempts of 1922 and 1923* (Princeton: Princeton University, 1973), pp. 4-18.

and deficit countries. The First World War thus represented an obvious threshold; the political decision to spare gold money in domestic and international transactions signaled the extension internationally of the regulatory role of the state. Yet even though the institutional designs of the 1920s embodied all of the important functions of institutions established at Bretton Woods in 1944, little institutional development resulted. Domestic political constraints, incompatible conceptual frameworks and international political disputes over debts and reparations bedeviled this effort.³⁰

The historical development of the BIS can hardly be discussed in isolation from the aggressive imposition of reparations obligations on Germany by the victors of World War I in the Treaty of Versailles. During the 1920s German war reparations fueled political conflict among European governments, impeded European economic reconstruction, exacerbated budgetary crises, and made foreign currency stabilization very difficult. As a result, by 1929, many European and North American central and private bankers roundly advocated the need for a new debt settlement.

Furthermore, the issue of inter-Allied debts, particularly those owed to the United States government, became functionally associated with the issue of German reparations: the ability of France, Britain, Belgium or Italy to repay their debts to the United States depended on Germany's ability to make regular installments on its war reparations, which, in turn, depended upon uninterrupted lending from American banks, the largest collective holder of surplus capital at that time. The interconnectedness of these two classes of debts represented a ticking bomb in the world economy: any wholesale repudiation of debt by a leading debtor government, above all Germany, would threaten the solvency of leading creditor banks, cripple the international credit system and stifle world commerce, as the Great Depression subsequently demonstrated. Throughout the 1920s the issue of German reparations confounded creditor governments and the largest international banks, which had an important stake in international financial stability and were treated by governments as possessing the requisite authority and capital wealth to achieve a durable settlement.

Thus, internationalist-minded politicians, but above all central and private bankers from Europe and North America, were driven by a normative commitment to private-sector solutions to building world peace and prosperity, Europe economic reconstruction and stable international markets. The BIS promised central bank collaboration and the international extension of the regulatory role of the state. However, whereas Pauly argues that "leading states" in the 1920s attempted to construct a global economy, it was internationalist quasi-state central banks, not relatively inward-looking governments, that comprised "the

³⁰ Eichengreen, *Golden Fetters*, pp. 9-12.

state” in the international arena.³¹ Central banks typically collaborated with prominent internationalist-minded financiers to develop, as in the case of the BIS, a more coherent global financial system. Moreover, the form of state that was internationalized in the BIS’s founding differed in basic respects from that which was internationalized in the Financial Committee of the League of Nations. While both institutions promoted financially orthodox policies, the institutional designs of the two agencies allowed for one agency, the BIS, to be more insulated from governments (i.e., treasuries). Although the experience of reparations and the Great Depression discredited the classical liberal model (and central bankers) in government policy-making circles in the 1930s, during the 1920s international financiers exerted a significant degree of authority in international financial policymaking.³²

3. Central Bank independence and German reparations

Germany’s obligation to pay war reparations was formalized in the Treaty of Versailles, and by May 1921 a staggering reparations bill of 132 billion gold marks, or US\$31 billion, was imposed on Germany.³³ Given United States government inflexibility regarding war debts owed to it by its allies, the French, British, Italians and Belgians could not reach a compromise and, thus, pressed Germany for reparations.

However, a little over a year later Germany defaulted on its payments and was granted a one-year moratorium. France and Belgium responded by instituting their own method of debt collection, seizing Germany main industrial center, the Ruhr, in January 1923. The German government, in turn, protested this move by declaring a policy of “passive resistance.” Devastating hyperinflation and a rapid deterioration in the German economy and living standards resulted. Faced with mounting pressure from parties on the left and the right, the German government ended its policy of passive resistance in September 1923. A new currency – the rentenmark – replaced the mark, but the Germany economy already lay in ruins.

The Dawes Committee, which was led American banker Charles G. Dawes, was created to resolve this problem. It deferred part of Germany’s reparations

³¹ Pauly, p. 35. Also see, Jeffry Frieden, *Banking on the World: The Politics of American International Finance* (New York: Harper & Row, 1987), esp. chs. 1-2.

³² On the discrediting of central bankers in the 1930s, see Harold James, *The End of Globalization: Lessons from the Great Depression* (Harvard University Press, 2001).

³³ Keynes argued that the reparations scheme would not only destroy the German economy but would damage the financial recovery of other nations in Europe. John Maynard Keynes, *The Economic Consequences of Peace* (London: Macmillan, 1920).

obligation and reduced its debt service payments.³⁴ The success of the Dawes Plan hinged on a foreign loan to Germany, publicly endorsed and privately marketed in New York. In return for this loan, the German government agreed to reorganize its central bank under Allied supervision and earmark money from transportation, excise, and custom taxes for reparations payments.³⁵ Initially, the Dawes Plan was successful, as it “unleashed a wave of foreign lending by the United States that inundated international financial markets for the next four years.”³⁶ Yet as lending to Germany decreased, its annual payments became unbearable.³⁷ German nationalists strenuously criticized the Dawes system as a humiliating form of foreign domination, and international bankers associated it with Germany’s economic woes and general instability in international financial markets. From the bankers’ perspective, politics confounded economic stabilization, and Germany’s war reparations had to be securitized.³⁸ Finally, in late 1928, Agent General for War Reparations S. Parker Gilbert persuaded creditor governments to restart German reparations negotiations.³⁹ This led to the formation of the Young Committee, which called for the elimination of all Dawes Plan institutions and the establishment of the BIS.

Although the Young Committee of bankers intended to depoliticize reparations, this goal proved illusory. During the year-long series of negotiations in 1929 that gave birth to the BIS, different state institutions of Germany’s creditors were deeply divided over questions related to the BIS. Political institutions of these governments struggled with central banks and a small number of prominent international bankers for influence over these questions. The degree of political influence of government institutions over the central and commercial bankers varied from country to country. This variation, in turn, was the direct result of varying degrees of independence that each central bank possessed. The degree of private authority and central bank independence co-varied from delegation to delegation, with the former and latter being higher in Britain and the

³⁴ The Dawes Plan set Germany’s annuity at RM2.5 billion.

³⁵ The Reparations Commission employed over 150 foreign agents in Berlin.

³⁶ Eichengreen, *op. cit.*, pp. 150-51.

³⁷ Lending by US banks to Europe rose from 526.6 million in 1924 to 629.5 in 1925, and was 484.0 million in 1926, 557.3 in 1927, and 597.9 in 1928. In 1929 the volume of lending fell to 142.0 million. Source: United States, Department of Commerce (1930), in *ibid.* p. 151

³⁸ Documentary evidence strongly support this conclusion, which is reiterated in the final report of the Young Committee: “The operations of the institution will be assimilated to ordinary commercial and financial practice. Its organization will be outside the field of political influences.” See “The Bank for International Settlements: Committee of Experts Report (Part 6),” June 7, 1929, J. P. Morgan Papers, PML, Box 179/5; “Course of the Proceedings,” [no date] J. P. Morgan Papers, PML, Box 179/5; Simmons, p. 364.

³⁹ On September 16, 1928 businessmen and state officials approved a committee of independent financial experts to propose a new settlement to German reparations. The Young Committee’s official name was The Expert Committee on War Reparations.

United States than in France, Belgium and Germany. With the sole exception of France, in the case of Britain, Germany, the United States, Belgium, Italy and Japan, the balance of policymaking power between treasuries and central banks favored the latter. International commercial banks from each country were even less likely than central banks to adopt their government's policy, seeing themselves instead as independent financial authorities. Thus, in each of the main delegations, despite ceding authority to private bankers, governments, led by treasuries, sought to exert political influence over the central and private banking representatives, especially concerning the kind of institution they were creating in the BIS.⁴⁰ One British financier captures this tension in a report to the Bank of England:

*Our bank negotiators have suffered the usual vicissitudes due to the conflict of ideas as to what kind of a bank it was we were endeavoring to set up. In my judgment we have secured for the Governments the due measure of influence and initiative to which they are entitled, and at the same time obtained for the Bank, with due safeguards against their abuse, the requisite freedom and elasticity to enable it to act as a nucleus of central banking co-operation in devising a common policy and common measures for preventing monetary crises and undue fluctuations in the value of gold.*⁴¹

The most acrimonious conflicts of interest centered on the kind of institution the negotiators were creating. While central and private bankers wanted the BIS to be more than a reparations agency, these groups did not see eye to eye on all issues. Central banks feared that the BIS might interfere with their monetary objectives, as BIS operations in gold and foreign currency potentially overlapped with similar central bank operations.⁴² Besides, by entrusting funds to the BIS for short-term lending, central banks did not want to create a super-bank of sorts that could out-compete existing banks in the various financial centers. In the end, governments granted only limited support for certain bankers' more ambitious idea of creating a "bank of central banks," explicitly denying the BIS the power to create a unit of international currency and limiting its capacity as an international lender of last resort.

Broadly, then, whereas political leaders wanted the BIS to be a reparations agency answerable to treasuries, central and private bankers desired a private-banking institution that was insulated from government interference and loyal

⁴⁰ Neither could the bankers isolate themselves from political considerations in selecting a site for the BIS. Given the political sensitivity of this question, negotiations about its location were left for last.

⁴¹ Addis to Norman, October 31, 1929, Addis Papers, ADM16/1, Bank of England Archives.

⁴² Leffingwell to Morgan and Lamont, March 12, 1929, J. P. Morgan Papers, PML, Box 178/3.

to central banks.⁴³ While there was some compromise on all sides, the final design of the BIS predominantly resembled the preferences of central and private banks. Even though it embedded safeguards for governments, the BIS was founded with a legal status of a limited share company. By ensuring that the BIS's primary source of funding was based not on government quotas but on central bank funds its founders created an international institution that was insulated from national politics. Thus, at its founding a distinguishing characteristic of the BIS was that its capital subscribers were central banks and private individuals and banking institutions, not national governments.

As indicated above, German reparations were a constant source of political, economic and financial instability during the 1920s. Germany's adversaries sought reparations from it for different reasons, namely to cover their own post-war reconstruction costs and debts. Inter-Allied debts amounted to an astounding sum of \$26 billion. As debt negotiations were beginning in Paris in February 1929, Keynes captured the interconnection between inter-Allied debts and German reparations:

*If Germany were to pay the whole amount of the reparations due from her under the Dawes scheme, and if the Allies were to use these proceeds to pay what they in their turn owe to the United States under the latest settlements, it would mean that about two-thirds of the proceeds of German reparations would have to be handed on to the United States.*⁴⁴

This linkage exacerbated divisions within and among Germany's creditor governments, but especially the United States, where successive postwar administrations denied any functional link. European governments also amassed an enormous amount of private debt during the war, further complicating the international payments system. In the 1920s the continuous payment of German reparations and inter-Allied debts, the balancing of government budgets and the stability of national currencies all depended on government access to private loans and credits. This situation, in turn, strengthened power and authority of private-sector actors in debt settlement and postwar economic reconstruction.

Faced in late 1929 with the growing likelihood of cancellation of a portion of Germany's debt, the governments of France, Belgium, Britain and the United States made two compromises to Germany and its private creditors. The first was a diminution in Germany's reparations obligations from the Dawes Plan figure of RM2.5 billion to the Young Plan amount of RM1.9 billion. The second was the decision to support the creation of the BIS. Saddled with reparations payments,

⁴³ Although central bankers constitute the heart of the Board of Directors, they did not wish to get involved in the day-to-day management of the BIS. See Jacobsson Diaries, November 4, 1956, *Hanschriftenabteilung*, Basel University Library, NL 324, A I 110.

⁴⁴ *Foreign Affairs*, February 1929, p. 79.

war debts and spiraling inflation, European governments knew that returning to the gold standard required economic stabilization and that access to foreign capital was a prerequisite. The two countries whose resources had been least drained by the war were the United States and Britain. As a consequence, private-sector actors from these countries gained tremendous influence in international economic affairs, making their degree of private authority in Germany's debt talks considerably higher than their counterparts.⁴⁵

4. German reparations and the BIS from the perspective of the United States, Britain, France, and Germany

This section will begin with an analysis of various American parties involved in the creation of the BIS.

4.1. The United States

The authority of private bankers engaged in creating the BIS was perhaps most pronounced in the case of American international bankers. As leading suppliers of foreign direct investment, loans and credits to Germany throughout the 1920s, these bankers championed the BIS as a profit-making institution.⁴⁶ The chief "preoccupation of a necessity," according to the American bankers, "was to share in the creation of a bank which was to be a useful business enterprise."⁴⁷ The BIS also promised social and political benefits, as some European bankers had hoped that the BIS would help ease their "vexing...social questions."⁴⁸ The American bankers plainly announced the BIS in United States as "a powerful barrier against the spread of Bolshevism."⁴⁹

⁴⁵ Clarke, chapters 1-3; and John B. Goodman, *Monetary Sovereignty: The Politics of Central Banking in Western Europe* (Ithaca: Cornell University Press, 1992), pp. 27-29.

⁴⁶ See footnotes 1, 44, 68, and 91.

⁴⁷ Morgan to Young, October 25, 1929, J. P. Morgan Papers, PML, Box 178/3. American private-sector representatives involved in founding the BIS included: J. P. Morgan, Owen D. Young (Chairman, General Electric), Jackson Reynolds (President, First National Bank of New York), Melvin Traylor (President, First National Bank of Chicago), Thomas Lamont (J. P. Morgan and Company), Leon Fraser (First National Bank of New York), Thomas Perkins (Boston banker), Walter Burgess, Dean Jay, Shepard Morgan, David Sarnoff, and Walter Stewart.

⁴⁸ Morgan and Lamont to J. P. Morgan and Company, March 11, 1929, Lamont Papers, 178/18, in Frank C. Costigliola, *Awkward Dominion: American Political, Economic, and Cultural Relations with Europe, 1919-1933* (Ithaca: Cornell University Press, 1984), p. 211.

⁴⁹ Owen D. Young Speech, June 11, 1929, 462.00R296/3000, Record Group 59, United States National Archives, cited in *Ibid.*, p. 211.

European central and private bankers clearly understood that a profit-making BIS would guarantee the unimpeded participation of the American financial community.⁵⁰ However, Simmons notes that the American bankers' goal of making the BIS a useful business enterprise "ran counter to the idea of a non-profit 'bank of central banks'" and was initially opposed by the Federal Reserve Bank of New York (FRBNY) and other central banks.⁵¹ European bankers even repeatedly criticized the New York bankers for their profit motive.⁵² The FRBNY also feared that the BIS operations would compete with American, especially New York, banks, arguing that "it [profits] must not be the dominating motive, and the amounts are most problematical."⁵³

Given the US government's isolationist stance, general detachment from reparations, and reliance on private expert action throughout the 1920s, it denied any official link between the Federal Reserve System and the BIS.⁵⁴ As the FRBNY expected central banks to influence the BIS, it sought other means of protecting itself from the implementation of policies which "might not be in the best interests of the New York market or consistent with other American interests."⁵⁵ They wanted BIS management to feel some sense of responsibility to the Federal Reserve Banks with and through which they would be operating. The FRBNY supported the BIS's founding on the assumption that, when organized and operating, the two institutions would develop close relations and the former would exercise some rights concerning the latter's operations, particularly in the United States.⁵⁶ According to them, as "a big factor in international exchange operations" in the coming years would involve the need for dollars in various countries, "a large part of the operations of the Bank for International

⁵⁰ Morgan to Reynolds, October 29, 1929, J. P. Morgan Papers, PML, 34/5. Also see Pinsent's diary of Addis's report of the Heads of Delegations Meeting, October 25, 1929, T160 386, F11282/03/1 and Treasury Documents, PRO/L, in Simmons, *op. cit.*, p. 381.

⁵¹ Simmons, *ibid.*, p. 381.

⁵² *Ibid.*, p. 381.

⁵³ Memo, "Notes on the Capital of the Bank," March 13, 1929, BIS file, FRBNY, 797.3. The FRBNY noted that the bankers' plan "suggests too great of power conferred on private stockholders," that private ownership of BIS shares "introduces the pressure of profits as opposed to the motive of public service," and that "[o]wnership by powerful banking interests is no better window dressing than government ownership."

⁵⁴ "Section XII" of the first plan for the BIS "makes full provision covering the substitution of a private American banking house for the Federal Reserve System in every aspect of the plan." See Memo, "The Bank for International Settlements and the Federal Reserve Bank of New York," FRBNY, BIS file, 797.3.

⁵⁵ Memo, "Views and Comments Relative to Provisions of Experts' Report Concerning Bank for International Settlements and Its Possible Relations with Federal Reserve Bank of New York" [hereafter "Views and Comments"], August 19, 1929, BIS file, FRBNY, 797.3,

⁵⁶ *Ibid.*; Harrison to Moreau, August 13, 1929, BIS file, FRBNY, 797.3; Harrison to Schacht, August 13, 1929, Harrison Papers, FRBNY, 3013; Burgess to Harrison, July 25, 1929, BIS file, FRBNY, 797.3.

Settlements will have to be in or with this market.”⁵⁷ Thus, while it wanted the power to veto BIS business operations in the New York market, the FRBNY also wanted the BIS to take on international banking functions that transcended the much narrower role of reparations settlement.⁵⁸ Seeing no bar in the way of American legislation, the FRBNY concluded that it “can and should” establish financial relationships with the BIS under powers conferred to it under the Federal Reserve Act, “somewhat along the lines of those established with other banks of issue throughout the world.”⁵⁹ It did, however, agree to keep key agencies in Washington abreast of developments in its relations with the BIS.⁶⁰

Still, the FRBNY had concerns about organizing the BIS as a profit-making institution. It was particularly concerned with avoiding “competitive influences for deposits of the BIS in this and other markets in this country...thus avoiding undesirable or perhaps hurtful operations.”⁶¹ Consequently, it insisted that all BIS transactions affecting the New York market be made with its consent.⁶² Beyond assisting in the execution of certain international financial transactions, FRBNY officials saw in the BIS an important medium for central bank contact and cooperation, transforming them from “fortuitous” to “more certain and automatic.”⁶³ As regards the location of the BIS, the FRBNY chose not to take a position.⁶⁴

According to the United States government, the function of the American bankers led by Owen Young and J. P. Morgan was to defend American financial interests in the broadest sense. Washington assumed that the other powers would endeavor to link Allied war debts with reparations and attempt to reduce both figures. In this connection, the State Department and Treasury expected the American bankers to explain to their European counterparts that Germany’s obligations had to be fixed without any modification of prevailing inter-Allied arrangements.⁶⁵ However, the American international bankers regarded themselves not as defenders of American war debt policy, or as agents of the American government, but as independent actors. When halfway through the

⁵⁷ Memo, “Views and Comments,” *op. cit.*, p. 2.

⁵⁸ This included transactions in gold and securities, open market transactions, deposits, exchanging information on developments in different financial markets, trustee functions and arranging central and commercial bank credits.

⁵⁹ Memo, “Views and Comments,” *op. cit.*, p. 2.

⁶⁰ Memo, “J. E. Crane to Files,” by J. E. Crane, February 27, 1930, BIS file, FRBNY, 797.2.

⁶¹ Memo, “Views and Comments,” *op. cit.*, p. 3.

⁶² Burgess to Harrison, July 25, 1929, BIS file, FRBNY, 797.3.

⁶³ Harrison to Moreau, August 13, 1929, BIS file, FRBNY, 797.3; Harrison to Schacht, August 13, 1929, BIS file, FRBNY, 797.3; Memo, “Views and Comments.”

⁶⁴ Harrison to Moreau, *op. cit.*, fn. 56.

⁶⁵ Young to Kellogg, October 26, 1928, J. P. Morgan Papers, PML, Box 178/3; Young to Kellogg, January 2, 1929, J. P. Morgan Papers, PML, Box 178/3.

deliberations in Paris Treasury Secretary Andrew Mellon attempted to persuade the private-sector representatives to act in conformity with official United States policy, Young and Morgan threatened to walk away from the talks.⁶⁶ The private bankers assumed that the question of European debts to the United States had been answered with the debt funding agreements of 1922 to 1926, and believed that new creditors' needs for funds to satisfy war debt obligations fell within Germany's capacity to pay. In any case, the commercial bankers involved in the debt negotiations from 1929 to 1930 had a substantial interest in devising a scheme that maximized Germany's chances of paying its debts, reparations or private.

Thus, when British and American Treasury officials attempted to place the BIS under the control of treasuries, the American bankers serving on the Organizing Committee in Baden-Baden were "greatly disturbed" and "embarrassed by the interference of their Governments: the result was that the idea of the Bank qua bank was being ignored ...[in favor of] the Reparations' aspect of the Bank largely because of the double loyalty of the Treasury officials." They felt that it was their duty "to form a great Bank," and they were infuriated by the fact that "the chief preoccupation of [their] colleagues seemed to be with a Bank as a Reparations Agency."⁶⁷ The American bankers had grand visions for the BIS, including its ascendance to a position as the leading player in the international bullion market.⁶⁸

American banker Jackson Reynolds called a meeting of the heads of the delegations at Baden-Baden to ask each participant to state whether they agreed with the idea of making the BIS a useful business enterprise, and whether they were willing to act upon it. Sir Charles Addis, a British banker, was the first to agree with Reynolds, but added that he differed "somewhat on points of emphasis," noting that the BIS probably would never have been proposed for establishment "if the reparations settlement had not provided the specific occasion for it." In "complete and vigorous agreement" with Reynolds was Dr. Hjalmar Schacht, the German representative. M. C. Moret of the Bank of France expressed "equal agreement though more quietly." Mr. Beneduce, the Italian delegate, was also in agreement, "exploring many related questions." Japanese banker M. Tanaka was in "complete and brief agreement." The Belgian representative Frank expressed agreement in "less clear language."⁶⁹

⁶⁶ Stimson to Young and Morgan, April 8, 1929, J. P. Morgan Papers, PML, Box 34/5; Young to Hoover, Stimson and Mellon, April 10, 1929, J. P. Morgan Papers, PML, Box 34/5; and Jon Jacobson, *Locarno Diplomacy*.

⁶⁷ Morgan to Young, October 25, 1929, J. P. Morgan Papers, PML, Box 178/3.

⁶⁸ *Ibid.*; Lamont from Leffingwell, May 16, 1929, J. P. Morgan Papers, PML, Box 178/4; Memo, "Summary of Conversation of 25 October, 1929," J. P. Morgan Papers, PML, Box 178.

⁶⁹ For an record of the meetings of the Organization Committee, see "Typed Notes," [No Author or Date], J. P. Morgan Papers, PML, Box 178/3.

Despite attempting to depoliticize German reparations by securitizing them, governments still tried to influence the outcome of negotiations by indirect pressure on central bank governors. The FRBNY saw the BIS in its “dual role,” first as a reparations bank, and then as an international clearing bank.⁷⁰ For it, the primary functions of the BIS were “politico-financial” in nature. Moreover, the FRBNY predicted that British influence would be prominent on the Board of Directors.⁷¹ FRBNY officials fully expected England and Germany “to line up together,” backed by Holland, the Scandinavian countries and Italy, with France and Belgium the principle powers on the other side. Japan,⁷² they expected, would “follow England’s lead,” the other countries “stringing along” with either “the Little Entente [sic] with France” or the British. As for their own influence over the Bank, these officials believed that

*[t]he United States will be represented by what may still be called ‘observers’ whose position will be, as it has always been since 1919, at once a prominent and ticklish one. The reasons for both of these adjectives are clear: prominent, because of American wealth, power and objective adherence to realities; ticklish, because of the continual variance between American expert action in international affairs and American public opinion.*⁷³

The American central and private bankers involved in the debt negotiations identified isolationist elements in Washington as “manifestations of provincialism in Congress,” lamenting the “ostrich-like State Department,” whose officials, they felt, tended to “bury their heads in the sand.”⁷⁴ For the United States’ part, the degree of private authority was considerable.

4.2. Britain

In the case of Britain private-sector actors exerted authority in the context of a considerable divergence of interests between the Bank of England, on the one hand, and the British Treasury and Foreign Ministry, on the other, concerning the Young Plan and the BIS. For starters, unlike the Bank of England, the British

⁷⁰ Memo, “Observations Suggested by The Bank for International Settlements [hereafter “Observations”],” by Foreign Information Division, July 12, 1929, BIS file, FRBNY, 797.3, p. 1.

⁷¹ Ibid., p. 1.

⁷² The Japanese government and central bank performed a marginal role in the German debt negotiations. A consortium of private Japanese banks represented Japan in the debt talks and in the initial stock offering of the BIS.

⁷³ Memo, “Observations,” *op. cit.*, p. 2.

⁷⁴ Memo, “The Bank for International Settlements and the Central Banks,” June 27, 1929, BIS file, FRBNY, 797.2, p. 10.

government was adamantly opposed to the reopening of German debt negotiations. It, too, was dissatisfied with festering problems in connection with war reparations and inter-Allied debts. Rather than reopen talks, which were seen as inviting new considerations and political conflicts, British Treasury officials favored the cancellation of debts all around, or a major reduction in them, and an end to deliveries in-kind. They also wanted bankers to make proposals for short-term credits.⁷⁵ As for the bankers' idea of creating an international bank, the Treasury aimed to limit its scope and power to that of an agent of treasuries, specializing in the collection and distribution of Germany's payments.

As Simmons spells out, the British government was torn in two different directions during the Paris negotiations and the summer of 1929, one fiscal, and the other monetary.⁷⁶ Domestic political pressure against a disproportionate reduction in British reparation demands led the Treasury and politicians to emphasize fiscal considerations. The British government primarily wanted to secure enough income from reparations to meet its own debt obligations to the United States. The British Treasury shared the Bank of England's concern about the diminished international standing of the pound, as the pound, along with the German mark, suffered from downward speculation during the months of debt negotiations.⁷⁷ Monetarily, uncertainty over German reparations added to deflationary pressure on the pound.

The Bank of England went much further than the Treasury in supporting the idea of founding an institution with a broad public mission and identity. It desired the BIS to be a nonprofit bank for central banks, espousing a system-management role for the BIS, though presenting it in abstract language of "central bank cooperation." It placed a major premium on central bankers meeting informally and without publicity, stressing the importance of developing international monetary solidarity among central banks, a goal the Bank of England had sought throughout the 1920s. It also sought increased collaboration as a way of reconstituting the prewar gold standard, stabilizing the pound, restoring its international standing, and regaining ground that the City of London had lost to New York as the world's premier financial center. Without central banks and leading international banks in financial centers like New York, Paris, Amsterdam and Berlin agreeing to defend the gold value of the pound by holding foreign exchange, particularly in pounds, dwindling reserves of gold made it nearly impossible for the Bank of England to achieve this objective. Thus, while privately supporting the creation of the BIS on the grounds that it could help

⁷⁵ Memo, "German Reparations," November 14, 1931, BIS file, Bank of England Archives, 61/451.

⁷⁶ Simmons, *op. cit.*, pp. 386-90.

⁷⁷ During the Paris negotiations the United States received \$210 million in gold and France gained \$182 million at the expense of Britain and Germany. Federal Reserve System, Banking and Monetary Statistics (Washington, D.C.: Federal Reserve, 1943), cited in Simmons, *ibid.* p. 385.

restore the international standing of the pound and buttress a declining British Empire, the Bank of England made the case publicly that “the institution would...crystallize and support cooperative practices.” In any case, the Bank of England placated critics of the BIS in Parliament and in the City of London by insisting that “safeguards should be established to ensure that the social position of the institution in respect of taxation and otherwise...not establish undue competition with private finance.”⁷⁸

Private British bankers publicly supported the Bank of England’s goal of institutionalizing central bank cooperation on an international scale with some reservations. London-based banks feared the creation a super-bank with access to a sizable amount of central bank gold and currency that would compete with them in the London market. Bankers from London (and other European countries) questioned the American bankers’ profit motives with regard to the BIS,⁷⁹ and they saw the American attempt to make the BIS a profit-making institution as another way of American banks trying to capture a greater share of Europe’s banking business. Already concerned about Wall Street’s growth as a financial center, they also worried that if the new bank were allowed to accept private deposits, the Swiss market would be strengthened as an alternative to the City of London. This concern was reflected in the BIS’s Statutes, which granted it the lending privilege of a private or central bank but denied it the borrowing privilege of a private institution.⁸⁰

Meanwhile, opposition from the House of Commons, the Treasury and Foreign Ministry helped dash the Bank of England’s high hopes for the BIS. Before the convening of the Organization Committee in Baden-Baden, it was widely known in European financial circles that the British government aimed to limit the BIS to a reparations agency.⁸¹ Recognizing that there was no chance of securing a cancellation of debts all around, and that it would have to support the establishment of the BIS in order for Germany’s reparations debts to be securitized, the British Treasury deferred to the Bank of England and British bankers the task of defining the main functions of the BIS.⁸² During the spring and summer of 1929 British electoral politics hardened the British government’s reparation policy. In May of that year, the minority Labor government was elected to office. Incoming Labor officials who had criticized Bank of England policy in

⁷⁸ “Fourth Draft of the Bank Plan,” March 5, 1929, BIS file, Bank of England Archives, G1/451.

⁷⁹ Memo of an interview between Snowden and Francqui, written by Leith-Ross, November 14, 1929, T160 386 F11282/03/01, Treasury Documents, Public Records Office, London, in Simmons, *op. cit.*, p. 381.

⁸⁰ “Observations,” *op. cit.*, fn. 70, pp. 7-8.

⁸¹ Jeremiah Smith Jr. to Lamont, Sept. 9, 1929, BIS file, FRBNY, 797.3.

⁸² Leading British private-sector representatives included: Sir Charles Addis (banker), Lord Revelstroke (Barings and Brothers), Walter Layton (Editor, *The Economist*).

the general election campaign extended their antagonism towards British banking authorities into the sphere of the ongoing debt negotiations. Labor officials greeted the idea of commercializing German reparations and founding an international central bank of sorts with skepticism. As in the United States, British Labor officials associated this proposal with an informal and gathering alliance between Germany's private creditors and central banks. Inside the Bank of England it was common knowledge that their counterparts at the Treasury were questioning the central bankers' justification of the BIS on the abstract notion of improving central bank cooperation. In addition, the new Labor appointees to the Treasury were seeking to bring the BIS under greater government control by scaling back its more extensive functions.⁸³ Above all, the British Treasury opposed the BIS because "it establishes uncontrolled financial autocracy of Central Bankers ... and with authority to fix their powers."⁸⁴

The American international bankers believed that a strong attempt was going to be made at Baden-Baden to make the bank more accountable to political authorities, which, in turn, would have authority to consider periodic revision of the powers of the bank. Accordingly, Montagu Norman advised Layton, a British banking representative, to fight to give the League of Nations some measure of supervision over the BIS.⁸⁵ The American bankers adamantly opposed any link between the two institutions and made their support for any commercialization scheme contingent on this.⁸⁶ Thus, denied their request to link the BIS to the League and to alleviate the motive to earn profits in the bank's design, the Bank of England nevertheless saw in the BIS its hope for institutionalized central bank collaboration.

4.3. France

After World War I, French officials wanted to make Germany to pay dearly for the destruction France, particularly its northern region, had suffered during the war, pursuing a policy of weakening it by military, political and financial means. Military occupation of the German Rhineland and the Ruhr, disarmament and war reparations became centerpieces of this policy of containment. From the French government's perspective, the goal was to eliminate the German military threat, while securing reparation income to help cover its own war debts, especially to the United States government and American banks. On repeated occasions during the 1920s the French government rejected proposals to

⁸³ "The B.I.S.: Criticisms by R. G. Hawtrey," July 27, 1929, B.I.S., Bank of England Archive, 667/2; R. G. Hawtrey, "International Clearing House," BIS file, Bank of England Archive, 667/2.

⁸⁴ Smith Jr. to Lamont, op. cit., fn. 81.

⁸⁵ Gilbert to Young and Lamont, Sept. 10, 1929, BIS file, FRBNY, 797.3.

⁸⁶ Ibid.

cancel or significantly reduce the sum of Germany's war reparations, a proposal which many leading bankers had been supporting since the early 1920s. Instead, it advocated their commercialization through bond issuance.

France's intransigence towards reparations had historical antecedents. Following the Franco-Prussian War of 1870-71, Germany saddled France with a large reparations debt. Although the imposition of reparations obligations was a well-established norm before World War I, French officials modeled their post-war reparations policy on Germany's policy following the Franco-Prussian War. Their intransigence on reparations also reflected relations between the Bank of France and French bureaucracies. In statist France in the late 1920s, central bank independence was, in a word, low. Although privately owned like other central banks, the Bank of France differed in that its governor was appointed by the Ministry of Finance. Three of the twelve members of its governing council, the Council of Regents, were also government appointees. By contrast, the central banks of other leading industrialized countries had a much greater level of discretion over appointments and monetary policy. Many German Reichsbank employees were civil servants, but Germany's postwar constitution insulated the Reichsbank from political pressures.⁸⁷ Thus, the Bank of France was generally more susceptible to government control than its counterparts involved in Germany's debt negotiations.

France's insistence on reparations was also influenced by its financial condition. Unlike the British pound and the Belgian mark, the French franc was in a strong position, mainly due to strong gold reserves, a policy championed by Finance Minister Raymond Poincaré. This situation made France less inclined to search high and low for a political solution to Germany's debt problem.

Finally, France's reconstruction needs contributed to its intransigence towards reparations. The government's slogan "the Boche will pay" reflected its need for a large amount of capital to rehabilitate its ten northeastern *départements*. These areas had served as the main western theater of the war and had suffered much destruction. While Britain's debt to the United States was largely offset by France's debt to it, France's total war debt was substantially greater. The American government's refusal to grant reconstruction loans to France in the late 1920s (or to forgive its debt) did much to harden the French position.⁸⁸

Still, France's growing trade interdependence with Germany helped ease its reparations policy in 1929. By early 1930, the German and French had become major trading partners. This, coupled with the United States government's

⁸⁷ Barry Eichengreen, *Globalizing Capital: A History of the International Monetary System* (Princeton: Princeton University Press, 1996), pp. 29-30.

⁸⁸ Eichengreen, *Golden Fetters*, p. 128. Also see Ellen Schrecker, *The Hired Money: The French Debt to the United States 1917-1929* (New York: Arno Press, 1978); and Barry Eichengreen, "The Revolving Debt Crises: An Historical Perspective," in Sebastian Edwards and Felipe Larrain, eds., *Debt, Adjustment and Recovery: Latin America's Prospects for Growth and Recovery* (Oxford: Blackwell, 1989), pp. 68-96.

categorical refusal to cancel or significantly reduce war debts, encouraged the French government to favor commercializing Germany's debts as an alternative to the Dawes scheme. French political leaders, central bankers and private-sector representatives understood full well that a collapse of the Young Plan would further complicate the international payments system.⁸⁹ As a consequence, various segments of French society and government saw Young Plan as serving France's basic political, economic and financial interests.

Belgium, France's closest ally, mimicked the policy of France, as it had done time and again during the 1920s. These countries shared a common concern about Germany's commitment to satisfying its financial obligations. As Simmons notes, France and Belgium "concocted unorthodox means" to subject Germany to "the discipline of the capital market."⁹⁰ French and Belgian policy-makers favored securitizing German government debt to deter Germany's repudiation of financial obligations, as such a move would limit its access to foreign capital. French and Belgian policy-makers even predicated early Rhineland evacuation on advance payment from Germany.

Although France and Belgium ultimately reversed its policy and withdrew from Germany ahead of the Versailles Treaty schedule, they did so reluctantly and sought additional concessions, for Rhineland occupation had been their principal lever to force Germany to pay reparations.⁹¹ Accordingly, France demanded the first BIS president be an American with a private financial stake in avoiding the Young Plan's collapse.⁹² The French government also wanted the BIS to have a French general manager, thus ensuring that persons of American and French nationality would hold the top two management positions. The location of the BIS in Basel, "a neutral city of German language," also motivated this request.⁹³

Most opposition to the BIS in France came from Socialists who wanted to make the BIS answerable to the League of Nations, which was seen by them as way of limiting the influence of private international financiers in its operations. In addition, as Germany was granted transfer protection by freezing debt payments, French socialists demanded similar protection.⁹⁴ All in all, the French government concluded that it was in the best interest of France to sign the Young Plan and support the establishment of the BIS.

⁸⁹ Moreau to Young, November 29, 1929, BIS File, FRBNY, 797.3.

⁹⁰ Simmons, p. 392.

⁹¹ Frank Costigliola, *Awkward Dominion*, p. 207; and Michael J. Hogan, *Informal Entente: The Private Structure of Anglo-American Economic Diplomacy, 1918-1928* (Columbia: University of Missouri Press, 1977), pp. 59, 66-67.

⁹² Moreau to Young, fn. 89.

⁹³ *Ibid.*

⁹⁴ The Young Plan included transfer protection for Germany by dividing its annuities into two categories, a transferable and non-transferable portion.

4.4. Germany

During the 1920s one of the principal obstacles to German monetary stabilization and economic recovery was “the reparations tangle,” Germany’s enormous burden of reparations.⁹⁵ As a result, from the outset of negotiations in Paris in February 1929, German central bankers, led by Hjalmar Schacht, tailored their proposals about reparations and a new international bank to the needs of the German state and economy.⁹⁶ Concerned about a slow-down in international lending, these bankers supported the idea of using German reparations payments as reserves to expand the volume of international credit. Such expansion, Schacht argued, could be used to finance international trade and investment, in turn increasing Germany’s tax receipts and capacity to pay its debts. However, the German proposal was railroaded by the other members of the Young Committee, who feared its inflationary effects. The French were particularly opposed to it, favoring immediate payment for Germany’s debts through a bond offering to private investors.

Germany’s stance towards the debt negotiations was also influenced by geopolitical factors. During negotiations the German government pushed for the dismantling of barriers dividing Germany from Prussia and its former colonies to improve the German economy and reduce fiscal pressure on the German government. Yet this proposal was also felled, as the German government had been seeking colonial mandates since the early 1920s. Dejected, Schacht threaten to walk away from the negotiations unless the Young Committee first acted to return the Polish Corridor, access by mandate to the former German colonies and the reduction of European tariff barriers to stimulate a sluggish German export sector.⁹⁷

The idea of creating a new international bank was roundly criticized by Germans of different professional and political backgrounds.⁹⁸ When towards the

⁹⁵ Eichengreen, *Golden Fetters*, p. 127.

⁹⁶ The main architects of Germany’s reparation policy were Rudolf Hilferding, Hermann Müller, Hjalmar Schacht, and Karl Stresemann.

⁹⁷ Jon Jacobson, *Locarno Diplomacy: Germany and the West, 1925-1929* (Princeton: Princeton University Press, 1972), p. 257. US and European presses depict Morgan as spokesman for American banking interests. His authority at the conference was unparalleled and bundled up in the overall power of American international banking interests. About the possibility of German withdrawal toward the end of the conference, the *New York Herald Tribune* quoted Morgan as privately saying to Schacht: “Very well. Go ahead and break. But permit me to tell you that all the onerous consequences will be on your head and on the heads of the German people. If you wish to destroy your [German] mark you are entitled to do so, but do not expect American banks to lift a finger to help you restore it again.” See Leland Stowe, “Power of Morgan to Sway Germany Is New Debt Hope,” *New York Herald Tribune*, May 25, 1929.

⁹⁸ In fact, there was widespread criticism of the proposed BIS in business circles and in the popular presses of the world’s capitals in the months leading up to its opening for business.

end of months of negotiations Schacht distanced himself from the Young Plan and virtually withdrew his support for the BIS, his opposition was not exceptional but instead reflected a large and well-formulated share of German economic opinion that had been openly opposing the BIS for months. The path Schacht followed in reaching his opposition to the BIS differed from the paths by which German economists and businessmen arrived at essentially the same point. He based his objections on "high moral grounds," charging that the Young Plan had been subjected to changes of intention during the summer and autumn of 1929. In contrast, opposition from German economic and business circles took on a less abstract form, taking as its point of departure not moral values, but certain disadvantages the BIS would inflict on Germany. The major arguments against the BIS were: (1) that it could neither create credit nor materially stimulate existing credit; (2) that it could deliver no aid to the solution of Germany's reparations problem; (3) that it would do more harm than good in the area of delivers-in-kind; (4) that it would perform the duties of a private deposit bank rather than a central bank; (5) that its scope in terms of an investment trust was too small; (6) that it had little purpose as a center for gold clearing; (7) that it would interfere with the business of already-existing private banking institutions; and (8) that as a consequence of the extreme caution conferred on it by its international character, the BIS would not be able to add materially to existing ad hoc central banking arrangements.⁹⁹

Thus, German opposition to the BIS covered all of the functions assigned to it in the Young Plan. While Germans resented the "humiliation of foreign control" that characterized the Reparations Commission in Berlin, they insisted that the BIS was not needed, dismissing it on the grounds that its functions were being "executed in a highly satisfactory manner by existing organizations."¹⁰⁰ Germans understood that while the greatest power at the BIS's disposal was its short-term lending capabilities, this capacity was of little use to them, as Germans were not experiencing difficulties in securing short-term credits.¹⁰¹ Unable to create credit by issuing notes, the BIS would have a minor effect on expanding the volume of

Criticism centered on the claim that in the BIS powerful international banking interests were creating a super-bank that would be able to contravene national and international laws. In Norman to Harrison, September 3, 1929, BIS file, Federal Reserve Bank of New York Archive (FRBNY), 797.2, Bank of England Governor Montagu Norman writes of "widespread criticism of the Bank for International Settlements here."

⁹⁹ For a survey of critical German economic opinion of the BIS, see "Memo," by Dr. Hjalmar Schacht, [No Date], BIS file, FRBNY, 797.2; Gustav Stolper, "Die Internationale Bank," *Der Deutsche Volkswirt*, November 22, 1929; Wilhelm Lautenbach, "Die transferpolitischen Funktionen der Internationalen Bank," *Magazin der Wirtschaft*, October 10, 1929; Memo, "Germany and the Bank for International Settlements," by the Foreign Information Division, February 19, 1930, BIS file, FRBNY, 797.2.

¹⁰⁰ Schacht, "Memo."

¹⁰¹ *Ibid.*

existing central bank credit. For Germans, then, the BIS was more akin to a private deposit bank whose influence depended manifestly on balances maintained with it by central banks. Thus, German policy regarding the BIS was driven not by an abstract notion of central bank cooperation but by political factors.

Despite strong criticism of the BIS as a viable solution to its debt problem, the German government and central bank were at the mercy of its creditors and had little choice but to acquiesce in the Young Plan *in toto*, featuring the BIS as its cornerstone.¹⁰² Their acceptance of the Young Plan was seen in Germany as the most controversial decision in post-World War I German policy up to 1930.¹⁰³ When presented with the final compromise, the Müller government saw no viable alternative—the German government expected that a rejection of the plan would lead to financial chaos for the Reich, attended by serious economic, social and political ramifications. Before the appearance of the Young Plan at the end of 1929, Germany had already experienced major fluctuations in its foreign currency reserves, especially during the Paris Conference from April to May 1929. The drainage of currencies from Germany further destabilized the German mark. But most important, the downward pressure on the mark resulted from strong pressure from the French franc, the French central bank's steadfast guardianship of French economic and political interests, and the French threat to withdraw 200 million dollars from Germany, almost equal to all of France's short-term holdings in Germany.¹⁰⁴ Policy-makers in Berlin in 1929 were no doubt displeased with the prospect of having to pay even a substantially reduced sum of reparation debt. Yet, as these policymakers believed they were at the mercy of their creditors, the German government was forced to accept the Young Plan, including the BIS.¹⁰⁵ Parker Gilbert, who had resigned as Agent General of the Reparations Commission and joined Morgan and Company, made it clear to the German government that their failure to adopt the Young Plan in its entirety would have serious consequences for the German economy.¹⁰⁶

¹⁰² The Hague Agreements prescribed a legal and passive role for the Reichsbank in the management of the BIS. In practice, however, there is little evidence of this fact. A prominent member of the BIS Board indicated that "it was desired to forget as quickly as possible that the Bank is a reparations Bank." See *Frankfurter Zeitung*, "The BIS: First Experiences," July 27, 1930, pp. 551-553.

¹⁰³ Jacobson, *Locarno Diplomacy*, p. 262. This finding is based on a study of German cabinet protocols.

¹⁰⁴ Paul Einzig, *Behind the Scenes of International Finance*.

¹⁰⁵ As Germans viewed the League of Nations as being politically manipulated by France, the idea of founding a new institution also presented new opportunities to have their interests better represented.

¹⁰⁶ Jon Jacobson, *Locarno Diplomacy*, p. 265. S. Parker Gilbert, an American lawyer, resigned from his position Agent General of the Reparation Commission and joined J. P. Morgan and Company as a partner. He was earning £10,000 British pounds per year as Agent General, but was offered an annual salary of £200,000 pounds by Morgan and Company.

5. Private authority in the creation of the BIS

At the time of the founding of the BIS, the line demarcating the public and private sphere, particularly in the area of banking and finance, was not as clearly defined as in subsequent periods. Private financiers regularly responded to market failures by performing such public functions as lender of last resort. Such private-sector initiatives did not undermine the authority central bankers or governments, but rather complemented the regulatory objectives of central banks and treasuries.

Furthermore, the tradition of private-sector actors creating regulatory structures was a well-established norm in the international system. The creation of the BIS during a period of intense interstate conflict was not an aberration but reflected a pattern of private actors taking up authoritative roles in international affairs. The authority of private creditors in German debts talks was also enhanced by the particular nature of the German reparations and inter-Allied debt problem. While the budgetary situation of many European countries in the 1920s was poor, conditions were seldom so desperate as to induce any government to sacrifice its political sovereignty for financial assistance. Yet, under the burden of reparations debt, Germany was left in an exceedingly vulnerable position in relation to its main creditors, who could save or wreck its finances by granting or withholding financial support. This situation conferred onto them the legitimacy and power to devise a new debt settlement and institution that was recognized as legitimate to both governments and financial centers.

The authority of private bankers in Germany's debt negotiations was nowhere more evident than in the case of J. P. Morgan, whose appointment to the Young Committee was widely-viewed as a positive development in connection with the funding of Germany's financial obligations. Like his American, European and Japanese counterparts, Morgan desired a durable settlement to the debt question. However, of the private international banks participating in the Young Committee, J. P. Morgan and Company had a preponderant stake in the achievement of a durable solution.¹⁰⁷ When the Young Committee met in Paris in 1929, approximately \$700 million was still owed to J. P. Morgan and Company by four European governments. This figure was divided among Britain, France, Italy and Belgium, all of whom floated large credits through the House of Morgan. Britain was the largest beneficiary of Morgan loans, receiving \$1.3 billion between October 1915 and October 1919. By January 1929, most was repaid. But at the time of the commencement of the Expert Committee, it still owed \$158 million. France had borrowed \$700 million from October 1915

¹⁰⁷ When the delegations of the six interested countries – Belgium, Britain, France, Germany, Italy and Japan – arrived in Paris in 1929 in small groups of three or four, the Americans delegates made the headlines of the world presses by turning up with an entourage of some thirty lawyers and bankers.

to November 1924, but by January, 1929, it owed \$149 million. Italy, on the other hand, had borrowed a total of \$142 million since 1915, and still owed the House of Morgan nearly that entire total (\$139 million) by early 1929. Belgium owed the Morgan firm the most of any European country at the time of the Expert Committee's deliberations. It had borrowed \$285 million since January 1920 and still owed \$230 million in 1929.¹⁰⁸ On March 19, 1929, after two weeks of consulting his European counterparts and sharing their excitement over the prospect of forming a new international bank, Morgan cabled Washington:

The great importance of the bank from the American point of view consists...in three things: it secures the color of commercialization [sic] to the German debt....It takes the handling of debts out of political hands and transfers them to the ordinary machinery of finance....it organizes the credit forces of the world for the collection of the debts from Germany in substitution of political and military forces, and therefore makes them much more certain of being paid.¹⁰⁹

After the appearance of the Young Plan in June 1929, a number of last-minute demands threatened to derail it. For example, the Belgian government demanded that Germany reimburse it for the worthless marks left behind in Belgium during its occupation. Also, Germany requested that the Dawes Plan lien on the German railways be terminated. While the bankers agreed to remove the lien on specific German industries, they refused to remove the Dawes lien on the railways. Finally, Germany demanded the early withdrawal of Allied troops from the Rhineland ahead of the Versailles Treaty deadline of 1935.

After committing the Young Committee as a whole to the BIS, many European and American bankers were infuriated by these developments. But it was the American banking contingent which threatened to withdraw their support for the Young Plan.¹¹⁰ Further complicating matters, the support of the broader American financial community depended in large measure on the participating American bankers', especially Morgan's, attitude towards the outcome of the negotiations. American markets watched Morgan's moves intently and clung to his every word. Given that the vast majority of capital for the sale of German government bonds would have to come from American investors,¹¹¹ the American bankers' authority over the outcome of the deliberations was undeniably strong. And the plan to create a new international bank was itself central to a broader debt settlement. Morgan outlined the American position on the BIS in a

¹⁰⁸ Christian Science Monitor, January 14, 1929.

¹⁰⁹ Morgan to Stimson, Mellon and ?, March 19, 1929, J. P. Morgan Papers, PML, Box 34/5.

¹¹⁰ "Typed Notes," [No Author or Date], J. P. Morgan Papers, PML, Box 34/5.

¹¹¹ London joined New York as the second most important center for the sale of these bonds.

cable to Jackson Reynolds, the American banker who headed the final Organizing Committee Meeting in Baden-Baden:

It is to us i.e. you and J. P. Morgan & Co. that the European Central Banks will look to establish the American participation in the Bank for International Settlements. That being the case it seems to me it would be advantageous for us to agree on what must in substance be the powers and duties of the Bank to enable us to interest the American financial community. The requirement would be in my mind about as follows: (1) the Bank must be a real bank with power to handle its funds either capital or deposits in any manner that the Directors may consider in the interest of the institution; (2) it should be a bank for Central Banks and its accounts should be only with those Banks; (3) when it desires to act in any market through other agents than a Central Bank then it should be only with the approval of the Central Bank of the country involved; (4) its statutes should specifically provide powers to receive the German annuities and to deal with them as directed by the Governments interested; (6) it must not be under Government control except through the heads of the Central Banks; (7) the statutes of the Bank should be so drawn as to leave ample powers to formulate rules and regulations for the convenient conduct of the Bank.¹¹²

With the United States government firmly opposed to official representation in the BIS, the American bankers made their support for the financing of German reparation contingent upon the granting of certain concessions in designing the bank. Of the participating European and North American bankers, American bankers played a particularly significant role in the debt negotiations for at least two reasons. First, as mentioned above, Germany's reparations became an international problem by virtue of their connection to inter-Allied debts and European government debt held by private, particularly American, banks. In the post-World War I international financial system the United States financial market held a hegemonic position. Awash with surplus capital, American banks became the leading suppliers of loans, credits and capital investment to Germany during the 1920s. Germany imported massive amounts of foreign capital to finance domestic investment, consumption and reconstruction. However, a great deal of American capital investment in Germany in the 1920s was speculative in nature and did little to improve Germany's real economy and recovery. Eventually, international lending to Germany slowed towards the late 1920s, as rising interest rates and the Wall Street boom in stocks beginning in 1928 diverted investors from foreign bonds to domestic stock. This development

¹¹² Morgan to Reynolds, Morgan Papers, PML, October 29, 1929, Box 34/5.

was compounded by American, British, and French creditors' fears that Germany would default on its loans and obligations to pay war reparations.¹¹³

The authority of American bankers in German debt negotiations was also a function of the geographic nature of the problem of German reparations. Post-war political disputes over the gold standard, Allied war debts and reparations fueled mistrust and confrontation among the European powers, impairing their ability to select a neutral European body to preside over debt negotiations. The League of Nations was quickly ruled out by Germany because it saw it as being politically manipulated by France. Most members of the Young Committee also ruled out the possibility of the League exerting authority because they saw it as a politicized institution. This sentiment was typified by the American bankers' ardent opposition to any link between the two institutions. This, they charged, would be fatal to the fledgling world banking institution and would force them to withdraw their support for its establishment:

*Responsibility to the League of Nations would probably be the worst thing that could happen to the Bank. The League of Nations itself is a political institution in which the foreign offices of the principal countries are accustomed to participate as well as the various treasuries, and the question of political control would thus arise in its most difficult form. Moreover, association with the League of Nations would give color to the conception of the Bank as a super bank, and it might very well prevent American participation in any form.*¹¹⁴

Thus, denied the opportunity to enlist the support of the League of Nations, European governments sought the support of the United States, both on the level of the state and the private sector. European bankers participating in the Organizing Committee in Baden-Baden even went so far as to insist that the first president of the BIS be an American banker, citing that this measure would "secure a more friendly [sic] attitude on the part of the United States toward reparations and perhaps toward the softening of our debt contracts with the allied governments."¹¹⁵ Reluctant to assume this responsibility, the United States government complied with the normative appeals of leading American businessmen for them to represent the United States in solving Germany's debt problem and creating the BIS.

¹¹³ The crash of the New York stock market in October 1929 compounded this problem. See, Derek H. Aldcroft, *From Versailles to Wall Street, 1919-1929* (London: Allen Lane, 1977), especially pp. 260-268.

¹¹⁴ Gilbert to Young and Lamont, Morgan Papers, PML, Sept. 10, 1929, Box 34/5.

¹¹⁵ "Past Consideration of the Question [of BIS Membership], 1929-30," Foreign Information Division, FRBNY, BIS file, 797.3.

Given these conditions—the blurred line between the public and the private sphere in the area of banking and finance, the well-established norm of private-sector participation in international financial governance, and the particular nature of the German and inter-Allied debt problem—it is little wonder that private actors were so instrumental in creating the BIS from 1929 to 1930. Private international bankers not only proposed the BIS, they also shaped its ultimate form.

6. Conclusion

Thus, the form of international financial organization that resulted in the BIS reflected the authority and interests of its architects: central banks, private international bankers and, to a lesser extent, governments. Placed in a longer historical perspective, the creation of the BIS during a period punctuated by international political conflict was not aberrant. Nor was the participation of private-sector actors in its establishment. Prior to the founding of the BIS, private-sector actors regularly performed extensive roles in managing international crises. Their authority in such instances was shared with, comparable to, even significantly weaker than states. Yet while private authority was most pronounced in countries in which there was a high degree of central bank independence, in general private bankers were formidable, authoritative forces in international financial affairs.

Still, although private bankers' exercise of authority in founding the BIS did not undermine government regulatory objectives, there is evidence that interested governments exerted political influence over central and commercial banking experts; that governments granted weak support for the BIS; and that this weak commitment limited the bank's effectiveness in the 1930s. Nonetheless, central and commercial banking experts extracted more compromises from governments than the other way around, with the BIS's organizational design and *modus operandi* more closely resembled a profit-making company than a reparations agency.

To understand the historical development of international financial organization in the BIS, it is necessary to underscore just how far its architects went to institutionalize private-sector participation in the regulation of international finance. For example, membership on the Board of Directors and management was not limited to central bankers, dispelling the popular perception of the BIS as the "central bankers' central bank." Whereas Article 27 of the BIS Statutes vests the Board of Directors with the authority of administration, the Young Plan stated that "two nationals" of each country "shall be qualified to act in the full capacity of the directors of the bank." Article 28 specifies that the Board of Directors is to be composed of three groups: governors (or their nominees) of the central banks of Belgium, France, Germany, Great Britain, Italy, Japan and

the United States; seven persons representative of finance, industry or commerce (one to be appointed by each of the governors); and not more than nine persons to be chosen by the Board upon nomination of other countries. This latter group has historically been limited to the governors of Sweden, the Netherlands and Switzerland.

Thus, in its original composition, the BIS Board of Directors constituted a form of international financial organization that emphasized direct consultation and collaboration between central banks and representatives of the private sector. The idea behind this organizational feature was that, while central bank governors constituted the heart of the Board, there ought also to be room for input from the private sector, typically in the form of a leading banker from each country. This characteristic of the BIS is critically important, for it demonstrates how central bankers at the time of the BIS's founding viewed private bankers as possessing technical financial authority that deserved representation in the BIS, the world's first "world bank." In this sense, the BIS represented a particular mode of governance: a partnership between representatives of markets and central banks sitting side by side, attempting to effect desired outcomes in financial markets.

That the BIS represented a different form of organization from the League of Nations can be found in its source of funding. Unlike the League of Nations and the generation of intergovernmental organizations that appeared after the Second World War, the BIS's capital subscribers were central banks, private investors and banking institutions, not national governments. By ensuring that the BIS's primary source of funding was to come from central bank reserves, and not quotas that required yearly approval by elected politicians, the BIS's founders twice removed the BIS from national politics: the first layer of insulation was a function of central bank independence, the second a result of the BIS's international, as opposed to national, character.

In the BIS a small group of European and North American central and private international bankers realized their goal of institutionalizing central bank collaboration on an international scale. With the gathering storm of the Great Depression and the cancellation of reparations payments only a little more than one year after the BIS's opening in May 1930, the bankers' dreams of producing a lasting settlement to German reparations, stabilizing international capital markets and fostering central bank cooperation proved short-lived. Even so, the BIS represented the extension internationally of the regulatory role of the state in the world economy.

While the Keynesian model took center-stage at Bretton Woods, its victory was by no means complete. The BIS not only survived the war and the United States Treasury's attempt to liquidate it; it became the vehicle for the European Payments Union that inaugurated European integration. Moreover, over the subsequent half century, the BIS increasingly became the place where central

and private bankers met to coordinate their management of the international economy, and this has even more so as global finance has evolved over the past decade and a half. Given most states' acceptance of the independence of central banks from elected governments in recent decades, and the continuing close links between central banks and major financial firms, the age of private authority may yet be far from over.

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IZVAN PRIVATNE VLASTI: ZAJEDNIČKA VLAST U STVARANJU BANKE ZA MEĐUNARODNA PORAVNANJA

S a ž e t a k

Ovaj rad ispituje stvaranje Banke za međunarodna poravnanja (Bank for International Settlements – BIS) u periodu međunarodne finansijske nestabilnosti kasnih 1920-ih godina. On dovodi u pitanje konvencionalnu tvrdnju da je postojanje privatnog organa u globalnom finansijskom sistemu relativno nova pojava. Dok su brojne studije detaljno analizirale kako je globalizacija izazvala promenu u vlasti od država ka tržištima, uključujući i ono što mi nazivamo ‘zajednička vlast’, ova promena se odnosi gotovo isključivo na strukturne promene u raspodeli moći među državama, i između država i tržišnih aktera 70-ih godina prošlog veka. Međutim, analiza rezultata Banke za međunarodna poravnanja sasvim jasno pokazuje da su bitne karakteristike međunarodnog finansijskog sistema kasnih 1920-ih, na primer, visok stepen institucionalizacije (i zakonitosti) privatnog učešća u svetskom finansijskom upravljanju; rašireno verovanje u rešenja utemeljena na tržištu za probleme finansijskih tržišta; zamagljivanje linije razgraničenja između javne i privatne sfere delatnosti i, konačno, uticaj privatnih normi na javne norme – što je takođe istaknuta odlika globalnog finansijskog sistema u ranom 21. veku. Tako analiza rezultata Banke za međunarodna poravnanja pruža važan uvid ne samo u različite tipove institucionalnih inovacija u vremenima sistemske krize, već i u obrasce interakcije između države i tržišta u upravljanju globalnim finansijama.

Ključne reči: Banka za međunarodna poravnanja, (globalna) finansijska regulativa, bankarska regulativa, privatna vlast, centralne banke, odnosi na relaciji država–tržište

THE ROLE AND IMPORTANCE OF ECB'S MONETARY POLICY IN THE GLOBAL ECONOMIC CRISIS**

This paper presents the role and importance of the European Central Bank (ECB) in the context of measures and effects that are being taken to repair the consequences of the current economic crisis. The ECB, together with the European single currency, the euro, symbolizes long-lasting monetary integration of the EU states. Such form of integration has created the possibility of a supra-national action of ECB in the banking sector and financial markets in general. Along with the other most important central banks in the world, the ECB applies various unconventional instruments of monetary policy to stimulate economic growth and development. In this context, the paper explains the nature and mechanism of such measures in order to influence on the insufficient liquidity in the financial markets.

Key words: ECB, monetary policy, non-standard measures, financial markets

1. Introduction

After the first indications of the global financial crisis in 2007 and its intensification one year later (the bankruptcy of one of the largest investment banks – Lehman Brothers), new circumstances were generated, which called for the implementation of non-standard and unconventional measures of monetary policy by the most significant central banks in the world. Addressing the issue of insufficient international liquidity and boosting the weak aggregate demand implied the establishment of new mechanisms that would be at the central banks' disposal within the scope of their instruments. After September 2008, in the aftermath of the mentioned bankruptcy, the financial market, in particular money markets have been hit by a considerable increase in insecurity and panic. Interest rate spreads at the European, US and UK markets reached the unprecedented levels, whereas, on the other hand, the volume of transactions drastically

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fell (especially when it comes to forward transactions). Effectiveness of transmission mechanism of monetary policy was brought into question given that the financial market players ended up in the position of a “liquidity trap”.

Such circumstances called for a swift and decisive reaction of monetary authorities. In addition to carrying out expansionary monetary policy by means of traditional instruments (including, for instance, reduction of reference interest rates), the central banks presented a set of the so-called non-standard measures in order to adequately adjust to the current developments. The mechanism and forms of these measures somewhat differ among the central banks involved, but, despite this, they all strive towards the same objectives – support to the financial markets and prevention of the financial systems’ disruption, which would in the mid term threaten the macroeconomic and price-related stability. The differences in the “design” of the central banks’ measures which are being topical from the late 2008 depended on several factors: structure itself of the present standard monetary policy measures, balance sheet size of the concerned central banks, and structure of the financial systems of the region in which a certain country was located.

The separateness of standard and non-standard measures of monetary policy has been explicitly demonstrated through their effects on the financial markets, especially if one follows in parallel the development before and during the global financial and economic crisis. The mechanism of standard measures of open market operations is rather familiar and many scientific reference books analyze their impact on real economy and the price level. When it comes to non-standard measures, however, the situation is somewhat different. By their nature, they are located outside the regular scope of monetary actions and, as such, impose the need for their further analyses and required scientific justifiability. Many non-standard measures implemented from 2007 represent a modification of the existing instruments and procedures used in monetary policy. These modifications implied the changes in the role of the central banks themselves: ranging from mediators at the interbank money market through holders and portfolio managers to lenders of the last resort.

The existence of a single currency in a multi-country area can be seen to create disincentives for individual governments to properly tackle fiscal and structural policies as well as to safeguard financial stability. The crisis has shown that the original institutional set-up of EMU only partially corrected for such disincentives. Excessive debt and leverage had built up prior to the crisis, in private and public, financial and non-financial sectors, with imbalances emerging across the euro zone and elsewhere. The paper reviews the ECB’s specific non-standard monetary policy responses in the three main phases of the crisis, which mutated from a global financial crisis to a sovereign debt crisis in the euro zone and was later intertwined with renewed strain in the banking system in parts of the euro zone, with significant fragmentation across countries.

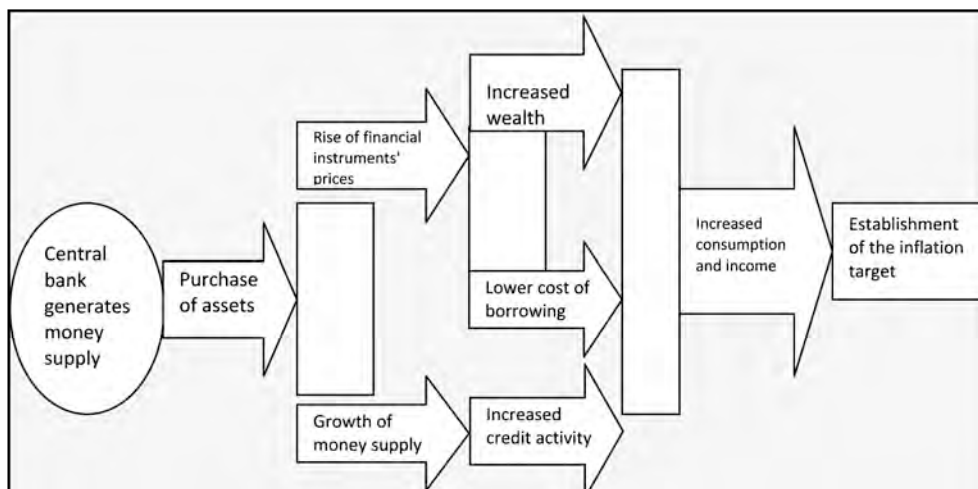
2. Quantitative easing

The most widespread and most frequently used non-standard measure of monetary policy is so-called *quantitative easing*. In situations when traditional instruments no longer have impact on macroeconomic aggregates because the reference interest rate reached its lowest possible level, and at the same time there is no other economic stimulus, central banks undertake a different set of measures. Namely, they purchase various forms of financial assets from commercial banks and other (non)financial institutions, thus generating additional money supply in order to inject “fresh” capital into the financial flows. This measure differs from the typical buying or selling of government securities with a view to impacting the reference interest rate. Quantitative easing increases the surplus of banks’ reserves and causes an increase in financial assets prices, at the time reducing their returns.

As opposed to open market operations where the focus is on short-term government securities, when implementing quantitative easing central bank purchase long-term government bonds in order to impact additional reduction of long-term interest rates on the revenue curve (in the mentioned situations when short-term interest rates are close to zero or zero, the classic monetary policy can no longer reduce them in the long run). How does the process of quantitative easing implementation actually work?

Direct injection of capital into the financial system by the central bank, through purchasing mostly government securities, may have various effects (Diagram 1). The sellers of financial assets acquire a surplus of cash which, they may spend, thus triggering further economic activity. Alternatively, they may purchase other financial assets, such as shares or corporate securities. This results in a growth of prices of financial instruments, increasing the wealth of their owners. Ownership may be direct or indirect, through a share in certain intermediary financial institutions, such as, for instance, private pension and investment funds. Growth of financial instruments’ prices also implies lower revenues, which in turn leads to the lower borrowing costs for the corporate and retail sectors. This additionally boosts the consumptions. On the other hand, the banks are in the position to hold a surplus of reverses, which to a large extent they can extend to their clients, thus enhancing their lending activity. However, the question is whether commercial banks would react adequately or whether they would be unwilling to extend loans, thus keeping the surplus of money as part of their reserves. This is exactly why central banks may conduct the process of quantitative easing with other financial institutions as well, which would then involve the purchase of various corporate securities.

Figure 1: Quantitative easing implementation process



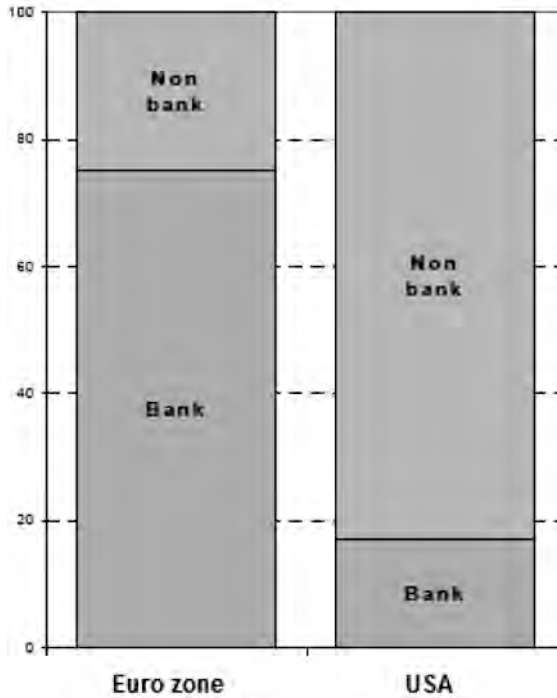
Source: Author

3. Financial structure of the euro zone

The euro zone's financial structure differs from that of other large economies. Financial intermediaries – in particular banks – are the main agents for channeling funds from savers to borrowers (ECB, 2007). Banks are the primary source of financing for the economy, most obviously in the case of households. As for firms, more than 70% of the external financing of the non-financial corporate sector – that is, the financing other than by retained earnings – is provided by banks, and less than 30% by financial markets (and other funding). In the United States it is the other way around (Figure 1). After the collapse of Lehman Brothers, bank funding started contracting (i.e. a net redemption) at a rate of €100 billion a year, in sharp contrast to its prior net expansion at a rate which could go up to €600 billion in 2007. Part of the decline in bank funding was offset by a rise in market funding: debt securities issued by corporations (but also quoted shares issued) increased by more than €100 billion a year in net terms¹.

¹ Cour-Thimann, P; Winkler, B; *The ECB's non-standard monetary policy measures*, ECB Working Paper No. 1528, April 2013, 7.

Figure 2: Funding of the non-financial corporations in the Euro zone and USA



Source: Eurostat, ECB and FED

Banks still play a crucial role in the transmission of policy interest rate decisions to the euro zone economy. In this respect, the ECB's non-standard response to the crisis has accordingly been primarily focused on banks. The operations mainly consist of refinancing operations, to which a large number of counterparties are granted access so as to ensure that the single monetary policy reaches the banking system in all the euro zone countries. This is again different from the US set-up, where the Federal Reserve Bank of New York implements monetary policy on behalf of the entire Federal Reserve System and the operations consist mainly of outright purchases and sales of assets in the open market, in line with the essentially market-based structure of the economy. The number of counterparties involved is relatively small, even after having risen during the financial crisis.

In Eurosystem refinancing operations, the individual national central banks grant loans at normally uniform conditions across the euro zone to their counterparties against assets pledged as collateral for a limited, pre-specified period. The list of eligible collateral – about 40,000 assets with a combined value of around €14 trillion or around 150% of GDP in 2012 – contains a very wide range

of public and private sector marketable debt securities and also includes some non-marketable assets².

Since they steer the marginal cost of the refinancing of banks, the monetary policy operations are at the beginning of the transmission chain of the policy signal. The monetary policy stance is signaled by three key ECB interest rates: the rates on the main refinancing operations, the marginal lending facility and the deposit facility. Prior to the financial crisis, decisions and expectations regarding the main refinancing rate were smoothly reflected in the money market yield curve, which was the same throughout the euro zone. The interbank market seemed fully integrated. The creation of EMU had thus been an engine of financial integration: the distinction between a domestic transaction and a cross-border transaction within the euro zone had disappeared. This also meant that if bank transactions during the day led to a net payment outflow, the bank would find the offsetting funding in the interbank market at uniform conditions across the euro zone.

4. The ECB's monetary policy response to the crisis

This section reviews how the ECB and the Eurosystem responded to the financial crisis. For simplicity, the measures decided by the ECB's Governing Council are described in this paper as 'ECB' measures; they are actually implemented by the Eurosystem as a whole. Beyond the period of financial turmoil that preceded the financial crisis, it is useful for the purpose of the review to distinguish between two phases, marked by the following:

- 1) The start of the global financial crisis in September 2008 (Lehman collapse);
- 2) The start of the euro zone sovereign debt crisis in May 2010 (Greek crisis).

4.1. The global financial crisis and the ECB's response

The ECB had already been actively amending its monetary policy implementation in the 13 months of financial turmoil preceding the eruption of the global financial crisis in September 2008. Banks had started to have doubts about the financial health of their counterparties in the interbank market. This drove money market rates up and threatened the appropriate transmission of the ECB's interest rate decisions. From the first day of tensions in interbank markets on 9 August 2007, the ECB acted by accommodating the funding needs of banks, which were seeking to build up daily liquidity buffers so as to reduce

² Cour-Thimann, P; Winkler, B; *The ECB's non-standard monetary policy measures*, ECB Working Paper No. 1528, April 2013, 9.

uncertainty about their liquidity positions. In particular, the ECB de facto provided unlimited overnight liquidity to banks, allocating €95 billion on the first day. Later on, the ECB conducted supplementary refinancing operations with maturities of up to 6 months, compared with a maximum of 3 months in normal times³. To reduce bank liquidity uncertainty over the turn of the year, all bids above the previous operation's marginal rate were allotted in full in the last main refinancing operation of the year. Temporary swap lines were established with other central banks, primarily to address the mounting pressure in short-term US dollar funding markets. As a result, the tensions in the short-term segment of the euro zone money market abated considerably.

Following the bankruptcy of Lehman Brothers on 15 September 2008, the uncertainty about the financial health of major banks worldwide led to a virtual collapse in activity in many financial market segments. Banks built up large liquidity buffers, while shedding risks from their balance sheets and tightening loan conditions. Given the crucial importance of banks for the financing of the euro zone economy and in the ECB's monetary policy implementation, this situation was alarming in view of a high risk of a credit crunch and a high risk of the central bank's inability to steer monetary conditions. The ECB, like other major central banks, rapidly reduced its key interest rates to historically low levels, but a key element of its response to retain effectiveness in influencing monetary conditions consisted of its non-standard policy measures. The aim was to continue preserving price stability, contributing to stabilizing the financial situation, and limiting the fallout on the real economy. As regards interest rate policy, the ECB cut the main refinancing rate by 50 basis points on October 2008, in a concerted and historic move with other major central banks; it reduced its key interest rates further by a total of 325 basis points within a period of 7 months until May 2009. The main refinancing rate was brought to a historic low of 1%, a level not seen in euro zone countries in decades.

At the same time, the ECB adopted a number of non-standard measures to support financing conditions and credit flows to the euro zone economy over and beyond what could be achieved through reductions in key interest rates alone (so-called 'enhanced credit support'). The nonstandard measures implemented from October 2008 onwards were tailored to the specific, bank-based financial structure of the euro zone, aiming at supporting bank liquidity and funding. They comprised five key elements, drawing in part on the experience with non-standard measures during the financial turmoil, which include:

- *Fixed-rate full allotment.* A fixed-rate full allotment tender procedure was adopted for all refinancing operations during the financial crisis. Thus, contrary to normal practice, eligible euro zone financial instituti-

³ ECB, (2010b), 'The ECB's Monetary Policy Stance During the Financial Crisis', Monthly Bulletin, January 2010, 5.

ons have unlimited access to central bank liquidity at the main refinancing rate, as always subject to adequate collateral.

- *Extension of the maturity of liquidity provision.* The maximum maturity of the longerterm refinancing operations (LTROs) was temporarily extended (subsequently to 12 months in June 2009). In combination with the first element, this contributed to keeping money market interest rates at low levels and increased the Eurosystem's intermediation role aimed at easing refinancing concerns of the euro zone banking sector, especially for term maturities. Reduced liquidity costs and uncertainty and a longer liquidity planning horizon were expected to encourage banks to continue providing credit to the economy.
- *Extension of collateral eligibility.* The list of eligible collateral accepted in Eurosystem refinancing operations was extended, in fact allowing banks to refinance a larger share of their balance sheet with the Eurosystem. The ability to refinance less liquid assets through the central bank provides an effective remedy to liquidity shortages caused by a sudden stop in interbank lending.
- *Currency swap agreements.* The Eurosystem temporarily provided liquidity in foreign currencies, at various maturities, and against euro-denominated collateral. For this, the ECB used reciprocal currency arrangements, notably with the US Federal Reserve. A massive shortfall in US dollar funding was thus avoided: euro zone banks and associated off-balance-sheet vehicles had significant liabilities in US dollars, having provided major financing to several US market segments, including real estate and subprime.
- *Covered bond purchase programme (CBPP).* The Eurosystem committed to purchasing covered bonds ⁴denominated in euro and issued in the euro zone for a total value of €60 billion gradually over the period between June 2009 and June 2010. The aim of the programme was to revive the covered bond market, which is a primary source of funding for banks in large parts of the euro zone. It is the largest and the most active segment of the fixed income market alongside the public sector bond market. Such covered bonds – known as 'Pfandbriefe' in Germany, 'obligations foncières' in France and 'cédulas' in Spain – are long-term debt securities that are issued by banks to refinance loans to the public and private sectors, often in connection with real estate transactions. These covered bonds – unlike mortgage-backed securities – have the specific legal characteristic of 'double protection': recourse to the issuer as well as additional security provided by the legal pledge of the assets financed. The size of the programme represented around 2.5% of the

⁴ <http://www.ecb.europa.eu/mopo/liq/html/index.en.html>

total outstanding amount of covered bonds, which in the given context was effective as a catalyst to restart activity in this market.

4.2. The ECB's response to the euro zone sovereign debt crisis

In early 2010 the euro zone sovereign debt crisis began with acute market expectations about a possible Greek sovereign default, with a risk of impact on Ireland, Portugal, and even Spain and Italy. In May 2010 some secondary markets for government bonds began to dry up completely; large-scale sale offers faced virtually no buy orders and yields reached levels that would have quickly become unsustainable for any sovereign. Given the crucial role of government bonds as benchmarks for private-sector lending rates and their importance for bank balance sheets and liquidity operations, this development was considered to impair the transmission of policy interest rate decisions to the real economy.

To help calm the market down and support a better functioning of the monetary policy transmission mechanism, the ECB established its Securities Markets Programme (SMP) to ensure depth and liquidity in those market segments that were dysfunctional. Under the SMP, Eurosystem interventions could be carried out in the euro zone public and private debt securities markets. In line with Treaty provisions, interventions in sovereign bond markets were strictly limited to secondary markets. In addition, they were also fully sterilized through liquidity absorbing operations, so as to not affect central bank liquidity conditions. In alleviating disruptions, the SMP was effective at the outset and led to some stabilization in markets as well as to an immediate and substantial decline of government bond yields. Its impact was re-enforced by the parallel announcement on the establishment of a European Financial Stability Facility through which governments could provide mutual financing support in adjustment programmes for specific countries.

SMP helped to avoid for some time an uncontrolled increase in sovereign bond yields and thereby in general financing costs for the economy with adverse implications for price stability. In addition, it helped to reduce contagion across countries and thereby shielded monetary policy transmission in large parts of the euro zone. Other non-standard measures also contributed to dampen the implications of impairments in the sovereign bond markets. The ECB mitigated the impact on bank funding through a renewed lengthening in the maturity of its liquidity provision and through changes in its collateral framework. As a result, government bonds amounted to less than 20% of the assets deposited as collateral in Eurosystem operations, compared to close to 30% in 2006. The remaining 80% included covered bonds, asset-backed securities, or other financial instruments.

5. Conclusion

The current economic crisis, which has entered its sixth year of existence, has triggered some new mechanism that should respond to the various economic problems. The combination of deflationary shocks and financial market turbulences has led the central banks to get more actively involved in addressing non-standard, unconventional measures of monetary policy. The global recession forced monetary regulators to strictly abide by the policy of low interest rates. In addition to the reference interest rates, which should serve as the key parameter in the transmission mechanism, what also characterizes these measures are huge liquidity reserves channeled into the banking sector, purchase of long-term securities, and direct interventions in certain segments of the financial market.

This paper has reviewed the ECB's non-standard monetary policy measures during the global financial crisis and the euro zone sovereign debt crisis. Monetary policy clearly cannot directly address the underlying causes of the crisis and the associated need for deleveraging by financial and non-financial sectors or the need for rebalancing within the euro zone. This requires reforms and action on the part of governments and regulators, individually and collectively, with respect to fiscal consolidation, structural reforms, financial regulation and the European governance framework. At the same time, in financial crises central banks have an important role to play in providing liquidity, averting disorderly deleveraging and fire-sales of assets, and hence adverse self-fulfilling dynamics, as well as, more broadly, in safeguarding monetary policy transmission to ensure price stability.

The ECB's response to the crisis has, in particular, relied on banks as intermediaries to ensure the continuous financing of households and firms, rather than intervening in asset markets directly. The rationale of safeguarding monetary policy transmission across the euro zone and addressing dysfunctional market segments differs from that behind quantitative easing, which is aimed at providing extra monetary stimulus via outright transactions when the lower bound for policy rates has been reached.

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ULOGA I ZNAČAJ MONETARNE POLITIKE EVROPSKE CENTRALNE BANKE U GLOBALNOJ EKONOMSKOJ KRIZI

S a ž e t a k

Ovaj rad predstavlja ulogu i značaj Evropske centralne banke (ECB) u kontekstu mera i koraka koji se preduzimaju da bi se ublažile posledice aktuelne ekonomske krize. Evropska centralna banka, zajedno sa jedinstvenom evropskom valutom, evrom, simbolizuje dugotrajnu monetarnu integraciju zemalja EU. Takav oblik integracije stvorio je mogućnost nadnacionalnog delovanja Evropske centralne banke u bankarskom sektoru, i na finansijskim tržištima uopšte. Zajedno sa ostalim najvažnijim centralnim bankama u svetu, Evropska centralna banka primenjuje različite nekonvencionalne instrumente monetarne politike da stimuliše ekonomski rast i razvoj. U tom kontekstu, ovaj rad objašnjava prirodu i mehanizam takvih mera kojima se utiče na nedovoljnu likvidnost na finansijskim tržištima.

Ključne reči: Evropska centralna banka, monetarna politika, nestandardne mere, finansijska tržišta

EKONOMSKO-GEOGRAFSKI ASPEKTI ANALIZE PRELAZNIH ROKOVA U UGOVORIMA O PRISTUPANJU EVROPSKOJ UNIJI ***

Osnovni cilj rada je utvrđivanje relevantnosti nivoa ekonomske razvijenosti i nivoa zagađenosti trinaest država, koje su pristupile Evropskoj uniji (EU) u poslednja tri ciklusa proširenja ove organizacije (2004, 2007. i 2013), za dužinu prelaznih rokova, odnosno broj propisa za koje su ugovoreni prelazni rokovi. Polazna pretpostavka je da nivo ekonomske razvijenosti država koje pristupaju EU i nivo zagađenosti utiču na dužinu prelaznih rokova i broj propisa za koje se ugovaraju prelazni rokovi. U skladu sa tim, u radu se ukazuje na nivo ekonomske razvijenosti (meren GDP) i nivo zagađenosti (meren emisijama CO₂/pc i CO₂/gdp). Sve države su grupisane u pet regionalnih grupa (Mediteran, Centralna Evropa, Baltik, Jugoistočna Evropa i države članice bivše SFRJ). U posebnom delu rada se detaljnije analiziraju vrste propisa na koje se odnose ugovoreni prelazni rokovi, kao i broj i dužina prelaznih rokova koje su ugovorile države iz ovih pet grupa. Za analizu su uzeti prelazni rokovi u oblasti energetike, životne sredine i saobraćaja, imajući u vidu njihov potencijalni značaj za emisije CO₂. Na kraju rada se sagledavaju odnosi između nivoa ekonomske razvijenosti, nivoa zagađenosti, dužine prelaznih rokova i broja propisa za koje su ugovarani prelazni rokovi.

Ključne reči: Centralna Evropa, Mediteran, Baltik, Jugoistočna Evropa, države članice bivše SFRJ, nivo ekonomske razvijenosti, emisije CO₂, pristupanje EU, ugovori o pristupanju, usaglašavanje propisa, prelazne mere (rokovi)

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1. Uvod

Za zemlje koje tek pristupaju EU pitanje primene propisa EU predstavlja poseban problem. „Povratak Evropi“ značajnog dela novih članica značio je i radikalnu ekonomsku i političku transformaciju bivših komunističkih sistema kao i ogromne troškove.¹ Otuda na ulogu prelaznih rokova treba posmatrati kao mehanizam koji novoprimiteljnim članicama treba da obezbedi dodatno vreme za izgradnju kapaciteta i dostizanje ciljeva EU u različitim oblastima.²

U radu se upoređuju podaci o visini GDP, nivou emisija CO₂, prosečnom broju propisa za koje su ugovarani prelazni rokovi i prosečnom najdužem trajanju prelaznih rokova za trinaest država koje su pristupile EU 2004, 2007. i 2013. godine. Sve države su grupisane u pet grupa: države mediteranskog regiona, države centralne Evrope, države iz baltičkog regiona i države iz jugoistočne Evrope. U posebnoj grupi su prikazani podaci za države koje su bile članice Socijalističke Federativne Republike Jugoslavije (SFRJ).³ Pokušavaju se identifikovati izvesne sličnosti i razlike između pojedinih grupa država i ponuditi argumenti na osnovu kojih bi se izveli zaključci o povezanosti nivoa ekonomske razvijenosti, emisija CO₂ i prelaznih rokova za pojedine regione.

2. Nivo ekonomske razvijenosti

Rasprava o regionalnim aspektima širenja EU predstavlja deo širih rasprava kojima se pridaje različit značaj.⁴ Primer država koje su pristupile EU u posled-

¹ Za šire videti: Moisis Sami: „Redrawing the Map of Europe: Spatial Formation of the EU’s Eastern Dimension“, *Geography Compass*, 1/1/2007, pp. 82-102. Za jedan osvrt na pitanje troškova proširenja videti kod Vachudova M. Anna, „EU leverage and national interests in the Balkans: The puzzles of enlargement ten years on“, *Journal of Common Market Studies*, Vol. 52, No. 1/2014, pp. 122-138.

² Problemi u obezbeđivanju doslednog poštovanja propisa EU već su uočeni kao zaseban kompleks pitanja ne zavisno od procesa proširivanja ove organizacije. Videti, npr. Zubek Radoslaw, Staronova Katarina. Organizing for EU implementation: the Europeanization of government ministries in Estonia, Poland, and Slovenia, *Public Administration*, Vol. 90, No. 4/2012, pp. 937-956. Zubek Radoslaw, „Core executives and coordination of EU law transposition: evidence from new member states“, *Public Administration*, Vol. 89, No. 2/2010, pp. 433-450.

³ Grupisanje država u pomenute grupe ima za osnovu regionalnu pripadnost pojedinih od njih, o čemu bi moglo posebno da se raspravlja. Izdvajanje Slovenije i Hrvatske u posebnu grupu ima relevantnost jedino u delu koji se odnosi na činjenicu da su te dve države bile deo istog državnog prostora kojem je, u različitim formama i više od sedamdeset godina, pripadala i Republika Srbija.

⁴ Videti, npr. Dunford Mick, Smith Adrian: „Catching Up or Falling Behind? Economic Performance and Regional Trajectories in the New Europe“, *Economic Geography*, Vol. 76, No. 2/2009, pp. 169-195. Sidaway D. James, „On the nature of the beast: re-charting political geographies of the European Union“, *Geografiska Annaler: Series B, Human Geography*, Vol. 88, No. 1/feb.2006, pp. 1-14. Hudson Ray, „Changing industrial production systems and regional development in the New Europe“, *Transactions of the Institute of British Geographer*, Vol. 27, No. 3/2002, pp. 262-281. Fratesi Ugo, „A globalization-based

nja tri ciklusa proširenja industrije značajne razlike u nivou ekonomske razvijeno-
sti (meren GDP/pc) sa različitim implikacijama takvog stanja. Kao što se vidi iz
tabele 1, posle dve države iz mediteranskog regiona, koje imaju ubedljivo najveći
GDP/pc, dolaze dve države članice bivše SFRJ, zatim države iz regiona Centralne
Evrope i Baltika. Na kraju, najnerazvijeniji region čine dve države Jugoistočne
Evrope, koje su primljene u članstvo EU 2007. godine. Razlike između najra-
zvijenijih i najmanje razvijenih država, koje su primljene u poslednja tri ciklusa
proširenja, su više od četiri puta. U godini prijema u EU najveći GDP/pc imao je
Kipar (preko 18 000 \$), a najmanji Bugarska (nešto preko 4 000 \$). Drugi indi-
katori razvijenosti (GNI/pc, GNI/pc PPP) pokazuju nešto manje razlike između
najmanjih i najviših vrednosti, ali se u oba slučaja radi o značajnim razlikama.

Tabela 1: GDP/pc u \$ za države članice EU primljene u EU 2004, 2007. i 2013. godine
(podaci za godinu pre stupanja u EU)

	God. prijema u EU	GDP/pc	GNI/pc	GNI/pc PPP
<i>Mediteran</i>		15,637 (prosek)		
Kipar	2004.	18,429	15,480	21,320
Malta	2004.	12,845	11,300	19,600
<i>Centralna Evropa</i>		7,944 (prosek)		
Češka	2004.	9,336	7,520	18,110
Slovačka	2004.	8,521	6,800	12,930
Mađarska	2004.	8,247	6,550	14,640
Poljska	2004.	5,675	5,480	11,870
<i>Baltik</i>		5,822 (prosek)		
Estonija	2004.	7,270	5,820	12,710
Litvanija	2004.	5,387	4,600	11,720
Letonija	2004.	4,811	4,440	10,590
<i>Jugoistočna Evropa</i>		4,997 (prosek)		
Rumunija	2007.	5,681	4,870	12,650
Bugarska	2007.	4,313	4,530	11,400
Države članice biše SFRJ		13,917 (prosek)		
Slovenija	2004.	14,607	12,470	20,370
Hrvatska	2013.	13,227	13,290	19,760

Izvor: Svetska banka

Napomene: GNI/pc – atlas metod, US\$; Izvor: <http://data.worldbank.org/indicator/NY.GNP.PCAP.CD/countries>. (14.5.2013).

GNI/pc, PPP – GNI na osnovu pariteta kupovne snage, međunarodni US \$;

Izvor: <http://data.worldbank.org/indicator/NY.GNP.PCAP.PP.CD/countries>. (14.5.2013).

taxonomy of European regions“, *Regional Science Policy & Practice*, Vol. 4 No. 1/March 2012, pp. 1-23. doi:10.1111/j.1757-7802.2011.01052.x. Može biti interesantno da autori ovog teksta nisu naišli na argumente koji bi naveli na zaključak da je u postojećoj literaturi izražen poseban interes za pitanja koja su povezana sa prelaznim rokovima i njihovom vezom sa regionalnim i drugim aspektima razvoja EU.

3. Nivo zagađenosti

Za potrebe ovog rada, nivo zagađenosti meren je emisijom CO₂.⁵ Relevantnost podataka o emisijama CO₂ treba posmatrati u kontekstu ukupne politike država koje se analiziraju, kao i stanja u oblasti životne sredine u svakoj od ovih država. Pritom bi trebalo imati u vidu i status svake od ovih država u međunarodnim ugovorima u oblasti klimatskih promena i to, pre svega, status u Okvirnoj konvenciji UN o promeni klime i Kjoto protokolu. Osnovna zajednička karakteristika svih država je da su one članice Aneksa I i da politiku ovih država treba posmatrati u kontekstu ukupne politike koju EU, kao organizacija, vodi.⁶

Kao što se vidi iz tabele 2, najveće emisije CO₂/pc imaju dve mediteranske države i države iz regiona centralne Evrope, što bi moglo biti tumačeno, pored razloga povezanih sa nivoom razvijenosti, i specifičnostima privredne strukture nekih od država iz ovih grupa. Najmanje pc emisije imaju najmanje razvijenije države (Jugoistočna Evropa) koje su, istovremeno, imale i najveće emisije CO₂/gdp. O direktnoj povezanosti nivoa razvijenosti pokazuju i podaci koji se odnose na emisije CO₂/gdp za najrazvijenije države gde su emisije CO₂ merene udelom u gdp najmanje (mediteranske države, države članice bivše SFRJ).

⁵ Naravno, za osnov analize moguće je uzeti i neke druge pokazatelje stanja životne sredine, odnosno druge pokazatelje emisija CO₂. Detaljnija analiza, čiji rezultat bi trebalo da budu znatno precizniji zaključci, podrazumevala bi istovremenu analizu svih (ili većine) ključnih indikatora. Ovde bi, naročito, trebalo imati u vidu podatke o ukupnim emisijama CO₂ iz pojedinih država, odnosno regiona, učešće ovih emisija u ukupnim globalnim emisijama, emisije drugih zagađujućih supstanci koje mogu biti povezane sa klimatskim promenama, kao i različite indikatore koji se odnose na energetska efikasnost.

⁶ Za više informacija videti, npr. Todić Dragoljub, *Klimatske promene i reforma sistema upravljanja*, Institut za međunarodnu politiku i privredu, Beograd 2013. Todić Dragoljub, „Propisi Evropske unije u oblasti klimatskih promena i neka otvorena pitanja“, u Lilić Stevan (pr.): *Pravni i ekonomski izazovi klimatskih promena*, Pravni fakultet univerziteta u Beogradu, 2011, str. 85-109.

Tabela 2: Emisije CO₂/pc i CO₂/gdp (kurs)

	God. prijema u EU	CO ₂ /pc	CO ₂ /gdp (kurs)
<i>Mediteran</i>		<u>8.02 (prosek)</u>	<u>0.43 (prosek)</u>
Kipar	2004	9.34 (2005)	0.41 (2005)
Malta	2004	6.70 (2005)	0.45 (2005)
<i>Centralna Evropa</i>		<u>8.00 (prosek)</u>	<u>0.8 (prosek)</u>
Češka	2004	11.69 (2005)	0.92 (2005)
Slovačka	2004	7.07 (2005)	0.80 (2005)
Mađarska	2004	5.59 (2005)	0.51 (2005)
Poljska	2004	7.67 (2005)	0.96 (2005)
<i>Baltik</i>		<u>6.59 (prosek)</u>	<u>0.73 (prosek)</u>
Estonija	2004	12.52 (2005)	1.21 (2005)
Litvanija	2004	3.29 (2005)	0.52 (2005)
Letonija	2004	3.97 (2005)	0.47 (2005)
<i>Jugoistočna Evropa</i>		<u>5.37 (prosek)</u>	<u>1.08 (prosek)</u>
Rumunija	2007	4.31 (2008)	0.75 (2008)
Bugarska	2007	6.43 (2008)	1.41 (2008)
<i>Države članice biše SFRI</i>		<u>6.04 (prosek)</u>	<u>0.45 (prosek)</u>
Slovenija	2004	7.79 (2005)	0.44 (2005)
Hrvatska	2013	4.30 (2010)	0.46 (2010)

Izvor: CO₂ Emissions from Fuel Combustion – 2012 Edition, International Energy Agency, Paris. 2012.

4. Prelazni periodi u ugovorima o pristupanju EU

Svi ugovori o pristupanju EU koje su zaključile države u poslednja tri ciklusa proširenja sadrže posebne odredbe o prelaznim rokovima, tj. sadrže odredbe kojima se novim državama dozvoljava da odlože primenu nekih propisa EU sekundarnog karaktera.⁷ Odabir oblasti koje su ovde analizirane zasnovan je pretpostavci da je za emisije CO₂ najodgovorniji energetski sektor i sektor saobraćaja, kao i stanje životne sredine u celini.⁸

⁷ U ovom radu nisu uzeti u obzir svi prelazni rokovi, odnosno sve prelazne mere koje su ugovarane. Ovo pitanje zaslužuje znatno više prostora i obuhvata analizu različitih odredbi kojima se utvrđuju prelazni periodi za pojedina pitanja (važenje nacionalnih propisa pojedinih država novih članica, obaveze Komisije ili drugih organa EU u vezi sa primenom nekih propisa, itd).

⁸ U detaljnijoj analizi pojedinih sektora koji mogu biti značajni za nivo emisija CO₂ trebalo bi uzeti u obzir i neke druge grupe propisa kao što su poljoprivreda, regionalne politike, istraživanje i inovacije, zaštita potrošača, poslovni sektor, itd, što prevazilazi obim ovog rada.

4.1. Energetika

Sve države koje su pristupile EU 1. 1. 2004. godine (osim Mađarske) su ugovorile prelazne rokove za sprovođenje Direktive 68/414/EEC (kojom se utvrđuje obaveza država članica da održavaju minimalne zalihe sirove nafte i/ili proizvoda od nafte). Različiti su prelazni rokovi kao i broj dana prosečne potrošnje prema kojima se obračunavaju minimalne zalihe. Jedino su Estonija i Češka utvrdile i prelazni rok za još jedan propis EU, pored Direktive 68/414/EEC. U slučaju Estonije to je Direktiva 96/92/EC, a u slučaju Češke u pitanju je Direktiva 98/30/EC. Obe države iz regiona Jugoistočne Evrope ugovorile su prelazni rok za primenu Direktive 68/414/EEC, s tim što postoje razlike u pogledu dužine prelaznog roka i broja dana prosečne potrošnje prema kojima se obračunavaju obavezne minimalne zalihe. Republika Hrvatska, koja je primljena u članstvo 1. 7. 2013. godine nije ugovorila poseban prelazni period za primenu propisa u oblasti energetike.

4.2. Životna sredina

4.2.1. Države mediteranskog regiona

a) Prelazni periodi koje je Kipar ugovorio u oblasti životne sredine odnose se na kvalitet vazduha, upravljanje otpadom, kvalitet voda, kontrolu industrijskog zagađenja i upravljanje rizikom.⁹ Kada je u pitanju Direktiva koja se odnosi na smanjenje sadržaja sumpora u nekim tečnim gorivima (1999/32/EC) predviđeno je da se zahtevi za benzin i dizel-gorivo neće primenjivati tokom perioda od jedne godine od datuma pristupanja. Za Direktivu o ambalaži i ambalažnom otpadu (94/62/EC) predviđeno je da će Kipar zadržati ciljeve u pogledu reciklaže i ponovne upotrebe za određene materijale za pakovanje do 31. decembra 2005. godine. U delu propisa koji se odnose na kvalitet voda predviđeno je da se primena nekih zahteva iz Direktive o tretmanu komunalnih otpadnih voda (91/271/EEC) može odložiti do kraja 2012. godine. Kada je u pitanju primena Direktive o ograničenju emisija nekih zagađujućih materija u vazduh iz velikih postrojenja za spaljivanje (2001/80/EC) predviđeni su izuzeci u pogledu graničnih vrednosti emisija za neka postrojenja.

b) Malta je ugovorila prelazne rokove za propise u sledećim oblastima: kvalitet vazduha, upravljanje otpadom, kvalitet voda, zaštita prirode i kontrola industrijskog zagađenja i upravljanje rizikom. Prelazni rok za primenu Direktive 94/63/EC je godina dana. U oblasti upravljanja otpadom krajnji prelazni

⁹ Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, OJL 236, 23.9.2003, pp. 821-822.

rok je šest godina. Za tri propisa u oblasti kvaliteta voda ugovoren je prelazni rok sa maksimalnim trajanjem od 3 godine i 3 meseca. U oblasti zaštite prirode (za Direktivu 79/409/EEC) krajnji prelazni period je pet godina. Za Direktivu 2001/80/EC ugovoren je prelazni rok u trajanju od dve godine.

4.2.2. Region Centralne Evrope

a) Češka je prelazne periode ugovorila za propise u oblasti životne sredine u tri grupe: upravljanje otpadom, kvalitet voda i kontrola industrijskog zagađenja i upravljanje rizikom.¹⁰ Kada se radi o Direktivi o ambalaži i ambalažnom otpadu (94/62/EC) bio je predviđen rok za ostvarivanje ciljeva koji se odnose na reciklažu i ponovnu upotrebu do 31. decembra 2005. godine. U pogledu zahteva koji se odnose na sisteme za sakupljanje i tretman komunalnih otpadnih voda iz Direktive o tretmanu komunalnih otpadnih voda (91/271/EEC) predviđeno je da Češka do 31. decembra 2010. godine obezbedi usaglašenost.

b) U slučaju Slovačke prelazni periodi su dogovoreni za četiri grupe propisa: kvalitet vazduha, upravljanje otpadom, kvalitet voda i kontrolu industrijskog zagađenja i upravljanje rizikom.¹¹ Za Direktivu 94/63/EC o kontroli emisija isparljivih organskih jedinjenja iz skladišta benzina i distribucije do benzinskih stanica, bio je predviđen prelazni period do 31. decembra 2004. godine. Kada je u pitanju Uredba (EEC) No 259/93 o nadgledanju i kontroli isporuka otpada, predviđeni su prelazni rokovi do 31. decembra 2011. godine. Za Direktivu 94/62/EC o ambalaži i ambalažnom otpadu bio je predviđen kao krajnji rok 31. decembar 2007. godine.

Za Direktivu 84/156/EEC o graničnim vrednostima i ciljevima kvaliteta za ispuštanja žive predviđen je prelazni rok kraj 2006. godine. Isti rok bio je predviđen i za Direktivu 86/280/EEC o graničnim vrednosima i ciljevima kvaliteta kada je u pitanju ispuštanje izvesnih opasnih substanci. Kada se radi o zahtevima iz Direktive 91/271/EEC o tretmanu komunalnih otpadnih voda, bili su predviđeni prelazni rokovi do kraja 2004, 2008, 2010. i 2012. godine. Za Direktivu 94/67/EC o spaljivanju opasnog otpada i Direktivu 2000/76/EC o spaljivanju otpada bili su predviđeni prelazni rokovi do kraja 2006. godine i do kraja 2010. godine. U pogledu Direktive 2001/80/EC o graničnim emisijama za neke zaga-

¹⁰ Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, OJL 236, 23.9.2003, pp. 809.

¹¹ Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, OJL 236, 23.9.2003, pp. 921-923.

đujuće materije u vazduh iz velikih spalivaonica bio je predviđen prelazni period kraj 2007. godine.

c) Mađarska je ugovorila prelazne rokove za propise iz tri grupe: upravljanje otpadom, kvalitet voda i kontrolu industrijskog zagađenja i upravljanje rizikom.¹² Za Direktivu 259/93 o nadgledanju i kontroli isporuka otpada predviđen je prelazni rok do juna 2005. Što se tiče Direktive 94/62/EC o ambalaži i ambalažnom otpadu bio je predviđen prelazni period kraj 2005. godine. Krajnji prelazni period do kraja 2015. godine ugovoren je za primenu Direktive 91/271/EEC (tretman komunalnih otpadnih voda). Prelazni rokovi do 25. decembra 2009, odnosno 25. decembra 2006. godine bili su predviđeni za Direktivu 98/83/EC o kvalitetu voda namenjenih ljudskoj upotrebi. Za Direktivu 94/67/EC o spaljivanju opasnog otpada bio je predviđen prelazni period do 30. juna 2005. godine. Prelazni rok za Direktivu koja se odnosi na granice emisija određenih zagađujućih materija u vazduh iz velikih spalivaonica (2001/80) ugovoren je do 31. decembra 2004. godine.

d) Poljska je ugovorila prelazne rokove za propise u oblasti kvaliteta vazduha, upravljanja otpadom, kvaliteta voda, kontrole industrijskog zagađenja i upravljanja rizicima i nuklearne bezbednosti i zaštite od radijacije. Za dva propisa u oblasti kvaliteta vazduha utvrđeni su prelazni rokovi u trajanju (najduže) do 3 godine. Za tri propisa u oblasti upravljanja otpadom ugovoreni su prelazni rokovi sa najdužim trajanjem do 9 godina. U oblasti kvaliteta voda najduži prelazni rok je utvrđen za Direktivu kojom se propisuju zahtevi za sisteme za prikupljanje i tretman komunalnih otpadnih voda i to do kraja 2015. godine. Za dva propisa u oblasti kontrole industrijskog zagađenja i upravljanja rizikom ugovoreni su prelazni rokovi, a najduži rok se odnosi na primenu Direktive 2001/80/EC o graničnim vrednosima emisija za azotne okside i to kraj 2017. godine.

U oblasti nuklearne bezbednosti i zaštite od radijacije Poljska je ugovorila prelazni rok za primenu člana 8 Direktive 97/43/Euratom o zaštiti zdravlja od opasnosti od jonizujućeg zračenja u medicini, do kraja 2006. godine.

4.2.3. Baltički region

a) Pored propisa iz tri grupe, za koje su i druge analizirane države ugovorile prelazne rokove (upravljanje otpadom, kvalitet voda, kontrola industrijskog zagađenja i upravljanje rizikom), Estonija je ugovorila prelazni rok i za propis u oblasti zaštite prirode.¹³

¹² Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, OJL 236, 23.9.2003, pp. 854-856.

¹³ Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic

Kada je u pitanju Direktiva o kontroli emisija isparljivih organskih jedinjenja (94/63/EC) predviđeni su prelazni rokovi u pogledu zahteva za dve postojeće instalacije na terminalima, do 31. decembra 2005. godine, odnosno do kraja 2006. godine. U pogledu primene Direktive o deponijama smeća (1999/31/EC) predviđen je izuzetak u pogledu pepela na postojećim deponijama, do 16 jula 2009. godine. U odnosu na primenu Direktive koja se odnosi na tretman komunalnih otpadnih voda (91/271/EEC) predviđeni su izuzeci u pogledu zahteva koji se odnose na sisteme za sakupljanje i tretman komunalnih otpadnih voda do kraja 2010. godine. Izuzeci, odnosno prelazni rokovi su predviđeni i za primenu Direktive o kvalitetu vode namenjene za ljudsku upotrebu (98/83/EC): do kraja 2007. godine, odnosno do kraja decembra 2013. godine. Primena Direktive 2001/80/EC odlaže se do 31. decembra 2010. godine, odnosno do kraja 2015. godine.

b) Litvanija je ugovorila prelazne rokove za primenu propisa u oblasti kvaliteta vazduha, upravljanja otpadom, kvaliteta voda i kontrole industrijskog zagađenja i upravljanja rizikom. Krajnji prelazni rok za primenu Direktive 94/63/EC je kraj 2007. godine. Za primenu Direktive 94/62/EC o ambalaži i ambalažnom otpadu predviđen je prelazni rok kraj 2006. godine, a kraj 2009. godine je krajnji prelazni rok za primenu Direktive 91/271/EEC o tretmanu komunalnih otpadnih voda. Najduži prelazni rok ugovoren je za primenu Direktive 2001/80/EC o emisijama zagađujućih materija u vazduh iz velikih postrojenja za sagorevanje i to kraj 2015. godine.

c) Letonija je ugovorila prelazne rokove za propise u oblasti kvaliteta vazduha, upravljanja otpadom, kvaliteta voda, kontrole industrijskog zagađenja i upravljanja rizicima, kao i nuklearne bezbednosti i zaštite od radijacije. Za Direktivu 94/63/EC utvrđen je krajnji prelazni rok do kraja 2008. godine. U oblasti upravljanja otpadom za dva propisa EU su predviđeni prelazni rokovi, a najduži rok (do kraja 2010) za Uredbu 259/93. Za dva propisa u oblasti kvaliteta voda utvrđeni su prelazni rokovi, a najduži prelazni rok je kraj 2015. godine. U oblasti kontrole industrijskog zagađenja i upravljanja rizika ugovoreni su prelazni rokovi za dva propisa (Direktivu 87/217/EEC koja se odnosi na sprečavanje zagađivanja životne sredine azbestom i Direktivu 96/61/EC koja se odnosi na integrisano sprečavanje i kontrolu zagađivanja životne sredine). Krajnji prelazni rok je kraj 2010. godine. Za Direktivu 97/43/Euratom utvrđen je prelazni rok do kraja 2005. godine.

4.2.4. Region Jugoistočne Evrope

a) Rumunija je ugovorila prelazne periode za četiri grupe propisa u oblasti životne sredine: kvalitet vazduha, upravljanje otpadom, kvalitet voda, indu-

of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, OJL 236, 23.9.2003, pp. 817-818.

strijsko zagađenje i upravljanje rizikom.¹⁴ Međutim, ukupan broj propisa je veći. Za Direktivu 94/63/EC o kontroli isparljivih organskih jedinjenja utvrđeni su prelazni rokovi za četiri odredbe: do kraja 2007, 2008. i 2009. U oblasti upravljanja otpadom utvrđeni su prelazni rokovi za četiri direktive. Za neke odredbe Uredbe 259/93 o nadgledanju i kontroli isporuka otpada predviđa se prelazni rok do kraja 2015. godine, odnosno za određene kategorije otpada do kraja 2011. godine.¹⁵ Primena nekih odredbi Direktive 94/62/EC o ambalaži i ambalažnom otpadu se odlaže do kraja 2011, odnosno do kraja 2013. godine. U pogledu Direktive 1999/31/EC o deponijama otpada predviđeno je odlaganje primene nekih odredbi od 2007. do 2017. godine, a primena nekih odredbi Direktive 2002/96/EC o električnom i elektronskom otpadu se odlaže do kraja 2008. godine.

Kada se radi o propisima EU u oblasti kvaliteta voda predviđeni su prelazni rokovi za nekoliko odredbi pet direktiva: Direktiva 83/513/EEC o graničnim vrednostima i ciljevima kvaliteta za kadmijum (kraj 2009), Direktiva 84/491/EEC (kraj 2009), Direktiva 86/280/EEC (kraj 2009), Direktiva 91/271/EEC o tretmanu komunalnih otpadnih voda (kraj 2018. sa definisanim međuciljevima) i Direktiva 98/83/EC o kvalitetu vode namenjene za ljudsku upotrebu (kraj 2010, odnosno 2015).

U grupi propisa koji se odnose na kontrolu industrijskog zagađenja ugovoreni su prelazni rokovi za tri propisa EU. Za Direktivu 96/61/EC utvrđeni su prelazni rokovi koji se odnose na tačno definisana postrojenja koja podležu obavezama iz ovog propisa (ukupno 195) od 2008. do 2015. godine. Za Direktivu 2000/76/EC o spalivaonicama otpada predviđen je prelazni rok do kraja 2008. godine za salivaonice medicinskog otpada (ukupno 58). Primena nekih odredbi Direktive 2001/80/EC o graničnim vrednostima emisija nekih zagađujućih materija iz velikih postrojenja za sagorevanje se odlaže do kraja 2008, 2009, 2010, 2011, 2012. i 2013. godine.

b) Bugarska je u oblasti životne sredine ugovorila prelazne periode za sledeće grupe propisa: kvaliteta vazduha, upravljanje otpadom i kvalitet voda.¹⁶ Za primenu pojedinih odredaba Direktive 94/63/EC o kontroli isparljivih organskih jedinjenja koje su rezultat odlaganja goriva i njegove distribucije do benzinskih stanica utvrđeni su prelazni rokovi za nekoliko odredbi i to do 31. decembra 2007. godine, odnosno 31. decembra 2009. godine. Kada se radi o Direktivi 1999/32/EC o smanjenju sadržaja sumpora u nekim tečnim gorivima prelazni rokovi su utvrđeni do 31. decembra 2011. godine, odnosno do 31. decembra 2009. godine.

¹⁴ Act concerning the conditions of accession of the Republic of Bulgaria and Romania and the adjustments to the Treaties on which the European Union is founded, OJL 157, 21.6.2005. Annex VII, pp. 330-361.

¹⁵ Ovaj period, pod uslovima propisanim Direktivom 75/442/EEC, može biti produžen od kraja 2015. godine.

¹⁶ Act concerning the conditions of accession of the Republic of Bulgaria and Romania and the adjustments to the Treaties on which the European Union is founded, Annex VII, OJL 157, 21.6.2005. pp. 292-301.

Prelazni rokovi do 31. decembra 2009. godine, odnosno do 31. decembra 2014. godine utvrđeni su i za neke odredbe Uredbe 259/93 o nadgledanju i kontroli isporuka otpada. Kada je u pitanju Direktiva 94/62/EC o ambalaži i ambalažnom otpadu, Bugarska je dogovorila prelazne rokove koji se kreću od 2009. do 2014. godine. Ugovorom o pristupanju je predviđeno i odstupanje od primene člana 5.3a, 5.3b i Aneksa Direktive 1999/31/EC za 14 postojećih postrojenja, i to do 31. decembra 2014 godine. Primena Direktive 2002/96/EC u Bugarskoj se odlaže do 31. decembra 2008. godine. Primena Direktive 91/272/EEC se odlaže do 31. decembra 2014. godine. U slučaju Direktive 96/61/EC predviđa se odlaganje primene do kraja 2008, 2009, odnosno 2011. godine. Ugovor predviđa i odlaganje primene nekih odredbi Direktive 2001/80/EC o ograničavanju emisija nekih zagađujućih materija u vazduh iz velikih postrojenja za spaljivanje i to do kraja 2009, 2010, 2011, 2012, 2013. i 2014. godine.

4.2.5. Države članice bivše SFRJ

a) Ugovor o pristupanju EU koji je zaključila Slovenija, u delu koji se odnosi na životnu sredinu, obuhvata tri grupe propisa: upravljanje otpadom, kvalitet vode i kontrolu industrijskog zagađenja i upravljanje rizikom.¹⁷ Predviđen je, kao prelazni rok, 31. decembar 2007. godine, za ciljeve koji su predviđeni Direktivom 94/62/EC o ambalaži i ambalažnom otpadu, s tim što su definisani i prolazni rokovi za osvarivanje ciljeva u oblasti upravljanja otpadom za 2004, 2005. i 2006. godinu. Što se tiče Direktive 91/271/EEC o tretmanu komunalnih otpadnih voda predviđen je kao konačni rok 31. decembar 2015. godine. Za Direktivu 96/61/EC o kontroli industrijskog zagađenja i upravljanju rizikom bio je predviđen prelazni period do 30. oktobra 2007. godine.

b) Kao poslednja država koja je pristupila EU, Hrvatska je svoje prelazne periode u oblasti životne sredine ugovorila za propise iz šest grupa: horizontalno zakonodavstvo, kvalitet vazduha, kontrola industrijskog zagađenja, upravljanje otpadom, kvalitet voda i hemikalije.¹⁸ U pogledu primene Direktive 2003/87/EZ predviđena su odstupanja koja se odnose na uključivanje svih letova između dva aerodroma koji se nalaze na hrvatskom državnom području, te svih letova između aerodroma koji se nalazi na hrvatskom državnom području i aerodroma koji se nalazi u zemlji izvan područja EGP-a („dodatne zrakoplovne djelatnosti“). Predviđeno je nekoliko prelaznih rokova (1. januar 2013, 2014). U delu

¹⁷ Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, OJL 236, 23.9.2003, pp. 911-912.

¹⁸ Narodne novine, dodatak Međunarodni ugovori, br. 2/2012. str. 72-81 ili <http://narodne-novine.nn.hr/clanci/međunarodni/dodatni/420991.pdf>. (22. 4. 2013).

koji se odnosi na kvalitet vazduha ugovoreni su prelazni rokovi za sprovođenje Direktive 2008/50/EZ.

Za Direktivu Saveta 1999/13/EZ o ograničavanju emisija isparljivih organskih jedinjenja predviđeno je odlaganje primene dve grupe odredbi i to do 2014, 2015, 2016. Odlaganje primene Direktive 2001/80/EZ predviđeno je do 1. januara 2018. godine. Za Direktivu 2008/1/EZ o integrisanom sprečavanju i kontroli zagađivanja predviđeni su prelazni rokovi od 1. januara 2014. godine do 1. januara 2018. godine. U pogledu Direktive o deopnijama otpada (1999/31/EZ) predviđeno je da Hrvatska obezbeđuje postepeno smanjivanje količine biorazgradivog komunalnog otpada koji se odlaže na deponije. Sve postojeće deponije u Hrvatskoj moraju ispunjavati zahteve Direktive do kraja 2018. Za Direktivu Saveta 91/271/EEZ o tretmanu komunalnih otpadnih voda predviđeno je da se zahtevi u pogledu sistema za sakupljanje i tretman komunalnih otpadnih voda primenjuju od 1. januara 2024. godine. Prelazni rok za Direktivu Saveta 98/83/EZ o kvalitetu vode namenjene za ljudsku potrošnju je 1. januar 2019. godine.

Kada se radi o Uredbi o registrovanju, ocenjivanju, odobravanju i ograničavanju hemikalija (1907/2006) predviđeni su izuzeci od primene nekih odredbi. Odobrava se razdoblje prilagođavanja od šest meseci od dana pristupanja za pre-registraciju supstanci u postepenom uvođenju. U pogledu članova 6, 7, 9, 17, 18 i 33 Ugovor o pristupanju Hrvatske EU predviđa da se ovi članovi ne primenjuju u roku od šest meseci od dana pristupanja.

4.3. Saobraćaj

a) Prelazni rok u trajanju od dve godine Kipar je ugovorio za primenu odredbi Direktive 3821/85. Malta je ugovorila prelazne rokove za tri propisa EU, a najduži prelazni rok od dve godine ugovoren je za Direktivu 92/6/EEC i Direktivu 1999/62/EC.

b) Sve države koje su primljene u EU 2004. godine (osim Slovenije) su ugovorile prelazne rokove za primenu propisa u oblasti saobraćaja. Slovačka je ugovorila prelazni period od dve godine za primenu Uredbe 3118/93. Mađarska je ugovorila prelazne rokove za četiri propisa EU, a najduži prelazni period od pet godina je ugovoren za primenu Direktive 96/53/EC. I Češka je ugovorila prelazni rok od dve godine za primenu Uredbe 3118/93. Slično kao i Estonija. Poljska je ugovorila prelazne rokove za tri propisa, a najduži prelazni rok od sedam godina ugovoren je za primenu Direktive 96/53/EC.

c) I Letonija je ugovorila prelazne rokove za tri propisa, a najduži prelazni rok od tri godine se odnosi na primenu Direktivu 96/26/EC. Litvanija je ugovorila prelazne rokove za najveći broj propisa (četiri), a najduži prelazni rok od dve godine je ugovoren za Uredbu 3118/93.

d) Države Jugoistočne Evrope su ugovorile prelazne rokove za tri propisa EU. Najduži prelazni rok od sedam godina je ugovoren za primenu Direktivu 96/53/EC.

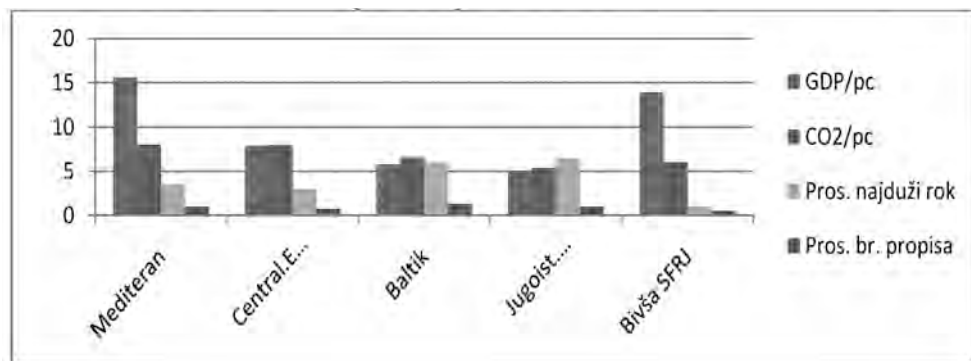
e) Hrvatska je prelazne rokove u oblasti saobraćaja ugovorila za dva propisa EU. Najduži prelazni rok od tri i po godine se odnosi na primenu Uredbe 3577/92. Slovenija nije ugovorila prelazne rokove u ovoj oblasti.

5. Odnos između nivoa razvijenosti, nivoa emisija CO₂ i prelaznih rokova

5.1. Energetika

Činjenica da je većina država ugovorila prelazne rokove za jedan propis EU (osim Estonije i Češke koje su ugovorile za dva propisa, odnosno Mađarske i Hrvatske koja nije ugovorile prelazni rok za ovu grupu propisa), ukazuje, između ostalog, i na odsustvo relevantnosti, kako nivoa ekonomske razvijenosti, tako i nivoa emisija CO₂. Međutim, kao što se vidi iz grafikona 1, kada je u pitanju dužina prosečnog najdužeg prelaznog roka, onda se jasno uočava da je ovaj rok znatno veći kod država Jugoistočne Evrope (6,5 godina) i država Baltičkog regiona (6 godina), koje su istovremeno i države čiji je GDP/pc najniži u grupi analiziranih država.

Grafikon 1: GDP/pc (u godini pred prijem u EU), CO₂/pc, najduži prelazni rokovi, broj propisa u oblasti energetike za koje su ugovoreni prelazni rokovi.



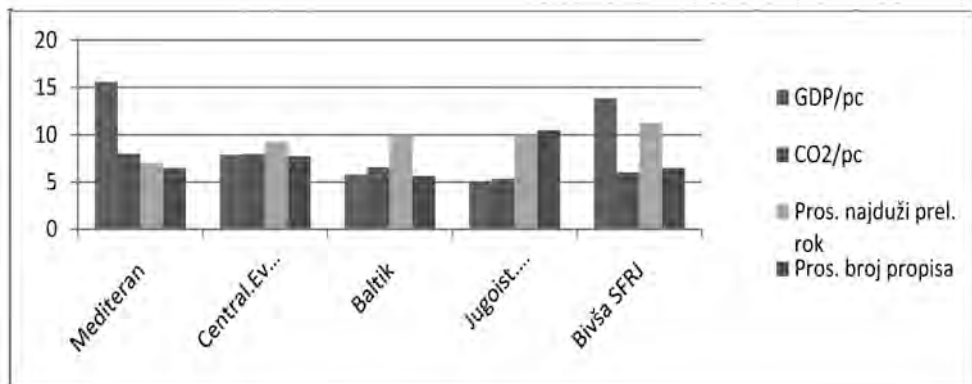
Izvor: ugovori o pridruživanju sa EU

5.2. Životna sredina

Analiza odnosa između nivoa ekonomske razvijenosti (merenog GDP/per capita), broja propisa za koje su ugovarani prelazni rokovi i najveće dužine prelaznih rokova pokazuje da postoje značajne razlike između država. Teško je govoriti o postojanju direktne zavisnosti između ovih parametara. Moglo bi se, ipak, konstatovati da sa padom GDP/pc postoji izvesna tendencija povećanja broja

propisa za koje se traže, odnosno ugovaraju prelazni rokovi, isto kao što postoji i blaga tendencija povećanja dužine maksimalnih rokova za koje se odlaže primena nekih normi. Može se uočiti i izvesno preklapanje u tendencijama koje se odnose na broj propisa i najduži prelazni rok. Najveće oscilacije su zabeležene kod država u kojima se GDP/pc kreće između 7 i nešto preko 4 hiljade \$.

Grafikon 2: Prikaz odnosa između GDP/pc (u godini pred prijem u EU), CO₂/pc, najdužih prelaznih rokova i broja propisa u oblasti životne sredine za koje su ugovoreni prelazni rokovi.



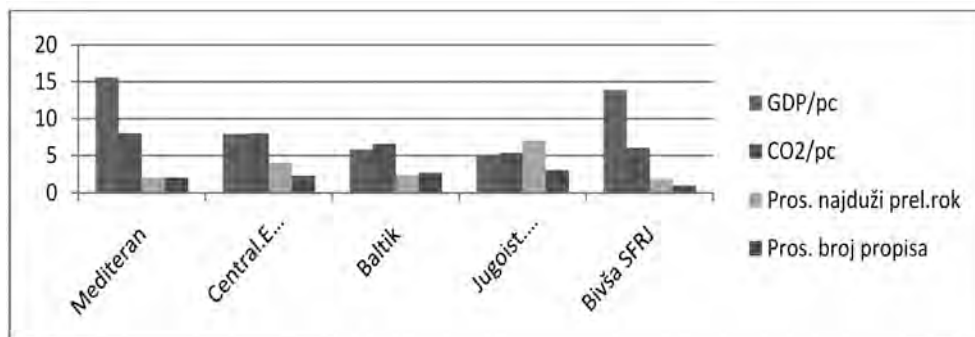
Izvor: ugovori o pridruživanju sa EU

Prosečno najduži prelazni rok je kod država članica bivše SFRJ (nešto više od 11 godina), pre svega zahvaljujući dužini prelaznih rokova koje je ugovorila Hrvatska. Nakon toga dolaze države iz regiona Centralne Evrope (prosečno 9,25 godina). Države Jugoistočne Evrope imaju najviše propisa za koje su ugovarani prelazni rokovi (prosek 10), nakon čega dolaze države Centralne Evrope (prosek 8).

5.3. Saobraćaj

U delu koji se odnosi na propise EU u oblasti saobraćaja prosečan najduži prelazni rok ugovorile su države Jugoistočne Evrope (7 godina), a najmanji države mediteranskog regiona (2 godine) i države bivše članice SFRJ (1,75). Dakle, najmanje prosečne prelazne rokove ugovorile su države sa najvišim GDP/pc. Prosečno najveći broj propisa za koje su ugovoreni prelazni rokovi imaju države u regionu Jugoistočne Evrope (3) i države Baltičkog regiona. Za najmanji broj propisa su ugovorile prelazne rokove države članice bivše SFRJ (1).

Grafikon 3: Prikaz odnosa između GDP/pc (u godini pred prijem u EU), najdužih prelaznih rokova i broja propisa u oblasti saobraćaja za koje su ugovoreni prelazni rokovi.



Izvor: ugovori o pridruživanju sa EU

6. Zaključak

Od svih država koje su pristupile EU u poslednja tri ciklusa proširenja najveći GDP/pc, u momentu pristupanja EU, imale su države mediteranskog regiona koje su, istovremeno, imale i najveće emisije CO₂/pc, odnosno najmanje emisije CO₂/gdp. Ubedljivo najmanji GDP/pc su imale dve države iz regiona Jugoistočne Evrope koje su, istovremeno, suprotno od država mediteranskog regiona, imale najmanje emisije CO₂/pc, ali najveće emisije mereno CO₂/gdp.

Države koje su pristupile EU 2004, 2007. i 2013. godine ugovorile su prelazne rokove za određene grupe propisa u oblasti energetike, životne sredine i saobraćaja. Na taj način je primena određenih propisa EU (sekundarnog karaktera) u državama članicama odložena za izvesno vreme. Najveći broj propisa za koje su ugovarani prelazni rokovi odnosi se na oblast životne sredine, a najmanji na oblast energetike. Analiza pokazuje da ne postoji čvrsta međuzavisnost između nivoa ekonomske razvijenosti (GDP), nivoa zagađenosti (merenog emisijama CO₂), dužine prelaznih rokova i broja propisa za koje se ugovaraju prelazni rokovi. Ipak, može se uočiti nekoliko činjenica. Dve države Jugoistočne Evrope imaju najveći prosečan broj propisa i najduže prosečne prelazne rokove u oblasti saobraćaja i energetike, dok je u oblasti životne sredine to Hrvatska. Države Jugoistočne Evrope imaju i najveći prosečan broj propisa u oblasti životne sredine za koje su ugovoreni prelazni rokovi. Kada je u pitanju oblast životne sredine, u kojoj je ugovaran najveći broj prelaznih rokova za najveći broj propisa, analiza pokazuje da se sa padom GDP u jednom delu povećava broj propisa za koje države ugovaraju prelazne rokove, odnosno dužina najdužih prelaznih rokova. Uočljivo povećanje počinje kod država čiji se GDP/pc kreće približno 7 000 US\$ GDP i

manje. Takođe, kod dela država postoji i izvesna korelacija između broja propisa za koje se ugovaraju prelazni rokovi i dužine prelaznih rokova. Za neke države se može reći da povećanje broja propisa za koje se ugovaraju prelazni rokovi znači i povećanje najdužih prelaznih rokova. Imajući sve ovo u vidu, verovatno bi u dalja istraživanja trebalo uključiti i neke druge činioce, među kojima detaljnija analiza stanja životne sredine zauzima posebno mesto. U celini gledano, može se zaključiti da se regionalne sličnosti i razlike u prosečnom najdužem prelaznom roku i prosečnom broju propisa za koje su ugovarani prelazni rokovi mogu povezati sa nivoom ekonomske razvijenosti, iako preciznije izvođenje zaključaka podrazumeva dodatne analize i znatno razrađeniju metodologiju.

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ECONOMIC AND GEOGRAPHICAL ASPECTS OF THE TRANSITIONAL PERIODS ANALYSIS IN THE EU ACCESSION TREATIES

S u m m a r y

The main objective of this paper is to determine the level of relevance of the economic development and the level of pollution of thirteen states that joined the European Union (EU) in the last three enlargement rounds (2004, 2007, and 2013), with the length of transitional periods, i.e. the number of regulations that have agreed transitional periods. The initial assumption is that the level of economic development of countries joining the EU and the level of pollution are affecting the length of transitional periods and the number of regulations that are agreed upon transitional periods. Accordingly, the paper points to the level of economic development (measured by GDP) and the level of pollution (emissions measured by CO₂/pc and CO₂/gdp). All the states are grouped into five regional groups (Mediterranean, Central Europe, the Baltics, South-East Europe and the member states of the former Yugoslavia) . Separate part of the paper analyzes in detail the types of regulations relating to the agreed transitional periods, and the number and length of transitional periods that are contracted by the states of the five groups. For the analysis we used the transitional periods in the field of energy, environment and transport, given their potential importance for CO₂ emissions. The final part of the paper analyses perceived relevance between the level of economic development, levels of pollution, the length of transitional periods and the number of regulations that are agreed upon transitional periods.

Key words: Central Europe, Mediterranean, Baltic States, South Eastern Europe, the member states of the former Yugoslavia, the level of economic development, CO₂ emissions, EU Accession, Accession Treaties, compliance regulations, transitional periods

HUMAN CAPITAL AS THE MAJOR FINANCING IN THE WELFARE STATE

Human capital is becoming one of the main types of capital in the global economy. But as any other capital it needs investments. The system of higher education, as well as health care and social security, represents the major investment in the development of human capital. The latter, in turn, is the basis of innovation and economic development of states, nations and intergovernmental alliances. Various research has shown that higher education greatly increases the person's and the country's income in general. Human capital produces new knowledge, which is the key for the future. As a result, the funding of the human capital development, for which the country is mostly responsible, becomes of strategic importance.

Key words: human capital, economic development, health care, higher education, innovation, investments, social security.

1. Introduction

The experience of highly-developed countries is the convincing example of the evolution and the switch from the system of management to the system of education and science. In early 20th century Ukrainian scientist V. Vernadskiy underlined the role of human intelligence as the production force of global importance, connecting the further development of mankind with science, intelligence and humanism.

Some researchers consider the evolution of the political economy of capitalism to cover the following stages: goods-based economy (the main part of the surplus value is that from goods); relations-based economy (the surplus value is generated at the level of economic project); management-based economy (the main assets of the company – the quality of management); services-based economy (the surplus value is created owing to better service to the customer), and finally, knowledge-based economy, which is based on the intellectual capabilities

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of a person, where the surplus value is created during generation and industrial application of knowledge. The creation of value, which, as a political-economic category, becomes non-material in the knowledge-based economy, is connected with the drastic changes in the society and in the business management models (Poluneyev Y., 2005).

2. Financing of human capital

2.1 Investment in human capital through education and research.

In early 20th century the concept of knowledge as the source of economic development caused the appearance of a new notion of “knowledge-based economy”. Knowledge (not so much the philosophic category, but the economic one) is becoming the major source of wealth of nations in the companies and countries. In the developed countries the amount of companies and institutions’ industrial assets is closely connected with their ability to generate new knowledge, intellectual capital.

Knowledge-based economy is promoted by its production, distribution and application. The source of economic growth and competitiveness is the production of ideas, but not goods. These are countries, which produce knowledge and integrate it in their economic models, which can be competitive globally. According to the statement of Organization for Economic Cooperation and Development (OECD) knowledge is considered to contribute to labour efficiency and economic growth.

The characteristic features of the economy which is based on the application of knowledge-based factors is the prevalence of high-tech branches and intellectual services in the structure of gross domestic product, creation of the majority of the national income owing to the innovation or technological rent, high level of the companies’ capitalization, the main value of which is created owing to non-material assets, that is, the intellectual component.

Knowledge-based economy is becoming the base and the main component of “innovation economy”. Its fundamental basis is productive knowledge and proper education, which characterizes the ability to apply human-intellectual capital in the production activity outcomes.

The main difference between the “knowledge-based economy” and the so-called “goods-based economy” is that of continuous technological improvement of the production and self-reproduction of its knowledge factors, not their disintegration in the process of economic exchange, but their quick renovation and relative availability to be applied.

The balance between the knowledge and resources has shifted considerably towards the first one, so that the knowledge has become one of the major factors

in evaluating the living standards – more important than land, equipment or labour. Nowadays the most technologically developed economies are based on knowledge.

During the last 200 years neo-classic economics determined only two factors of production: labour and capital. Now it is different. Knowledge strengthens capital and energy, having become the main asset of welfare, similar to those of capital and energy, which have changed the land and labour 200 years ago. Moreover, technological developments of the 20th century have changed the main professions, which provide welfare, from those based on physical labour to those “based on knowledge”. Technologies and knowledge today are the key factors of production.

Knowledge-based economy treats the country and the company (more locally) as those, which are able to work with their knowledge, that is, to manage them. The management of knowledge can be treated as the processes:

- generation of knowledge – individual and team training in general;
- generalization of knowledge – development of rules, principles and methods of management;
- storing of knowledge – introduction of knowledge in the activity of the company;
- diffusion of knowledge – spreading of knowledge within the company and its limitation outside it;
- coordination and estimation of knowledge – to be certain that various types of knowledge are applied in practice not contradicting each other;
- improvement of knowledge – broadening of knowledge, getting rid of those out-of-date.

In the system of the knowledge-based economy education plays the most important role as the source of intellectual capital and innovation potential of the nation, the sphere of the total adaptation of the society to a paradigm of socio-cultural changes and the main way of acquiring social skills and qualification individually. Education, training of staff, and the development of creativity are the main directions of the human capital formation, which is the source of strategic competitiveness and social profit in the future.

In a modern society education is becoming the element of the economic growth strategy. Sufficient stimulus for the development of this sphere of activity has become the recognition and propagation of the human capital theory and, as a result, the education has not been treated as one of the types of the non-profitable consumption yet, but as the investment in human capital, which not only contributes to the direct economic and outside social advantages, but promote the economic growth. Now, let us compare the expenses for education in the member countries of the OECD and Ukraine.

Table 1: Expenses for education in absolute values, 2011*

Country	Amount of GDP, billions of doll	Expenses for education as a part of GDP, %		Expenses for education in absolute values, billions of doll.		Expenses for education in absolute values, per 10 thousand of population, thousands of doll.	
		All education	Higher education	All education	Higher education	All education	Higher education
USA	14991	7,3	2,6	1094,3	389,8	34867	12420
Germany	3604	5,3	1,3	191,01	46,85	23493	5762
France	2776	6,3	1,5	174,9	41,6	26773	6368
United Kingdom	2429	6,0	1,3	145,74	31,6	23116	5012
Canada	1737	6,1	2,5	109,96	43,43	32058	12662
Australia	1515	6,0	1,6	90,9	24,24	41289	11010
Korea	1116	8,0	2,6	89,28	29,02	18272	5939
Sweden	539	6,7	1,8	36,11	9,7	39665	10655
Belgium	514	6,7	1,5	34,44	7,71	32994	7386
Austria	418	5,9	1,4	24,66	5,85	29392	7973
Denmark	332	7,9	1,9	26,23	6,31	47317	11383
Finland	263	6,4	1,9	16,83	5,0	31978	9500
Ireland	221	6,3	1,6	13,92	3,54	29479	7497
New Zealand	163	7,4	1,6	12,06	2,61	27865	6031
Ukraine	161	8,1	1,16	13,04	1,87	2862	410

*Compiled by the author, and based on Education at a Glance 2012

As it is seen from Table 1, the financing of education in Ukraine, higher education in particular, leaves much to be desired. Although, relating to GDP the value is rather high (8,1 %), in terms of money the expenses for education are 13 billion dollars, 1,87 billion dollars for higher education in particular. If the expenses for 10000 inhabitants are taken into account, the result is not comforting. Ukraine spends for education 2862 thousand of dollars in total, 410 thousand of dollars for higher education. If we compare general expenses for education for 10000 inhabitants, they are 10 times higher in Austria, Ireland, Belgium, New Zealand, and 15-20 times higher in Denmark, Australia, Canada, Sweden, USA. The largest expenses for education are in Canada, Australia, Sweden, and Denmark. Those are the countries which are the world leaders in economic and social development and their expenses for education can be treated as the strategic investment in the economy of their country.

Such investments in the sphere of education have proved to be correct, because the reversible effect is seen. These are the countries which have the highest GDP in the world. That is, the investments in education are justified for both the country and the individual, and the rates of profit are different for different countries, which is testified by the data on Table 2.

Table 2: Profit rate for a person with University degree*

Country	Profit rate, when a person took University degree after completion of the secondary school, %		Profit rate, when a person took University degree at the age of 40, %	
	for the state	for the person	for the state	for the person
Belgium	15,0	12,98	10,0	24,08
United Kingdom	14,9	18,21	7,4	13,16
Denmark	7,4	8,21	2,2	11,30
Korea	15,5	13,56	12,3	21,34
Norway	9,7	13,89	4,4	15,77
USA	13,6	13,73	7,8	11,33
Hungary	15,9	18,79	12,5	22,23
Finland	12,4	16,33	9,7	14,74
Switzerland	6,1	9,90	- 0,4	15,77
Sweden	6,9	8,57	2,7	9,33

*Compiled by the author and based on (Education at a Glance 2012)

When analyzing the data from Table 2 it should be stressed that the profit rate from the investments in education is high enough for both the country and the individual. In some cases it exceeds the average profit rate for the industrial enterprises. Such type of investment is reasonable in all aspects, as it always contributes to economic and social advantages.

Knowledge, as the result of educational activity, is transformed into technologies and products of the science-based production; it promotes the increase of labour efficiency, decreases the material and energy-consuming, raises the competitiveness of the social production, accelerates the rate of accumulation of the social profit, changing the motivation of the labour activity, thus being the factor of post-industrial economic growth. Intellectual capital is able to bring the highest economic output for every unit of additional investment, providing not only the high profitability of the production and reliable competitive advantage in the world markets, but creating the background of the strategic profit for innovative investments.

The balance between knowledge and resources has been replaced towards the first one, so that the knowledge has become one of the most important factors for evaluating the living standards, more important than land, equipment and labour. Nowadays the most technologically developed economies are totally based on knowledge.

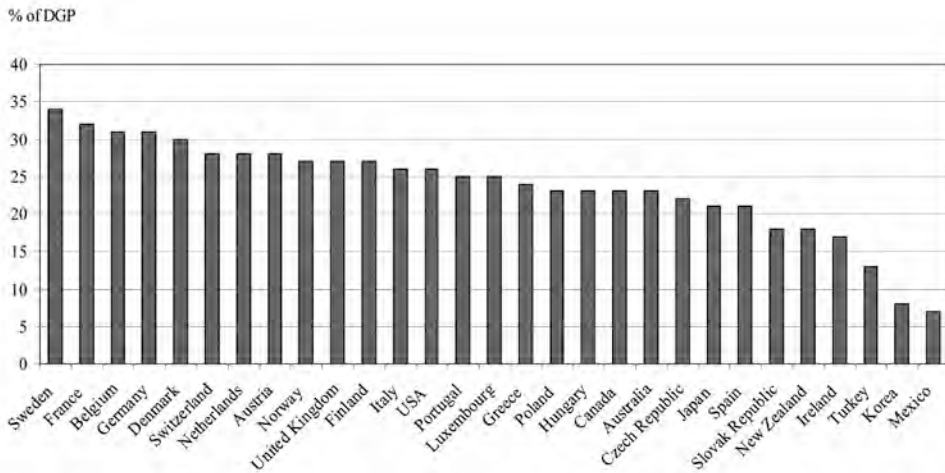
It must be stressed that the UN has defined the level and the quality of education as the factors of the development of human potential, which provides social-economic progress of the society as a whole. That is why highly-developed countries increasingly invest into their education, as it provides the creation of not only intellectual, but humanitarian potential of the nation. The latter is characterized by the level of psychological and physical health of the nation, its social welfare, moral and spiritual strength, intellectual development, psychological unity and humanitarian activity. It is humanitarian potential, which contributes to wealthy and successful society.

Education has always had and will have the impact on the progress in economy of any state and the society as a whole. With the development of the economic science education becomes of greater importance and is treated as the compulsory component of the intellectually-developed state and society.

2.2 The importance of social security in financing of human capital.

Human capital as a special type of capital needs a proper social protection. In the broad sense social protection is treated in literature as the activity of the state to apply in life the challenges and major tasks of social policy, to realize the complex of legally adopted economic and social guarantees, which provide every member of the society with the most important social rights irrespective of their sex, nationality, age, area of living, etc. In its narrower sense the social protection is the complex of purposeful means of economic, legal and organizational type, directed to provide the rights and guarantees of a person in their living standards in order to support mostly those, who are in need.

Financial support of social protection is carried out in two ways: social donations or taxes, which vary in different countries. Special attention to the financial support of social protection is paid by the countries of the OECD-members.

Figure 1: Financial support of social protection of population in % of GDP*

*Compiled by the author, based on OECD Social Expenditure database (SOCX).

As it is seen from Fig. 1 the best financing of social protection is in Sweden, where these expenses are 34 % of GDP. The expenses in France, Belgium, Germany, Denmark are high enough, where they make 30-32 % of GDP. The expenses for social protection in such countries as Switzerland, Netherlands, Austria, Norway, Great Britain, Finland, Italy, USA, Portugal, Luxembourg are within 25-28 %. Somewhat lower are the expenses in Ireland, New Zealand, Slovak Republic, Spain, Japan, Czech Republic, Australia, Canada, Hungary, Poland, Greece, within 17-24 % of GDP. The lowest expenses are in Mexico, Korea, Turkey, within 7-13 % of GDP. As for Ukraine, the expenses for social protection and social support of population were only 8 % of GDP in 2011 (Statistical Journal). That is, the lower values are only in Mexico.

For the last decades sufficient growth has taken place in the OECD-member countries, which is characterized by the raise of the living standard and conditions of work, and improvements in the sphere of health care and education. But not only can the material goods contribute to the welfare in the world. The level of absolute poverty has decreased in the OECD-member countries since 1950. Economic growth is not only aimed at that, it provides the resource for solving the problems of social isolation, poverty, social protection.

The presented data proves to confirm that the developed countries have already realized the importance of the development of human capital, and all expenses for it are treated as investments in the development of the society, economy of the country, etc.

2.3. Health care as an important component of human capital investments.

Investments in human capital are provided through the system of health care and the like, which make it possible for people to be more efficient economically.

Economists, demographers, and politicians have been discussing the interrelation between the system of health care and economic welfare for a long time. The research has shown that in a poorly developed system of health care, its insufficient financing results in the age structure of the population of the country, in which retired people are the major part.

Rising of the effectiveness of the health care system contributes to the increase of income and accumulation of assets on both the house-keeping level and the state in general. It should be noted that healthy people work better and are physically and mentally stronger, that is, they are likely to be more efficient while gaining their income. Healthy people have longer life-span, thus having more possibilities to obtain economic advantages from the investments in human capital.

Improvement of health results in greater life-span which contributes to higher personal savings of people. The increase of savings of the population decreases the impact on the system of social pension maintenance and creates additional financial funds, which can be used for the further investments and assets accumulation.

The study of some research testified that the improvement of health is connected with high income. Healthy people have income 10-13 % higher than those with worse health. Families who take care of their health, produce higher assets by 25 % than those who do not take care of their health. It makes possible to transform the greater part of these assets into savings, jewelry items, real estate and long-term consuming goods, which can be used in the future for the financial support and social maintenance of retired people (reproductive health and economic development).

Better availability of the health care services can promote the economic development and help some people and families to get rid of poverty. There is plenty of research which proves the direct connection between the system of health care and the economic growth of the society.

Thus, we can conclude that there exists a close interrelation between the health of the nation and the economic development, welfare and wealth of the country. If one wants to take advantage of this situation, the country and its population must invest primarily in the field of the health care, which, as the result, will increase the profitability (efficiency) of human capital.

In Table 3 the expenses for health care in some countries are presented.

Table 3: Expenses for health care in percents of GDP (World Bank)

Country	2008	2009	2010	2011
Australia	8.8	9.0	9.0	9.0
Austria	10.5	11.1	11.0	10.6
Belarus	5.9	6.1	5.6	5.3
Belgium	10.0	10.7	10.5	10.6
Brazil	8.3	8.8	9.0	8.9
Bulgaria	7.0	7.2	7.6	7.3
Canada	10.3	11.4	11.4	11.2
Costa Rica	9.3	10.3	10.3	10.9
Croatia	7.8	7.8	7.8	7.8
Cuba	10.8	11.7	10.2	10.0
Cyprus	6.9	7.2	7.4	7.4
Czech Republic	6.8	8.0	7.5	7.4
Denmark	10.2	11.5	11.1	11.2
Finland	8.3	9.2	9.0	8.9
France	11.0	11.7	11.7	11.6
Georgia	9.0	10.2	10.2	9.9
Germany	10.7	11.7	11.5	11.1
Greece	10.9	11.2	10.8	10.8
Hungary	7.5	7.7	7.8	7.7
Iceland	9.1	9.6	9.3	9.1
India	3.9	3.9	3.7	3.9
Indonesia	2.8	2.9	2.8	2.7
Iran, Islamic Rep.	5.8	5.8	5.3	6.0
Iraq	4.9	8.5	8.5	8.3
Ireland	8.8	9.4	9.2	9.4
Israel	7.7	7.7	7.7	7.7
Italy	9.0	9.5	9.5	9.5
Jamaica	5.3	5.0	5.2	4.9
Japan	8.6	9.5	9.2	9.3
Latvia	6.6	6.8	6.7	6.2
Lithuania	6.6	7.5	7.0	6.6
Luxembourg	7.2	8.2	7.9	7.7
Marshall Islands	18.8	18.9	17.1	16.5
Mexico	5.8	6.4	6.3	6.2
Moldova	11.4	12.5	11.7	11.4
Monaco	3.6	4.2	4.4	4.4
Netherlands	11.0	12.0	12.1	12.0
New Zealand	9.3	10.0	10.1	10.1
Norway	8.6	9.7	9.3	9.1
Poland	6.9	7.2	7.0	6.7

Portugal	10.2	10.8	10.7	10.4
Romania	5.4	5.6	5.9	5.8
Russian Federation	5.1	6.2	6.5	6.2
Serbia	10.4	10.5	10.4	10.4
Slovak Republic	8.0	9.2	9.0	8.7
Slovenia	8.3	9.2	9.0	9.1
Spain	8.9	9.6	9.6	9.4
Sweden	9.2	9.9	9.6	9.4
Ukraine	6.6	7.8	7.8	7.2
United Kingdom	8.7	9.7	9.6	9.3
United States	16.6	17.7	17.6	17.9

As it is seen from Table 3 the highest expenses for health care are in the USA, 17,9 % from GDP in 2011. Then follow the countries where expenses are more than 10 %: Austria, Belgium, Denmark, France, Germany, Greece, Netherlands, Portugal, Serbia, Switzerland. The expenses in Canada, New Zealand, Australia, Norway, Costa Rica, Cuba, Finland, Georgia, Ireland, Iceland, Italy, Japan, Moldova, Slovenia, Sweden are also high enough, and make 9 -10 % of GDP.

Expenses for health care in Ukraine were 7,2 % of GDP in 2011, two years ago they were 7,8 %. That means that its amount decreases. Financing of the health care system is sufficiently lower than in economically developed countries. Besides, if we take into account the absolute expenses for its financing, they will be lower because of the constant drop of GDP during the previous years.

According to the survey of the Institute of sociology of NASU (National Academy of Sciences of Ukraine) the most required needs and the least provided are those in the health care – 51,3 %; moreover, 58,8 % of population feel the lack of health care, 43,6 % - lack of good stuff, 40,9 % - lack of good housing conditions.

According to the experts' survey of the International Organization of Health Care (IOHC), when the expenses for the health care are lower than 5 % of the GDP, the economy becomes ineffective.

The health of a nation is the major condition of the economic prosperity. It impacts greatly the economic results from the point of view of labour efficiency, labour power, human capital and the expenses of the state.

Thus, to increase the welfare of people and to raise the economy of the country it is necessary to improve the level of effectiveness of the system of health care and its availability.

3. Human capital as the key of future success of nations, states and the world

The concept of human capital as it is treated now, is the natural result of the world economic and philosophic thought. Foremost, it is connected with the development of the capital conception. V. Petty was the first to bring the idea that people together with their production abilities are the wealth themselves.

The theory of human capital studies the dependence between the enterprise worker and the state income, and knowledge and the skills of this worker. The first to prove this dependence was Adam Smith. In his main paper "Investigations on the origin and reasons of the people's wealth" he wrote that it is a worker, his skills and abilities, which produce wealth. The growth of the useful labour efficiency depends, foremost, on the raising of their capability and efficient management, and only then on the improvement of machines and instruments he works with. D. Ricardo treated the problems in the economic development as those caused by different reasons, "insufficient education of all levels of population" being one of them.

The theory of capital by I. Fisher has become the background for the appearance of different alternative conceptions of human capital. Their authors do not only include knowledge and skills of people in the notion of "human capital", not only their ability to work, but their physical, psychological, social and cultural properties and capabilities.

In the second part of the 20th century the theory of human capital started to develop rapidly and became an independent field of the world economic thought owing to the works of the American scientists Harry Backer, Jacob Mincer, Theodor Schults, etc. T. Schults was the first to publish his complex works on the theory of human capital: "Formation of the education capital" (1960) and "Investments in human capital" (1961).

From the point of view of human capital, the income of people is the natural result of decisions made earlier. That is, when a person makes a decision, they can directly influence the amount of their future income. Future income can be increased greatly while investing in your own education and professional training, your health, culture, increasing by it your own (private) human capital.

Thus, the country wishing to provide its stable economic growth must provide the proper development of human capital, which becomes the major factor of the development of the economy at the modern stage. Provision of the development of human capital is possible through the investments, which possess some peculiarities that distinguish them from other types of investments:

- investments efficiency in the human capital depends directly on the person themselves, the earlier they have been contributed, the higher their efficiency will be. But another characteristic of the investments

of human capital is that the most qualitative and constant investments result in higher and continuous outcomes;

- human capital, as any other type of capital, tends to wear out physically and morally, but it can also be accumulated and grow. Accumulation of human capital occurs during continuous training of the worker and accumulation of the production experience by him. If this process is continuous, the qualitative and quantitative characteristics of human capital can be improved and increased;
- while accumulating human capital its profitability increases till certain level, that is, till active able-bodied age, and then decreases sharply;
- as compared with the other forms of capital investments, the investments in human capital are the most profitable both for the individual and the society in whole.

Investments in human capital became the background for the stable economic development in the United States in the late 20th century. It is the United States that possesses the greatest amount of the human capital, which constitutes about three-fourths of all national wealth of the country. The data in Tables 1, 3, and in Figure 1 confirm that the USA is the world's leader in the amount of investments in education, health care and social protection of population.

4. Conclusion

The raising of living-standard of population of Ukraine must be the major direction of the development of human capital, which can be possible through the improvement of the effectiveness of the system of education functioning and its availability, improvement of health care and social protection. These are the spheres to which the government must pay special attention, providing them with the proper financing, which will result in the economic growth of the country and social welfare.

The government of the country should increase the expenses for these branches, since the increase of expenses for the development of education, health care and social protection means the raise of investments in the development of human capital. It is reasonable to stimulate private investments in the development of human capital using different tax, credit and monetary levers.

While both state and private investments contribute to the development of human capital, it is necessary to change the orientation from short-term to long-term, because it takes more time to obtain the output from the investments in human capital than investing in other forms of capital, i.e. the process of gaining output from these investments takes much more time.

Investments in education must be done during all the life of people, not only while studying at school or for a university degree. One should study and raise its qualification during all their life, meeting the demands of the market.

Availability of health care, irrespective of the people's income and area of living, must be provided to preserve and strengthen the health of population. It is reasonable to promote healthy way of living, which will result in the decrease of the state expenses for health care.

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LJUDSKI KAPITAL KAO GLAVNA INVESTICIJA U DRŽAVI BLAGOSTANJA

S a ž e t a k

Ljudski kapital postaje jedan od glavnih tipova kapitala u globalnoj ekonomiji. Ali, kao i svaki drugi kapital, i njemu su potrebna ulaganja. Sistem visokog obrazovanja, kao i zdravstvenog osiguranja i socijalne zaštite, glavna je investicija u razvoju ljudskog kapitala. Ovo je pak, sa svoje strane, osnova inovacija i ekonomskog razvoja država, nacija i međuvladinih saveza. Mnoga istraživanja su pokazala da visoko obrazovanje u velikoj meri povećava prihode pojedinca i države u celini. Ljudski kapital proizvodi nova znanja, što je ključ za budućnost. Kao rezultat toga, finansiranje razvoja ljudskog kapitala, za koje je država uglavnom odgovorna, postaje od strateškog značaja.

Ključne reči: ljudski kapital, ekonomski razvoj, zdravstveno osiguranje, visoko obrazovanje, inovacije, investicije, društvena zaštita

THE ADVANCED ECONOMIC DEVELOPMENT PROCESS AND MOTIVATING SYSTEM OF INNOVATION COMPETITION

The global economy destabilized by the world financial and economic crises raises the demand for the economic development model of new contents and the corresponding development strategy. This model is relevant for countries with post-transformation economies (for example, Ukraine) that by force of historical circumstances find themselves on the periphery of global economic leadership outside the effective redistribution of the results and the benefits of scientific and technological progress having lost their former technological, economic and political power. A new type of economic development should be based on an adequate theoretical model, its scientific basis and the practical verification of the ability of the country to ensure the transition to the innovatively intensive type of the economic growth. That sort of a model and its corresponding strategy focused on national peculiarities and specific of post-transformation economies is the model of the advanced economic development. The results of this study complete the theory of the economic development, promote the expansion of predictive tools and implementation of positive features of a modern economic theory, and can also be used by governments with post-transformation economies to develop the long-term strategies.

Key words: advanced economic development, theoretical model, institutions, economic policy.

1. Introduction

I consider that a great deal of expectations is laid on a modern economic theory by the implementation of long-term strategic goals of the world human-related economic system connected with the possibility of developing *a theoretic model of competitive economy* for the less economically successful countries. Such a model should provide the opportunities not only for catching-up devel-

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opment, but also for the advanced economic development inherent to a potential of an economic system and revealed by motivation methods.

The issue of the advanced economic development, in my opinion, is a new scientific problem that requires careful study and answers to the following questions: Are there any prerequisites for the advanced development? What is their nature, enhance conditions and the institutional mechanisms? What features create a “chance” not only to catch up, but to get ahead in the level of economic progress of the most developed countries in the world?

An advanced economic development can be considered as an arrangement of conditions for the country development at a new qualitative level - in the competition and manufacturing, the level and quality of life, foreseeing the demand structure, types and forms of meeting the demands of an innovative society, and most importantly, in human development, intellectual, creative, civic initiative.

2. Theories and methods

The economic development, as it, is a subject matter of a neoclassical economic theory and modern political economy.

Proto-theoretical and methodological foundations of the advanced economic development, in my opinion, can be found in scientific theories of such scholars as Joseph Schumpeter (the theory of economic development), James Buchanan (the economic theory of politics), Nikolay Kondratiev (the theory of long-term development cycles), Simon Kuznets (the theory of economic growth)¹, Paul Romer² and Robert Lucas³ (the theory of the “new growth”), K. Perez⁴ (the technical-economic paradigm), Grzegorz Kolodko⁵ (theory of “junction” development), Jeffrey Sachs, Joseph Stiglitz (post-keynsian), John Mayer⁶ (the development economics), Arthur Pigou, Vilfredo Pareto, Abba Lerner, Nicholas Kaldor, John Hicks, Abram Bergson, Paul Samuelson, Kenneth Arrow

¹ Kuznets, S. (1971): *Economic Growth of Nations*. Mass.: Bellknap, Cambridge

² Romer, Paul M. (1986): “Increasing Returns and Long-Run Growth”, *Journal of Political Economy*, Vol. 94, No. 5, 1002-1037, <http://pages.stern.nyu.edu/~promer/IncreasingReturns.pdf>.

³ Lukas, R. E. (2013): *Lektzii po ekkonomiceskomu rostu [Lectures on Economic Growth]*; trans from English D. Shestakov, Izd-vo Instituta Gaydara, Moscow, 103-107

⁴ Perez Carlota. (2011): *Technologicheskie revolutsii i finansoviy kapital. Dinamika puzyrey i periodov portsvetaniya [Technological revolutions and financial capital. The dynamics of bubbles and periods of prosperity]*; trans/ from Eng. F. V. Maevskiy, Izdatelskiy dom “Delo” RANHiGS, Moscow

⁵ Kolodko, Grzegorz V. (2011): *Globalizaciya, transformaciya, krizis – chto dalshe? [Globalization, Transformation, and Crisis – What’s next?]*, Magistr, Moscow

⁶ Mayer Jerald M., Raych James E., Filipenko Anton. (2003): *Osnovny problemy ekonomiky rozvytku [The main problems of development economics]*, Lybid, Kyiv

(the theory of economic welfare) etc. Among the Ukrainian theoretical scientists engaged in the research of economic development problems of new contents, it is necessary to mention Anatoliy Galchinskiy, Valeriy Geys, Andriy Hrytsenko⁷, Yuriy Zaitsev, Volodymyr Lipov, Volodymyr Savchuk, Viktor Tarasevich⁸, Lubov Fedulova and many others. The proper approach to the problem of the advanced economic development in its pure form is performed only by some Russian scientists, such as Sergey Glazyev (the anti-crisis strategy of rapid development), Alexander Buzgalin, Andrey Kolganov⁹ (the strategy of rapid development) and A. Podberiozkin (the advanced development of human capital). Taking into consideration the features of today's economic reality in comparison to the objectives of the regulatory and positive economic theory, in my opinion¹⁰ there is an objective necessity to develop a *theoretical model of the advanced economic development*.

3. Results and discussions

By the theoretical economic model I mean a set of principles on which the national economy operates, a complex of economic institutions that define the nature of an economic and social system that dominates at the expense of a high-level economic development, as well as real mechanisms to ensure the effectiveness of institutions. That is, I use the term *model* as the conventional key sets of the most important principles, institutions, forms and mechanisms for the advanced economic development.

⁷ Hrytsenko A. A., Artemova T. I., Krychevska T. O. (2012): *Instytut doviry v koordynatach ekonomichnogo prostoru-chasu: monografiia [Institute of confidence in coordinates of economic space-time: monograph]*, State Institution "Institute of Economics and Forecasting of the NAS of Ukraine", Kyiv

⁸ Zavgorodnyaya E. A., Tarasevich V. N. (2008): "O metodologicheskikh osnovaniyakh ustoychivogo raxvitiya globalnoy chelovekorazmernoy sistemy". ["On the methodological basis of research for sustainable development of the global human-system"]. *Mechanism of economic regulation*, No.3, Vol. 2, 206-218

⁹ Buzgalin A. V., Kolganov A. I.: "V poiskach budushchego Rosii: "Economika dlya cheloveka" ili Strategiya operezhayushchego razvitiya – III", 297-352, in: Buzgalin A., Krumm R. (eds.): *Rosiyские modernizatsii: diagnozy i prognozy* ["In search of Russia's future, "Economics for the Human" or the advanced development strategy – III", in: *Russian modernizations: diagnoses and forecasts*]. Vol. 16, LENAND, Moscow 2011

¹⁰ Moskalenko Oleksandra (2012): "Suchasna politychna ekonomii i meynstrim yak metodologichniy instrumentariy ekonomichnoi polityky vyperedzhayuchogo ekonomichnogo rozvytku krainy" ["The modern political economy and mainstream as the methodological instrument of economic policy of the advanced economic development"], *Herald of the National University "Law Academy of Ukraine named after Yaroslav the Wise"*. Series: *Economics and Law*, Vol. 1(8),18-19.

Based on *the principle of the reverse movement* to the interpretation of theoretical knowledge in an economic theory it opens the scope for the review and reconsideration of the theory of economic development, renovation of its main provisions in the current conditions and their practical application. In this regard, one of the theories, which we see as proto-theoretical and methodological foundations of the theory (the theoretical model) of the advanced economic development, is *the theory of the economic development* of the world-famous Austrian scientist Joseph Schumpeter. The latter [theory] refers to the prototype of a modern evolutionary theory. In this context, ex post explanations for patterns of economic development in the world, “living at different speeds”¹¹ it is logical for *the theory of the advanced economic development* to appear. The given name, I believe, determines its contents, the logic of generalization of experience, the subject areas of economic analysis, business practices and procedures, functions, and the methodological tools¹² of research. That’s why *neo-schumpeter approach* to displaying patterns of the development of economy and society, understanding the nature and character of their [Economy and Society] own transformation in the theory of the advanced economic development takes into account the qualitative change of the development goals and values of the economic being of mankind at the present stage of its existence. The theory of the advanced economic development, in turn, must pass the verification, validation of its external (the premises and conclusions, forecasts, recommendations, consistency conclusions) and internal verification (installation and analytical apparatus).

The deep meaning of the advanced economic development is seen by me as follows. *The advanced economic development* is an objective process, a key demand of the market economy and the modern society with a high degree of intellectualization. As a result, the advanced development needs to occur in the active position of the societies of national states in relation to the development of their economies in the conditions of changing of technological structures, increasing of international competition, redistributing of spheres of influence on the world economy, getting out of the global recession and ensuring sustainable growth prospects. The advanced economic development, therefore, has at its core the principle of anticipatory strategic planning for the continuous improvement and development of the production of national economies in terms of its qualitative transformation in accordance with the new technological mode of production. The essential *mechanisms of advanced development* are: innovative modernization (the constant reconstruction of existing and new equipment);

¹¹ Spence, M. (2013): *The Next Convergence: The Future of Economic Growth in the Multispeed World* / translated from English A. Kalinin; edited by O. Filatochev, Publishing House of the Gaidar Institute, Moscow

¹² Moskalenko O. M. (2012): “Vyperedzhauchy ekonomichnyi rozvytok u systemi strategichnykh potreb svitovogo suspilstva” [“The advanced economic development in the system of strategic needs of global society”], *The researchers note: collection of scientific papers*, KNEU, Kyiv. Issue 14. Part 1, 41-48.

the development and implementation of new technological processes, new high-quality competitive products that are in demand in foreign markets, judging by the current and anticipated needs of the people. The tactical goal is to provide the ability for all types of industries to perform increasing demands of a consumer, as an intellectual person, in the system of humanitarian values and needs and to be able to exceed them.

The advanced economic development at the same time serves as a set of methods and mechanisms to create conditions for the development at a more rapid pace than in other countries - in the competition and industry, the level and quality of life, anticipation of the demand structure, the type and form to meet requirements of the society. The advanced development may provide a solution to the problem of formation of *a new quality of development*, the economic system and society at a higher level, where the prospects of development are possible only in the conditions of advancement as the institutional structure and the innovation infrastructure, consolidating knowledge of government institutions and civil society, feedback to the government, business and society. The advanced economic development is based on *breakthroughs* in the methodology and methods of management of the macro and micro levels, a higher level of macro-economic management. The improved methods of governing can form a new quality of relations between the state and society and business structures, the basis of which is laid through the institution of trust in the government. Among the strategic objectives of the advanced development the initial and essential precondition is the priority for human potential development. The Person¹³ becomes a critical element, institutional resource of the advanced economic development strategy. This type of development is aimed at minimizing the boundaries of the "limits to growth" in the pessimistic scenario development models.

In the face of increasing economic instability on a global scale it is quite clear that the evolutionary path of the development for the post-transformational-type economies, such as Ukraine, is unacceptable, since it only enhances binding the model of a catch-up development, based on the system of neo-liberal values of national economies management. However, neo-liberalism as an ideology of governing is undergoing a crisis today, which is reflected in the modern global economic recession and its lingering nature and civilization specificities.

I believe that the key features of the advanced economic development, reflecting its incentive system, type and the nature of competition are as follows:

Feature 1. The advanced economic development is a type of development which provides a qualitative change in economic processes and phenomena, and thus the motivational system in the direction of strengthening of intangible incentives to work and human values growth. There has been an accelerated economic growth at a rate of at least 7% per year. Economic and social institutions

¹³ Podberezkin A. (2007): "The Human capital", in: *The Human as a factor in advanced economic development*. Moscow, www.nasledie.ru, (24.11.2007)

receive a push to advance their adaptation to the existing institutional framework. Also, there appears a qualitative substantial content of future expectations of economic agents regarding the progressive changes in the economy. These progressive changes are: the identification of advanced technologies of the future and their scientific rationale; the birth and development of future technologies within the framework of existing technological mode of production.

Feature 2. The advanced development is based on the macro-economic policy, which should provide positive economic changes. The latter provide the appearance in the national economy the optimal balance of economic agents with traditional psychology of behavior and innovators with the psychology of innovative behavior. These agents compete with each other and produce “new combinations” in the economy without diverting resources from the “old” industries. In turn, the “old” industries act as a stabilizer in time of slowdown in economic growth and give impetus to innovative industry needs through their own modernization. As a result of the need for their modernization, the “old” industries contribute to the creation of new resources in high-tech industries on the basis of the technological process of international convergence, the diffusion of innovations and their synthesis. The advanced economic development, as a process, thus contributes to the formation of the base for the emergence of advanced technologies and does not necessarily divert resources away from traditional industries but creates new resources for new industries. Thereby the advanced economic development fulfills the principle of “evolutionary expansion”¹⁴, as opposed to the principle of Schumpeterian “creative destruction.”

Feature 3. Innovative competition as the main type of competition in a model of the advanced economic development contributes to the country’s outrunning attainment of its international competitive advantage in a certain high-tech industry, or a combination thereof. Here a key role in the innovation competition is played by a concentration of entrepreneurial efforts of economic agents, free financial resources (the new capital), defining the industry’s ability to faster the development, as well as the government initiatives to implement appropriate economic policies (the exports support, an adequate for the economy needs monetary policy) .

Feature 4. The advanced development is provided by the parallel innovative modernization of traditional sectors of the economy (the principle of back support of stabilizing economic factor), the support by the state of economic agents with the traditional (“conservative”) thinking, which can act as a catalyst for economic growth post-crisis recovery in time of economic downturns in terms of instability factors in the global economy and destabilizing internal political reasons.

¹⁴ Sukharev O. S. (2012): “An evolutionary economy of J. Schumpeter and its modern development”, *Schumpeter’s reading: Proceedings of the 2nd International Scientific and Practical Conference*, Perm, 14.

Feature 5. The financial sector in the model of advanced economic development is seen as an exogenous unit, that is prone to irrational behavior or aberrations and determines the ability of economic agents (creates positive conditions or worsens them) to innovate. The developed financial sector determines *the range of financial possibilities* of economic agents, as subjects of traditional and innovative sectors of the economy, to the advanced economic development. The economic subjects in the conditions of its [the range] stability make the decision to change their status, and choose the type of innovation.

Feature 6. The optimal accumulation of intellectual capital in a model of advanced economic development creates an intellectual rent as an excess profit in the economy. The condition that determines the motivational system of the advanced economic development is the following: *the social value created by the human capital should not unduly exceed the value that is redistributed to a medium of human capital*, because *the motivation to intellectual work is lost*. However, in the advanced development the economic incentives lose their permanent value, and only partially influence the extension of scientific knowledge base. An important role is played by human curiosity, which becomes non-economic force and an advanced development engine. Creativity and the desire for public recognition and, in part, the subsequent material benefits become the main human motive.

Feature 7. The economic system in a model of the advanced development is some adaptive mechanism to complicated external and internal conditions. In its framework the choice of actions by economic agents is based on primarily non-economic objectives of motivational systems. Among these goals are not achievement of maximum profit and utility maximization, but the desire for creativity, social acceptance and positive earnings. They are aimed at achieving economic success of the country, society and individuals, in the face of uncertainty, information incompleteness and innovation competition. *The innovative competition* in the advanced economic development model is the competition between states, economic agents and individuals in particular, which moves in the sphere of knowledge. The main instruments of influence on the innovative competition market are in the action of such mechanisms as: 1) anticipatory foresight of future advanced technologies; 2) anticipatory acquisition of competitive advantages in high-tech industries; and 3) anticipatory accumulation of intellectual capital by companies and human capital expansion by individuals.

The modern type of government should be directed not only to achieve the normative values of macroeconomic aggregates, but also, and most likely and paramount, to high-quality socio-economic indicators. That's why I have the intention to propose alternative to "narrow" identities of macroeconomics the qualitative indicators of the advanced economic development, through which it manifests itself, namely:

- 1) *The advance in quality and effectiveness of the national economy state management*, which consists in developing an effective instrument of economic policy, allowing the economy to have a so-called “margin of safety”. Its provision is possible through the introduction of economic invariants into the economic system, as well as built-in automatic institutional adjusters. These include, for example, the institution of trust, its mechanism of action in the economy and reverse mechanism for effective cooperation between government, business and society.
- 2) *The advanced development of civil society*, which forms an adequate type of social and individual consciousness, the inclusion of this consciousness in the process of the country development.
- 3) *The advanced human capital development* and the advanced inclusion of human capital in the economic development process, which will allow the national economy to move to a new, higher level of economic efficiency. The world countries economic progress which, I have a certain degree of confidence, resulted from functioning of the advanced development model, was based on talented, spontaneous macro-economic solutions. These solutions became generally accepted economic practices only time later. But, anyway, these macro management mechanisms relied on the support of the human capital development, on the advanced development of human potential. Most scientists concerned with the problems of human capital, share the idea of the special importance of its impact on the growth prospects of national economies. Either way, the investment in human capital is certainly win-win, beneficial, as it allows the country to increase the efficiency of the economic system, a measure of its performance in the near future. Especially important is the priority of education development, which is manifested through investing in training specialists for priority industries of the future, high-tech, energy saving, etc.
- 4) *The advancement in the degree of maturity of the social institutions* that create economic stability, having the correct application of their functional orientation and working in the practical tradition and in accordance with the economy needs. Social institutions such as the state power institutions, the institution of law, the private property rights institution, the institution of intellectual rent, the Public Health institution, the Institution of Education and Science, and others, are able to absorb the best forms of business practices. Such forms [of business practices] are acquired by public institutions within their own obtaining or borrowing the international experience. The civilization capacity of public institutions to preserve the best traditions and national benefits is particularly important, as well as a tendency to adaptive efficiency.

- 5) *The institutional capacity of the economic system to advance* the emergence of negative forms (outside of the “system of rules”) of deviant, irrational behavior of economic agents and public institutions. This institutional capacity is provided by the insertion into the economic system of automatic exposure adjusters, namely such as legislative measures, preventive and economic ones. Thus, in advance *the conditions for the ineffectiveness of the “game”* out of a system of formal rules and informal “useful” customs and traditions are created. These essential conditions are the maturity of the market infrastructure, a favorable investment climate, a sufficient level of public sector funding, etc.
- 6) *The advanced development of the productive sectors of the future*, which is reflected in the financing of these sectors, their creating in the prevailing technological mode of production today, as well as in creating the infrastructure for them, science and technology (innovation), market.

4. Conclusions

Taking into consideration the above mentioned I have come to the conclusion that the advanced economic development should be considered as the process and an objective phenomenon due to the number of substantial motivational, social, cultural, mental reasons, laws and regularities of the economic development of the world society. The advanced economic development as a strategic need of the world society becomes consequently an appropriate response of the countries to the global challenges where the “social growth” becomes an alternative to rising inequality. The advanced economic development is nothing else but an objective reality, a phenomenon inherent to the system of economic relations that exists in potential. Such a growth is an inevitable objective process in the conditions of the review of general civilization development goals and values of humanity, their displacement to the plane of the spiritual and the material coordinates and inducing mechanisms of self-development of the economic system. The prerequisites of the advanced development are the *breakthroughs* in the methodology and methods of management of the macro- and micro-levels, in technology, formulation of strategic objectives and the implementation of social projects. Such breakthroughs become possible in the conditions of activating and using the effective endogenous motivational factors for the country development and innovative competition.

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PROCES NAPREDNOG EKONOMSKOG RAZVOJA I SISTEM MOTIVACIJE KONKURENCIJE U INOVACIJAMA

S a ž e t a k

Globalna ekonomija, uzdrmana svetskim finansijskim i ekonomskim krizama, ima sve veću potražnju za ekonomskim razvojem modela novih sadržaja i odgovarajuće strategije razvoja. Ovaj model je značajan za zemlje sa posttransformacionim ekonomijama (na primer, za Ukrajinu) koje se silom istorijskih okolnosti nalaze na periferiji globalnog ekonomskog liderstva, van efektivne preraspodele rezultata i prednosti naučnog i tehnološkog napretka, pošto su izgubile svoju raniju tehnološku, ekonomsku i političku moć. Novi tip ekonomskog razvoja treba da se zasniva na odgovarajućem teorijskom modelu, njegovoj naučnoj osnovi i praktičnoj proverbi sposobnosti zemlje da obezbedi prelazak na inovativno-intenzivni tip ekonomskog rasta. Ta vrsta modela i njena odgovarajuća strategija, usmerene na nacionalne osobenosti i specifičnosti posttransformacionih privreda, predstavljaju model naprednog ekonomskog razvoja. Rezultati ove studije upotpunjuju teoriju ekonomskog razvoja, promovišu širenje alata predviđanja i primenu pozitivnih karakteristika moderne ekonomske teorije, a mogu ih koristiti i vlade sa posttransformacionim privredama da razviju dugoročne strategije.

Ključne reči: napredni ekonomski razvoj, teorijski model, institucije, ekonomska politika

ULOGA RADIODIFUZNE REGULATIVE U OBLIKOVANJU NOVIJE ISTORIJE SRPSKE KULTURE (1944–1990)

Određujući tradicionalne elektronske medije – radio i televiziju kao kulturne artefakte, rad prikazuje njihovu genezu, počev od perioda neposredno po oslobođenju Beograda (kraj Drugog svetskog rata), kroz period samoupravnog socijalizma, do početka devedesetih godina prošlog veka. Predmet ovoga rada su specifičnosti razvoja radio-difuzije u određenom istorijskom periodu, posmatrane u širem društvenom kontekstu koji čine politička, pravna, ekonomska i druga obeležja epohe u uzajamnom prepletu. Primenjen je istorijski, deskriptivni, analitički i komparativni metod, kako bi se proverila radna hipoteza o efektivnom uticaju regulative radio-difuzije na oblikovanje i kreiranje osobenih činilaca nacionalne kulture u posmatranom društveno-istorijskom periodu. Prioritetan cilj istraživanja bio je da pokaže kakve su bile osobenosti modela regulacije radio-difuzije u periodu samoupravnog socijalizma, kakav je bio kvalitet regulatornih mera i kakvi su kulturološki učinci ostvarivani u posmatranim društveno-istorijskim datostima. Prikazano je da posmatrani period karakteriše krut državni intervencionizam u razvoju radija i televizije, opredeljen i formulisan sa stanovišta dominantne ideološke paradigme i anahron u odnosu na savremene radiodifuzne standarde koji su utemeljeni u propisima zemalja razvijenih demokratija. Takođe, rezultati istraživanja dokazuju da su u posmatranom periodu, radio i televizija ne samo uspostavili osnove za razvoj savremene radio-difuzije i kreiranje osobenog nacionalnog kulturnog identiteta, već su svojim raznovrsnim programskim formama obogatili i profilisali istorijski razvoj srpske kulture kao njen značajan činilac.

Ključne reči: radio-difuzija, regulacija, kultura, istorija, Srbija

1. Uvod

Istoriju jedne nacionalne kulture čini sveukupnost kulturnih artefakata koji nastaju i postoje u integralnom protoku vremena – uključujući prošlo, sadašnje i buduće. Od nastanka, dvadesetih odnosno pedesetih godina prošlog veka, radio i televizija su ostvarili ogroman značaj u konstituisanju kulturnih obra-

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zaca savremenih društava. Radiju i televiziji pristupamo kao svojevrsnim kulturnim artefaktima – „proizvodima“ kulture, koji istovremeno predstavljaju i svedoke ali i „proizvođače“ kulturnih dešavanja i promena. Zahvaljujući ovim mas-medijima, istorija kulture je „ubrzana“. Naime, sve naprednije tehnologije prenosa zvuka, slike i konačno, multimedija, omogućavaju da se kulturne vrednosti kreirane na različitim geografskim tačkama širom Planete razmenjuju sve brže i interaktivnije. Učesnici u toj univerzalnoj komunikaciji naizmenično smenjuju uloge emitera i recipijenata poruka. Krug korisnika kulturnih dobara koja se stvaraju i razmenjuju posredstvom radiodifuznih¹ centara u poslednjih sto godina, dosledno se uvećavao – „milioni ljudi sa različitih meridijana postaju istovremeni saučesnici jednog kulturnog događaja.“² U domaćoj teoriji i praksi izdvojila su se makar tri načina kako tradicionalni elektronski mediji učestvuju u formiranju kulturnog života i novije kulturne istorije: „najpre time što izveštavaju o celini zbivanja u kulturi, potom time što vrednuju ideje, dela i kulturna ostvarenja, i – treće – tako što i sami organizuju kulturni život i „prave“ događaje...“³ Stoga se pokazalo inspirativnim da istraživanju radio-difuzije pristupimo kao upečatljivom konstituentu kulturne istorije. Tradicionalni elektronski mediji – radio i televizija – nametnuli su se kao značajna istraživačka tema, procenjeni kriterijumima relevantnosti za nacionalnu kulturu.

Radio-difuzija funkcioniše kao podsistem unutar šire socijetalne i kulturne strukture⁴. Prema definiciji Uneska, reč je o moćnom društvenom i kulturnom podsystemu, čije funkcije nadilaze elementarne: informisanje, edukacija, zabava, oglašavanje.⁵ Budući da kulturni razvoj determiniše širi društveni kontekst koji

¹ Radio-difuziju određujemo sa značenjem tradicionalnih elektronskih medija – radija i televizije. U Velikom rečniku stranih reči i izraza, nalazimo odrednicu: „Radio-difuzija je medijska oblast emitovanja radio i televizijskih programa. Sama reč radio znači zračenje, emitovanje. Radio je emitovanje zvučnih signala putem elektromagnetnih talasa“ - Klajn I., Šipka M.: *Veliki rečnik stranih reči i izraza*, Prometej, Novi Sad 2006, 1021. Ovim određenjem se poništava terminološka zabuna uobičajena za laike, prema kojoj se radio-difuzija ograničava na emitovanje radio programa – ne i televizijskih (konfuzija nastaje usled toga što je od reči *radio* nastalo i ime za radio-stanicu i radio-aparat). Takođe se predmet ovoga rada ograničava na tradicionalne elektronske medije, i izostavlja razmatranje tzv. novih medija koji tek nastaju u procesu konvergencije medijskih sistema u najnovije doba.

² Pavlović Milivoje (ur.): *Dežurno uho epohe (Radio Beograd 1924–1999)*, Radio-televizija Srbije, Beograd 2000, 8.

³ Pavlović Milivoje, 9.

⁴ Definišući predmet izučavanja informaciono-komunikacionog sistema, autori M. Radojković i B. Stojković zaključuju: „... informacionom sistemu se pristupa kao osobenom socijetalnom sistemu, odnosno kao celini koja funkcioniše kao podsistem globalnog društva“. – Radojković M., Stojković B.: *Informaciono-komunikacioni sistemi*, Clio, Beograd 2004, 18.

⁵ Definicija Uneska precizno odražava ulogu medijskog sistema u savremenom društvu: „Postoji široko rasprostranjeno shvatanje da mediji imaju važnu ulogu u održavanju i

čine politička, pravna, ekonomska i druga obeležja epohe u uzajamnom prepletu, predmet ovog rada situiran je u jedan takav okvir i posmatran sa stanovišta uticaja koji na njegov razvoj ima pretežno pravna regulativa. Istovremeno su posmatrane strukturne korelacije između radiodifuznog sistema kao užeg, i šireg – socijalnog i kulturnog okruženja Srbije.

Predmet ovog rada je, dakle, geneza radio-difuzije i njene regulacije⁶, kao jednog dela kulturne celine Republike Srbije, posmatrana u periodu od kraja Drugog svetskog do početka devedesetih godina prošlog veka, kada su održani prvi višestranački izbori u Srbiji posle 1945. godine (1990). Tako ovaj rad predstavlja drugi deo istraživanja nastanka i geneze radio-difuzije u Srbiji i njene regulative, čiji je prvi deo pod naslovom „Državni monopol nad radio-difuzijom u Srbiji do kraja Drugog svetskog rata“, objavljen u časopisu *Megatrend revija* 2011. godine.⁷ U pomenutom prvom delu istraživanja analiziran je početni period razvoja radio-difuzije – od osnivanja radija 1924. do početka Drugog svetskog rata 1941. godine, u Kraljevini SHS odnosno Kraljevini Jugoslaviji.

Predmet rada je „istorijski“ po sebi, jer se kontinuiranim pripovedanjem razvoja jedne od poluga ili makar konstitutivne celine nacionalne kulture, tumači smisao njenog razvoja u višedecenijskom sledu. Polazeći od visokog vrednovanja uloge radio-difuzije u konstituisanju celine nacionalne kulture, formulisana je osnovna hipoteza istraživanja:

Razvoj radio-difuzije u Srbiji, uključujući i njenu regulativu u različitim društveno-istorijskim epohama, predodređivali su obrise nacionalne kulture, koja se oblikovala u prepletu sa drugim elementima društvene datosti u posmatranom vremenskom kontinuitetu.

Razvoj radio-difuzije u Srbiji predodređen je spletom agenasa među kojima politički akteri imaju naročito veliku odgovornost u konstituisanju sistema kulture, prevashodno kroz pripremu, usvajanje i sprovođenje zakona. Pretežno

negovanju demokratije, dobrog upravljanja i ljudskih prava, ali postoji malo saglasnosti o tome kako ta uloga treba da se ostvari. Deo tenzija koje se javljaju u vezi s ovim problemom potiče od toga što mediji imaju dve uloge koje se preklapaju, ali su odvojene. Mediji su mesto na kome se vode demokratske rasprave, gde se razmenjuju informacije i gde se manifestuje kulturni izraz. Ali mediji su isto tako i društveni akter sam po sebi, koji deluje kao pas čuvar u odnosu na moćne institucije (kako javne tako i privatne) i poziva vladu na odgovornost.“ - UNESCO: Indikatori razvoja javnih glasila: Okvir za procenu razvoja javnih glasila, Odobreno od Međuvladinog saveta Međunarodnog programa za razvoj komunikacija marta 2008.

⁶ Matica srpska u Rečniku srpskog jezika koji je objavljen 2007. godine, pojam regulacije određuje kao: „dovođenje u red, uređivanje (nečega) po nekom planu, (...); regulisati: podvrgnuti, podvrgavati nekim pravilima, sistemu, redu; urediti, uređivati, uskladiti, usklađivati“; i dodaje da se praksa usklađivanja odnosno zavođenja reda po nekom sistemu ostvaruje u: saobraćaju, zakonom, statutom... - *Rečnik srpskog jezika*, Matica srpska, Novi Sad 2007, 1149.

⁷ Milutinović Irina: „Državni monopol nad radio-difuzijom u Srbiji do kraja Drugog svetskog rata“, *Megatrend revija*, vol. 8 no 2, Megatrend univerzitet, Beograd 2011, 337-354.

istorijskim, analitičkim, deskriptivnim i uporednim metodološkim pristupom, prikazana je geneza radija i televizije, uključujući i njihovu pravnu regulativu, kroz društveno-istorijsku epohu samoupravnog socijalizma u Srbiji. Ovaj rad pokazuje kako su se, u posmatranom društveno-političkom sistemu, pod uticajem jednog agensa – pravne regulative, osnovne funkcije medijskog sistema prilagođavale i uticale na konstituisanje nacionalnog kulturnog habitusa. Prioritetan cilj istraživanja bio je da pokaže kakve su bile osobenosti modela regulacije radio-difuzije u posmatranom periodu, tj. kakav je bio kvalitet regulatornih mera i kakvi su kulturološki učinci posledično ostvarivani.

2. Kratak osvrt na predratni i ratni Radio Beograd

Kada je reč o počecima razvoja radio-difuzije u Srbiji, među istoričarima medija vlada nesaglasje. Prema dominantnijoj struji istraživača, razvoj radio-difuzije u Srbiji počinje 1924. godine, kada je, u februaru, u Rakovici kod Beograda, počela da radi prva radio-stanica na tlu Srbije. Uprkos uspešnim početnim koracima, ubrzo je nastupila trogodišnja pauza u radu radija, usled odluke vlade da povuče svoje subvencije u njegovom finansiranju. Radio Beograd je ponovo zvanično osnovan 24. marta 1929. godine.⁸

U periodu između dva svetska rata, poslovi organizacije i uređenja radio-difuzne delatnosti bili su u nadležnosti Ministarstva pošta i telegrafa, a osnivanje radio-stanica odvijalo se pod strogom kontrolom države.⁹ Osnovna obeležja nacionalnog zakonodavstva u početnom periodu razvoja radio-difuzije u Srbiji (1924–1941), oslanjala su se na evropski regulatorni okvir i principe tada važećeg međunarodnog zakonodavstva, koje je državi obezbeđivalo neprikosnovenu monopolsku poziciju. Pravilnici i ugovori kojima je regulisana ova oblast izražavali su izrazito restriktivnu politiku države, pojačanu cenzuru, a državni monopol koji je uspostavljen pravom osnivača, održavan je ekonomskim uslovljavanjem i finansijskim pritiscima. Osnovna obeležja tih regula bili su visok stepen centralizacije i snažna državna kontrola nad medijskim i kulturnim sadržajima, koja se sprovodi kroz široka ovlašćenja ministra kao i predsednika ministarskog saveta. Državni intervencionizam opravdavan je kako praktičnim tako i moralnim razlozima: uspostavljanje regulisanog i optimalnog korišćenja frekventijskog spektra; dopremanje radio programa do svih građana na svojoj teritoriji; zadovoljavanje javnog interesa u masovnom komuniciranju. Uprkos

⁸ Ministarski savet je subvencije obustavio usled nesalaganja sa partnerskom francuskom kompanijom TESAFI, koja je izrazila nespornost na promenjene uslove poslovanja koji su proizašli iz rešenosti vlade da polovinu sredstava preusmeri na razvoj Radio Zagreba. Upravo ovaj trogodišnji diskontinuitet u radu Radio Beograda je uporište onih istoričara koji zastupaju tezu da je radio osnovan zapravo tri godine kasnije, dakle 1929. – Opširnije u Milutinović Irina, 341-342.

⁹ Opširnije u Milutinović Irina, 339-341.

krutoj medijskoj regulativi koja je kreirala kulturne sadržaje i pravila njihove razmene u međuratnom periodu, u ovom periodu uspostavljene su nezanemarljive osnove za potonji razvoj radio-difuzije i kreiranje nacionalnog kulturnog identiteta. Brojna rešenja, odluke i standardi definisani u ovom periodu, ipak su nosili predznak „privremeni“, budući da je vlada uviđala neophodnost razvoja regulative odnosno donošenja obuhvatnijih i opštijih uredbi ili zakona o organizaciji radiodifuzne službe. Međutim, ovakav dokument nije donet. Usledio je ratni period, u kome je stavljena van snage do tada važeća nacionalna pravna regulativa. Nacionalni kontinuitet razvoja državnog radija prekida period Drugog svetskog rata, u kojem je on funkcionisao kao okupacioni *Zender Belgrade*, pod okriljem i ingerencijama nemačkog Rajha.

Radio-stanica Ratni Radio Beograd (P. K. Zender Belgrad) oglasila se 21. aprila 1941. godine.¹⁰ U okupiranoj Jugoslaviji novonastala društveno-politička situacija snažno se odrazila na status i položaj kulturnih ustanova, na čiji rad je primenjena novouspostavljena regulativa okupacionih snaga. I za Radio Beograd uspostavljeno je normativno ustrojstvo Rajha. Novoustanovljena radio-stanica pod kontrolom okupacionih vlasti, u toku rata delovala je kao glavni nemački propagandni centar za jugoistočnu Evropu i Afriku. Objedinjavanjem predajnika na Makišu i u Batajnici, stvoren je najjači propagandni punkt nemačke radio-službe koja je radio-talasima iz Beograda pokrivala Balkan, deo srednje Evrope i severne Afrike. Prepoznatljiv zvučni znak moćnog Vermahtovog Zender Belgrada bila je ljubavna balada o Lili Marlen. Prvi put oglašena u Beogradu, postala je simbol ne samo nacističke vojske, već i najpopularnija vojnička pesma u Drugom svetskom ratu.¹¹

U skladu sa propagandnom politikom nacističkog okupatora da stvori privid normalnog života u prestonici, među prioritetima okupatorske vlasti bilo je oživljavanje institucija kulture koje su u narodu važili za autoritativne. Stoga se već u prvim nedeljama okupacije radilo na uspostavljanju medijskog i kulturnog života prestonice: pokrenuti su novi dnevni listovi, proradila je pozorišna scena i radio. Oblast medijskog i kulturnog života u okupiranom Beogradu bila je regulisana nizom uredbi vojnog zapovednika u Srbiji – administrativnim aktima kojima se štiti rasni i ideološki identitet novog društvenog poretka. Propisima okupacionih snaga stavljene su u funkciju delatnosti kulturnih i medijskih institucija u Srbiji, a njihovi programi i svrha određivani su vojno-političkim interesima okupatora.

¹⁰ Nikolić M.: *Zender Belgrad*, Radio Beograd 2009, 29-42.

¹¹ Jokić Miroslav: *Istorija radiofonije u tri epohe, druga epoha*, RTS, Beograd 2004.

3. Razvoj radija u posleratnoj Jugoslaviji

Po završetku rata, Radio Beograd postaje zvanično glasilo socijalističke Jugoslavije. Radio Beograd je prvi medij koji se oglasio u oslobođenom Beogradu. Iz vagona sa sporednog koloseka beogradske Dunav stanice, 6. novembra 1944. godine, izgovorio je u mikrofon glumac Ljubiša Jovanović:

*Govori slobodna Radio-stanica Beograd. Iz slobodne prestonice Demokratske Federativne Jugoslavije, slobodna narodna radio-stanica prvi put slobodno govori.*¹²

Radio počeo je redovno da radi na ranijoj talasnoj dužini, nepune tri nedelje posle oslobođenja Beograda, kada su linije fronta bile udaljene svega stotinak kilometara. Do kraja 1944. godine, program Radio Beograda, osim saopštenja Vrhovnog štaba, izveštaja sa frontova i pisama vojnicima i zarobljenicima, ispunjavalo je i čitanje literarnih dela koja su opisivala stradanja učesnika NOB-a. Takođe, emitovana je i muzika sa ploča koje su pozajmljivali slušaoci, nastupali su hor Pozorišta narodnog oslobođenja i kulturno-umetničke ekipe vojnih jedinica koje su prolazile kroz Beograd, oglasio se i radio-orkestar. Pripremane su i posebne emisije za različite ciljne grupe slušalaca – vojsku, omladinu, pionire..., direktno prenošeni utisci iz vojnih bolnica... Posebno je naglašavan značaj radija u afirmisanju vrednosti novog društva, o smislu i ciljevima borbe za novu društveno-političku stvarnost, u čemu su naročitu ulogu imale istaknute ličnosti partizanske epopeje i aktuelnog političkog života.

Uloga Radio Beograda postala je naročito značajna na međunarodnom planu posle 1. marta 1945. godine, kada je u Moskvi okončan rad Radio Jugoslavije. Tada Radio Beograd de fakto postaje centar informativne i propagandne službe i službena stanica CK KPJ, vlade i Vrhovnog štaba. Praktično, on postaje izvor ključnih informacija, relevantna i zvanična institucija nove države, na koju se pozivaju domaća i strana sredstva informisanja.

Značaj radijskih programa u složenim političko-bezbednosnim okolnostima posle oslobođenja Beograda, za nove vlasti bio je neprocenjiv. Rat je i dalje trajao na zapadnom frontu i Dalekom istoku, neki od saveznika bili su raspoloženi da se u Jugoslaviji vaspostavi monarhija, a na planu unutrašnje politike nove vlasti su se sukobljavale sa nezanemarljivim potencijalom poražene strane. U naporima da obezbedi svoju trajnost, osigura republikansko uređenje, i pokrene razorenu privredu, nova vlast se oslanjala na radio – prepoznavši u njemu najefikasniji instrument afirmacije sopstvenih načela, budući da je štampa bila teško dostupna u širim regionima zemlje usled razorenosti puteva, železničkih pruga i mostova, a nepismenost naroda prilično rasprostranjena. Na ovom, drugom početku radija, „vesnici slobode“ su u ovom mediju videli sredstvo „duhovnog preporoditelja, vaspitača“, koji će svoju misiju ostvariti kroz „borbu za slobodu

¹² Jokić Miroslav, 23.

protiv nasilja“¹³, pod uslovom da je u rukama „pravdoljubivih i slobodoljubivih naroda“.¹³

U ranim posleratnim godinama, pažnja radijskih poslenika bila je posvećena prvenstveno osposobljavanju postojećih i instaliranju novih tehničkih resursa radi što bržeg i efikasnijeg ovladavanja radiofonskim prostorom. Posleratni period posebno karakteriše osnivanje brojnih radio-stanica u Srbiji, među kojima su najpre Radio Priština (1944) i Radio Novi Sad (1949), u statusu pokrajinskih radio-stanica, a ubrzo je osnovan i veći broj opštinskih radio-stanica. Nedugo po oslobođenju čitave zemlje, u drugoj polovini 1945. godine, dva srednjetalasna odašiljača programa delovala su u Beogradu, i po jedan u Zagrebu, Ljubljani, Mariboru, Istri, Splitu, Dubrovniku, Sarajevu, Cetinju, Osijeku, Prizrenu, Skoplju i Bitolju, kao i kratkotalasni u Beogradu i Cetinju.¹⁴ Već februara 1945. godine, „nova Jugoslavija“ počela je da se oglašava i na stranim jezicima, preko kratkih talasa Radio Beograda, širom Evrope, Azije, Afrike i Amerike, a 6. decembra 1947. Komitet za radio-difuziju vlade FNRJ otvorio je novu kratkotalasnu radio-stanicu u Beogradu. Te godine počela je i izgradnja snažnog srednjetalasnog i kratkotalasnog emisionog centra.

Aktivnosti na planu tehničkog osvajanja radiofonskog spektra pratila su strateška promišljanja vlasti o budućnosti jugoslovenske radio-difuzije u novom društveno-ekonomskom poretku. Prioritetni zadaci poslenika radija saopšteni su u Predlogu petogodišnjeg plana radiofikacije¹⁵ Jugoslavije do 1951. godine, koji je pripremio Komitet za radio-difuznu službu Savezne vlade 1947. godine. Ovim planom bilo je predviđeno, pre svega, osamostaljivanje domaće radio-industrije, povećanje broja radio-aparata na jedan milion, izgradnja mreže emisionih stanica pomoću kojih bi se obezbedio dobar prijem programa u svim krajevima zemlje i podizanje jakih kratkotalasnih stanica za propagandu u inostranstvu.¹⁶ Sugerisano je da se posebna pažnja posveti privrednim pitanjima. Od poslenika radija tražilo se što više reportaža iz preduzeća i gradilišta, svedočenja „udarnika“ o svojim rezultatima, teškoćama i problemima. Definisane su prve smernice osamostaljivanja radija u odnosu na štampu i agenciju Tanjug, uz insistiranje na tome da radio-stanice izgrađuju vlastite, autentične programe. U pomenutom dokumentu Komiteta posebno je istaknuta prednost radija među svim medijima i kao načelo uspešne radiofonske obrade emisija zahtevani „jasni, sažeti i privlačni za slušaoce, stilski i jezički doterani“ sadržaji. Ozbiljniji pomaci u realizaciji petogodišnjeg plana nastupili su u proleće 1948. godine, kada je nabavljena najsavremenija radioemisiona tehnika, a studio u ulici Kneza Miloša 16 napušten i preseljen u zgradu Zanatskog doma koja je prilagođena novoj funkciji.

¹³ Jokić Miroslav, 31.

¹⁴ Simović Ž., 175.

¹⁵ Radiofikacija = podizanje radio-instalacija, uvođenje radio-stanica.

¹⁶ Simović Ž., 1989: 188-189.

U ovom periodu razgranata je mreža dopisnika Radio Beograda. Uvećan je broj stalnih izveštača iz republičkih, pokrajinskih i oblasnih središta, i naročito broj dopisnika iz manjih mesta i sela. Misija ovih reportera bila je da izveštavaju o renesansi života u svim oblastima, pre svega o snaženju udarničkog pokreta i dostignućima trudenika u fabrikama. Oni su, takođe, imali zadatak da prate slušanost Radio Beograda u provinciji, i obaveštavaju redakciju o pretežnim interesovanjima slušalaca, kako bi se prema očekivanjima auditorijuma prilagođavali radijski sadržaji i programska šema.¹⁷ Organizujući dopisničku službu, direkcija Radio Beograda je svoje izveštače instruirala u pogledu njihovog delovanja: od dopisnika se očekivalo da izveštaje formiraju tako da „konstruktivno deluju“, da u datom momentu potpomažu određenu kampanju. Oni su imali dužnost da deluju vaspitno, odnosno da utiču na podizanje političke zrelosti pojedinca i njegov razvoj kao „društveno-političkog čoveka“.

Složeni spoljnopolički odnosi koji su nastupili kasnih četrdesetih godina i pred Radio Beograd postavljali su visoke zahteve. Povećana je odgovornost u pripremanju i prezentovanju programa, koji je u razdoblju koje je usledilo posle Rezolucije Informbiroa, stalno bio u funkciji manifestovanja odlučnosti na „samostalnom putu izgradnje socijalizma“ u Jugoslaviji. Specifična uloga radija u društvenopolitičkom aktivizmu zahtevala je iznalaženje i primenjivanje novih formi – efikasnih i efektnih sredstava kojima bi se delotvornije privlačila pažnja slušalaca na sadržaje od naročitog značaja. Nametnula se potreba za novim konceptom emitovanog programa – programskim celinama koje bi novom formom učinile efikasnijim dejstvo emitovanih sadržaja na percepciju i svest „konzumata“. Tako je nastao Dnevnik – uveden kao svakodnevna informativna emisija, u najslušanijem terminu, sa ciljem da, pored saopštavanja vesti i izveštaja, ukazuje na dublje dimenzije tumačenih odluka, objašnjava zbivanja i društvene tokove složenijim i temeljitijim vidovima novinarskog izražavanja. Kao posledica pokretanja takve emisije, došlo je do delimične reorganizacije redakcije, te su kao nezavisne jedinice osnovane Političko-informativna i Kulturno-umetnička redakcija, koje su imale svoje glavne i odgovorne urednike i kolegijalna tela. U okvirima tih redakcija novinari su se specijalizovali za praćenje i komentisanje određene problematike.

Usled napetih društvenopolitičkih okolnosti, koje su, osim izrazito zaoštrenih odnosa sa SSSR-om i posledično – turbulentnih unutarpartijskih razračunavanja, postajale sve više opterećene i porastom nacionalističkih osećanja u Jugoslaviji, Radio Beograd je funkcionisao kao snažan državni i partijski instrument, prolazeći i sam kroz faze restrukturiranja i reorganizacije, u interesu zvanične politike. Radi efikasnog suprotstavljanja Rezoluciji Informbiroa, početkom 1950. godine, iz celine programske šeme Radio Beograda po prvi put izdvojena je služba emisija za inostranstvo. Tako je, izdvajanjem emisija za inostranstvo, deo Radio Beograda postepeno prerastao u Radio Jugoslavija, koji je ubrzo formi-

¹⁷ Simović Ž., 186-187.

ran kao posebna ustanova. Intencija je bila da novoosnovani radio sledi tradiciju Radija „Slobodna Jugoslavija“ koji je delovao u ratno vreme, emitujući, od 2. novembra 1941. do 1. marta 1945. godine, programe sa misionarskim zadatkom da širi vrednosti narodnooslobodilačke borbe i revolucije u Jugoslaviji. Delovao je najpre iz Ufe na Uralu, zatim iz Moskve. U posleratnom periodu, Radio Jugoslavija ponovo je zvanično osnovan, 19. maja 1951. godine, ovoga puta sa novom misijom – koja je realizovana programom pripremanim i emitovanim isključivo prema inostranstvu.¹⁸

Nekako u isto vreme, osnovan je i „republički radio“ Srbije (finansiran iz republičkog budžeta; Radio Beograd I u to vreme još uvek je imao savezni karakter). „Republička“ radio-stanica Srbije pod nazivom Radio Beograd II, počela je da radi 25. februara 1950. Njegov osnivač bilo je Izvršno veće NR Srbije.¹⁹ Radio Beograd II reaktiviran je na talasnoj dužini 236,6 metara, kao druga srednjetalasna stanica sa sedištem u Beogradu i peta u Srbiji – ostale stanice bile su locirane u Novom Sadu, Prištini, Nišu i Zaječaru. Stanica je bila zamišljena kao samostalna radiodifuzna ustanova, pa je obrazovala kompletne redakcije i nekoliko muzičkih i zabavnih ansambala. Studijska tehnika, redakcije i administracija novog beogradskog radija smešteni su u preuređenim prostorijama u Makedonskoj ulici 21, gde su urađeni i opremljeni po jedan govorni i muzički studio. Osnivanje Radio Beograda II obrazloženo je potrebom da „prikaže slušaocima što potpuniju i pravilniju sliku političkog, ekonomskog i kulturnog života u Srbiji, a i u ostalim republikama, vodeći pri tome računa o željama i ukusu slušalaca“, kako je pisala „Politika“ na dan njegovog osnivanja.²⁰ Neki autori su ga iz ovih razloga tretirali kao Drugi program Radio Beograda.²¹

Savremenik stasavanja Radio Beograda koji je svoje svedočanstvo izneo u knjizi „Vreme radija“ Živomir Simović, navodi 1955. godinu kao početak razvoja modernog radija – prihvatajući argumente kojima se prva etapa razvoja Radio Beograda u posleratnoj Jugoslaviji završava 1949. godinom.²² Među mnogim autorima 1954/55. godina slovi za godinu stvarnog utemeljenja i naročitih dostignuća beogradskog radija, budući da upravo te godine Radio Beograd realizuje niz afirmativnih projekata na programskom nivou: počev od domaće radio-

¹⁸ Po smirivanju najkritičnijeg perioda u konfliktu sa Moskvom (posle smrti Josifa Viserionoviča Staljina, 1953), Radio Jugoslavija je ukinut, a program vraćen u sastav Radio Beograda, 1. marta 1954. godine. Međutim, ovaj radio se ponovo izdvaja i osamostaljuje, 30. januara 1978.

¹⁹ I ova radio-stanica uvedena je u funkciju po drugi put – prethodno je bila aktivna od 22. jula 1945. do 16. juna 1946.

²⁰ Simović Ž., 169.

²¹ Stoga je posle nešto više od godinu i po dana rada, Radio Beograd II ugašen, a sredstva i deo kadra vraćeni su Radio Beogradu. Međutim, istorija Radio Beograda II ovde se ne završava – on je, bilo kao samostalna radio-stanica, bilo kao Drugi program, uveden i „gašen“ nekoliko puta, dok se konačno nije ustalio 1958. godine.

²² Simović Ž., 199.

drame koja te godine ostvaruje svetski uspeh, preko razvoja obrazovne funkcije Radio Beograda, do prvog kontakt-programa koji je ostvaren 1955. godine. Takođe, informativna redakcija ostvaruje zapažene rezultate, čemu je nesumnjivo doprinelo stvaranje i razgranavanje mreže dopisnika iz inostranstva posle 1953, zahvaljujući kojima su prenosi i izveštavanja o važnijim političkim, kulturnim i sportskim zbivanjima u svetu postali aktuelniji i verodostojniji.

Značajan iskorak Radio Beograda načinjen u pravcu diversifikacije programskih sadržaja, bilo je uvođenje Drugog programa Radio Beograda – kao pomoćnog i alternativnog programa. Karakter Drugog programa određen je na sednici Programskog odbora Radio Beograda, 28. oktobra 1957, kada je opredeljen kao „pretežno lak i da služi kao dopuna Prvog programa, odnosno kao nadoknada željama slušalaca koje su im uskraćene usled opterećenosti Prvog programa“.²³ Drugi program Radio Beograda je, u manje ili više eksperimentalnoj formi, pokretan povremeno i delovao kao poseban radio nekoliko puta pre navedenog datuma. Praktično je zaživeo povodom proslave stogodišnjice rođenja Nikole Tesle, 9. februara 1958, i emitovao program najpre samo nekoliko dana nedeljno, da bi 1963. godine pristupio svakodnevnom emitovanju u trajanju od 7 časova. Ova, eksperimentalna faza uvođenja Drugog programa trajala je do 1. maja 1963. godine i poslužila za „postizanje određenih iskustava, nalaženje fizionomije i stila programa koji bi se paralelno emitovao sa Prvim programom, a da se ne poklapa s njim“.²⁴ Narednih godina tragalo se za autentičnim likom Drugog programa, specifičnim i samosvojnim, sa prepoznatljivim sadržajima koji bi ga činili suštinski i formalno različitim od Prvog. U tom periodu došlo je do programskog proširenja, a početkom 1970-ih počelo je emitovanje programa i u jutarnjem odnosno prepodnevnom terminu. Drugi program je u potpunosti ispunjavao svrhu i namenu koja je bila definisana programskom politikom Radio Beograda: delovao je kao alternativni u odnosu na Prvi, „kako bi mogao da zabavi i pouči slušaoce, s tim da bude lišen didaktičnosti i da u postizanju popularnosti ne ostane izvan pravih estetsko-naučnih stanovišta“.²⁵

Period od 1957. do 1963. godine u razvoju radija označen je kao „vreme klasične radio-drame“. Dramski program se ostvaruje u rasponu od savremenog do antičkog pozorišta i daje nemerljiv doprinos širem kulturnom razvoju. Istovremeno, ovaj period je obeležila izvesna zatvorenost u pogledu obrade psiholoških i ideološki osetljivijih tema. Ostvaruje se i značajniji razvoj programa posvećenih deci – uvećava se broj autora koji pišu za najmlađe. Pojavljuje se začetnik humora „bez lažne pedagogije“ – Dušan Radović.²⁶ Uspešan period obeležen je

²³ *Ibid.*

²⁴ *Godišnjak Radio Beograda*, 1963.

²⁵ Simović Ž., 223-224.

²⁶ Ivić Pavle *et al.* (ur.): *Istorija srpske kulture*, Dečije novine, Gornji Milanovac / Udruženje izdavača i knjižara Jugoslavije, Beograd 1992.

nagradama koje su ponele dve emisije na novoosnovanoj svetskoj smotri radio i televizijskog stvaralaštva „Prix Italia“, 1961. godine.

Period od maja 1963. do početka 1974. godine obeležen je snažnim infrastrukturnim napretkom: uvećani su sati dnevno emitovanog programa; pojačana snaga predajnika; pokrenut je Treći program (10. novembra 1965), usled izražene potrebe za „proširenjem kulturnih i naučnih sadržaja na radiju i produbljivanjem ove institucije u kulturnom životu Beograda i Republike“. ²⁷ Napredak je vidljiv kroz porast broja radio-pretplatnika od 74.000 do 850.000. ²⁸ Značajan trenutak za razvoj Radio Beograda, naročito u domenu razdvajanja programskih celina i započinjanja procesa diferencijacije publike, bio je 27. jun 1969. – datum kada je osnovan beogradski program u okviru Radio Beograda na talasnoj dužini 202 metra, popularni „Beograd 202“ ili „Dvestadvojka“, i kasnije, 1979. godine, u okviru „Beograda 202“ uvođenje još jedne inovativne koncepcije Radio Beograda zasnovane široko i fleksibilno koncipiranom konceptu „totalnog radija“ ²⁹.

Krajem šezdesetih i početkom sedamdesetih godina u jugoslovenskoj radiodifuziji opaža se pojačana inicijativa za razvoj lokalnih radio-stanica. Uporedo s tim, pojačana je i aktivnost na planu međunarodne saradnje. Po nekim autorima, sredinom sedme decenije uočen je blaži trend opadanja radijskog programskog stvaralaštva. ³⁰ U isto vreme, stasavaju nove rediteljske ličnosti koje će narednih decenija ostaviti upečatljive tragove u novim formama radio-autorstva: kroz dokumentaristiku, muzičko-govorne kolaže i sintetičke forme, i time afirmisati osobenosti „beogradske škole“ prepoznatljive u jugoslovenskom i međunarodnom etru. Razvija se dokumentaristika, te radijske adaptacije književnih dela, što uskoro (1979. i 1980) donosi visoka međunarodna priznanja Radio Beogradu. Opseg žanrova je obogaćen u dva pravca – razvojem, s jedne strane, dokumentarističko-dramskog programa, a s druge, ne manje uspešnog – muzičko-zvučnog eksperimenta. Osamdesete godine bile su sinonim za trijumf dometa programa Radio Beograda. O tome svedoči deset međunarodnih nagrada, i veći broj priznanja i visokih plasmana na svetskim festivalima. ³¹

Period od sredine sedamdesetih do kraja osamdesetih godina obeležen je naporima da se što bolje uredi odnosi u okviru celokupnog državnog informa-

²⁷ Simović Ž., 230.

²⁸ *Godišnjak Radio-televizije Beograd*, 1964.

²⁹ Smisao koncepta „totalnog radija“ bila je živa interaktivnost, koju je omogućavalo uključivanje slušalaca koji se identifikuju u programu, i reportera koji „uronjeni“ u život, u svakom trenutku gotovo čitavog dana, prate događaje u gradu. Koncept „totalnog radija“ pružao je velike mogućnosti u domenu informativne i zabavne funkcije.

³⁰ Ivić Pavle *et al.* (ur.): *Istorija srpske kulture*, Dečije novine, Gornji Milanovac / Udruženje izdavača i knjižara Jugoslavije, Beograd 1992.

³¹ Radio Beograd je, od 1985. do 1991. godine, pored priznanja za autorski radiodramski opus, osvajao sve nagrade „za emisiju u celini“ na uglednom Ohridskom festivalu. Autori zvuka takođe dobijaju sve nagrade u kategoriji „za radiofonski pristup i inovacije“, a muzički stvaraooci u kategoriji „radiofonska muzika“. - *Ibid.*

tivnog sistema i izvrši opsežna standardizacija radio-difuzije. Intencije Radija i Televizije Beograd u ovom periodu propisane su Osnivačkim aktom Republičke konferencije Socijalističkog saveza radnog naroda. Uloga ovog dokumenta u oblasti regulisanja medijskog sistema rasprostirala u širokom dijapazonu, od osnivanja novinsko-izdavačkih odnosno radiodifuznih organizacija, preko delegiranja kadrova kojima se poverava unapređivanje socijalističkih samoupravnih odnosa u javnom diskursu, do usmeravanja razvoja medijskog sistema kontrolom društvenog i političkog delovanja medijskih aktera, kroz intervencionizam sproveden u uređivačkoj politici. Među zadacima i ciljevima koji su postavljeni pred Radio Beograd, navodi se, da je Radio dužan da kroz svoju programsku politiku: razvija i produbljuje socijalističke samoupravne odnose; neguje i ojačava politiku bratstva i jedinstva i ravnopravnosti naroda u SRS i SFRJ; afirmiše tekovine NOB-a; doprinosi učvršćivanju nezavisnosti SFRJ i jačanju njenog položaja u svetu; propagira tradiciju nesvrstanosti u spoljnopoličkim odnosima...,³² a zapravo delujući u funkciji zvanične državne politike samoupravnog socijalizma.³³

Kao najmoćnije sredstvo informisanja (do nastanka televizije), radio je stalno prisutan u pravno-normativnoj regulativi FNRJ, a kasnije i SFRJ. Od 1946. godine – kada je donet prvi Ustav Federativne Narodne Republike Jugoslavije, do 1991 – kada je secesijom Republike Slovenije Socijalistička Federativna Republika Jugoslavija prestala da postoji, u Srbiji, kao i u ostalim republikama tadašnje zajedničke države, pretežno je negovan medijski sistem *samoupravno-socijalističkog tipa*. Ovakav model postojao je samo u Jugoslaviji, budući da je Jugoslavija bila jedina zemlja u svetu u kojoj je zastupljeno socijalističko samoupravljanje kao oblik društvenog uređenja. Medijski sistem Srbije u periodu posle Drugog svetskog rata do pada socijalizma, pozicioniran je između *komunističkog* i *liberalnog*³⁴ – jer je sadržao elemente oba ova modela. Razume se, nadvladao je komunistički. U poređenju sa ostalim socijalističkim zemljama – onim iza „gvozdene zavese“, liberalni aspekt u medijskom sistemu tadašnje Jugoslavije i Srbije bio je znatno naglašeniji.

Status državnog Radio Beograda menja se na samom početku 21. veka, u skladu sa savremenim zakonom kojim se uređuje oblast radio-difuzije, prema kojem je zaživela njegova transformacija u javni radijski servis, u okviru Radio

³² Simović Ž., 401-402.

³³ Ivić Pavle, *ibid.*

³⁴ Klasifikacija medijskih sistema u teoriji medija i informaciono-komunikacionih sistema, napravljena je prema načinu osnivanja i funkcionisanja elektronskih medija, pre svega radija. U našoj teoriji bila je prihvaćena podela na medijske sisteme: „1. komercijalnog tipa, 2. tipa javne službe, 3. državno-partijskog tipa, 4. samoupravno-socijalističkog tipa“. Postoje i drugačije klasifikacije medijskih sistema. Francuski teoretičar Klod-Žan Bertran takođe navodi četiri tipa medijskih sistema a naziva ih medijski režimi: 1. autoritarni režim, 2. komunistički režim, 3. liberalni režim, 4. režim društvene odgovornosti. – Radojković M.: *Savremeni informaciono-komunikacioni sistemi*, Zavod za udžbenike i nastavna sredstva, Beograd 1984, 130.

Televizije Srbije. Tokom devet decenija kontinuiranog javnog delovanja i razvoja, Radio Beograd postao je deo ne samo medijske već i opšte istorije Srbije, ostvarujući značajan doprinos u razvoju informisanja, kulture, nauke, umetnosti i obrazovanja, posebno, negujući književni govorni jezik. Posebno značajan trenutak u razvoju medijskog sistema Srbije i naročito radio-difuzije, bilo je osnivanje televizije, koja je u 20. veku slovila za najuticajniji medij. Televizija se u eksperimentalnom smislu, u svetu, pojavljuje pred sam početak Drugog svetskog rata, a njen pravi razvoj dogodio se posle rata. U Srbiji, emitovanje televizijskih programa počinje 1958. godine, kada je zvanično osnovana Televizija Beograd – razvijena iz dotadašnjeg državnog radija. Kasnije su, po istom principu, iz radio-stanica Priština i Novi Sad, osnovani pokrajinski televizijski centri.³⁵

4. Nastanak i razvoj televizije

U posleratnom periodu, u tehnološki naprednijim zemljama sveta rasplamsao se entuzijazam osvajanja televizijskih potencijala, a primat u njenom razvoju držale su Sjedinjene Američke Države. Prema izveštaju Uneska iz 1955. godine³⁶, do 1954. u svetu je zabeleženo postojanje 42 miliona televizorskih prijemnika: u SAD približno 35 miliona, a u Evropi nešto više od 5,5 miliona – prednjačila je Velika Britanija sa nešto više od četiri miliona registrovanih prijemnika. Prema navodima Uneska, televizija je bila uvedena ili se uvodila u 58 zemalja u svetu, a naprednije države su primenjivale različite modele difuzije televizijskih programa.³⁷ Prema izveštaju iz 1955. godine, većina zemalja Evrope bila je uvela televiziju ili je uvođenje bilo predviđeno te ili sledeće godine, osim u Albaniji, Grčkoj i Rumuniji – za koje nije bilo nikakvih podataka. Pored navedene Albanije, u Izveštaju je stajalo da od evropskih zemalja samo još Jugoslavija ne planira skoro uvođenje televizije.

O potrebi uvođenja televizije u Jugoslaviji se povremeno govorilo od 1947. godine. Jugoslovenska delegacija učestvovala je na konferenciji o raspodeli frekvencija za televiziju koja je održana u Stokholmu 1952. godine. Ovim planom, Jugoslavija je formalno dobila određeni broj lokacija sa određenim frekvencijama i snagama UKT (ultrakratki talasi) za svoju radijsku i televizijsku mrežu. S obzirom na položaj kome je Jugoslavija stremila u tadašnjoj konstelaciji međunarodnih odnosa, pitanje uvođenja televizije postalo je strateško državno pitanje. Radi raspravljanja mogućnosti da se Jugoslavija aktivno i konkurentno uključi u svetsku televizijsku mrežu, tokom 1954/55. godine u Beogradu je održan niz sastanaka na kojima su učestvovali predstavnici Radio Beograda, uglavnom inženjeri i tehničari. Pitanja prvobitnog razvoja preneti su na tehnička lica zaposlena u

³⁵ Veljanovski R., 63-66.

³⁶ *La television dans le monde. Suplement 1955* (Televizija u svetu, dodatak 1955).

³⁷ Žižić R.: *Kroz ekran svet*, Televizija Beograd 1986, 18-19.

Radio Beogradu. Rešenjem br. 341 od 13. septembra 1955. godine obrazovana je komisija pod predsedništvom inženjera Dragoslava Stojanovića, sa zadatkom da izradi predelaborat o uvođenju televizije u Beogradu odnosno Narodnoj Republici Srbiji i predelaborat za podizanje radio i televizijskog doma u Beogradu.³⁸ Tehnička komisija je izašla pred Kolegijum Radio Beograda sa zaključkom da preduslov uvođenja televizije predstavlja izgradnja odgovarajućih emisionih i studijskih postrojenja, i predočila prvobitne predračune o ceni izgradnje televizijske stanice i doma, koja je planirana za period 1956–1962. godine. Takođe, radio-industriji predato je u nadležnost da razmotri mogućnosti proizvodnje televizijskih prijemnika. Na osnovu Izveštaja Tehničke komisije koji je usvojen od strane Kolegijuma Radio Beograda, izrađeni su elaborati o uvođenju televizije, koji su potom dostavljani predsedniku i članovima Saveznog izvršnog veća, Izvršnom veću NR Srbije i predsedniku Narodnog odbora Beograda. Tako su formalizovani i institucionalizovani početni koraci uvođenja televizije u Jugoslaviju ranih pedesetih godina: ono se odvijalo pod pokroviteljstvom i kontrolom vlade i kompetencijama tehničkog osoblja Radio Beograda.

Javnost je temeljnije upoznata sa pitanjem uvođenja televizije prilikom održavanja izložbe povodom proslave „10-godišnjice štampe i radija“, u prostorijama Radio Beograda. Jedan izložbeni pano bio je posvećen razvoju televizije u svetu, a jedna eksperimentalna kamera je demonstrirala televizijski prenos, snimajući posetioce izložbe koji su istovremeno mogli da prate svoju sliku na instaliranom televizijskom prijemniku. Nedugo zatim, jula 1956. godine, prilikom proslave priređene u čast stote godišnjice rođenja Nikole Tesle, građanima Beograda omogućeno je da prate prvi eksperimentalni televizijski program posle 1939. godine, kada je u Filipsovom paviljonu na Beogradskom sajmu prvi put demonstriran rad televizije. Na dve lokacije u Beogradu instalirani su predajnici, koji su pokrivali jedan deo Beograda televizijskim programom emitovanim iz malog improvizovanog studija sa kamerom ljubljanskog Instituta za elektrovezu. Na nekoliko lokacija u Beogradu bili su postavljeni televizori, prvi primerci domaće proizvodnje.³⁹

Početakom 1956. Radio Beograd preuzima niz konkretnih mera – kao stručno telo Radio Beograda formiran je i pravno ustanovljen Stručni savet, sa zadatkom da razmotri tehničke mogućnosti uvođenja televizije: pitanje lokacije, snage predajnika, pretprojekta doma, i organizovan je specijalizovani kurs koji su pohađali inženjeri i tehničari Radio Beograda. Rešenjima Odbora za prosvetu SIV-a br. 436 od 2. marta 1956. i br. 483 od 6. marta 1956, formirane su komisije koja su zadužene da prouče pitanje uvođenja televizijske mreže u Jugoslaviji i o tome podnesu izveštaje i predloge Odboru. Potom je oformljena Grupa za plan i realizaciju televizijske mreže u Jugoslaviji. Komisija je podizanje televizijskih

³⁸ Leandrov I.: *Pre početka. Sećanja na pripreme za uvođenje televizijskog programa u Beogradu*, Televizija Beograd 1986, 137.

³⁹ Leandrov I., 64.

stanica sa emisionim i studijskim postrojenjima poverila Jugoslovenskoj radio-difuziji, kojoj je preneto u nadležnost zaduženje da omogući proizvodnju domaćih televizijskih prijemnika.⁴⁰ Polazeći od predloga Jugoslovenske radio-difuzije, Komisija pod predsedništvom inženjera Jovana Jankovića donela je, 17. marta 1956, zaključke:

- „da se izgradnja televizijske mreže Jugoslavije ostvaruje na osnovu principa jedinstvenog jugoslovenskog televizijskog programa sa centrom u Beogradu i dopunskim centrima u Zagrebu i Ljubljani, a kasnije eventualno i u Skoplju, Sarajevu i Titogradu;
- da se podizanje televizijskih stanica sa emisionim i studijskim postrojenjima poveri isključivo Jugoslovenskoj radio-difuziji;
- da se izgradnjom televizijske mreže FNRJ, koja bi trajala 7-10 godina, predvidi pokrivanje televizijskim programom 75 odsto teritorije Jugoslavije, tj. svih onih krajeva zemlje gde to gustina stanovništva i konfiguracija terena dozvoljava“.⁴¹

Predviđeno je da se ovaj program ostvari u nekoliko etapa, a da započne izgradnjom centra u Beogradu sa dve predajne stanice, jednim većim i jednim manjim studiom, uređajima za filmove i prenos sa terena, kao i centara u Zagrebu i Ljubljani sa predajnicima manje snage, i uspostavljanjem veze na potezu Beograd–Zagreb–Ljubljana. Za ovaj poduhvat planirane su naredne dve godine, a rukovođenje daljim pripremnim radovima izgradnje televizijske stanice u Beogradu povereno je Tehničkoj grupi. Ovoj grupi pridružene su ingerencije da razmatra ponude sa specifikacijama koje su, po pozivu Radio Beograda preko preduzeća „Jugoelektra“, upućene inostranim firmama koje proizvode uređaje za televiziju.

Vlada je obezbedila i početna finansijska sredstva. Savezno izvršno veće je, 8. juna 1956, Rešenjem br. 232, donelo Odluku o dodeljivanju sredstava za izgradnju televizijske mreže u Jugoslaviji, prema kojoj je „u društveni plan za 1956. uključena suma od 918.680 dolara i iz rezervnog fonda Federacije dinarska sredstva, bez obaveze vraćanja, u iznosu od 980 miliona 605 hiljada 760 dinara za građevinske radove i domaću opremu“.⁴² Odluku su potpisali potpredsednik i sekretar SIV-a. Tako su obezbeđena sredstva za izgradnju televizijske mreže koja će delovati po principu jedinstvenog programa za celu Jugoslaviju, sa centrom u Beogradu i dopunskim centrima u Zagrebu i Ljubljani.

Pitanje finansiranja televizije prvenstveno je razmatrano sa stanovišta projekta „jedinstvene stanice radija i televizije“. Oslanjajući se na činjenicu da je radio, bar u Srbiji, finansijski bio aktivan i – kako je prvobitno procenjeno solventan – u elaboratu „Predlog programa i organizacione šeme za TV Beograd“

⁴⁰ *Ibid.*

⁴¹ Leandrov I., 138.

⁴² U toku 1956. nije došlo do korišćenja ovih sredstava. - Leandrov I., 137-139.

iz 1956. godine iznet je zvaničan stav: „Razloge jedinstvene stanice radija i televizije treba tražiti i u potrebi jedinstvenog finansijskog računa i finansiranja“.⁴³ Računalo se s tim da će prihodi Radija, pre svega od pretplate, biti sve veći, tako da će upravo njima biti moguće pokrivati jedan deo troškova televizije, za koje je vladala opšta procena da će biti prilično veliki. Međutim, ove hrabre početne prognoze premašivalo je činjenično stanje finansijskog poslovanja radija. Pretplatnička baza na koju se računalo bila je još uvek prilično svedena, a potrebe radija za ulaganjima – velike. Premda je Radio Beograd finansijski pomagao razvoj televizije, on je ubrzo i sam dospao u težak materijalni položaj i potražio rešenje u povećanju pretplate. Realne mogućnosti radija da ulaže u televiziju bile su minimalne. S druge strane, vladalo je snažno centralističko opredeljenje koje je opravdavalo princip jedinstvenog jugoslovenskog televizijskog programa sa centrom u Beogradu, utemeljeno u činjenici da se radi o zajedničkom jugoslovenskom poduhvatu. U to vreme nije bilo moguće zamisliti funkcionisanje složenog i razuđenog sistema kao što je televizija bez nekog centralizovanog mehanizma. To nije bilo samo finansijsko pitanje. Sva materijalna pitanja ulaganja, nabavki i razvoja bila su podložna odobravanju od strane savezne vlade, te je televizija tokom prvih godina postojanja imala svoj jedinstveni budžet i tražila jedinstvena rešenja preko saveznih organa.⁴⁴ U potonjem periodu aktualizovani su procesi decentralizacije, te se to posledično očitavalo i na udeo Federacije u finansiranju televizije.

O problemima koji su pratili iznalaženje sistemskog rešenja finansiranja televizije, savremenik Igor Leandrov svedoči: „Dakle, razrešenje problema finansiranja tražilo se, u početku, na relacijama SIV – radio-stanice udružene u Jugoslovensku radio-difuziju. Kako radio-stanice nisu mogle da snose veći dodatni teret finansiranja televizije, stvorio se krug ranije nepredviđenih teškoća. Već u toku 1957. postalo je jasno da se sredstvima federacije i radio-stanica ne može pokrenuti mašinerija televizije. Konstrukcija finansiranja morala je postati šira“.⁴⁵ Pre svega, računalo se na republike i narodne odbore gradova u kojima su osnivani televizijski centri, ali i na druge moguće partnere, kao što je, na primer, bio Sajam. Međutim, teškoće su nastupale upravo stoga što su republički budžeti tokom nekoliko početnih godina televizije u Jugoslaviji držani po strani, premda su postojale najave da će republike preuzeti funkcionalne troškove televizije.⁴⁶

Razmatrajući pitanje uvođenja televizije, Savet Radio Beograda je, 9. marta 1957. godine, zaključio da se pokrene postupak za dopunu naziva firme Radio Beograda i da se postojeći naziv proširi „televizijom“. O tome Odluku je donelo Izvršno veće Narodne skupštine NR Srbije, na sednici održanoj 13. februara 1958, zamenivši Rešenje o Radio Beogradu iz 1956. godine novim Rešenjem o

⁴³ Leandrov I., 49-50.

⁴⁴ *Ibid.*

⁴⁵ Leandrov I., 51.

⁴⁶ *Ibid.*

Radio-televiziji Beograd kao ustanovi sa samostalnim finansiranjem.⁴⁷ Izmenom i proširenjem registracije delatnosti trebalo je omogućiti rad i otkloniti prepreke u pravnoj korespondenciji. Proces pripreme, uvođenja i razvoja odvijao se u sastavu Radio Beograda, što znači da su se ne samo prva materijalna već i sva ostala ulaganja u razvoj Televizije Beograd oslanjala na potencijale Radio Beograda. Novom odlukom SIV-a (Rešenje R. p. br. 202), od 15. juna 1957, dodeljen je znatno veći iznos i deviznih i dinarskih sredstava za nabavku opreme i materijala, za specijalizaciju kadrova i naknadu stranim stručnjacima za montažu, u odnosu na prvu odluku – približno milion i po dolara i milijardu i po dinara. Do odluke kojom se odobravaju veća devizna sredstva došlo je usled naknadnog izjednačavanja sva tri centra u jugoslovenskom televizijskom programu – Beograd, Zagreb, Ljubljana, te su ta sredstva drugačije i raspoređena.⁴⁸ Izgledalo je da su bar privremeno nađeni odgovori na pitanja finansiranja programa i izgradnje studija. Sklopljeni su i prvi ugovori za nabavku opreme za televiziju, avgusta i septembra 1957. godine, i to sa engleskim firmama „Markoni“, „Mol Richardson“ i „Strend“, nemačkom „Simens“ i američkom RCA (Radio Corporation of America).⁴⁹

Pored finansijske konstrukcije, jedan od važnijih aspekata u prvim fazama razvoja televizije u Jugoslaviji, bila je distinkcija ustanovljenja jedinstvene ili pak sopstvene programske politike svakog pojedinačnog studija. Ovo pitanje se ispočetka nametnulo kao ključno u konstituisanju jedinstvenog televizijskog sistema i izgradnji međuodnosa televizijskih studija, korespondirajući s protivrečnostima specifičnog društvenog razvoja pojedinih republika i zajedničke države, koje su se ogledale pretežno kroz suočavanje dva političko-ekonomska koncepta: težnje za decentralizacijom ekonomske moći i snažno izraženog političkog centralizma. Uporedo sa rastom političkih netrpeljivosti među republikama, i pitanja na planu razvoja radio-difuzije su zaoštravana, pri čemu su prvobitne ideje neretko pretvarane u sopstvenu protivrečnost. Naime, na samim počecima konstituisanja zajedničkog programa jugoslovenske televizije, još tokom 1956. godine, definisan je i podržavan princip po kome je svaki studio odgovoran za svoju programsku politiku i dužan da je usklađuje na nivou Jugoslovenske radio-difuzije sa politikom ostalih studija. Međutim, još u to vreme, ovaj princip odudarao je od vladajućih shvatanja u pojedinim republikama. Čini se da poreklo ove konfrontacije datira od početnih faza uspostavljanja radio-difuzije u Kraljevini Jugoslaviji, koje su se ispoljavale težnjama hrvatskih nadležnih institucija da pariraju konceptu radiofonizacije koji je začet i uspešno razvijan u Srbiji, zahvaljujući pre svega ugovornim bilateralnim odnosima sa francuskim partnerima. Udovoljavajući hrvatskim zvaničnicima, tadašnje nadležno ministarstvo činilo je niz ustupaka nauštrb dobrih partnerskih odnosa sa Francuzima (pro-

⁴⁷ Milošević, 1984, 97-184.

⁴⁸ Žižić R., 89-90.

⁴⁹ Žižić R., 1986, 93.

isteklim iz savezničkih vojno-političkih odnosa u Prvom svetskom ratu), što je kao posledicu imalo, između ostalog, i ukidanje prve radio-stanice u Kraljevini, te pomenuti trogodišnji prekid kontinuiteta u radu Radio Beograda. Sukob interesa nije jenjavao ni u socijalističkom poretku. O tome eksplikativno svedoči elaborat pod naslovom „Uvođenje televizije i izgradnja doma televizije“ iz 1955. godine, u kojem je naveden stav: „Rešavanje problema jedinstvenog jugoslovenskog radio, a kasnije i televizijskog programa, koji je u toku, nametnuće značajnu ulogu Radio Beogradu, te bi stvaranje solidnih materijalnih uslova, a pre svega smeštaja, bio osnov garancije da će Radio Beograd odgovoriti toj ulozi“.⁵⁰ Dakle, prema ovoj opciji, koja je svoje uporište imala u zvaničnom Beogradu, politika jedinstvenog programa bila je osnovna linija razmišljanja i svako odstupanje od tog kursa smatralo se neprihvatljivim.

S druge strane, zvanični Zagreb pokušavao je da, u skladu sa interesima sopstvene politike, relativizuje ideje koje su dolazile iz Beograda, izjašnjavajući se da „nije moguće, a čak ni potrebno, da se sada pišu neki detaljni recepti, jer će svaki studio voditi svoju vlastitu programsku politiku, pa prema tome određivati i karakter svojih emisija, usklađujući to s radom drugih studija“.⁵¹ U ovom stavu prvi put bio je otvoreno definisan princip da svaki studio odgovara za svoju sopstvenu programsku politiku. Protivrečnost postavljenih rakursa usložnjavala se s vremenom, do novembra 1958, kada je, zvanično, Savezno izvršeno veće odnosno njegov tadašnji potpredsednik Edvard Kardelj autoritativno razrešio spor, preporukama koje je dao predstavnicima Jugoslovenske radio-difuzije: „S obzirom na jezičke i druge razlike i specifičnosti koje već same po sebi onemogućavaju neki jedinstveni jugoslovenski program, drug Kardelj je predložio da se rešenje traži na koordiniranom programu, s tim da se u perspektivi uvodi što više zajedničkih programa, naročito u muzičkim emisijama, koje mogu biti od interesa za slušaocima širom čitave zemlje i u emisijama za koje su potrebna veća ulaganja“.⁵² Međutim, do definitivnog razjašnjenja pitanja da li će se negovati jedinstveni jugoslovenski program ili koordinirani, zajednički program, prošlo je dosta vremena. Ova izvršna inicijativa visokog zvaničnika države i Partije, slikovito prikazuje bit kvazidemokratskog poretka, koji se u posmatranom periodu, uprkos postojanju važećih medijskih zakona, presudno oslanjao na neprikosnoveni izvaninstitucionalni autoritet – oličen u autoritetu pojedinca.

Programska koncepcija jugoslovenske televizije definisana je u materijalu pod naslovom „Teze za diskusiju o fizionomiji jugoslovenskog televizijskog programa“, koji datira od 9. decembra 1957. godine. To je bio programski dokument

⁵⁰ Elaborat „Uvođenje televizije i izgradnja doma televizije“, 1955: 28 (navedeno prema Leandrov I., 68).

⁵¹ „Teze za diskusiju o fizionomiji jugoslovenskog TV programa“, 9. 12. 1957: 6-7 (navedeno prema Leandrov I., *ibid.*).

⁵² Zabeleška o razgovoru potpredsednika SIV-a E. Kardelja sa predstavnicima Jugoslovenske radio-difuzije, vođenog 26. 11. 1958. u Beogradu (navedeno prema Leandrov I., 1986, 69).

kojim je celovito definisana društvena uloga televizije i sasvim eksplicitno izražena njena političko-propagandna, informativna funkcija, njen sociološki značaj i uloga koja je televiziji određena u jugoslovenskom samoupravnom društvu. Nasuprot uverenjima entuzijasta koji su apostrofirali značaj stvaranja specifičnog televizijskog umetničkog izraza, i u skladu sa svojim neutilitarističkim opredeljenjem predlagali „ozbiljniji umetnički program kroz lakše i zabavnije forme“, nadvladao je funkcionalistički orijentisan koncept, po kome je televizija presudno određena kao snažan sociološki faktor – komunikaciono sredstvo s ogromnim mogućnostima da oblikuje mišljenje, formira navike, razvija kriterijum i ukus, podiže nivo kulture i obrazovanja.⁵³ Ovakav koncept instrumentalizovao je potencijale televizije u domenu informisanja i zabave u socijalističkoj stvarnosti, te se od ovog medija, kao izvanrednog propagandnog sredstva, očekivao odgovarajući društveni angažman. Naglašavana je uloga televizije u izgradnji socijalističkog društva, i pritom nije prikrivana ambicija vlasti da posedne i na najefikasniji način upotrebljava ovaj medij. Ovako deklarirano stanovište opredeljivalo je takav položaj televizije u kojoj će se idejnoj strani programa posvećivati znatno veća pažnja nego ostalim aspektima njenog delovanja.

Zvaničan početak redovnog rada Televizije Beograd obeležen je pokretanjem probnog programa 23. avgusta 1958. godine. „Istorijska premijera“ Televizije Beograd bio je prenos svečanog otvaranja Drugog sajma tehnike i tehničkih dostignuća na beogradskom Sajmištu. Tog dana je u dnevnoj štampi prvi put, uz radio-program, objavljen i program Televizije. Početak prve emisije Televizije Beograd oglašen je slikom Kalemegdana sa „Pobednikom“ i „Pesmom Beogradu“, u 8 sati i 55 minuta. Beograđani su mogli da prate program na 80 televizijskih prijemnika koji su raspoređeni na javnim mestima širom grada. Tog dana u nastavku programa emitovani su dokumentarni filmovi, a uveče i Dnevnik Televizije Beograd, potom filmska reportaža sa otvaranja Sajma, pa prva zabavna emisija i prvi umetnički film...⁵⁴ Početak emitovanja zajedničkog jugoslovenskog televizijskog programa označio je prenos Svečane akademije povodom Dana Republike, iz Narodnog pozorišta, 28. novembra 1958. g.⁵⁵ Prvi televizijski prenos sa veće udaljenosti ostvarila je ekipa Televizije Beograd 23. novembra 1959. iz Niša, povodom puštanja u saobraćaj deonice auto-puta Niš–Paraćin. Uskoro

⁵³ Koncept po kome „televizija ne sme da se bavi samo zabavom“, a dužnost elektronskih medija je u tome „da u što veći broj domova unesu što više svega onog najboljeg iz svih oblasti ljudskog znanja, stremljenja i dostignuća“, izrazio je Džon Rit, prvi direktor Bi-Bi-Sija. Iz ovako ekspliciranog zvaničnog plana ove kuće izrastao je koncept javnog servisa, čiji je najvažniji zadatak da „očuva visokomoralni ton, odnosno svako izbegavanje vulgarnog i štetnog“ (...) (prema Kin Dž, 257).

⁵⁴ Leandrov I., 110-113.

⁵⁵ Leandrov I., 115-116.

su neke od značajnih događaja koje je prenosila TV Beograd za zajednički jugoslovenski program, počele da preuzimaju Evrovizija i Intervizija.⁵⁶

Obično se za početak druge etape izgradnje televizije u Jugoslaviji uzima 1961. godina. Planovi u vezi sa drugom fazom razvoja odnosili su se pre svega na rešavanje tehničkih i komercijalnih pitanja: ranih šezdesetih godina značajno je proširena mreža televizijskih predajnika, čime su osvajani novi prostori, uvećana gledljivost televizije, i otpočela izgradnja tornja na Avali. U periodu do 1962. godine, televizija je postala značajan društveni faktor, osvojila je gledalište, eksperimentisala u različitim programskim žanrovima, tehnički i kadrovski se pripremila za prelaz na napredniju tehnologiju, i finansijski se stabilizovala (1963. bila je prva godina bez gubitaka). Do početka 1963. razrešene su protivrečnosti između savezne i republičkih ingerencija, čime je televizija decentralizovana i napokon postala republička institucija. U ovom periodu aktualizovana su istraživanja i demonstracije televizije u boji. Kako je opredeljivanje za odgovarajući sistem televizije u boji dobilo političku kontamaciju, tek novembra 1970. završena je višegodišnja rasprava odlukom Jugoslovenske radio-difuzije koju je podržao SIV, a Jugoslavija se pridružila grupi evropskih zemalja sistema PAL.

Realizacijom faze razvoja od 1965. do 1967, stvorena je znatno šira tehnička osnova. Kako je u Televiziji Beograd do tog perioda već došlo do znatne opterećenosti studijskih kapaciteta, uz sve izrazitije zahteve za novim programskim sadržajima i emisijama koje su prevazilazile kapacitete Prvog programa, rešenje je potraženo u uvođenju Drugog programa Televizije Beograd, a nagoveštene su i mogućnosti restrukturiranja i redefinisanja potreba pokrajinskih televizijskih centara.

Zakon o Drugom televizijskom programu donet je 29. januara 1971. godine, a svečani početak emitovanja Drugog programa obavljen je u podne poslednjeg dana 1971. godine, u ulici Aberdareva broj 1, što je po mnogim autorima označilo početak nove faze u razvoju Televizije Beograd – uvođenjem Drugog programa pokrenut je prvi televizijski program u boji u Jugoslaviji.⁵⁷

Uvođenje Drugog programa pratila je diferencijacija pokrajinskih televizijskih stanica. Prvobitna zamisao izražena u regulatornom dokumentu – elaboratu „Radio i televizija u Srbiji“ iz 1960. godine, bila je da u Srbiji postoji jedna radio-televizija, sa jedinstvenom materijalnom bazom u Beogradu, a da pokrajinske televizijske stanice sa sedištima u Novom Sadu i Prištini funkcionišu kao istureni studijski punktovi Televizije Beograd, sa zadatkom da informativni program dopunjuju posebnim emisijama na jezicima naroda i narodnosti u pokrajinama, dok bi ostale emisije bile deo programa Televizije Beograd. Odredbe elaborata iz 1960. delimično su primenjene u obimnom dokumentu iz 1968. godine

⁵⁶ Serija evrovizijskog prenosa političkih i sportskih događaja koje je ostvarila TV Beograd počela je februara 1961, emitovanjem potpunog pomračenja Sunca; potom je usledio prenos 12. evropskog šampionata u košarci, pa evropskog šampionata u boksu, koji je takođe održan u Beogradu.

⁵⁷ Opširnije u: Žižić R., 256-260.

pod naslovom „Projekat razvoja televizijskog programa u SAP Vojvodini 1968–1975“, kojim su nadležne institucije države opredelile program razvoja medijskog sistema u severnoj srpskoj pokrajini. U ovom dokumentu Televizija Beograd je određena kao jedinstvena tehnička, ekonomska i samoupravna celina. Međutim, novi projekat razvoja televizije u Vojvodini podrazumevao je takvu organizaciono-programsku celinu koja bi imala poseban finansijski obračun i samoupravna prava, dok je preporučivao da se postojeći način tretiranja pretplate zadrži. Navedeni elaborat podržan je ustavnim promenama 1974. godine, kojima su omogućene veće ingerencije pokrajina u svim oblastima društvene delatnosti, uključujući, dakle, i televiziju. Ubrzo se pojavio zahtev Pokrajinskog izvršnog veća SAP Vojvodine za samostalnom pokrajinskom televizijom, uz zahtev da se prihodi od TV pretplate na teritoriji Vojvodine ustupe Radiju Novi Sad za izgradnju televizijske stanice, i da se za pokrajinsku televiziju obezbede posebni kanali za predajnike, različiti od onih na kojima su radili predajnici za programe Televizije Beograd. SAP Kosovo u to vreme još nije isticala slične zahteve. Tako je završena celovitost Televizije Beograd, stvorene su samostalne televizijske stanice u pokrajinama, a sredstva predviđena za uvođenje Drugog programa raspoređena su i na potrebe osamostaljivanja TV Novi Sad i TV Priština. Do sredine sedamdesetih godina svih 100 procenata televizijske pretplate sa teritorije SAP Vojvodine pripalo je Radiju Novi Sad, čime je finansirana izgradnja i opremanje televizijskog centra u Novom Sadu, dok je televizijski centar u Prištini građen uz pomoć dotacija i kredita, budući da nije mogao da se osloni na radio-pretplatnike kojih je na teritoriji Kosova bilo malo.⁵⁸

Takozvani period standardizacije nastupio je s početkom osamdesetih godina. Na rad medija odražavao se specifičan model socijalističkog ustrojstva u Jugoslaviji. Iako je medijski sistem imao nedvosmisleno dominantna obeležja državno-partijskog tipa, njegova regulativa bila je liberalnija i otvorenija prema demokratskim standardima u poređenju sa ostalim socijalističkim zemljama. Ovaj fleksibilniji socijalistički model dozvoljavao je da se primenjuju neki od visokih međunarodnih medijskih standarda. Pozitivne tekovine ovakve kulturne politike rezultirale su formiranjem visokokvalitetnih kadrova u medijima čiji je broj tokom sedamdesetih i osamdesetih godina narastao u novinarskoj profesiji, pa i priznanjima koje su poneli pojedini domaći medijski poslenici, takmičeći se u različitim konkurencijama na međunarodnom planu. Takođe, programska politika koja je ostavrivana na radiju i televiziji svedoči o izuzetno bogatoj, razuđenoj i kvalitetnoj produkciji. Vrhunski umetnički rezultati postizani su u različitim formama savremene tematike i modernog izraza – od dokumentarnog do dramskog programa, koji je srpskoj književnosti doneo nove podžanrove kakvi su dokumentarna drama, televizijska drama i potom televizijski film. Igrani program se upotpunjuje žanrovima dramskih serija, koje nastaju kao adaptacije prozih dela, najčešće romana i zbirki pripovedaka srpskih

⁵⁸ Žižić R., 262-264.

pisaca; zatim biografskih serija i drugih serijala različite tematike, kao i igranim serijama zabavno-humorističkog tipa. Filmski program zauzima istaknuto mesto u bogatoj televizijskoj produkciji. Program za decu i obrazovni program bili su razučeni i maštoviti, takođe naslonjeni na srpsku književnu i naučnu tradiciju. U muzičkim emisijama brižljivo su negovani visoki kriterijumi umetnosti i kulture, a zabavni program je realizovan bez svakovrsne vulgarizacije. Rečju, u posmatranom periodu zastupljeni su raznovrsni, diversifikovani programski sadržaji, namenjeni najširim slojevima stanovništva razučene etničke pripadnosti, kojim su visokim standardima kvaliteta zadovoljavane kulturne potrebe. Tako je radio-difuzija usmeravala tokove nacionalne kulture.

5. Zaključak

Posmatrani period karakteriše krut državni intervencionizam u razvoju radija i televizije, opredeljen i formulisan sa stanovišta dominantne ideološke paradigme i anahron u odnosu na savremene radiodifuzne standarde koji su utemeljeni u propisima zemalja razvijenih demokratija. Takođe, rezultati istraživanja dokazuju da su u posmatranom periodu, radio i televizija ne samo uspostavili osnove za razvoj savremene radio-difuzije i kreiranje osobenog nacionalnog kulturnog identiteta, već su svojim raznovrsnim programskim formama obogatili i profilisali istorijski razvoj srpske kulture kao njen značajan činilac.

Hipoteza istraživanja, da su *razvoj radio-difuzije u Srbiji, uključujući i njenu regulativu u različitim društveno-istorijskim epohama, predodređivali obrise nacionalne kulture, koja se oblikovala u prepletu sa drugim elementima društvene datosti u posmatranom vremenskom kontinuitetu*, dokazana je kroz istorijski, deskriptivni, analitički i uporedni metod, kojim je prikazana posleratna etapa razvoja regulacije radio-difuzije u Srbiji, naročito period zakonodavne politike samoupravljačkog socijalizma, koji je determinisao normativno uređenje oblasti radio-difuzije do devedesetih godina prošlog veka. Zaključujemo da posmatrani period u razvoju regulacije radio-difuzije u Srbiji, ima svoje posebne karakteristike i značajne kulturološke implikacije:

Period od završetka Drugog svetskog rata do razrušenja samoupravnog socijalizma (1944–1990) obeležio je dominantan uticaj ideološke matrice Komunističke partije nad radiodifuznim sistemom, sa izraženo liberalnijim pristupom u odnosu na druge zemlje socijalističke provenijencije. Premda su javna glasila tretirana kao informativno-propagandna sredstva, pri čemu je zakonska regulativa temeljila vlasničke odnose na državnoj odnosno društvenoj svojini, a zakonskim normama bio osiguran direktan uticaj politike na osnivanje, organizaciju, finansiranje i izbor kadrova koji sprovode jedinstvenu uređivačku koncepciju svih medija, u ovom periodu ostvaren je uspešan, bogat i autentičan razvoj nacionalnog radiodifuznog sistema u domenu njegovih kulturnih delatnosti. Svoj nein-

formativni programski profil radio i televizija su stvarali polazeći od tradicije i savremenih tokova srpske kulture, istovremeno pokazujući otvorenost, kako za vrednosti multikulturalnog sveta, tako i za promene koje je donosio tehnološki razvoj. Radio i televizija su svojim raznovrsnim umetničkim formama obogaćivali i profilisali integralni razvoj srpske kulture kao njen značajan činilac. Najpre, radio i televizija su, stvaranjem sopstvenih žanrova – specifične radijske i televizijske umetnosti, obogatili nacionalnu kulturu. Pored toga, doprinos ovih medija sastojao se i u njihovoj primarnoj funkciji da izveštavaju, odnosno da prezentuju i popularizuju dela drugih umetnosti i kulture. Informativna i umetnička funkcija su se preplitale kroz učesće radija i televizije u posredovanju, stvaranju i proizvodnji umetničkih dela različitih žanrova (naročito je zapažen njihov doprinos u razvoju filmske umetnosti). Treće, radio-televizijsko stvaralaštvo se u posmatranom periodu uspešno opiralo eroziji vrednosti koja je u periodima koji su usledili postala više ili manje trajna odrednica takozvane masovne kulture. I konačno, radio i televizija su kao najmoćnija medijska sredstva tog doba, vršila svoju misionarsku ulogu šireći standarde nacionalne kulture i vršeći kulturnu integraciju srpskog naroda.

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THE ROLE OF BROADCASTING REGULATION IN SHAPING THE RECENT HISTORY OF SERBIAN CULTURE (1944–1990)

S u m m a r y

Determining the traditional electronic media - radio and television as cultural artifacts, the paper gives their genesis, beginning with the period immediately after the liberation of Belgrade (the end of the Second World War), through the period of self-management socialism, to the beginning of the nineties of the previous century. The subject of this paper is related to the specifics of the development of broadcasting in the historical and political epoch, seen in the broader social context outlined by mutually intertwined political, legal, economic and other characteristics of the epoch. The historical, descriptive, analytical and comparative methods have been applied, in order to test the working hypothesis about the effective impact of broadcasting regulation in the shaping and creation of distinct factors of a national culture in the observed social and historical period. The primary objective of the research was to show the characteristics of the regulation model of broadcasting in the period of self-management socialism, the quality of regulatory measures, and the cultural effects achieved in the observed social and historical circumstances. It was found that the observed period was characterized by rigid state intervention in the development of radio and television, determined and formulated from the perspective of the dominant ideological paradigm, and anachronistic in relation to contemporary broadcasting standards that are established in the regulations of the countries with the developed democracies. In addition, the results of the research show that in the observed period, radio and television did not only establish the basis for the development of modern broadcasting and the creation of a distinctive national cultural identity, but also, through a variety of program formats, enriched and gave a profile to the historical development of Serbian culture as its significant factor.

Key words: broadcasting, regulation, culture, history, Serbia

PRESTANAK UGOVORA O DOŽIVOTNOM IZDRŽAVANJU

U ovom radu uporedno-pravnim metodom i sistemskom analizom korpusa domaćih materijalno-pravnih odredbi, autor ukazuje na sve načine prestanka ugovora o doživotnom izdržavanju, a pogotovo na faktičke okolnosti koje to uzrokuju. Posebno se ističu pojedine zakonodavne nedorečenosti, kao i rešenja koja je sudska praksa zauzela u nekim spornim slučajevima. Između ostalog, definisani su poremećeni odnosi između ugovarača i promenjene okolnosti kao najčešći i najkompleksniji uzrok raskida ugovora. U zaključku se daju predlozi po kojima bi se mogle precizirati i upotpuniti pojedine nedovoljno jasne zakonske odrednice.

Ključne reči: doživotno izdržavanje, prestanak, ništavost, raskid

1. Uvod

Pojedini obligacioni ugovori naslednog prava, inače poznati i priznati u većini uporednih prava, u pravu Republike Srbije su zabranjeni. Radi se o ugovoru o nasleđivanju,¹ ugovoru o budućem nasledstvu, ugovoru o budućem legatu, ugovoru o sadržini testamenta i ugovoru o odricanju od nasledstva koje još nije otvoreno. Zakon o nasleđivanju (u daljem tekstu: ZON)² dozvoljava i normativno reguliše druga dva ugovora: ugovor o ustupanju i raspodeli imovine za života i ugovor o doživotnom izdržavanju (čl. 194-205).³ Zakonodavna skučenost je, svakako, najvažniji način zbog koga je ovaj ugovor postao jedan od najfrekventnijih u svakodnevnoj praksi i često upotrebljeni pravni modus po kome neko želi da raspoláže svojom imovinom za života.

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¹ Prednacrtom Građanskog zakonika Republike Srbije Komisija za izradu Građanskog zakonika Vlade RS alternativno je predvidela mogućnost da i ovaj ugovor bude normiran u našem zakonodavstvu (Četvrta knjiga, O nasleđivanju, Beograd 2011, čl. 181-184).

² *Službeni glasnik Republike Srbije*, 46/1995, 101/2003.

³ U Zakonu o obveznim odnosima (u daljem tekstu: ZOO RH), *Narodne novine Republike Hrvatske*, 35/2005, 41/2008, 125/2011, čl. 586-589, normiran je i ugovor o dosmrtnom izdržavanju, po kome davalac izdržavanja stiže imovinu koja je predmet ugovora kad mu, na osnovu tog ugovora, budu stvari ili prava preneti na zakonom predviđeni način sticanja. U srpskom pravu se ovakvi ugovori nazivaju „neimenovanim ugovorima sa obavezom doživotnog izdržavanja“ ili „nepravim ugovorima o doživotnom izdržavanju“.

Ugovor o doživotnom izdržavanju je jedan od najčešće zaključivanih građanskih ugovora. Svakako je najzastupljeniji ugovor naslednog prava, jer predstavlja pogodan pravni modalitet putem kog stara, bolesna i nemoćna lica, koja imaju imovinu, obezbeđuju sebi pristojan život i zadovoljenje osnovnih egzistencijalnih potreba putem čimdbi i usluga druge ugovorne strane. Po zakonskoj definiciji, to je ugovor kojim se primalac izdržavanja obavezuje da se posle njegove smrti na davaoca izdržavanja prenese svojina na tačno određenim stvarima ili pravima, koja postoje u trenutku zaključenja ugovora, dok se davalac izdržavanja obavezuje da ga, kao protivnaku za to, izdržava, brine o njemu do kraja njegovog života i posle smrti, uglavnom prema mesnim običajima, sahrani. Takvim ugovorom obezbeđuje se da lice, najčešće starije, samohrano ili usamljeno, koje ima neki zdravstveni, fizički ili drugi egzistencijalni problem, a poseduje neku nepokretnost, pokretne stvari ili kakvo drugo imovinsko pravo (pravo potraživanja, autorsko pravo, udeo u bračnoj tekovini ili privrednom društvu i sl.) koje bi se moglo unovčiti, osigura za sebe negu i potrebna materijalna davanja (najčešće u vidu hrane, lekova, odeće, obuće, davanja za svakodnevne potrebe i dr.).⁴ Pritom, najčešće se ugovara i zajednica života davaoca i primaoca izdržavanja, ali ovo nije neophodan uslov, jer stranke imaju dispozitivno pravo da slobodno urede svoja međusobna prava i obaveze. Pošto je osnovni smisao ugovora da se slabijoj strani obezbedi briga i nega, onako kako je to njoj najpogodnije,⁵ u skladu s mogućnostima davaoca izdržavanja,⁶ on ima i značajnu porodičnu, egzistencijalnu, socijalnu, moralnu i humanu konotaciju.⁷ Izdržavanje se može ugovoriti i za dva ili više lica, pri čemu svako od njih ima zasebno pravo na određena davanja i činjenja, a kada se ugovori u korist trećeg lica, davalac izdržavanja stiće svojinu na predmetnoj imovini u trenutku smrti primaoca izdržavanja, osim ukoliko nije stipulisano da svojina prelazi u trenutku smrti trećeg lica. Doživotno izdržavanje može da se ugovori u akcesornom ugovoru, koji se zaključuje prilikom ili posle zaključenja ugovora o ustupanju i raspodeli imovine za života. Najčešće se, međutim, stipuliše posebnim samostalnim ugovorom o doživotnom izdržavanju.⁸ Ovakva vrsta kontrakta predstavlja i pogodan način za sankcionisanje potencijalnih nužnih naslednika zbog loših odnosa sa članom porodice,

⁴ Kroiß Ludwig, Eckert Frank: *Erbrecht, Nomos*, Baden-Baden 2012, 170-171.

⁵ Stanković Miloš: „Ugovor o doživotnom izdržavanju u srpskom pozitivnom pravu – zaštita primaoca izdržavanja“, *Pravni život* 10/2010, 978-981.

⁶ Bénabent Alain: *Droit civil - Les contrats spéciaux civils et commerciaux*, Montchrestien, Paris 2001, 614.

⁷ Grujić Nenad: „Davalac izdržavanja kod ugovora o doživotnom izdržavanju“, *Glasnik Advokatske komore Vojvodine* 6/2011, 351; Houghton N. Rodney et. al.: „Life Care Contract - Haven or Heartache“, *Real Property, Probate and Trust Journal* 4/1981, 819-834.

⁸ Froesch Dennis: *Die Kündigung von Dauerschuldverhältnissen aus wichtigen Gründen*, GRIN Verlag GmbH, München 2010, 8-9.

jer imovina obuhvaćena ugovorom ne ulazi u njegovu zaostavštinu.⁹ Nju ne čini imovina kojom je primalac raspolagao ugovorom o doživotnom izdržavanju ili drugim ugovorima naslednog prava još za života.¹⁰

U praksi, međutim, mnogi od zaključenih ugovora bivaju raskinuti ili, barem, izloženi mnogobrojnim i dugotrajnim sudskim sporovima.¹¹ Kako bi se mogli analizirati mnogobrojni razlozi za prestanak jednom zaključenog ugovora o doživotnom izdržavanju, neophodno je prethodno utvrditi i razumeti njegovu pravnu prirodu.

2. Karakteristike ugovora

Ugovor o doživotnom izdržavanju je, pre svega, imenovan, jer ga zbog svoje pravne važnosti, učestalosti i mogućnosti za brojne nesporazume među ugovaračima imenuje i detaljno reguliše Zakon. On ga definiše kao ugovor o otuđenju uz naknadu cele ili dela imovine koja pripada primaocu izdržavanja u momentu zaključenja ugovora, dok je predaja u svojinu davaocu izdržavanja odložena do momenta smrti primaoca izdržavanja. Već po zakonskom opredeljenju vidljiva je razlika u odnosu na ugovor o nasleđivanju, bez obzira što stranke možda u njemu upotrebe neki termin koji bi upućivao na pravni posao nasleđa.¹² Sledstveno tome, ugovor o nasleđivanju je pravni posao za slučaj smrti (*mortis causa*), dok je on pravni posao među živima (*inter vivos*).¹³

Dalje, to je dvostrano obavezan ugovor, jer stvara obligacione obaveze i prava za obe ugovorne strane. Takođe je i teretan, budući da svaki od ugovarača prima protivčinidbe za prestacije koje pruža svom saugovaraču. Prema karakteru prestacije uglavnom je mešovit, mada se u praksi može dogoditi i da obaveza bude krajnje jednostavna. Važna osobina mu je i da je to ugovor sa dugotrajnim ispunjenjem obaveza. Davalac izdržavanja najčešće ima čitav niz svakodnevnih dužnosti i obaveza na davanja i postupanja, dok obaveza primaoca nije dugotrajna, ali je odložena do momenta njegove smrti. Zbog ovoga je ugovor podložan dejstvu klauzule *rebus sic stantibus* i izložen mogućnosti raskida zbog promenjenih okolnosti.

⁹ Gavella Nikola: *Pravni položaj nasljednika*, Pravni fakultet Zagreb, Zagreb/Čakovec 1983, 9-10.

¹⁰ Hrvatinić Branko: „Nasljednopravni ugovori“, *Novo nasljedno pravno uređenje*, Narodne novine, Zagreb 2003, 6.

¹¹ Stojanović Nataša: „Osvrt na pojedina sporna pitanja o ugovornom izdržavanju u domaćoj sudskoj praksi“, Vrhovni sud Srbije, *Bilten sudske prakse* 4/2006, 193.

¹² U pravnoj teoriji se smatra i da se radi o ugovoru paranaslednog karaktera, koji može posredno uticati na pravni položaj naslednika: Đurđević Dejan: „Zakon o obligacionim odnosima i ugovori o naslednom pravu“, *Pravni zbornik* 2/2009, 49.

¹³ Pravna doktrina ukazuje i na neke nedostatke koje ugovori o doživotnom izdržavanju imaju u odnosu na nasledne ugovore: Đurđević Dejan: „Uvođenje ugovora o nasleđivanju u srpsko pravo“, *Anali Pravnog fakulteta u Beogradu* 2/2009, 204-206.

To je samostalan, obligacioni ugovor *sui generis*,¹⁴ sa sporazumno utvrđenom sadržinom, i najčešće se ugovara s obzirom na lične osobine ugovornih strana (*intuitu personae*). U principu, može se zaključiti i putem punomoćnika, a u pojedinim slučajevima za njegovu validnost neophodno je da je prethodno pribavljena saglasnost nadležnog ograna starateljstva. On je očigledno i kauzalan, jer su jasno vidljive kauze i jedne i druge ugovorne strane. Može biti zaključen i u korist trećeg (*pactum in favorem tertii*), gde se jedan ugovarač (promitent) obavezuje drugom (stipulatoru, promisararu) da će obaveze koje su predmet ugovora ispuniti trećem licu (beneficijaru), pri čemu korisnik stiže sopstveno i neposredno pravo prema dužniku.

Osobina koja može značajno da utiče na razloge za prestanak ovog ugovora je, da on sadrži elemente aleatornosti.¹⁵ Odnos uzajamnih davanja zavisi od budućeg, neizvesnog događaja, a ta činjenica je dužina života primaoca izdržavanja. Pri zaključenju ugovora poznata je visina primaočeve obaveze, i to su u ugovoru pobrojane stvari i prava. Ali, visina obaveze davaoca izdržavanja izložena je riziku, jer nije unapred poznato koliko dugo će trajati. Ukoliko primaoca izdržava iz sopstvenih sredstava, ne može se znati da li će njegova obaveza prevazići vrednost imovine koja će mu naknadno pripasti, što uzrokuje da je ekonomski efekat ugovora po njega, u najvećem broju slučaja, krajnje neizvestan. Česta je situacija da su visine davanja ugovarača na kraju iznosile nejednako,¹⁶ ali se, zbog elementa aleatornosti, ugovor ne može pobijati zbog prekomernog oštećenja (*laesio enormis*).

Ugovor o doživotnom izdržavanju je strogo formalan, jer mora biti zaključen u formi *ad solemnitatem*. Tako je ona *conditio sine qua non* nastanka ugovora, jer joj je osnovni cilj zaštita prava i interesa ugovarača.¹⁷ Po odredbi zakonodavca, ugovor se mora sačiniti u pisanom obliku i biti overen od sudije. On je dužan da pre overe pročita strankama ugovor, te da posebno primaoca izdržavanja upozori da imovina koja je predmet ugovora ne ulazi u njegovu zastavštinu, kao i da se njome ne mogu namiriti ni nužni naslednici. Na samom ugovoru konstatuje se da je sudija upozorio ugovornike na posledice ugovora (tzv. klauzula o poučavanju stranaka), a zatim sopstvenim potpisom i pečatom suda overava ugovor. Dokazna funkcija javno sastavljene i potvrđene isprave

¹⁴ Bevanda Marko, Čolaković Maja: „Ugovor o doživotnom izdržavanju - povijesni prikaz i regulacija u bosanskohercegovačkom pravu“, *Zbornik radova Pravnog fakulteta Sveučilišta u Mostaru* 21/2010, 125.

¹⁵ Uglavnom se smatra da se radi o aleatornom, ali ima shvatanja i da je to mešoviti ugovor, koji sadrži pojedine karakteristike aleatornosti: Majtin Zlatko: „Ugovor o doživotnom izdržavanju i aleatornost“, *Odvjetnik* 1-2/1979, 5-7.

¹⁶ Koziol Helmut, *Welser Rudolf: Bürgerliches Recht, Band II: Welser - Schuldrecht Allgemeiner Teil, Schuldrecht Besonderer Teil, Erbrecht*, Manz, Wien 2007, 272.

¹⁷ Petrović Vanja: „Ugovor o doživotnom izdržavanju“, *Godišnjak Pravnog fakulteta Istočno Sarajevo* 1/2010, 292.

obezbeđuje validan dokaz o zaključenju ugovora određene sadržine.¹⁸ Prednacrt Građanskog zakonika predviđa mogućnost da ga validno može sačiniti i javni beležnik u obliku javnobeležničkog zapisa, uz upozorenje na posledice koje važi i za ugovor zaključen pred sudijom.¹⁹

3. Razlozi za prestanak ugovora

Uzroci koji uslovljavaju prestanak ove vrste ugovora su, pre svega, opšti razlozi, koji utiču na nevažnost svih ugovora. Jedan ugovor može biti apsolutno ili relativno ništav. Do apsolutne ništavosti može doći: ako je predmet obaveze nemoguć, nedopušten, neodređen, odnosno neodrediv; ako osnov ne postoji ili je ništav; zbog nesporazuma o prirodi ugovora ili predmetnoj obavezi; ako je ugovor protivan prinudnim propisima, javnom poretku ili dobrim običajima ili sadrži takav odložni ili raskidni uslov.²⁰ U slučaju poništaja, primalac izdržavanja dužan je da vrati davaocu sve ono što je od njega primio, a ukoliko to nije moguće, vraćanje se vrši u obliku novčane naknade, prema cenama u vreme isplate ili donošenja sudske odluke. Ako je davalac izdržavanja bio nesavestan u pogledu validnosti ugovora, sud može odbiti u celosti ili delimično njegov zahtev za restitucijom. Ugovorna strana, koja je kriva za zaključenje ništavog ugovora, odgovorna je saugovaraču za štetu koju trpi zbog ništavosti ugovora, ukoliko ovaj nije znao ili prema okolnostima slučaja nije morao znati za postojanje uzroka ništavosti.

3.1. Apsolutna ništavost

Osim navedenih, postoje i razlozi apsolutne ništavosti koji su karakteristični za ugovor o doživotnom izdržavanju:

1) Kako se on zaključuje uglavnom imajući u vidu lične osobine ugovarača, biće ništav ugovor u kome je davalac izdržavanja fizičko ili pravno lice koje se u okviru svog zanimanja, tj. delatnosti stara o primaocu izdržavanja (medicinsko osoblje, bolnice, različite agencije i sl.), a da za to prethodno nije pribavljena saglasnost nadležnog organa starateljstva.

2) Forma ugovora je bitan uslov njegove punovažnosti i, kao takva, ustanovljena je da bi se izbegle eventualne zloupotrebe i zaštitile same stranke, kao i treća lica. Budući da je ona propisana prvenstveno u korist primaoca izdržavanja, kao

¹⁸ Leipold Dieter: *BGB I: Einführung und Allgemeiner Teil*, Mohr Lehrbuch, Tübingen 2010, 187.

¹⁹ Čl. 200/3; notarska obrada ovakvog ugovora (pa i ovlašćenje notara da i sastavljaju ugovorna pismena) predviđena je i, npr., Zakonom o notarima Republike Srpske (*Službeni glasnik Republike Srpske BiH*, 86/2004), čl. 68.

²⁰ Zakon o obligacionim odnosima (u daljem tekstu: ZOO), *Službeni list SFRJ*, 29/1978, 39/1985, 45/1989, 57/1989 i *Službeni list SRJ*, 31/1993, 22/1999, 44/1999, čl. 46/2, čl. 52, 63, 10, 75/1.

slabije stranke u ugovoru, nedostatak pismene redakcije i javnog aspekta forme predstavlja zakonski osnov za njegovu ništavost i do eventualne konvalidacije ne može doći.²¹ Smatraće se da ugovor nije ni zaključen, a odnosi između strana neće se razmatrati po pravilima o doživotnom izdržavanju, već po odredbama zakona o neosnovanom obogaćenju.²² Na ništavost zbog neispunjenja forme sud pazi po službenoj dužnosti, a na nju se može pozvati svako zainteresovano lice, bez obzira na protek vremena.

3) Ako je nedopuštena pobuda bitno uticala na odluku jednog ugovarača da zaključi ugovor i ako je njegov saugovarač to znao ili je morao znati, ugovor je bez dejstva (ZOO, čl. 53/2). Ukoliko je ugovor zaključen samo s namerom da se time pravno iz nasleđa isključe ostali naslednici, a favorizuje samo jedan od njih, onda takav ugovor nema moralnu pobudu. To se može zaključiti po tome, što ugovor zaključuju primalac izdržavanja kome izdržavanje nije potrebno, i davalac izdržavanja koji ugovoreno izdržavanje ni ne može da obezbeđuje. U takvom slučaju, ugovor ne proizvodi pravno dejstvo i zakonski naslednici mogu tražiti njegov poništaj.²³

3.2. Relativna ništavost

Ugovor o doživotnom izdržavanju može biti i relativno ništav (rušljiv) i to iz dva razloga:

1) Sud može poništiti ugovor, ako zbog bolesti ili starosti primaoca izdržavanja isti nije predstavljao nikakvu neizvesnost za davaoca izdržavanja (ZON, čl. 203/1).²⁴ Radi se o slučaju kada izostaje aleatornost kao bitno obeležje ovog pravnog posla.²⁵ Ovakvo normativno rešenje ustanovljeno je u cilju sankcionisanja primaoca izdržavanja onda kada je skora smrt bila izvesna i motiv zbog koga je davalac izdržavanja uopšte i zaključio predmetni ugovor. Aleatornost treba da postoji samo na njegovoj strani i on mora biti svestan u vreme zaključenja ugovora da će njegova obaveza trajati veoma kratko, te da će time ostvariti veliku imovinsku korist.²⁶ Postupanje davaoca je, u tom slučaju, nesavesno i nemo-

²¹ Bikić Enes, Brkić Alaudin: „Materijalne i procesnopravne posledice nedostatka forme ugovora u pravnom prometu nekretnina“, *Anali Pravnog fakulteta Univerziteta u Zenici* 5/3, 148, http://prf.unze.ba/v2/anali_tekst.html (15.11.2013).

²² Raković Đorđe: „Ugovor o doživotnom izdržavanju“, *Godišnjak pravnog fakulteta u Banjoj Luci* 30/2007, 429.

²³ Presuda Apelacionog suda u Kragujevcu, Gž.1181/2011 od 26. 5. 2011.

²⁴ Slične odrednice sadržavala je i Skica profesora Konstantinovića, po kojima se ugovor mogao poništiti od strane suda, kada se utvrdi da zbog starosti ili bolesti primaoca ugovor ne predstavlja nikakav rizik za davaoca izdržavanja (Konstantinović Mihailo: *Obligacije i ugovori - Skica za zakonik o obligacijama i ugovorima*, Službeni list SRJ, Beograd 1996, čl. 948/2).

²⁵ Popivoda Dunja: „Kvaziugovor o doživotnom izdržavanju“, *Pravna riječ* 32/2012, 292.

²⁶ Presuda Vrhovnog suda Srbije, Rev.610/1997 od 14. 2. 1999.

ralno, protivno dobrim običajima i cilju zbog koga je ovakva zakonska mogućnost i ustanovljena, te vodi zloupotrebi prava.²⁷ Uzimaju se u obzir sve okolnosti slučaja, i subjektivni (svest davaoca izdržavanja i njegova pobuda) i objektivni element (faktička velika nesrazmernost u davanjima).²⁸ Drugim rečima, ugovor je nepošten, a element poštenja proističe iz teorije pravičnog rizika, odnosno unapred prihvaćene spremnosti da jedna strana dobije više ili manje nego što je dala.²⁹

Kontrakt je rušljiv, jer je pravo da traže poništaj dato samo zakonskim naslednicima primaoca izdržavanja, i to u subjektivnom roku od godinu dana od kako su saznali za ugovor, a najkasnije u objektivnom roku od tri godine od kako je primalac izdržavanja preminuo.³⁰ Međutim, ukoliko su za postojanje ugovora saznali još za života primaoca, subjektivni rok počinje da teče od primaoočeve smrti.

2) Može se dogoditi da je ugovor zaključila stranka koja je ograničeno poslovno sposobna bez saglasnosti njenog zakonskog zastupnika ili je pri njegovom zaključenju bilo mana u voljama ugovornika (npr. pretnja, bitna zabluda, prevara). Zainteresovana lica imaju pravo da traže poništaj takvog ugovora u roku od godinu dana od kako se saznalo za razlog koji uzrokuje rušljivost, tj. od kako je prestala prinuda. Apsolutni rok u kome u svakom slučaju prestaje ovo pravo ističe u roku od tri godine od dana zaključenja ugovora (ZOO, čl. 60-66, 111. i 117).

3.3. Raskid ugovora o doživotnom izdržavanju

Redovan način prestanka ugovora o doživotnom izdržavanju je njegova realizacija smrću primaoca izdržavanja, izdvajanjem ugovorene imovine iz njegove zaostavštine i prenosom vlasništva iste na novog sticaoca.³¹ Međutim, jednom zaključen, svaki ugovor može se i raskinuti, voljom jedne ili obe ugovorne strane.

²⁷ Počuča Milan: *Ugovor o doživotnom izdržavanju*, Pravni fakultet za privredu i pravosuđe, Novi Sad 2011, 103.

²⁸ Odsustvo jasno formulisanih normativnih pokazatelja i kriterijuma kada se ima smatrati da je zdravstveno stanje primaoca relevantna neizvesnost za davaoca izdržavanja u praksi može izazvati nedoumice i različita tumačenja: Ćirić Zoran, Stojanović Nataša: „Neke dileme oko poništaja ugovora o doživotnom izdržavanju“, *Pravni život* 10/2002, 610-613; rešenje Vrhovnog suda Srbije, Rev.4772/2001 od 08.11.2001.

²⁹ Đurđević Dejan: *Institucije naslednog prava*, Službeni glasnik, Beograd 2012, 270.

³⁰ Presuda Vrhovnog suda Srbije, Rev.2097/2003 od 25.06.2003.

³¹ Ako nešto drugo nije ugovoreno, ukoliko su primaoci izdržavanja oba bračna druga, obaveza davaoca je nedeljiva, te u slučaju smrti jednog od njih njegova obaveza se samo reducira i nastavlja u odnosu na drugog supružnika: Živković Borivoje: „Raskid ugovora o doživotnom izdržavanju“, *Sudska praksa* 11-12/2008, 52-53; presuda Vrhovnog suda Srbije, Rev.1202/2005 od 18. 5. 2005.

Ono što je posebno simptomatično za ovaj ugovor, jeste da se on u praksi često raskida i da je broj raskinutih veći nego broj ugovora koji je održan na snazi.³²

U slučaju raskida, validni ugovor više ne postoji, a raskid deluje samo za ubuduće (*ex nunc*). Ukoliko stranke nisu ni počele da ga ispunjavaju, ugovor nije proizveo pravno dejstvo kao da nije ni bio zaključen. Ali, ako je ugovor izvršavan, prema opštim pravilima, svaka strana dužna je da vrati ono što je primila od druge strane. Ukoliko je jedna strana i kriva zbog raskida, a postupala je s namerom ili nepažnjom, dužna je drugoj strani naknaditi i prouzrokovanu štetu. Ove obaveze može se osloboditi samo ukoliko uspe da dokaže da svoju prestaciju nije mogla da ispunjava ili je kasnila sa njenim ispunjenjem zbog okolnosti nastalih posle zaključenja ugovora koje nije mogla sprečiti, otkloniti ili izbeći (ZOO, čl. 263).³³

Ugovor se može raskinuti sporazumno, sudskom odlukom ili po sili zakona. Do raskida sudskom odlukom može doći zbog poremećenih odnosa, promene njih okolnosti ili zbog neispunjenja.

3.3.1. Sporazumni raskid

Iz načela autonomije volja ugovornih stranaka proizlazi njihovo pravo da, rukovodeći se sopstvenim interesima i potrebama, zakluče ugovor o raskidu određene sadržine, mada ova mogućnost nije izričito predviđena Zakonom o nasleđivanju.³⁴ Iz istog principa proizlazi i mogućnost da se dogovore o njegovom prestanku, mada to u praksi nije čest slučaj, ukoliko njim nisu više zadovoljne iz bilo kojeg razloga.³⁵ Ugovarači ga mogu raskinuti i pre nego što je on počeo da se realizuje, u kom slučaju ugovor praktično nije ni proizveo pravna dejstva. Ukoliko je raskinut nakon što je počeo da funkcioniše, raskid ima retroaktivan efekat, pa ugovarači treba da se dogovore i oko načina restitucije onoga što su po osnovu takvog ugovora primile. Postoji shvatanje kako se u stvari radi o novom ugovoru, kojim stranke odustaju od ranije zaključenog ugovora.³⁶

Budući da je za zaključenje ugovora o doživotnom izdržavanju zakon predvideo strogu formu, u teoriji pojavila su se dva oprečna stava o tome, da li se

³² Harkness S. Donna: „Life Care Agreements: A Contractual Jekyll and Hyde?“, *Marquette Elder's Advisor* 5/2003, 39-56.

³³ Primalac izdržavanja iz ugovora o raspodeli imovine za života može se obavezati da obezbedi doživotno izdržavanje ustupiocu ili trećem licu, pa ovaj ugovor postaje teretan, dobija sva obeležja ugovora o doživotnom izdržavanju, te u pogledu njegovog raskida podleže pravnom režimu o doživotnom izdržavanju, koji se bitno razlikuje u odnosu na klasični ugovor o raspodeli imovine za života: Svorcan Slobodan: „Raskid ugovora o ustupanju i raspodeli imovine za života“, *Pravni život* 10/2003, 208-209.

³⁴ ZOO RH izričito je normirao da ugovarači imaju pravo da sporazumno raskinu ugovor o doživotnom izdržavanju i nakon što je počelo njegovo ispunjavanje (čl. 583/1).

³⁵ Vidić Jelena: „Ugovor o doživotnom izdržavanju – primer aktuelne prakse Opštinskog suda u Novom Sadu“, *Pravni život* 10/2003, 198.

³⁶ Đurđević Dejan (2012), 264.

takav ugovor može raskinuti neformalno, sporazumom nad kojim nije sproveden postupak kao kod njegovog zaključenja. Za razliku od ranijih normativnih rešenja, važeći ZON ne reguliše sporazumni raskid ovog ugovora, te je u tom pogledu neprecizan. Prema jednom shvatanju, raskid je moguć, ali samo u formi koja je propisana za njegovo zaključenje, jer cilj zbog koga je forma za zaključenje ugovora propisana zahteva da i raskid bude učinjen u istoj formi (ZOO, čl. 68). To znači, da su stranke dužne da pismeno o raskidu predaju sudu, da im ga sudija pročita, a zatim overi svojim potpisom i pečatom suda.³⁷ Zahteva se, dakle, paralelizam formi, tj. da zaključenje ugovora i njegov raskid budu u istoj formi. Prema drugom stavu, težište se daje drugom delu iste zakonske odredbe, koji predviđa da se i formalni ugovori mogu raskinuti neformalnim sporazumom, dakle u bilo kojoj formi.³⁸ Time se, međutim, otvara mogućnost da dođe do kasnijih sporova, jer može doći do suprotstavljenih stavova davaoca izdržavanja i zakonskih naslednika primaoca o tome, da li je još uvek na snazi zaključen ugovor s određenom sadržinom ili ne. Forma raskida *ad solemnitatem* bi predupredila ovakve nesporazume, ali u pravnoj teoriji³⁹ i našoj sudskoj praksi⁴⁰ uglavnom prevladava drugo stanovište.

3.3.2. Raskid ugovora zbog poremećenih odnosa

Savremeni tempo života i kompleksnost međuljudskih interesa mogu dovesti do toga, da korektni odnosi na temelju kojih je ugovor zaključen, posle izvesnog vremena ne odgovaraju više željama i potrebama ugovornika, bez izrazitog uticaja vanrednih događaja koji bi se mogli definisati kao promenjene prilike. Ugovor o doživotnom izdržavanju je ugovor sa trajnim prestacijama, koje mogu trajati i godinama. Za to vreme, odnosi ugovornih stranaka se mogu poremetiti do tog nivoa, da postaju nepodnošljivi. U takvoj situaciji, nezadovoljna strana ima pravo da traži da se ugovor raskine. Pritom, nije potrebno da je ugovor nepodoban za obe strane, dovoljno je da su odnosi nepodnošljivi samo za jednu stranu. U svakom konkretnom slučaju neophodno je utvrditi da li je intenzitet poremećaja toliki, da on osujećuje ostvarenje cilja ugovora (*causa finalis*) i čini nemogućim dalje ispunjenje ugovornih obaveza, osim ukoliko je takav poremećaj već utvrđen u nekom drugom postupku (npr. u brakorazvodnoj parnici).⁴¹ Bilo bi nepravično takav ugovor održavati na snazi, jer je on izgubio smisao, poremećena je kauza i osujećena je potreba zaštite interesa ugovarača, najčešće

³⁷ Babić Ilija: *Nasledno pravo*, Službeni glasnik, Beograd 2008, 206.

³⁸ Počuča Milan, 136.

³⁹ Đurđević Dejan (2012), 265, fn 84.

⁴⁰ Rešenje Apelacionog suda u Novom Sadu, Gž.11157/2010 od 17.03.2011.

⁴¹ Radovanov Aleksandar, Počuča Milan: *Bračno imovinsko pravo - Porodično procesno pravo*, Pravni fakultet Univerziteta Privredna akademija, Novi Sad 2010, 69.

slabije ugovorne strane. Pri tom, nije normiran uslov da je bila ugovorena zajednica života, mada će do ovoga najčešće doći ukoliko je ona bila stipulisana.

Ako je zajednički život postojao, potrebno je da su kumulativno ispunjena dva uslova: 1) da postoji poremećenost međusobnih odnosa (objektivni razlog), i 2) da je zajednički život nepodnošljiv (subjektivni razlog).⁴² Objektivna manifestacija nepodnošljivosti ogleda se u vidljivim lošim odnosima koji sprečavaju da ugovor ostvaruje svoju funkciju, a subjektivni uslov u emocijama stranaka i njihovoj međusobnoj netrpeljivosti. Zakon ne navodi posebne uzroke zbog kojih nastaje nepodnošljiv zajednički život, jer se pretpostavlja da je nepodnošljivost posledica velike poremećenosti međusobnih odnosa. Ne mora se utvrđivati precizna mera poremećenosti, jer ne postoji opšta mera koja svaki zajednički život čini nepodnošljivim. Svestrana analiza odnosa mora ukazati na stepen poremećenosti odnosa, zbog čega ugovor gubi smisao, a takvi odnosi se mogu osnovano očekivati i u budućnosti. Netrpeljivost može uzrokovati samo jedna ili obe strane. Pri tome, nije neophodno da se davalac izdržavanja izuzetno grubo ponaša prema primaocu. Dovoljno je i nedolično i nekorektno ponašanje, zbog koga se ovaj više ne oseća primereno. Nepodnošljivost može izazvati i nepodudarnost naravi stranaka, međusobno nepoštovanje i nerazumevanje, ispunjenje ugovornih davanja na neadekvatan način, zbog čega su zajednički dalji odnosi nemogući. Može se jedan od ugovarača nalaziti u tzv. izvinjavajućoj zabludi, te da ne bi ni zaključio ugovor sa svojim saugovaračem da je znao za određene navike ili osobine druge strane, koje su kasnije dovele do poremećaja u odnosima.⁴³ I nedolično ponašanje davaočevih srodnika može predstavljati uzrok nepodnošljivog zajedničkog života, ako oni žive s njima u zajednici. Usled poremećenosti odnosa može doći do raskida ugovora i zajednice života, te pretvaranja doživotnog izdržavanja u doživotnu novčanu rentu ili određena periodična davanja u naturi.⁴⁴

Uzrok poremećaja nije od značaja za mogućnost raskida ugovora. Obe strane mogu zatražiti prestanak ugovora, pa tužbu za raskid može podneti i ona strana koja ga je skrivila.⁴⁵ Pošto je to protivno načelu *bona fide* i može voditi zloupotrebi prava, u pravnoj teoriji se ukazuje da odgovornoj strani ne bi trebalo

⁴² Babić Ilija: *Komentar Zakona o nasledjivanju*, JP Službeni list SCG, Beograd 2005, 314; presuda Vrhovnog suda Srbije, Rev.1316/2005 od 23. 6. 2005.

⁴³ Svorcan Slobodan: *Raskid ugovora o doživotnom izdržavanju*, doktorska disertacija, Pravni fakultet u Beogradu, Beograd 1987, 329.

⁴⁴ Subotić – Konstantinović Nevenka: *Ugovor o doživotnom izdržavanju*, Naučno delo, Beograd 1968, 129.

⁴⁵ Prema stavu Vrhovnog suda Republike Hrvatske (Rev-961/2001 od 12.06.2002), pravo na raskid ne pripada strani čija krivica za poremećenost odnosa ukazuje na zloupotrebu prava izazivanjem poremećenosti odnosa i nameri da zajednički život postane nepodnošljiv i time se prouzrokuje raskid ugovora.

dati pravo da raskida takav ugovor.⁴⁶ Krivica je od značaja samo za pravne posledice raskida, jer druga strana ima pravo na pravičnu naknadu.

Ukoliko je tužbu za raskidom podneo primalac izdržavanja, ali je pre pravnosnažnog okončanja parnice preminuo, smatra se da njegovi naslednici mogu da stupe na njegovo mesto i nastave spor.⁴⁷ Kada je zaključeno izdržavanje u korist trećeg, pravo na podnošenje tužbe imaju ugovarač koristi za trećeg i davalac izdržavanja, a posle smrti ugovarača koristi, raskid samostalno može zahtevati i primalac izdržavanja.

3.3.3. Raskid ugovora zbog promenjenih okolnosti

Kod ugovora sa trajnim izvršenjem prestacija, koje mogu trajati i duži niz godina, kao što je to slučaj sa doživotnim izdržavanjem, okolnosti pod kojima je isti zaključen mogu se promeniti toliko, da njegovo izvršenje postane veoma otežano za neku od stranaka. Ugovarači mogu doći u situaciju da im izvršenje ugovorne obaveze predstavlja žrtvu nesrazmernu onome što dobijaju kao protivprestaciju, te ispunjenje ugovora postaje preterano teško. U takvom slučaju, po zahtevu zainteresovanog ugovarača, sud može ugovor raskinuti ili međusobne odnose iznova urediti.

U uporednom pravu se teorija promenjenih okolnosti, tj. primena instituta klauzule *rebus sic stantibus* vrlo teško probijala kroz zakonodavstvo i jurisprudenciju.

Tako, francuski kasacioni sud uglavnom odbija da primeni shvatanje o promenjenim okolnostima kao razlog zbog koga treba modifikovati ugovor. Smatra se da se ili radi o višoj sili koja ispunjenje ugovora čini apsolutno nemogućim, pa dužnika treba osloboditi obaveze, ili je dužnik dužan da ispunji obavezu koju je na sebe preuzeo ugovorom, iako mu to čini nesrazmerni teret. Ali sud nema ovlašćenje da ublažava oneroznost i ugovor popravi u skladu s novonastalim okolnostima. Postoje predlozi da se zakonom ili ovlašćenjima suda otvori mogućnost da se ugovor izmeni ili raskine u slučaju kada je poremećena ravnoteža ugovornih davanja i ekonomija ugovora. S druge strane, ističe se i da stranke moraju biti svesne da su izložene riziku zbog dugog trajanja ugovora, te da se revizija ugovora može vršiti i primenom tzv. indeksnih klauzula (*clauses d'indexation*).⁴⁸

Za razliku od francuskih sudova, nemački su, i pre intervencije zakonodavca, izgradili prilično uniformna shvatanja o prihvatanju dejstava promenjenih okolnosti. Prema stavu nemačkog Vrhovnog suda (*Reichsgericht*), da bi se

⁴⁶ Babić Ilija (2005), 314; presuda Vrhovnog suda Republike Hrvatske, Rev.716/2005-2 od 24. 1. 2006.

⁴⁷ Paunović Siniša: „Ugovor o doživotnom izdržavanju – neka zapažanja, nedoumice i primedbe prakse“, *Izbor sudske prakse* 4/2006, 24.

⁴⁸ Čobeljić Đorđe: *Promenjene okolnosti u privrednom i građanskom pravu (Clausula rebus sic stantibus)*, Savremena administracija, Beograd 1972, 20-21.

stranka pozvala na izmenjene ekonomske prilike, trebaju kumulativno da budu ispunjena tri uslova: 1) promenjene okolnosti mora da su uzrokovale očigledne nesrazmere u uzajamnim činidbama stranaka; 2) promenu okolnosti stranke treba da nisu mogle predvideti, niti su krive za njihovo nastupanje; i 3) ispunjenje obaveze treba da je postalo nepodnošljivo za dužnika, pa bi održavanje ugovora na snazi bilo protivno načelu *Treu und Glauben*.⁴⁹

Prema švajcarskom pravu, ugovor o doživotnom izdržavanju se može raskinuti i kada je, iz opravdanih razloga, dalje ispunjavanje ugovornih prestacija postalo nemoguće ili preterano teško. Zakonom je dato ovlašćenje sudu i da na zahtev jedne strane ili *ex officio*, umesto raskida, izdržavanje pretvori u doživotnu rentu. Pritom, nije od značaja da li su razlozi nastanka problema subjektivne ili objektivne prirode.⁵⁰

U Italiji je prihvaćena teorija o promenjenim okolnostima, za dvostrano obavezne ugovore sa trajnim ili povremenim činidbama. Zainteresovana strana može tražiti raskid ugovora ukoliko je njena prestacija: 1) postala preterano teška, i 2) kao takva uzrokovana vanrednim, nepredvidljivim događajima. Raskidu nema mesta, ako se promene u ispunjenju davanja mogu podvesti pod redovan rizik ugovaranja. Ono što je najbitnije, raskidu zbog promenjenih okolnosti nema mesta kod aleatornih ugovora, kakvim se u najvećoj meri smatra da je i ugovor o doživotnom izdržavanju.⁵¹

Ideje o promenjenim okolnostima su se u engleskom pravu razvijale znatno sporije nego u kontinentalnom pravu. U načelu, engleski sudovi nisu prihvatili shvatanje o klauzuli *rebus sic stantibus* kao razlogu koji bitno podriva ugovorne odnose (*frustration of the contract*). Englesko pravo je više naklonjeno načelu *pacta sunt servanda*, te ostaje na stanovištu da se ugovor treba sprovesti do kraja onako kako je i zaključen. Raskid je moguć tek ako promenjene okolnosti osujećuju bazu ugovora, bitni cilj koji su stranke imale u vidu kada su zaključivale ugovor, te bi održavanje na snazi takvog ugovora značilo ispunjenje jednog drugog, a ne prvobitno zamišljenog ugovora.⁵²

U pravnim sistemima sa prostora bivše SFRJ normirana je mogućnost raskida zbog promenjenih okolnosti, ali je neophodno da su nastupile okolnosti koje se bitno razlikuju od onih pod kojima je ugovor zaključen.⁵³ Nije od značaja ni krivica ugovornika, ni da li je promena okolnosti nastupila iz objektivnih ili subjektivnih razloga, već da je nezavisno od volje ugovarača došlo do značajne promene lične situacije ugovornika, predmeta ugovora ili drugih prilika uop-

⁴⁹ Petrić Silvija: „Izmjena ili raskid ugovora zbog promijenjenih okolnosti prema novom Zakonu o obveznim odnosima“, *Zbornik Pravnog fakulteta Sveučilišta u Rijeci* 1/2007, 119-120.

⁵⁰ Subotić – Konstantinović Nevenka, 139-140.

⁵¹ Petrić Silvija, 118.

⁵² Čobeljić Đorđe, 34-37.

⁵³ Petrić Silvija, 127-128.

šte.⁵⁴ Pritom, potrebno je da u momentu zaključenja ugovora stranke nisu mogle predvideti njihovo nastupanje, jer bi se u protivnom smatralo da su računale na njih.⁵⁵ Dejstvo promena treba da bude ili trajno ili intenzivno, tako da osujećuje samu mogućnost pravednog izvršenja ugovora i njegovu svrhu, koja može biti i ekonomska.⁵⁶ Zbog toga je i odgovornost zaslužnog ugovornika ograničena na samo pravičan deo štete. Jasno je da je uticaju promenjenih okolnosti izloženiji davalac izdržavanja, nego primalac čije se izvršenje obaveze može obaviti jednokratno i u kratkom periodu. Ali, kada je ugovoreno da davalac izdržavanja vodi brigu o primaocu, okolnost da se zdravstveno stanje primaoca tokom vremena znatno pogoršalo nije osnovani razlog za raskid ili rekonstrukciju ugovora, jer se radi o situaciji koju je davalac mogao da očekuje i pretpostavi.

U Zakonu nije predviđeno, ali bi trebalo smatrati da ugovor neće biti raskinut ukoliko druga strana pristane da se ugovor revidira i ugovorne prestacije adaptiraju novonastaloj situaciji. Sud može pravo primaoca preinačiti u doživotnu rentu, ukoliko se s tim obe stranke slože, čime se vrši novacija ugovornih obaveza (*novatio necessaria*). Ugovarači se ne mogu punovažno unapred odreći prava na raskid ugovora zbog promenjenih okolnosti, ali se mogu odreći pozivanja na samo određene okolnosti, ukoliko takvo odricanje nije suprotno načelu savesnosti i poštenja.

Posle smrti primaoca izdržavanja, pravo na raskid ima i korisnik izdržavanja. Za života primaoca, pošto nije ni učestvovao u zaključenju ugovora, on ne može tražiti njegovu modifikaciju ili raskid, kao što ne može ni sprečiti da to učini sud.⁵⁷

3.3.4. Raskid ugovora zbog neispunjenja

Ukoliko se ugovorne obaveze ne poštuju u dužem periodu, ugovor gubi svoju svrhu. Kada jedan od kontrahenata ne ispunjava svoje obaveze, drugi može zahtevati ispunjenje njegove prestacije ostavljajući mu naknadni, primereni rok. Ukoliko ni tada prestacija ne bude ispunjena, poverilac ima pravo da raskine ugovor. U docnju mogu pasti obe ugovorne strane. Primalac izdržavanja, npr., može da ne dopusti upis predbeležbe prava davaoca izdržavanja u javne knjige (koji se čini radi obaveštavanja trećih lica o postojanju ugovora) ili da ne omogućujući davaocu izdržavanja da izvršava svoje svakodnevne obaveze. Češće, među-

⁵⁴ Subotić – Konstantinović Nevenka, 145.

⁵⁵ Perović Jelena: „Promenjene okolnosti u srpskom ugovornom pravu i izvorima uniformnog ugovornog prava“, *Anali Pravnog fakulteta u Beogradu* 1/2012, 190.

⁵⁶ Stanković Miloš: „*Alea iacta est* - Aleatornost ugovora o doživotnom izdržavanju kao ograničenije mogućnosti njegovog raskida zbog promenjenih okolnosti“, *Harmonius* 1/2012, 85.

⁵⁷ Mesarović Kosta: „Pravni položaj stranaka u ugovoru o doživotnom izdržavanju“, *Glasnik Advokatske komore u A.P. Vojvodini* 12/1963, 3.

tim, svoje obaveze ne ispunjava davalac izdržavanja. Neispunjenje može biti potpuno, kada je davalac izdržavanja u celosti zanemario svoje ugovorne obaveze, i delimično, kada ne ispunjava samo deo ugovorenih činidbi i davanja. Svoje obaveze, osim toga, davalac mora da izvršava na ugovoren i primeren način, kako bi se moglo osnovano smatrati da su potrebe primaoca zadovoljene. Kvalitativno ili kvantitativno neispunjenje obaveza protivno odredbama ugovora i u dužem vremenskom intervalu razlog su zbog koga se može tražiti raskid.⁵⁸ Povremeno neispunjenje, koje predstavlja minimalan, neznatan deo obaveza, i koje nije u službi egzistencijalnih potreba primaoca, nije razlog za prestanak ugovora, jer ne osujećuje njegovu svrhu. Da li se radi o takvoj povredi ugovornih obaveza, da one predstavljaju dovoljan razlog za raskid ugovora, faktičko je pitanje o kome sud donosi ocenu sagledavajući i uzimajući u obzir sve okolnosti slučaja.⁵⁹ Ne postoji generalan parametar koje su činidbe od većeg ili manjeg značaja, niti postoje usluge bez kojih automatski ugovor gubi svoj smisao. Treba ceniti ugovorne odredbe, potrebe primaoca, kao i šta se to smatra uobičajenim u sredini u kojoj on živi. Tek ako bi se ustanovilo da izostalo davanje ili činidba uzrokuje sve ostale prestacije beskorisnim, on nije više dužan da primi njihovo ispunjenje i može podneti tužbu za raskidom ugovora. I ukoliko se ne radi o činidbi koja je od životne važnosti, ali je njeno izostavljanje trajno, ovo neispunjenje dobija značaj bitnog neispunjenja ugovora, jer se osujećuje namera da se primalac potpuno zadovolji u svojim potrebama. Smatra se tada da primalac ne bi ni zaključio ugovor, da je znao da će izostati konkretna činidba, pa će sud trajno neispunjenje pojedine činidbe koja nije od bitne životne važnosti izjednačiti sa posledicama neispunjenja osnovnih životnih potreba primaoca izdržavanja.

Primalac se, svakako, i ne mora koristiti pravom na raskid, već može tražiti od suda da meritorno natera davaoca na ispunjenje ugovora i plaćanje naknade štete. Ovom opcijom se može koristiti i kada se radi o sporadičnom i neznatnom neizvršenju dela obaveze.

3.3.5. Raskid ugovora po sili zakona

Tokom trajanja ugovora moguće je da umre davalac izdržavanja. Ako na to pristanu bračni drug i potomci, ugovorene obaveze prelaze na njih.⁶⁰ Dakle, prava i obaveze davaoca izdržavanja su relativno nasledivi, jer ih mogu preuzeti njegov supružnik i deca,⁶¹ i to tako, što će sa primaocem izdržavanja sačiniti novi ugovor. Intencija zakonodavca je da se pravna dejstva ugovora nastave, jer je to u interesu slabije ugovorne strane, pa se obaveze prenose na ograničeni krug lica,

⁵⁸ Panov Slobodan, Antić Oliver: *Porodično pravo & Nasledno pravo*, Projuris, Beograd 2008, 177; presuda Vrhovnog suda Srbije, Rev.2858/2005 od 22. 2. 2006.

⁵⁹ Presuda Vrhovnog suda Srbije, Rev.5023/1997 od 21. 1. 1998.

⁶⁰ Babić Ilija: *Leksikon obligacionog prava*, JP Službeni list SRJ, Beograd 2001, 415.

⁶¹ Gavella Nikola: *Nasljedno pravo*, Informator, Zagreb 1990, 376.

koji najčešće, i dalje žive u zajednici sa primaocem izdržavanja. Ako oni na to ne pristanu, ugovor se raskida *ex lege*, a zakonski naslednici nemaju pravo da traže ono što je ranije po osnovu ugovora bilo dato ili ispunjeno.

Međutim, ukoliko oni ne pristanu na produženje ugovornog odnosa zato što zbog opravdanih razloga nisu u mogućnosti da se staraju o drugom saugovoraču, imaju pravo da traže naknadu za ranije pruženo izdržavanje. Sud će visinu naknade odrediti po slobodnoj oceni, imajući u vidu sve okolnosti slučaja, a pogotovo ceneći imovno stanje primaoca i onih koji su bili ovlašćeni na produženje ugovora. U situaciji kada je iza davaoca izdržavanja ostalo više naslednika iz prvog naslednog reda, može se dogoditi da pojedini naslednici žele da nastave započeti ugovor, dok drugi to iz prihvatljivih ili neopravdanih razloga odbiju. U odsustvu izričitog zakonskog rešenja, zauzeto je stanovište da se izdržavanje može produžiti sa naslednicima koji mogu i žele da izvršavaju ranije ugovorene prestacije, dok preostalima sud može odrediti adekvatnu naknadu za rad svog prethodnika, ako bi to opravdavali razlozi pravičnosti.⁶²

4. Zaključak

Ugovor o doživotnom izdržavanju je specifična vrsta obligaciono-pravnog ugovora, koji se proučava u okviru materije naslednog prava, mada nema direktna nasledno-pravna dejstva, ali se njim indirektno utiče na imovinska prava potencijalnih naslednika. Ovaj, nesumnjivo, koristan i društveno opravdan pravni institut predmet je čestih zloupotreba i komercijalizacije. Veliki broj ugovora biva i poništen ili raskinut, a razloge za to treba potražiti i u nedovoljnoj regulativi samih zakonskih odredbi. Imperativnim normama bi trebalo predvideti da se ugovor može raskinuti i neformalnim sporazumom, te time otkloniti nesigurnost u pravima stranaka. Takođe bi trebalo onemogućiti strani koja je svesno poremetila odnose i uzrokovala nepodnošljiv zajednički život da raskine ugovor, jer se time slabi sigurnost i pravna pozicija druge ugovorne strane. Bilo bi korisno predvideti i da, u slučaju promenjenih okolnosti, i bez intervencije suda u sudskom postupku, druga strana može dobrovoljno ponuditi modifikaciju ugovora i time ga održati na snazi.

U Prednacrtu Građanskog zakonika Republike Srbije predviđena je mogućnost uvođenja ugovora o nasleđivanju u naše pravo. Ukoliko ova opcija bude prihvaćena, broj zaključenih ugovora o doživotnom izdržavanju će se značajno smanjiti, jer će bračni drugovi mahom putem njih regulisati svoje imovinske odnose. To, međutim, ne umanjuje potrebu da se pojedine norme o ugovoru o doživotnom izdržavanju, u cilju izbegavanja sudskih sporova, restrukturiraju i preciziraju.

⁶² Poljaković Mira: *Ugovor o doživotnom izdržavanju i nezi kao faktor egzistencije, sa posebnim osvrtom na Suboticu i okolinu*, magistarski rad, Subotica 2007, 97-98.

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BREACH OF AGREEMENT ON LIFE SUPPORT

S u m m a r y

Agreement on life support is one of the most often concluded civil contracts. It is certainly one of the most common contracts of civil law, as it is a convenient legal modality through which elderly, sick and disabled persons who have property, provide themselves a decent life and meet their basic needs through service of the other party. However, it is evident that not many agreements remain unchanged, but their content is often altered, many are canceled, even broken. Therefore, the author in this paper through legal method and systematic analysis of the corpus of domestic substantive provisions suggests all ways of termination of life support, especially on the factual circumstances that cause it. Some legislative ambiguities are stressed, as well as decisions in some controversial cases. Among other things, broken relations between the contractor and the changed circumstances as the most common and complex cause of termination are defined. In conclusion the proposals on which one may specify and complement legal loophole are given.

Key words: life support, termination, nullity, breach

CRIMINAL MILES AND PHENOMENOLOGICAL ASPECTS OF THE CRIMINALISTICS INTELLIGENCE SOURCES

The paper is based on research conducted by the author in the last decades of the twentieth century and the first decade of the third millennium, the modern scientific theory of crime investigation. The author's intention is to complete the huge gap that exists today in our scientific crime literature on the phenomenology of criminalistics intelligence sources. The presence of scientific and technical isolationist and conservative pragmatism in criminalistics theory in us, with whom I have never lied, accordingly, I have tried to work more fully convey the latest scientific views on foreign theory of criminology criminalistics intelligence sources as the primary tool for understanding , recognition and decoding of occurrence in the criminal milieu. From the above it is quite logical and scientific methodology established by first larly exposed to the general approach among law enforcement theory, the criminal underworld, and then access the research of criminalistics intelligence sources, through their determination to categorize the movement and management. From the results, the findings suggest that the traditional model definition, recruitment, management and installation source in a criminal milieu, which applies to us, abandoned for more than three decades of contemporary crime research and professional literature and practice in the world. Furthermore, the results indicate that it is of decisive importance to the understanding of criminalistics intelligence sources, methods of installation, movement models and management resources, to the criminal milieu could understand phenomena that are not visible, and carry with them the challenges, risks and threats. Not more contemporary understanding of the needs of society to counter the criminal activities of individuals or groups, it is enough to have informers or collaborators. Today, the world of crime must confront numerous, well-organized and professional criminalistics intelligence activities.

Key words: criminal milieu, criminalistics intelligence source, recruiting, dimensioning, source motion

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1. Introductory remarks about criminal milieu

It is often argued in crime-scientific thought, the history of the criminal milieu, only one teacher. This belief is even more right about him not getting out one important fact: each is a criminal event, individual, unique, different from all others. Standing by in operational law enforcement records and they have something that connects them. To understand the criminal intelligence operations in the recruitment of sources, primarily the need to give basic knowledge of the criminal milieu.

The concept of mobility of the criminal milieu, includes all the elements and factors that build a floating island-criminal milieu.¹ It also includes all kriminalne roles (some authors define them as a professional, we believe that it is not accurate) members observed singly or in combination: a) that took place in a particular area within a specified period, b) or are currently taking place; c) or will happen (happen) in the future. Although the mobility of individual phenomena in the criminal milieu may be closely related to group phenomena, they are still independent in their signals and symbols, as the authors note that one of the most thought-crime-does not coincide with the group and do not appear (taking place, event) on the same way.

Furthermore, the observed movement of thought in criminology criminal phenomenon and is not necessarily associated with the occurrence or disappearance of, or the development of the criminal milieu.² In rare cases, when looking at crime milieu whose activity is illegal turnover of drugs and substances psihiotropnih, matching the appearance and the milieu is not always necessary.³ It is not unusual for criminal organizations and individuals grow in their organi-

¹ Recent criminal thought holds that criminal milieu has its own collective identity crime (of course not talking here about the criminal's identities), a criminal phenomenon own individual identity. It is alleged that the makings of that collective identity: a) language, b) symbols (common or identical by some groups and levels), c) values; d) customs and norms. Also to be considered long in physical environment did not contribute substantially to the criminal milieu, the recent thought crime shall not be considered the most accurate definition and indicates that the factors of physical environment with multi-layer effect on the criminal milieu. They can be affected by: a) positive b) negative, and c) and to change its direction of movement, no matter which direction the word (*referred to in the text*).

² Hagan, J., and Palloni, A. (1998). Immigration and crime in the United States. In J. P. Smith and B. Edmonston (Eds.), *The immigration debate*, Washington, DC: National Academy Press, p. 154.

³ Explaining the phenomenon that occurs in the criminal milieu, and the criminal market as one of the elements of the criminal milieu, after law enforcement operations, services apprehend dozens of members of criminal organizations or individuals whose criminal activity was in the illegal drug trade, that after a crash prices and increased supply in the market, because time is crime intervention, ad hoc and not integrated, which is the model that was developed in criminology known as "Darwinism"-was removed to an organization which is substituted by another.

zation or lose „situation” and that in fact the status of phenomena occurring in the criminal milieu, even opposite changes-increased sales prices of drugs and narcotics, „give”.

The mobility of crime occurrence in the criminal milieu, and the criminal milieu is a complex phenomenon, and as noted crime scientific thought has mainly two forms (we believe that these attitudes are not quite the most accurate, because we believe that there are multiple forms). These are: a) horizontal and vertical forms of mobility. From the research we conducted for this study, found that there is a kind of mixed forms of mobility and a form that is called in criminology theory: the problem does not necessarily have a direction, which may not have elements of any shape, but also occurs within the forms, regardless of its current direction. Legal and forensic theorists still believe that a harmonious balance in the criminal milieu there, and it also means its full mobility or immobility.

Figure 1: Shows the visibility of the phenomenon in the criminal milieu, and the need for criminal intelligence in their tissues to obtain information on criminal activities, criminal organizations, and preparation of criminal offenses.⁴



It is understood from the aspect of criminal thoughts, given that its scope does not include scientific research, criminological factors, can only be glimpsed aspects of the mobility of crime occurrences in the criminal milieu, and the criminal milieu, the crime level of recognition, but not the causes or conditions that cause them.

To fathom the spirit of the process in the criminal milieu and criminal entity, it is necessary response to a question about the criminal milieu? This in no way criminalistics scientific thought with simple terms, we will counter the current criminal thoughts which sought to definitions, as they approach the definition

⁴ Data were derived based on research conducted by the authors in Serbia in the period 2000 to 2010, in the criminal milieu.

of the Romans did, but without giving the definition of content that builds a specific term.⁵ It is also a requirement to demonstrate not only what the criminal milieu, and what he is now, but what will he be in the future. When he failed science and criminal legal thinking on this issue, then exposing the criminal milieu and criminal phenomenon may be deprived of reasonable methodological order and scientific consistency. The first thing noticed is the multiple meanings and conceptual intricacies of crime definition of this phenomenon.

This leads us to conclude that the crime milieu exerted its vagueness and its complexity, it is quite true. As a society, a dynamic category, as a kind of „process” criminal milieu is different in different times defined. Criminal milieu could be said to date from the determined point (the point) several scientific disciplines.

To further study determined the essence of crime intelligence point of recognizing the criminal milieu, and his appearance in and out, it is necessary to first examine the crime scene in modern thought the point of the criminal milieu and criminal phenomenon and the differences between them.⁶ On the other hand, thought crime shows: if we hold the view that the criminalists to suggest that criminal phenomena that we observe in the criminal milieu, a product section and the effects of unknown factors that part of the famous floating islands, quite correctly, to respond to a question on developments in the criminal milieu, we must find out criminal phenomena not wholly visible from their side, but with their inner invisible hand.

2. Definition of Criminalistics intelligence source

The challenge that criminal carries in it self requires a skilful and strong answer, and each answer is conditioned by timely information.⁷ A piece of information coming from the criminal milieu is the key, not only for considering the current problem, but also for predicting a criminal offence. Therefore the information coming from the criminal milieu is necessary for determining time

⁵ Crime shows that the above point by a reasonable thought crime does not go in their scientific research in the criminological and sociological aspects of the occurrence of the criminal milieu. On the other hand indicate criminal that does not mean that the results of criminological research are important for understanding the occurrence of crime and the criminal milieu, on the contrary.

⁶ If you see a group of people running and one in front of it, criminologists, based on external observations may at first appear to define the character, if no knowledge about the characteristics of the criminal milieu in which the phenomenon observed. Therefore, due to lack of knowledge about the character of the milieu in which observed this phenomenon criminologists might think: a) it was a lynching; b) frantically to escape to the unknown, and others.

⁷ Manojlović, D. "Good operation source, good case. Bad operation source, bad case. No operation source, no case." (*Police saying*)...

and conditions for an optimal reaction to crime.⁸ This study will follow through meeting and conditioning of these two facts, for it summarises- the development of criminal activity on one hand, and on the other, the need for detecting and proving the same activity at court.

Processing the issues of operation sources, taking into consideration their operational aspect and the possibility of their application when detecting criminal activities, will not process the issues of undercover investigators, agent provocateurs, confidants or a man of the prosecutor's office. What is important to understand here is that both an agent provocateur and an undercover investigator, as well as a man of the prosecutor's office, can be operation sources; yet, in these cases using sources in investigating actions⁹ is possible, whereas operation source used for collecting operation knowledge does not have the possibility of being a part of the investigation techniques, for it does not qualify as a source of that status.¹⁰ However, here we have to be careful, for in certain countries a transition from the operation source status for collecting operation knowledge from criminal milieu without taking part in criminal activities, into a source phase/status that takes part in committing criminal offence under certain circumstances is allowed: according to a precisely defined procedure and in a way provided by legal rules and regulations of that country.¹¹ What is crucial here is the manner in which a criminal-law expert manages the operation source and channels its designs (*authority demands*). The operation activity over the source, in this case, cannot be an intervention into the individual civil rights.¹²

⁸ Hall, R. Higgins, O., Adams, R. (1998). *The Treath from serious and Organized Crime to UK Secutity and Interests- a strategic assasment*, London, 1998., National Criminal Intelligence Service, p. 21.

⁹ Each possible appearance of the source for collecting the information at court, which is not in any of the following category- with the participation of an undercover investigator, an agent provocateur, a man from the prosecutor's office- is a piece of irrefutable evidence that the employer acted contrary to the criminal operation combinatorics rules and regulations in force, for the source was being directed to the procedure, not to the ambient recognition of criminal occurrences and their delivery. Bringing to court an operation source that collects information without taking part in the operation is impermissible, it is a defeat, breaking of the fair-play rules, a loss of trust with the sources that are "eyes and ears" of the detection authorities... usdoj.gov

¹⁰ Howe, S. (1997). Weaknesses of intelligence, *Policing Today, Izbor*, 2/97.

¹¹ In the opinion of professor Vodinelić, in Prosecution Legal Act and also in the Police Legal Act, a precise general police clause on defense against danger should be enacted, and no unnecessary secrets should be made, the air should be ventilated, thus retrieving dignity to police and visible protection to citizens...

¹² A decision of the greatest importance was made by the Federal Constitution Court of Germany-..."as far as the area of crime repression is concerned the interest of keeping the execution of this task in secret may be more important than the interest of the criminal offence condition. An intervention into the legal position of a citizen should be considered appropriate, if it serves more to the direct protection of public welfare, rather than to the aims and objectives: of the state punishment demand ...". Fijnaut, C. and Marx, G., (2001).

Ever since the international conference, held in the city of Ohrid, in November 1993, the significance of the terms of an informant, informer and an undercover police scout, from the field of criminal operation activity has not been understood properly¹³. Apart from a significant delay of a few decades, significant structural changes in the dynamics of the development and movement of criminal activities cannot be perceived.¹⁴ Secondly, eyes are being shut in front of the increasing grey zone into which the detection authorities cannot infiltrate.¹⁵

Undercover: Police Surveillance in Comparative Perspective. The Hague: Kluwer Law International, p. 134.

¹³ Discerning between a private and intimate sphere is crucial for the functioning of a crime investigation operation source and officials managing secret crime investigation operations. Whether we will regulate this area by means of legal acts in the same way that is done in European countries, where an intervention into the intimate sphere is impermissible, and permissible for the private sphere only when there are grounds based on law, depends on the level and the power of the act which will legally regulate this area. If this area goes on being regulated by instructions, the damage will be bilateral (*an intervention into the intimate personality sphere and inability to prevent the danger*).

¹⁴ Adler, P. (1985). *Wheeling and dealing*. NY: Columbia Univ. Press, p. 32.

¹⁵ The Importance of Following the Confidential Informant Narcotic Arrest Procedures An informant is an integral part of a narcotics arrest. However, if proper narcotic arrest procedures are not followed, than the case can be thrown out no matter how much evidence is obtained. The Identity of the Confidential Informant-Law enforcement should not reveal the identity of the informant to anyone to protect the informant from harm. A prosecutor might not know the informant's identity. However, under certain circumstances, the informant's identity can be revealed if a judge or magistrate orders it. Procedures: According to the informant manual for the city of Los Angeles, California, a confidential informant who has come into contact with narcotics through a purchase, assisting officers in a narcotics operation or any other reason, shall immediately be searched for narcotics once the operation has been completed, and the results of the search shall be documented in writing; An informant must provide law enforcement reliable information that can be corroborated by another witness; The informant should provide law enforcement with eyewitness accounts of any drug-related criminal acts, vital background information on the suspects and their narcotic criminal activity and contacts, critical intelligence to help support the investigation in obtaining a search warrant, the identity of valuable witnesses or leads that will cooperate and important testimony during trial, which will help the prosecution convict those arrested; The informant should provide accurate and complete information, keep all intelligence gathered confidential, never discuss any part of the investigation with anyone, never pursue suspects through entrapment, must be a law-abiding citizen (if the informant is a criminal once retained, they must immediately cease and desist any criminal activity), never violate the rights of any subject of the investigation and never place themselves or anyone else in harm's way; The prosecutor should always have an additional person present whenever meeting with a confidential informant; The prosecutor should review any findings provided by the informant with law enforcement to determine whether the information provided can be relied on, whether the informant has the means to provide critical information relevant to the narcotics investigation, whether promises were made to the informant by law enforcement or the prosecutor and whether their background includes criminal activity. (*author noted...*)

The lack of understanding that the “core” of the struggle against criminal activities lies not only and solely in directing to the organized criminal activity, but also and a lot more directing onto general criminal activity, significantly reduces operation work competence, making it “unproductive” when it comes to its function¹⁶ In order to act in the pre-field of criminal activities in respect of preventive consequence restrain¹⁷- for a potential harmed party, far-reaching information is essential (certain authors take a standpoint that even some of the weak information could be accepted), the information is permanently gathered, indicating the trend in criminal activity and crime itself. This can be guaranteed only by a new strategic orientation- reliable processing of the reliable operation material, managed in a way which meets the criteria of “modern” currents and criminal activities. The separate strategy equals taking a step back. On the contrary, modern aspirations originating on the basis of comprehensive research, indispensably require developing operation sources on a global level with a unique organizational form (starting from recruiting to security, for that is what the development of criminal milieu dictates), or the simple lack of it.

Defining source as a “well-intended citizen who provides information and data of interest to the Service voluntarily, or “a person who consciously, in an organized and secret way gives out information, data and other facts to the Criminal Activities Service, that is to say, to its agents,” is an outdated specification that has been in use for more than six decades. This clearly stresses the necessity of precise legal regulation of operation activities, so as to reduce the “grey zone” of these activities as much as possible. The course of action should be directed in a way which would make it possible for a catalogue of procedures and principles to determine explicitly, precisely and comprehensively the legal basis of operation activity with sources and their involvement. Modern democratic choices should try to recast the regulations on operation authorizations from the Police Law into the Criminal Action Legal Act, by which dignity of the highest possible legal quality would be given to them, for precisely the Criminal Action Legal Act represents the concretization of constitutionally-legal regulations in the crime field.¹⁸

¹⁶ Today, in Europe, there is a general understanding that an operation activity is a successful way towards confronting criminal activities, by means of creating an operation network, which is at the same time followed by explicitly legally regulated area, starting from recruiting, leading and managing, securing to registering and recruiting an operation source. All criminal agencies build their service on reliable information, as well as the strategy of the future direction for the development of structures and police service, taken from Howe, S., (1997). Weaknesses of intelligence, Policing Today, New York, p. 17.

¹⁷ Manojlović, D. (2006). Theoretical and practical aspects of criminal investigation and intelligence sources, Security, No. 2/06. MUP RS, Belgrade, p. 11.

¹⁸ Водинелић, В. (1994). Проблематика криминалистичко-тактичких института - информант, информатор и прикривени полицијски извиђач у демократској држави II део, “Безбедност”, Београд, број 2/94.

3. Criminalistics intelligence sources-phenomenology

It is not necessary to examine minutely and essentially “the labyrinth of operation activities.” In order to notice the fundamental significance, the source has in the functioning of detecting authority. The operation source is in the initial phase of gathering information. In criminology there is a common standpoint which can be summarized in the following statement: *the quality of operation action is in a direct proportion to the quality of the operation source,¹⁹ in correlation to the same²⁰*. That is the reason why a large number of European countries have started passing legal rules²¹ in the field of operation sources, no matter whether we talk about a human or technical source, which should lead us to the adequate principles and procedures when choosing, recruiting, preparing, hiring, leading and securing the source. Passing written acts from this field should enable state authorities: to improve ethical principles in relation to this most sensitive operational action/criminal investigation operation; to gather operation information more successively; to use and exploit the gathered information; to manage the source itself better, based on his/her sphere of activities; to infiltrate more efficiently into the criminal surrounding; to gather operation data with or without participation of the source directly; to create up preventive researches for cutting off criminal actions of networks, individuals, organizations; an early warning; to create studies of criminal action trends and crime forms; to “stretch” the time of criminal investigation in advance.²²

4. Comparative approaches in criminalistics theory

Theoretical and practical criminal experiences in European countries can be summarized in the following- criminal action and ensuring evidence at the beginning of criminal action, of an individual or a criminal group, have a crucial meaning when it comes to the outcome of criminal operation, especially in cutting

¹⁹ Greer, S. (2001). ‘Towards a sociological model of the police informant.’ *The American Journal of Sociology*, p. 46(3).

²⁰ Some of the authors go even further and take standpoints that imply that without the operation source that they call “golden source,” it is impossible to count more precisely and with greater certainty on crime control: Bowman, M. E. (2005). *Intelligence and International Law*, 2005., Swenson, R. G.: *Intelligence Education Smith, A.: „Intelligence-Led Policing: International Perspectives on Policing in the 21st 2005.* p. 63.

²¹ Водинелић, В. (1994). Проблематика криминалистичко-тактичких института – информант, информатор и прикривени полицијски извиђач у демократској држави II део, “Безбедност“, број 2/94, Београд.

²² Fatić, A. (1997). *Kriminal i društvena kontrola u istočnoj Evropi*, “Institut za međunarodnu politiku i privredu”, Belgrade, str. 3.

off the action²³ so as not to lead to the intended consequence and the latter managing of the prosecution. The criminal analysis of the performed criminal offences in European proportions displays that the criminal activity does not occur spontaneously, but the same is planned in advance.²⁴ When the function of an operation source is being described and determined, the same can be understood in the following way: *firstly*, the criminal operation source has a function in taking precautions (preventive measures) in preventing criminal activity from forming and manifesting, *secondly*, it should reduce criminal activities to the least possible measure and *thirdly*, the criminal operation should be unobtrusive.

Furthermore, it is implied that in order to make “the narrowing” of criminal activities possible, the first assumption is a timely gathering of operational information; the second assumption is that state authority has an operational capacity to conduct its operation in that direction. From an operational aspect, there are numerous methods by which operational information²⁵ can be gathered (findings, data, information, etc.) along with the proofs of criminal activities, apart from the phenomenological characteristic of those activities to be undercover in the pre-field of execution (*preparation*), in the field of execution and after the execution of a criminal offence. In our opinion, it is possible to expect a higher degree of effectiveness when confronting all the forms of criminal activity, if the methods by which it would be possible not to break into the protected area of human rights and freedoms. We take a standpoint that in finding the bridge between the three fields of activity, which aspire to the same aim: a) civil rights to undisturbed enjoying human rights and freedoms; b) to their justified and legally based demand to be safe; c) in preservation of the justified interest of the damaged party there is room for a criminal operation source and operational IQ. One of the equally important issues being considered in criminal theory is how to organize the action of operation sources in a vertical or horizontal structure.²⁶

²³ Adderley, R. W. Musgrove, P. (2001). Police crime recording and investigation systems, Policing, p. 28.

²⁴ Sshurholz, F. H. (1999). Intensivierte Finanzermittlungen mit dem Ziel der Vermögensabschöpfung, Zwischenbericht zum Pilotprojekt dre baden-württembergischen Polizei, 9/99., sz. 257-261. (259).

²⁵ Robertson, K. G. (2003). Canadian Intelligence Policy: The Role and Future of CSIS, p. 19.

²⁶ Another useful typology is presented by Weston & Lushbaugh (2003) who distinguish the usefulness of the informant as well as the quality of their information: basic lead informant -- usually a friend or acquaintance of a criminal with any number of possible motives who is most useful and accurate at revealing the whereabouts or geographical location of persons or property; participant informant -- usually a go-between or arrestee turned informant who helps police instigate a drug sting or reverse transaction or lure a suspect into surveillance; covert informant -- usually someone deep inside a criminal organization with a falling out or difference of opinion and wants to provide spot intelligence over a period of time as long as their identity is protected and a pleasant future guaranteed for them; accomplice-witness informant -- usually a co-defendant in a criminal case who agrees to testify for the prosecution and/or do one last undercover operation (by being

In other words, most of the operation activities (including criminal agencies) are organized according to the organizational structure of the service, that is to say, *a vertical* principle of activity ensures delimitation and coordination of the activities, that is, the order in making decisions and decisions capacity. By a horizontal principle of performing operation activities, procedures and work technology are satisfied (*structure activities*).

Namely, the modern age is characterized by fast development in all criminal activities; leaps in that field are incomparably faster and bigger than progress in the development of operational structures and activities. All this requires a constant adjustment of structures and jobs. What should always be taken into account is the fact that the structure of operation activities depicts everything those jobs represent- a purpose, aims, methods and means, and that, from the aspect of success in confronting criminal actions has a decisive role with hiring a source. In European countries in theory and professional practice on operation activity, it is implied that the activity is very dynamic and in its phases mutually dependent process, so that all the structures in the jobs chain have to stand in a tight causal connection. Criminal operation work is observed as a process with three key components: a) gathering operation information; b) processing operation information; and c) use or usage of this information. Broader and more appropriate observation that has been accepted in defining operation actions, indicates to us that the three-element process represents too narrow an understanding of operation work, for in this operation work the unavoidable elements are: managing and working with the sources, means, application of the operation technique, development and managing of the operations, etc. A certain number of experts in the field of criminal operation activities and services in Europe, claim that a cycle of criminal operation work starts by recruiting the source, whereas others believe that it starts by gathering information which goes alongside with processing the already gathered data.²⁷ This observation is more appropriate for modern operation activity, for it builds a constant process, which in its functioning includes guiding as well.

5. Criminalistics intelligence sources the criminal mileu-approaches in theory

To allow hiring and using operation sources is disputable nowhere in the world, in principle. In fact, it is believed that authorities for detection have authorizations to gather information from every citizen who does that without being forced and is also in a situation to obtain the information. The constant enforcement of the feelings of necessity for respecting human rights and freedoms

wired for sound) in return to the package deal of immunity and the witness protection plan.. Weston & Lushbaugh, 2003.(*author noted*)...

²⁷ The EU Council decided at Ist meeting Tempere, 1999.

of citizens requires legal regulation of this area of interest.²⁸ The regulated area of operation sources would solve this dilemma: whether the operation source controlled by an official, who organizes it, guides it and controls it in gathering information, extends to the individual sphere of the citizen. Or, for working with operation sources of this kind, it is necessary for public servants only to be presented with the task of “repressing the crime” following the Police Law and Prosecution Legal Act, which should once again require explicit legal regulation, avoiding the up-to-date determinants to “take the necessary measures”- not stating clearly which ones. This kind of definition is imprecise and it leaves open the possibility for arbitrary interpretation by public servants, together with the risk to be responsible for the decision made in the best faith, for the Public Attorney believes that the action could have been carried out “in a different way,” which also is not being clearly defined. Thus, avoiding ambiguity is essential. Most specifically, this area should be legally regulated in such a way so that the official who conducts the operation activity by hiring an operation source, who complies with the assigned principles and procedures of the employer, enjoys absolute protection.²⁹

6. Dimensioning aspects of operation sources

In criminal activity, the operation source makes a significant constituent part of the operation activity. As such, it is a part of every operation system/process of every criminal agency in the world. Activity results of the operation source in the form of concrete, action operation information³⁰ make an operation process input in controlling criminal occurrences, criminal milieu and criminal activities.³¹ Therefore there is a general opinion that the operation scaling could

²⁸ Frank, C. (2000). Strategic intelligence secret world an antology, London, p.15.

²⁹ Operation Department officials- of the Federal Bureau of Investigation, in applying secret operations measures with sources, following the assigned principles and procedures of the employer (FBI), are protected from the secret service influence, and the official prosecution is out of the question, when the board determines that the official has behaved according to the assigned instructions. This legally regulated course of action builds up the capacity and dignity of the service and a public servant himself, creating trust and assurance that if he follows the assigned rules, he will have all the necessary protection. This kind of regulation is a vital necessity for the course of action of any official in Serbia. The current state of this field in Serbia can be summarized in a saying “*wash the cloth, but be careful not to get it wet.*” (author noted)...

³⁰ Castells, M.(2004). End of Millennium. The Information Age: Economy, Society and Culture, Vol. 3, Oxford: Blackwell, p.72.

³¹ Finally, there is the oldest typology of motives which has been around for some 40 years simply because they never change (Harney & Cross 1960): fear -- people who feel threatened by the law or by other criminals (*most police believe this is the best motivation*); revenge -- people, like ex-wives, ex-girlfriends, ex-employers, ex-associates, or ex-custom-

and should be defined in two dimensions: a) in space and b) in time. Authors wonder what implies to these two dimensions and they give an answer. *Firstly*, it is implied that the operation source should be distributed on the whole territory, both national and international, and that it should completely “cover” all the relevant states and movements in the criminal milieu. *Secondly*, as the authors notice, it requires also its presence in all the three criminal milieu dimensions: a) the past; b) the present and c) the future.³²

How do these two dimensions reflect themselves on the activity and the tasks of the operation source? Space dimensioning is achieved as: a) gathering operation information from the internal surroundings (criminal milieu) inside the level of responsibility and approach to criminal activities inside the state borders; b) gathering information from external surroundings (criminal milieu) on the international level; and c) gathering information by means of the problem approach independently from either internal or external criminal milieu.

Time dimensioning is achieved, as a) gathering information through identification of occurrences in the criminal milieu which indicate the future criminal activity which still has not been developed; b) gathering information on the current state of criminal activities in the criminal milieu; and c) gathering information on the up-to-date criminal activities and the changes in that matter.

Thus, dimensioning the operation source is seen as “screening” the stimuli which will develop a potential criminal activity, the stimuli originating from the external or the internal surroundings, and enabling the stimuli “decryption.” On the other hand, we would say that we see and determine dimensioning of the operating source: as diagnosis of the position of the criminal activity and criminal actions and the criminal milieu itself, but also the competence, knowledge and possibilities of agencies for their control and detection. We are at the standpoint which we may summarize as follows: the criminal operation source should be put in three dimensions: of space, time but also of the problem. We believe that from denominators which may be understood in the world criminal theory, that the source dimensioning on two levels is insufficient for comprehending the scope of its activity. Therefore, we believe that the attitudes

ers who want to get even; ego -- people who need to feel they are smart “big shots” and/or outwitting those they see as inferiors; money -- people who, like mercenaries, will do whatever it takes if the money is right; repentance -- people who want to leave the world of crime behind them and/or citizens fed up with crime. (*author noted*)...

³² The snitches, the basis of DEA in Mexico. In the fight against drug trafficking and organized crime, said Michael Braun, who until October 2008 directed the U.S. anti-narcotics operations. Braun, who left the DEA after 33 years of service and now a consultant in the field of combating terrorism and organized crime, says U.S. agents do not protect any Mexican cartel. In an interview with Proceso, the expert points out: “The key to success in the fight against drug trafficking has always been the intelligence obtained through people, ie through confidential informants. This is and always will be.” Informants play many important roles: they take part in covert operations, steal information, help to place microphones and get phone numbers to track criminals.”(*author noted*)...

on spatial and temporal dimensioning are acceptable, but not sufficient as well. Problem dimensioning is necessary, for one criminal activity can only be traced in a problem dimension, both from the aspect of space and the aspect of time, e.g. overseeing an activity inside a criminal organization or a criminal milieu, but not the criminal milieu and criminal organization.

7. Movement models of the criminalistics intelligence source

One of the important aspects of the operation source activity is the model of its “movement”. Based on the modern views in criminal theory, the movement of an operation source is observed from a few aspects: a) non-endangering or cooperative movement; b) endangering movement; and c) defensive movement. Non-endangering, or how we else define it in criminal theory, cooperative movement of an operation source is divided into: 1) the movement that enhances the source position; 2) movement that enhances the criminal agency position; and 3) movement that improves the methods of collecting information from a criminal milieu.³³

From the theoretical aspect, these movements may be: a) offensive; or b) defensive. Defensive movements of the operation source are the so called responsive movements, that is to say, a reaction of an operation source on the actions of the participants in a criminal milieu, which may be further divided into: a) an action prior to an offence being committed; b) a reaction after an offence has been committed; and c) an action while an offence is being committed. We are of the opinion that this division of the movement aspect of the source is insufficient to cover all the movement models in the responsive movement, adding that we must not forget *lag in retaliation* – halt or how it can be also found in theory – a halt in the source reaction, by which we imply the time that passes from the moment of action in the criminal milieu in all the aspects of activities till the time of the operation source activity.

When we talk about endangering movements in criminal theory, for a parameter by which we express that movement we consider the following: a) whether the position of the source in that criminal milieu is endangered by the same; b) whether the source complies with the rules that were intended for its activity; c) whether the configuration of the criminal milieu is acceptable for the source profile; and d) whether there is an assigned coordination of the leader and the source. The coordination has the moving instruments: a) from the zero unacceptable option, in fact, there is no activity coordination between the source and the leader; b) over the option of the acceptable scope of coordination action

³³ Here, we talk about the thing that is in the criminal theory known as “the regular” system of scanning and recording the criminal milieu. So, we understand that the issue here is not about being legal or illegal, for both models are legal. (author noted)...

with the leader; and c) to the option of differentiating which implies taking over the activity based on the estimation of possibility for returning the source to the acceptable options activity.

8. Criminalistics intelligence methodology constructing of the criminal underworld

One of the most complex activities in the criminal operational activity is producing a profile of a criminal milieu, object or a subject of investigation and the operation source itself that would offer answers to many asked questions. There is a belief that making a source profile must be carried out in a few independent, and yet linked steps.³⁴ *The first* step in making the profile of a criminal source, criminal milieu or a criminal object or subject of the operation investigation, should be the answer to the question: for *what*, that is, for whom is the profile intended? This question is actually the issue of the profile intention, which relates the act of making the profile³⁵ to the operation decision that should be made based on the same. *The second* step is defined in the question: what should a profile contain? The operation profile may have different content, e.g. general or exactly determined which is conditioned by a concrete decision that should be made. It is believed in criminology that the profile should be concrete and specific as much as possible, and the data entered concise and precise, so as to be relevant solely for the subject or object in the scope of the investigation. The next important step is defined in the question: which sources for making a profile should we use? Here we should, from the aspect of criminal theory, use internal operation sources that are stored in the operation base of the agencies. Only after consulting internal sources we should move on to investigating and using information from the external resources. A certain number of authors believe that these two actions should be conducted simultaneously, from an operational aspect. Next, or *the third* step is using weak information (in theory, we can still find weak information, but that is not the same). In theory, the general opinion is that using weak information does not guarantee that we will make a good profile of an operation source or milieu, for the information sources in question are either not tested or really difficult to test.

The advocates of this criminal term of “hard approach, that is, the approach of making a profile from verified operation sources”³⁶ believe that if the profile is based, no matter how partly, on this information, it is flawed, that is, neither valid nor reliable, so it can inflict more harm than bring benefit. Respectively,

³⁴ Cannavale, F. (1976). *Witness cooperation*. Lexington: Lexington Books, 1976.

³⁵ Јовић, В.(2004). Криминалистичко-обавештајни рад, појам и криминалистички аспект, Правни факултет, Крагујевац, 2004, str. 29.

³⁶ Billingsley, T. and Bean, T. (2001). *Informers*. Portland: Willan, p. 123.

they believe that it can take the operation action to the wrong operation source. On the other hand, a great number of theoreticians in criminology believe that weak information must not be excluded in advance from the operation material for making a profile. Furthermore, they point out that a criminologist who makes a profile will not always have “firm information” which is supported by the authenticity of the source. In order to make a difference between the confirmed operative information which has gone through the estimation according to the criterion of the source assessment and information from the source, we will offer that of what weak information are made, those being: rumors, opinions, personal attitudes, etc. If we could define making of the operation profile of the source and milieu, based on the given facts, how would we do it? Using the so far knowledge, we will define operation profile as: the sum of very delicate, planned and professionally carried out operation activities on gathering operational information that could help the operation source performance.

9. Phenomenological aspects the findings from crinminalistics intelligence sources

The information obtained from the source is determined, in the following way, as “*information for action*” and, depending on the information value estimation, it receives the status based on the levels of protection- a) “*must know*”; b) “*needs to know*” c) “*should know*”; d) “*can know*” e) “*cannot know*.” Operation information³⁷ from the source is mostly delivered in the form of a report, without any possibility of finding out how the information is obtained, due to the fact that the information may be presented only in person and transmitted under the system of protection, never openly.³⁸ Introduction or register part of the operation information³⁹ is being encoded, so that the key stays in the hands of the source managing official, and all the others who are familiar with the text according to the scale, where the key identification signs are closed. Based on the level of grading, an entrance is allowed- an insight into the information, in a way that the unity of knowledge is not disturbed and it does not leave the subject of knowledge.

Furthermore, it is indicated in criminal theory that the information from the source may be, apart from being secret and public: a) outdated; b) general; c) valid; e) invalid; f) examined; g) unexamined; h) reliable; i) unreliable, etc. When it has been clearly defined in criminal theory from what sources information can be obtained, the sources are as follows: secondary, primary, closed, open, basic,

³⁷ Brown, M. (1985). “Criminal informants.” *Journal of Police Science and Administration*, p. 14.

³⁸ O’ Connor, T. (2003). “Surveillance” and “Wiretapping.” Pp. 624-629 & pp. 710-712 in R. Carlisle (ed.) *The Encyclopedia of Intelligence and Counterintelligence*, Vol 2. NY: Golson Books, p. 2.

³⁹ Carroll, J. (1975). *Confidential information sources*. Los Angeles: Security World, p. 36.

creative, human, technical, etc. Apart from the stated, criminal theory implies that the knowledge is obtained from the operation source from many levels: 1) from the source for ad hoc operation investigation; 2) from the source for the urgent investigation; 3) from the source for fundamental operation investigation; 4) the sources for strategic operation investigation; 5) source for tactful operation investigation. The entire listed criminal operation source can be centralized or decentralized.

10. Value of knowledge of criminalistics intelligence sources

Another aspect of the operation knowledge from the source is very important for criminal agencies in general that are in charge of, or in the jurisdiction of which is, detecting criminal activities and gathering evidence. This aspect of operation knowledge implies creating abilities in a criminal agency so that it would be as a unified structure capable of forming new operation knowledge, to expand it through the whole agency towards every employee, and embody the same into the operation activity of higher quality and its products.

In world criminal literature, books and articles, we may recognize a standpoint that the objective of criminal agencies should be, increasing operation knowledge⁴⁰ of an agency as a basic support to every operational activity. In addition, in criminal theory it is believed that every criminal agency, when we talk about the operation work, has its own operation IQ. How do we estimate whether and to what extent is one criminal agency intelligent? IQ of a criminal agency is as high as the same is capable to prevent criminal activity, is one of the opinions of criminal theory. And the operation IQ⁴¹ of the agency official is as high to that degree as: each official gathers valid knowledge, data and information, on one hand, and how high a quality operation network of the source is, on the other hand. Any other operational knowledge that is based on technical sources (tapping, tracking, etc.) or the knowledge obtained on the basis of the operation knowledge after the performed criminal offence is not the operational IQ, but rather the instrumental-work knowledge, which is, technically speaking, a part of the first operation IQ, that is, the knowledge of “lower” operation quality. The operation activity, and in that sense criminal agencies themselves, where the priority is given to the first IQ, are the agencies with the perspective development of knowledge and the quality for the protection of citizens and their assets.

In the world and in a great number of countries, the first level operation knowledge has the status of a “golden wire”, which is a condition for a timely and

⁴⁰ Hans, J. E. (2000). *Intelligence a new look*, New York, p. 9.

⁴¹ It is clear that here we do not talk about the IQ as the intelligence of an individual, that can be quite high, high, above the average, average, below the *average*. (*author noted*)...

quality action of the agencies.⁴² In view of the above discussed and displayed, it is believed that in criminal theory there are no obstacles and that each criminal agency asks itself questions in order to determine its current level and the future operation knowledge- IQ, on one hand, and its operation intellectual⁴³ capital on the other. The basic question that we ask ourselves is: is the criminal agency operationally intelligent? In order to get the answer to this question, it is necessary to ask a few questions. *Firstly*, whether the agency uses and applies methodology and the methods by which we increase the level of the operation IQ? *Secondly*, whether the agency realizes that the present and future operation activity in the criminal milieu is conditioned by high operation IQ? *Thirdly*, whether the agency measures to what extent the officials build up their operational IQ- professional knowledge- the quality of that knowledge? *Fourthly*, how much has the criminal agency IQ of been making the conversion of the criminal milieu secrecy into the operation knowledge, data and information? *Fifthly*, how big is the ratio of the knowledge conversion into data and the operation data into the operational information, and later on into analytical operational information with the IQ agency? *Sixthly*, how big is the ratio between the conversion of the operation knowledge, data and information into material information as IQ of the operation activity of the agency? *Seventhly*, what is the conversion ratio of the material information into evidence as the product of the agency operation action? And finally, *the eighth* question, what is the ratio between submitted charges to the Public Attorney and the charges in favour of the guilty verdicts, which is the product of the IQ agency? The eight question is the crucial question of the criminal agency IQ operation - does it do the right things and does it do them in the right manner? All the issues are defined by IQ agencies, and not only them, but also the officials, primarily the managing officials.

11. Secrets of criminalistics intelligence operations

Understandably and justifiably from the aspect of this research, before we would give any specification of the operation contact we should define secret activities in operation activity. From the aspect of criminalistic operation activities, a secret operation activity is defined as any kind of activity or operation criminal action⁴⁴ that includes the need of the operation source, regardless of the fact whether we have a human or technical source, which requires the application of the disguised⁴⁵ (legendary identity) by a criminal agency official, who on behalf of the criminal agency undertakes the activity regulated by law or any

⁴² Miller, G. (1987). "Observations on police undercover work" *Criminology* 25:27-46.

⁴³ What is criminal intelligence, National Police Academy, Oslo, 2006.

⁴⁴ Hight, J. (2000). "Working with informants." *FBI Law Enforcement Bulletin* (Sept.): 15-20. (18)..

⁴⁵ Dempsey, J. (2003). *Introduction to investigations*, Belmont: Wadsworth, p. 20, 21.

other kind of legal act. This kind of secret criminal operation activity is most commonly carried out as part of the secret operations,⁴⁶ and is also carried out individually as an isolated operation task.⁴⁷

Next institute without which this research would not have a methodological approach is criminal theory specification, of the secret crime operation institute, in the scope of which a secret operation activity of recruiting and engaging is being carried out, alongside with the operation source managing.⁴⁸ We will define secret criminal operation as, an operation activity that includes more/a series of linked secret operation activities in a certain period of time, on the part of criminal agency officials.⁴⁹ The series of linked secret operation activities consists of three or more separate contacts on the part of criminal agencies officials/recruiters, a leader or a coordinator, when the recruiting of an operation source is being carried out.⁵⁰

⁴⁶ Marx, G. (1988). *Undercover*. Berkeley: Univ. of CA Press, p. 35.

⁴⁷ The number of intelligence informants has been substantially larger in previous years because of the "Ghetto Informant Program," which at its height comprised over 7,000 informants. The FBI began the Ghetto Informant Program in 1967 in the context of the urban riots and violence of the mid-1960's, and in response to instructions from the White House and the Attorney General. Although "ghetto" informants were initially used as "listening posts" to provide information on the planning or organizing of riots and civil disturbances, many were eventually given specific assignments to attend public meetings of "extremists" and to identify bookstores and others distributing "extremist literature". The FBI terminated the program in 1973 after sharp debate within the Bureau over the program's effectiveness and the propriety of the listening post concept. Final Report, of the Select Committee to study governmental operations with respect, intelligence activities, United States Senate, April 23 (under authority of the order of April 14), 1976 23., The use of informants in FBI domestic intelligence investigations. See U.S. Department of Justice, *The Attorney General's Guidelines regarding the Use of Confidential Informants*, May 30, 2002. (author noted)...

⁴⁸ Operation Babraham, May 2001 - Nov 2002 /The Investigation; Successful local Merseyside man Francis Kennedy prided himself on being a self made sharp businessman who was making millions from his alcopops business. But in truth he was the figurehead/gang boss behind a booming drugs business that operated out of Merseyside and had major connections all over the UK, Europe and South America. The police operation, codenamed Brabraham began in May 2001 and started by picking off Kennedy's couriers one-by-one. Operation Babraham, May 2001 - Nov 2002. (author noted)...

⁴⁹ Ericson, R. (2000). *Making Crime: A study of detective work* (2nd edition); Toronto: Butterworth, p. 41.

⁵⁰ Late on October 16th 2002 Thom collected a trailer from an industrial unit in Burscough. The trailer had previously been located at a unit owned by fellow conspirators Harold Camello and Alexander Brown, on the Weaver Industrial Estate in Garston and had been fitted with a concealment under a false floor. He then drove to the Channel Tunnel and left the UK, returning on the 19th. During this same time period, Alan Gerrard flew to and from Holland. Thom was apprehended and arrested on the M74 just south of Glasgow. The truck was seized and searched by Customs officials. It was found to contain: 100 kilograms of amphetamine 64 kilograms of ecstasy (the equivalent of 150,000 tablets) 21

12. Criminalistics intelligence contact with the source

The use of secret methods and techniques is not the only characteristic of operation activity. In secret criminal operations that are carried out in operation activity we include the operation contact, as well. In operation activity an operation contact is defined as a communication between a criminal agency official and a person who is not an agency employee; the communication may be: spoken, written, done on the phone or in an electronic way, which includes gathering knowledge, data or information of interest for operation activity or process investigation.⁵¹ What is of a great significance is the generally accepted standpoint in criminalistics where contacts that are made accidentally, for example, meeting on the street or any other place, are not considered to be the contact from the aspect of operation activity. On the other hand, the conversation that confirms the arranged time and place of the second meeting is considered to be the contact inside the operation activity.

When in operation activity the term “multiple contacts” is used, then a distinctive difference in the activity should be made in comparison with an operation activity. That is necessary due to the fact that a line of communications with multiple contacts upon which a line of sentences is exchanged may constitute a part of a single conversation. In order to understand whether one or more contacts are in question, we should take the following factors into consideration; a) time that has passed between the contacts; b) the number of interruptions between the messages in electronic mail; c) changes of the theme for conversation contacts.

Newer criminal views in theory until the end of the twentieth century hold a standpoint that, apart from the listed divisions, upon a contact of an agency official for control and detection of crime with a person from the surroundings (criminal milieu), we must take into consideration: 1) whether the contact has undergone a protocol in a way that legal or sublegal acts or instructions require; 2) whether the contact is the consequence of an approval; 3) whether after the contact has been made, the official has submitted a formal written act on the reasons and the contact approval; 4) whether the official has revealed the contact, only after the demand to expound the contact with the person from the criminal milieu. All this is necessary from the aspect of criminal operation activity because a special treatment of the contacts that have the status of “the contacts of

kilograms of cocaine 9 kilograms of heroin. The haul was valued at around £6m. Following the seizure Smith, O’Toole, Gerrard, Healey, and Camello were arrested and, along with Thom, charged with Conspiracy to Supply Class A and B drugs. A subsequent search of premises owned by Healey revealed a further 40 kilograms of cannabis as well as equipment designed for use as part of a cocaine ‘factory’. Operation Mac Arthur, socyberly. *com* (author noted)...

⁵¹ Maguire, M., Timothy J. (1995). *Intelligence, Surveillance and Informants: Integrated Approaches*, Editor: Barry Webb, Home Office Police Research Group, London, p. 18.

delicate circumstances” is required. Namely, a delicate contact requires a special authorization and an approach to the source for more than one reason, which can be classified as categories, as: the duty of keeping a professional secret, a person which is tried for by any state organ, an official of any level of power or any other person who would fall into the category of delicate contacts anyway (e.g., a person from a foreign state).

13. Summary consideration

In theory and professional practice, it goes without saying that the criminal operation source is the heart, bloodstream and navigation device for detecting, understanding and interpreting occurrences in the criminal milieu. Moreover, the criminal operation is not only an early warning for the occurrences and their potential danger, but also the condition for detecting and collecting material evidence. The conversion of the criminal milieu hidden secrets by means of operation sources into the data or information (into the operational knowledge) is the highest operation IQ. The criminal operational knowledge is the basis for detecting and comprehending the occurrences in the criminal milieu. In criminal theory it is especially stressed out that the form of the operation activity with the source cannot be juxtaposed to the essence of the criminal agency objectives, the objectives of its operation undertaking, civil and citizen rights, ethical and legal regulations.

Many criminologists believe that good executive organs, informers or investigators owe their success to something that we call “a gift.” You have surely heard that word a lot of times. When solving the most complicated cases criminologists use the term “talented”, “gifted,” etc. We would not dare to write this kind of paper if we do not share the modern views of criminology that each criminologist working on the jobs of the criminal milieu operation investigation and criminal activities owes his success to the operation sources. Their operation ability for good quality operation detection and understanding occurrences in the criminal milieu, announcing the operation interview, detection of criminal activities and gathering evidence, stands in a direct proportion with the quality of the operation source.

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KRIMINALNI MILJE I FENOMENOLOŠKI ASPEKTI KRIMINALISTIČKIH OBAVEŠTAJNIH IZVORA

S a ž e t a k

Rad je pisan na osnovu istraživanja koje je autor sproveo u poslednjoj deceniji dvadesetog veka i prvoj deceniji trećeg milenijuma u savremenoj naučnoj kriminalističkoj teoriji. Namera autora je da upotpuni veliku prazninu koja danas postoji u našoj naučnoj kriminalističkoj literaturi o fenomenologiji kriminalističkih obaveštajnih izvora. Sa prisustvom naučnog i stručnog izolacionizma i konzervativnog prakticisma u kriminalističkoj teoriji u nas, nikada se nisam saglašavao, i u skladu sa tim, nastojao sam da u radu što potpunije prenesem najsavremenije naučne poglede u inostranoj kriminalističkoj teoriji o kriminalističkim obaveštajnim izvorima kao osnovnom alatu za razumevanje, prepoznavanje i dešifrovanje pojava u kriminalnom miljeu. Iz navedenog je sasvim logično i metodološki naučno osnovano što će prvo biti izložen opšti pristup u kriminalističkoj teoriji o kriminalnom miljeu, a zatim će se pristupiti istraživanju kriminalističkih obaveštajnih izvora, od njihovog određenja, preko kategorizacije, do kretanja i vođenja. Iz rezultata istraživanja nalazi ukazuju, da je tradicionalni model određenja, regrutovanja, vođenja i ugradnje izvora u kriminalni milje, koji se primenjuje u nas, napušten više od tri decenije u savremenoj kriminalističkoj naučnoj i stručnoj literaturi i praksi u svetu. Nadalje, rezultati istraživanja upućuju da je od odlučne važnosti razumevanje kriminalističkih obaveštajnih izvora, metodika ugradnje, modeli kretanja i vođenja izvora, da bi se iz kriminalnog miljea mogle razumeti pojave koje nisu vidljive, a u sebi nose izazove, rizike i pretnje. Rad kriminalističkih obaveštajnih službi u kriminalnom miljeu odvija se kroz nekoliko vrsta aktivnosti: regrutovanje, ugradnju, vođenje, zaštitu izvora i prikupljanje saznanja iz izvora. Nije više u savremenom shvatanju potreba društva da se suprotstavi kriminalnim aktivnostima pojedina ili grupa; dovoljno imati informatora ili saradnika. Danas je neophodno svetu kriminala suprotstaviti brojnu, dobro organizovanu i stručnu kriminalističku obaveštajnu delatnost.

Ključne reči: kriminalni milje, kriminalistički obaveštajni izvor, regrutovanje, dimenzionisanje, kretanje izvora

SUZBIJANJE NASILJA NA JAVNIM SKUPOVIMA I SPORTSKIM PRIREDBAMA U EVROPSKOM PRAVNOM PROSTORU

Nasilje i nedolično ponašanje na sportskim priredbama predstavljaju akutan problem u većem broju evropskih država. Način i modaliteti njegovog suzbijanja određivani su u pravnim okvirima svake pojedinačne države odnosno njenog nacionalnog zakonodavstva. Otuda imamo na pravnoj sceni svake evropske države, čitavu lepezu različitih propisa koji nam ukazuju na osobenosti ove vrste nasilja. Međutim, uporedo sa razvojem i sazrevanjem ideje o potrebi izgradnje međunarodnih i regionalnih pravnih instrumenata, kojima bi se uspostavljali okviri za izgradnju nacionalnih prava pojedinačnih država, donosi se veći broj evropskih pravnih instrumenata. Otuda u oblasti suzbijanja nasilja i nedoličnog ponašanja na sportskim priredbama na evropskoj pravnoj sceni ima više opštih i posebnih pravnih instrumenata. Na osnovu njihove analize možemo izdvojiti one kojima se postiže najjači efekat na domaće nacionalno zakonodavstvo. Tako se opšti okviri za suzbijanje nasilja na sportskim priredbama određuju na temeljima Evropske konvencije o ljudskim pravima i osnovnim slobodama (1950) a posebni na Konvenciji Saveta Evrope o nasilju i nedoličnom ponašanju na sportskim priredbama, a posebno na fudbalskim utakmicama, sa Preporukama (1985).

Predmet ovoga rada je zasnovan na analizi pravnih okvira uspostavljenih evropskim pravnim instrumentima u oblasti suzbijanja nasilja i nedoličnog ponašanja na sportskim priredbama. Metodološki okvir tokom istraživanja je obuhvatio korišćenje više metoda: istorijski, lingvistički, sociološki, logički, normativni, analizu sadržaja i drugo.

Ključne reči: Savet Evrope, pravni instrumenti, nasilje, nedolično ponašanje, sportske priredbe, ljudska prava.

1. Uvodna razmatranja

Uspostavljanje pravnih okvira za sprečavanje nasilja na sportskim priredbama, u međunarodnom i evropskom pravnom prostoru, poslednjih decenija beleži osci-

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lirajuće trendove. Oni se uklapaju u proces postepene globalizacije u čitavom svetu čiji važan segment predstavlja potreba za unifikacijom postojećih nacionalnih zakonskih rešenja u svim pravnim oblastima. Na evropskom tlu proces postepene evropeizacije našeg pravnog sistema sa pravom država Evropske unije, kao i pravnim instrumentima donetim na nivou Saveta Evrope, dobija potpuno novu dimenziju sa dobijanjem kandidature Srbije za članstvo u Evropsku uniju. Unutrašnje zakonodavstvo postepeno ustupa mesto novoizgrađenom evropskom pravnom poretku u kome se postavljaju sadašnji ali i budući okviri njegovog razvoja.

Razmatranje evropskih pravnih instrumenata podrazumeva postepeno upoznavanje sa sadržinom ponuđenih rešenja. Ona se odnose na utvrđivanje nadležnosti organa za osiguranje javnog reda i bezbednosti, kako samih učesnika, tako i ostalih građana u vreme održavanja sportskih priredbi. Zatim je neophodno odrediti pravne okvire u oblasti posebnog zakonodavstva kojim se reguliše oblast javnih skupova i sportskih priredbi. Otuda se u većem broju država u svetu donose posebni zakoni u kojima je težišno regulisana ova materija. Uticaj evropskih pravnih instrumenata na izgradnju unutrašnjih pravnih okvira, u oblasti javnih skupova i sportskih priredbi, ogleda se i u domenu prekršajnog i krivičnog prava. Naime, neophodno je propisati inkriminacionu zonu (ne) dozvoljenog ponašanja učesnika svih vrsta javnih skupova i sportskih priredbi. To se prvenstveno odnosi na domete prekršajnog i krivičnog zakonodavstva u kojima se određuje zona zabranjenog ponašanja (prekršaji i krivična dela). Pored materijalnog zakonodavstva, usklađivanje unutrašnjeg sa evropskim pravnim poretkom prisutno je i u sferi procesnog prava. To se, pre svega, odnosi na uvođenje novih zakonskih rešenja u procesnom pravu kojima se omogućava efikasnije gonjenje huligana, pripadnika navijačkih grupa i ekstremnih pojedinaca.

Prisustvo velikog broja evropskih pravnih instrumenata uslovalo je da izvršimo odabir onih koji ostvaruju najjači efekat na oblast sprečavanja nasilja na sportskim priredbama. Pritom smo evropske pravne instrumente, u oblasti sprečavanja nasilja na sportskim priredbama, podelili na opšte i posebne uvažavajući težnju naše, ali i drugih evropskih država, da zajednički nastupe na polju sprečavanja nasilja na sportskim priredbama. Otuda će u narednom izlaganju biti razmatrana Evropska konvencija o ljudskim pravima i osnovnim slobodama kao opšti, i Konvencija Saveta Evrope o nasilju i nedoličnom ponašanju na sportskim priredbama, a posebno na fudbalskim utakmicama, sa Preporukama, kao posebni evropski pravni instrument.

2. Evropska konvencija o ljudskim pravima i osnovnim slobodama

Evropska konvencija o ljudskim pravima i osnovnim slobodama (u daljem tekstu Evropska konvencija) predstavlja krovni evropski pravni instrument. Budući da je nastala 1950. godine, što je samo dve godine posle donošenja Uni-

verzalne deklaracije o ljudskim pravima (1948), Evropska konvencija predstavlja dalju razradu i konkretizaciju njenih odredbi. U skladu sa razvojem društvenih odnosa i proširivanjem postojećeg kataloga ljudskih prava, sa novim ljudskim pravima (prava treće generacije), Evropska konvencija je bila dopunjavana i na taj način dodatno usklađivana. Tome u prilog govori veliki broj donetih protokola na osnovni tekst Konvencije.

Evropska konvencija sadrži čitav korpus ljudskih prava i sloboda kojima se zadire u različite sfere javnog života. Za oblast javnih skupova i sportskih priredbi, kao načina ostvarenja ljudskog prava na slobodu javnog okupljanja, interesantni su delovi kojima se eksplicitno, ali i implicitno, dotiče ova pravna materija.¹ Naime, u Evropskoj konvenciji se jamči pravo na slobodu okupljanja svakog čoveka samostalno i u zajednici sa drugim ljudima. Međutim, pravo na slobodu okupljanja može biti ostvarivo na miran odnosno nenasilan način. Otuda se organizatori i učesnici javnih skupova i sportskih priredbi, koji koriste nasilje i nasilna sredstva za realizaciju svojih ciljeva, ne mogu pozivati na odredbe Evropske konvencije kojima se garantuje pravo na slobodu javnog okupljanja i udruživanja sa drugim ljudima (član 11 stav 1). U stavu 2 istog člana navodi se sledeće: „Za vršenje ovih prava neće se postavljati nikakva ograničenja, osim onih koja su propisana zakonom i neophodna u demokratskom društvu u interesu nacionalne bezbednosti ili javne bezbednosti, radi sprečavanja nereda ili kriminala, zaštite zdravlja ili morala, ili radi zaštite prava i sloboda drugih. Ovim se članom ne sprečava zakonito ograničavanje vršenja ovih prava pripadnicima oružanih snaga, policije ili državne uprave“.²

Važno područje koje izaziva posebno interesovanje, kako vladinog, tako i nevladinog sektora, tiče se prelaženja granice u kojoj se pravo na uživanje ljudskih prava zloupotrebljava u neke druge svrhe. To se često dešava u sferi javnog okupljanja na sportskim priredbama koje je obojeno vršenjem nasilja i nasilničkim ponašanjem njegovih učesnika i predstavnika organa javnih vlasti (policija i žandarmerija). U Srbiji su prisutni „dežurni kritičari“ koji svaku akciju policije

¹ Uspostavljanje komunitarnog prava Evropske unije sadrži posebne uslove za priznavanje neposrednog dejstva pravnih normi. One se sastoje u sledećem: 1) odredba mora sadržati jasnu obavezu države članice; 2) sadržina odredbe mora biti takva da može stvoriti direktno delovanje; 3) nikakvi dalji akti od strane organa Zajednice ili država članica se ne smeju tražiti za ostvarivanje tog cilja; 4) odredba, ili ne sme biti uslovljena, ili uslovi moraju biti ispunjeni; 5) države članice ne smeju imati diskreciona prava za ispunjavanje obaveza. Vukadinović Radovan: *Pravo Evropske unije*, Beograd – Kragujevac 1996, 58.

² Citiranim odredbama se, u kontekstu prava na slobodu mirnog okupljanja, u načelu, priznaje opšta sloboda u njegovom uživanju. Međutim, u daljem tekstu predviđena su ograničenja koja je potrebno usko tumačiti. Razlozi se odnose na područje osiguravanja bezbednosti u državi odnosno lokalitetu na kome se održavaju javni skupovi i sportske priredbe uz upotrebu nasilja. Međutim, time se ne iscrpljuje lepeza slučajeva u kojima je moguće ograničiti pravo na slobodu mirnog i nesmetanog javnog okupljanja. Otuda se navode slučajevi odnosno potrebe suzbijanja kriminaliteta koji se, po pravilu, vezuju za vršenje nasilja na javnim skupovima i sportskim priredbama.

usmerenu na suzbijanje nasilja na javnim skupovima i sportskim priredbama stavljaju u negativan kontekst tzv. prekomerne upotrebe sile. Međutim, svesno se zaboravlja da propuštanje policije da interveniše i tako osigura mir i bezbednost svih građana, uključujući učesnike različitih vrsta javnih skupova i sportskih priredbi, čiji postupci nisu deo nasilničkog ponašanja, predstavlja povredu njihovih ljudskih prava (na život, slobodu kretanja, i dr.). Naravno, potreba za osiguranjem javnog reda i mira, te bezbednosti i zaštite fizičkog integriteta svih građana, ne sme se pretvoriti u policijsku samovolju i započinjanje novog kršenja ljudskih prava, sada od strane organa javne vlasti (policije, žandarmerije, vojske) prema okupljenim građanima.

Evropska konvencija propisuje mogućnost ulaganja sredstava pravne zaštite od različitih oblika kršenja ljudskih prava. U tom smislu, pravo na slobodu mirnog okupljanja na sportskim priredbama je moguće zaštititi kroz mehanizam ulaganja delotvornih pravnih lekova.³ Posmatrano *stricto sensu*, razlog za korišćenje mogućnosti ulaganja delotvornog pravnog leka predstavljaju povrede odredbi člana 13 Evropske konvencije koje se odnose na pravo na slobodu mirnog okupljanja građana. U oba moguća slučaja kršenja ovog prava, koji se odnose na primenu nasilja od strane učesnika javnih skupova i sportskih priredbi, ili pak od strane organa javne vlasti (policija i žandarmerija), postoji neotuđivo pravo svakog čoveka da povede sudski postupak u cilju zaštite svojih prava. Ovo pravo se odnosi i na pripadnike organa javne vlasti i građane koji nisu bili učesnici skupa ali su, sticajem spleta negativnih okolnosti, pretrpeli štetu usled vršenja nasilja za vreme njihovog održavanja.

Države, kao strane ugovornice, raspolažu mogućnošću odstupanja od obaveza predviđenih u Evropskoj konvenciji koju su potpisale. To se eksplicitno navodi u članu 15 stav 1, gde se propisuje: „U doba rata ili druge javne opasnosti koja pretili opstanku nacije, svaka Visoka strana ugovornica može da preduzme mere koje odstupaju od njenih obaveza po ovoj Konvenciji, i to u najnužnijoj meri koju iziskuje hitnost situacije, s tim da takve mere ne budu u neskladu s njenim drugim obavezama prema međunarodnom pravu“. Ova odredba Evropske konvencije je bila predmet mnogo šire rasprave u sudskom predmetu Irska protiv Ujedinjenog Kraljevstva (Presuda od 18 januara 1978, 25 Publ. Eur. Court H.R. 5). Ova presuda predstavlja presedan u praksi Evropskog suda za ljudska prava u Strazburu. Naime, ovde je Sud stavio do znanja da, premda države, kao strane ugovornice, imaju mogućnost korišćenja „slobodne procene“ u tumačenju činjenica koje se odnose na (ne)postojanje vanrednog stanja i potrebe da se ukinu sta-

³ „Da bi se znalo da je pravni lek stvarno delotvoran (efikasan) treba pre svega biti siguran da će izvršni organi stvarno postupiti prema odluci suda ili nekog drugog nadležnog organa. Zato nije dovoljno da postoji samo propis nego i zadovoljavajuća praksa. Ako se, na primer, zna da se presude sudova ne izvršavaju zbog nedostatka osoblja, korupcije, bojazni od nezameranja moćnim ljudima, povlađivanja pomamljenoj javnosti itd., delotvornog pravnog leka nema“. Dimitrijević Vojin et al.: *Ljudska prava*, BG Centar za ljudska prava, Beograd 1997, 98.

novita prava koja Evropska konvencija jamči, države, ipak, ne uživaju neograničena ovlašćenja u tom pogledu.⁴ Otuda se navođenje razloga za privremeno ograničavanje ljudskih prava, koje iznose Vlade pojedinih evropskih država, moraju tumačiti u skladu sa odredbom člana 15 Evropske konvencije. Nije potrebno posebno naglašavati značaj primene navedenog člana na pravo ljudi na mirno okupljanje koje nedemokratske i birokratizovane države nastoje suziti na najmanju moguću meru. Pritom, ove države legitimnost svojih odluka, u kojima nastoje suziti zonu korišćenja ljudskih prava, zasnivaju na opozivom karakteru pojedinih prava i sloboda, a među njima i prava na slobodu mirnog okupljanja.⁵

Prava, obaveze ali i ograničenja sadržana u odredbama članova 10, 11 i 14 neće se tumačiti tako da sprečava Visoke strane ugovornice da ograničavaju političku delatnost stranaca (član 16). Na ovaj način se sprečava mogućnost zloupotrebe prava na slobodu mirnog okupljanja stranih državljana. Otuda se među osnovima za ograničenje ovog ljudskog prava može naći pripadnost učesnika skupa stranoj državi i neposедovanje državljanstva države u kojoj učestvuje u javnim okupljanjima građana. Ipak, iako je doskora bilo nezamislivo da strani državljani, u bivšim socijalističkim državama, učestvuju u javnom životu odnosno javnim skupovima, striktna primena odredbe člana 16 Evropske konvencije to implicitno dozvoljava uz dosledno poštovanje unutrašnjeg pravnog poretka.

Na primenu prava na slobodu mirnog okupljanja od velike važnosti je član 18 Evropske konvencije. U odredbi ovog člana propisano je: „Ograničenja navedenih prava i sloboda koja su dozvoljena ovom Konvencijom neće se primenjivati ni u koje druge svrhe sem onih zbog kojih su propisana“. Suština je u sprečavanju imaoćima ljudskih prava da ista zloupotrebe pretvarajući, na primer, pravo na slobodu mirnog okupljanja u rušilačke i nasilničke javne skupove i navijanje, kao deo sportskih manifestacija, u navijačke izgrede predvođene agresivnim navijačkim grupama. Tome su naročito sklone ekstremne desničarske organizacije, neretko povezane sa kriminalnim organizacijama i navijačkim grupama, koje se neopravdano pozivaju na stanje ugroženosti sopstvenih ljudskih prava. Na taj način se pokušavaju opravdati nasilje i nasilničko ponašanje upereno protiv državnih organa ili pripadnika suparničkih navijačkih i ekstremističkih grupa. U vizuri naše društvene realnosti svedoci smo svakodnevnog pozivanja na kršenje ljudskih prava bez obzira što se sami „pozivači“ služe sredstvima i metodima kojima ozbiljno povređuju ljudska prava drugih ljudi.⁶

⁴ Buergenthal Thomas *et al.*: *Međunarodna ljudska prava* (prev. Dejana Golenko *et al.*), Pravni fakultet sveučilišta u Rijeci, Rijeka 2011, 177.

⁵ Milošević Milan, Matić Goran: „Ljudska prava i kreiranje bezbednosne politike u Srbiji“, *Vojno delo* 1/2008, 90.

⁶ Odlukama Evropskog suda za ljudska prava u Strazburu se ne može osporavati pravo države da izabere način kojim će garantovati svakom čoveku na svojoj teritoriji neometano uživanje ljudskih prava i sloboda garantovanih Evropskom konvencijom. Vidi: Frowein Jochen: *The Incorporation of the European Convention on Human Rights into the Legal*

Evropska konvencija predviđa mogućnost institucionalne zaštite ljudskih prava od njihovog ugrožavanja i povređivanja. U tom smislu, pravo na slobodu mirnog okupljanja obuhvata i mogućnost pravičnog zadovoljenja, u smislu naknade materijalne i nematerijalne štete, pojedincima kojima uživanje ovog prava nije omogućeno, tj. koji su pretrpeli fizičko nasilje, gubitak najbližih članova porodice i materijalnu štetu. Po ovom pitanju se Evropska konvencija bitno razlikuje u odnosu na druge međunarodne i regionalne pravne instrumente. Naime, u odnosu na ove instrumente koji, takođe, proklamuju osnovna ljudska prava i slobode, Evropska konvencija čini značajan iskorak u pravcu obezbeđivanja mehanizama pravne zaštite njihovim imaoциma.⁷ Daje se pravo pojedincima, grupi lica i nevladinim organizacijama da pokreću postupke pred Evropskim sudom za ljudska prava u slučaju nepoštovanja ljudskih prava, uključujući pravo na slobodu mirnog okupljanja. Ipak, neophodno je prvo iscrpeti sva pravna sredstva u domaćem pravosuđu uz obavezu da poslednja odluka ne bude starija od šest meseci. Pored prava na podnošenje predstavke zbog potpunog nepoštovanja prava na slobodu mirnog okupljanja, moguća je situacija u kojoj su ta prava samo delimično ostvarena, u smislu nepotpunog naknađivanja proistekle štete. U tom slučaju, predviđena je mogućnost podnošenja predstavke Evropskom sudu za ljudska prava u delu gde interesi imaoца ovog ljudskog prava nisu potpuno zadovoljeni. Jednom rečju, tvorci Evropske konvencije su nastojali izbeći sve moguće situacije u praksi koje bi pogodovalе prekršiocima ljudskih prava na štetu njihovih imaoца.

Važnost Evropske konvencije se ogleda i u obavezности strana ugovornica da se povinuju odlukama Evropskog suda za ljudska prava u svakom predmetu u kome su stranke (član 53). Opšti značaj ove odredbe ogleda se u pravnoj izvesnosti koja se pruža svim imaoциma ljudskih prava od mogućnosti neostvarivanja presude Evropskog suda za ljudska prava. U suprotnom, bila bi dovedena u pitanje čitava konstrukcija ljudskih prava a među njima i pravo na slobodu mirnog okupljanja. Tako je, na primer, iluzorno govoriti da je u jednoj državi na snazi politički poredak zasnovan na vladavini prava, demokratiji, nezavisnom pravosuđu i drugim demokratskim elementima, ako je isključena mogućnost primene sudskih odluka Evropskog suda za ljudska prava. Otuda se u odredbi člana 53 Evropske konvencije države, kao strane ugovornice, pravno obavezuju da se povinuju odlukama Evropskog suda za ljudska prava. Termin „povinoвање“ ovde je upotrebljen u kontekstu obavezности primene odluka ovog suda.

Order of Germany, The International and the National Centre for Human Rights, Belgrade 2003, 207.

⁷ U tom smislu, Evropska konvencija je postala jedna vrsta katalizatora za promene u pravu usmerene na dalje osnaživanje kapaciteta ljudskih prava i sloboda, te istovremeno uticala na proces harmonizacije ljudskih prava u Evropi. Vidi: Harris David John *et al.*: *Law of the European Convention on Human Rights*, Butterworths, London-Dublin-Edinburgh 1995, 29.

3. Konvencija Saveta Evrope o nasilju i nedoličnom ponašanju na sportskim priredbama, a posebno na fudbalskim utakmicama, sa Preporukama

Neposredno nakon tragedije na Hejselu, Savet Evrope je sačinio i predložio za potpisivanje Konvenciju o nasilju i nedoličnom ponašanju gledalaca na sportskim priredbama, posebno na fudbalskim utakmicama (u daljem tekstu Evropska konvencija o nasilju i nedoličnom ponašanju) 19. avgusta 1985. godine.⁸ Naša država (*ex* Jugoslavija) je ratifikovala ovu Konvenciju čime su njene odredbe postale deo našeg unutrašnjeg zakonodavstva.⁹ *Ratio legis* kod donošenja Evropske konvencije o nasilju i nedoličnom ponašanju ogledao se u nastojanju njenih tvoraca da, na međudržavnom odnosno evropskom nivou, propišu standarde i pravila postupanja u cilju sprečavanja vršenja nasilja na sportskim priredbama i fudbalskim utakmicama. Otuda se ova Konvencija smatra krovnim evropskim pravnim instrumentom kojim su postavljeni temelji u borbi protiv nasilja ove vrste. Do današnjeg dana ona se smatra aktuelnim pravnim instrumentom čije odredbe obavezuju sve države potpisnice.

Analizom samog teksta Preambule možemo uočiti opštu intenciju njenih tvoraca da donesu i ponude evropskim državama na potpisivanje relevantan dokument koji će pokrivati sve moguće oblike ispoljavanja nasilja na sportskim manifestacijama i fudbalskim utakmicama.¹⁰ U skladu sa porastom opšteg značaja sporta i sportskih dešavanja, a naročito fudbala, i njegovom ulogom u međusobnim odnosima evropskih država, Evropska konvencija o nasilju i nedoličnom ponašanju predstavlja jednu vrstu regulatornog pravnog dokumenta. Otuda se polje njene primene proširuje na prateće oblasti društvenog života koje se ogledaju u nametanju posebnih obaveza sportskim klubovima i uopšte sportskim (fudbalskim) organizacijama.

Evropska konvencija o nasilju i nedoličnom ponašanju donosi niz pravnih novina kojima se nastoji precizirati odgovornost svih učesnika sportskih dešavanja. Pod tim se podrazumevaju javni i privatni organi koji neposredno učestvuju u organizaciji i održavanju sportskih priredbi, a naročito fudbalskih utakmica. U samom tekstu Preambule Evropske konvencije o nasilju i nedoličnom ponašanju, posebno se apostrofira dodeljena uloga javnim i nezavisnim sportskim organima koji imaju posebne i komplementarne odgovornosti. Ona se sastoji u obavezi sportskih organa i organizacija da brinu o bezbednosti

⁸ Vidi: „European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches“, *ETS. No 120, entered into force 11. january 1985*; <http://www1.umn.edu/humanrts/euro/ets120.html> (10.01.2014).

⁹ Zakon o ratifikaciji Evropske konvencije o nasilju i nedoličnom ponašanju gledalaca na sportskim priredbama, posebno na fudbalskim utakmicama, *Službeni list SFRJ*, 9/90.

¹⁰ Ovaj zaključak temeljimo na činjenici da je u vremenu kada je doneta, Konvencija o nasilju i nedoličnom ponašanju, predstavljala napredan pravni tekst. Međutim, protek vremena je na društvenu scenu doneo nove oblike nasilja u sportu, u mnogo čemu različite, u odnosu na njegove ranije forme.

aktivnih (igrači, treneri i dr.) i pasivnih (navijači, sportska publika i dr.) učesnika sportskih priredbi.

Ne treba zanemariti još jedan, posebno važan momenat koji se protežira u tekstu Preambule Evropske konvencije o nasilju i nedoličnom ponašanju. Njime se ukazuje na društveni značaj sporta i dešavanja u vezi sa sportom koji postaje pozornica za vršenje različitih oblika nasilja i nedoličnog ponašanja. Na osnovu toga se apostrofira važnost izgradnje pravnih i bezbednosnih mehanizama za nesmetano održavanje sportskih priredbi, kojima se mobiliše čitavo društvo, kako na strani vršenja nasilja, tako i na strani njegovog suzbijanja. U skladu sa praksom u oblasti donošenja svih pravnoobavezujućih propisa, tvorci Evropske konvencije o nasilju i nedoličnom ponašanju prvi član posvećuju određivanju njene svrhe. Otuda se, prema odredbi člana 1, propisuje: „Radi sprečavanja i suzbijanja nasilja i nedoličnog ponašanja gledalaca na fudbalskim utakmicama, strane ugovornice se obavezuju da, u okviru svojih ustavnih odredbi o tome, preduzmu potrebne mere za sprovođenje odredbi ove konvencije“ (stav 1). Na taj način se obezbeđuje visoki nivo primenjivosti ove konvencije, koji se zasniva na Ustavu kao najvišem pravnom aktu jedne države. Sledeći pravilo o subordinaciji pravnih akata u unutrašnjem pravnom poretku navedene odredbe Evropske konvencije o nasilju i nedoličnom ponašanju dostižu rang ustavnih odnosno opštih odredbi. Sa njima moraju biti saglasne odredbe posebnih odnosno nižih pravnih akata (zakona i podzakonskih propisa) i pojedinačnih pravnih akata.¹¹

Pored aktivnosti policijskih organa i bezbednosnog aparata na području sprečavanja nasilja na sportskim priredbama posebno se apostrofira potreba za boljom unutrašnjom (unutardržavnom) koordinacijom. Ona se sastoji u neophodnosti osnivanja posebnih koordinacionih tela nadležnih za preduzimanje aktivnosti na polju sprečavanja nasilja i nedoličnog ponašanja na sportskim priredbama, a naročito na fudbalskim utakmicama. Pritom, razmatranje mogućnosti za obrazovanje koordinacionih tela biće vršeno u skladu sa kapacitetima svake pojedinačne države potpisnice.

Pored izdavanja posebnih Preporuka za izgradnju preventivnih mehanizama za suzbijanje nasilja i nedoličnog ponašanja na sportskim priredbama, Evropska konvencija o nasilju i nedoličnom ponašanju predviđa primenu konkretnih mera protiv onih koji pravo na slobodu mirnog okupljanja svojim postupcima neposredno narušavaju (član 3). U tom cilju, strane ugovornice se obavezuju na utvrđivanje i sprovođenje mera za sprečavanje i suzbijanje nasilja i nedoličnog ponašanja gledalaca.

Institucionalni oblici u sprečavanju nasilja i nedoličnog ponašanja na sportskim priredbama obuhvataju angažovanje sredstava namenjenih za uspostavlja-

¹¹ U tom kontekstu, pojedinačna norma se odnosi na jedan slučaj dok se opšta norma odnosi na neodređeni broj slučajeva (bez obzira koliki je broj pojedinaca čije se ponašanje reguliše). Lukić Radomir, Košutić Budimir: *Uvod u pravo*, Službeni list SCG, Beograd 2003, 260.

nje javnog reda i mira. Pod tim se podrazumeva korišćenje fortifikacionih prepreka, kako u zoni održavanja, tako i na prilaznim saobraćajnicama i putevima u pravcu mesta gde se održava konkretni sportski događaj. Na planu koordinacije rada policije predviđena je razmena informacija između njenih pripadnika koji pripadaju različitim policijskim upravama, ispostavama i stanicama. Najzad, zahteva se izrada i usvajanje zakonskih i pratećih podzakonskih propisa u oblasti sprečavanja nasilja i nedoličnog ponašanja na sportskim priredbama, a posebno na fudbalskim utakmicama. Po prirodi stvari, zakonski propisi moraju sadržati mogućnosti za sankcionisanje lica koja podstiču i učestvuju u ovoj vrsti nasilja i nedoličnog ponašanja. Otuda se apostrofira obaveznost njihovog prekršajnog i krivičnog sankcionisanja koje će biti srazmerno učinjenim prestupima.¹²

Korak dalje u borbi protiv nasilja i nedoličnog ponašanja na sportskim priredbama obuhvata uključivanje samih sportskih klubova (član 3 stav 2). Njihova delatnost se ogleda u uspostavljanju dve vrste aktivnosti na strani klubova navijača. *Prva* se tiče podsticanja odgovornosti za pravilno funkcionisanje samih sportskih klubova navijača, kako u njihovim redovima ne bi došlo do vršenja nasilja i nedoličnog ponašanja. *Druga* se odnosi na preduzimanje aktivnosti na polju organizovanja redarske službe čiji se dometi u pružanju pomoći prostiru na mesto održavanja sportskog događaja i pristupne puteve dolaženja i odlaska navijačkih grupa. U skladu sa ovom Preporukom većina evropskih država je koncipirala način održavanja javnog reda i sprečavanja nasilja i nedoličnog ponašanja na sportskim priredbama, a naročito fudbalskim utakmicama, kao sportskim događajima sa najvećim stepenom bezbednosnog rizika.

Poznato je da organizacija i održavanje sportskih priredbi, u kojima učestvuje veliki broj ljudi, uključuje dolazak odnosno učešće navijačkih grupa čiji pripadnici žive izvan mesta održavanja utakmice a često i izvan državnih granica. U takvim situacijama održavanje javnog reda i mira zahteva šire angažovanje redarskih službi i policije. Njihovim aktivnostima se nastoji pokriti čitav uzročno-posledični lanac koji može dovesti do narušavanja javnog reda i vršenja nasilja i nedoličnog ponašanja na sportskim priredbama. To je potpuno razumljivo u situaciji kada imamo na navijačkoj i sportskoj sceni veliki broj pojedina i grupa koje dolaze iz inostranstva, tj. iz države iz koje potiče sportski klub koji učestvuje na fudbalskoj ili drugoj sportskoj utakmici. Srbija je u sportskim

¹² Pojam prestupa treba razumeti kao svaki oblik društveno štetnog (nedozvoljenog ponašanja) kojim se ulazi u zonu vršenja prekršaja i krivičnih dela. Pored toga, smisao sankcionisanja prestupa treba potražiti u kontekstu moralnih shvatanja sredine u kojoj je došlo do narušavanja javnog reda i mira kroz nasilje i nedolično ponašanje navijačkih grupa. U tom smislu, Primorac ukazuje na podudarnost moralnih i institucionalnih pravila. Prema ovom autoru, moralna pravila se mogu shvatiti i na bitno drukčiji način, tj. kao institucionalna pravila. „Potreba za takvim pravilima dolazi odatle što se jedino pomoću njih i institucija koje one tvore mogu postići koordinacija i predvidljivost ljudskog ponašanja, bez kojih se društveni život ne može zamisliti“. Primorac Igor: *Prestup i kazna (rasprave o moralnosti kazne)*, NIP „Mladost“, Beograd 1978, 139.

dogadjima, koji su označeni kao visokorizični, organizovala koordinaciju svih relevantnih subjekata u društvu kako bi se sprečilo često i najavljeno nasilje na važnim sportskim priredbama.¹³

Evropska konvencija o nasilju i nedoličnom ponašanju preporučuje državama potpisnicama izmenu postojeće zakonske regulative u oblasti sprečavanja nasilja i nedoličnog ponašanja na sportskim priredbama. Reformisanje zakonskih i podzakonskih propisa treba vršiti sa ciljem stvaranja pretpostavki za uspešno sankcionisanje svih pojedinaca i organizacija koje vrše ovu vrstu nasilja. Predloženim merama su obuhvaćeni različiti segmenti borbe protiv nasilja i nedoličnog ponašanja na sportskim priredbama. Njima je obuhvaćeno: osavremenjivanje postojećih i izgradnja budućih objekata u skladu sa novim arhitektonskim rešenjima; poboljšanje kontrole ulaska lica na stadione, hale i druga sportska igrališta; zabranjivanje unošenja alkoholnih pića i pirotehničkih sredstava uključujući i zabranu ulaska takvim licima.

Evropska konvencija o nasilju i nedoličnom ponašanju posebno naglašava važnost primene mera socijalno-edukativnog karaktera u vezi sa nasiljem i nedoličnim ponašanjem na sportskim priredbama. Preporučuje se da strane ugovornice preduzimaju odgovarajuće socijalne i vaspitne mere, imajući u vidu potencijalni značaj sredstava informisanja za sprečavanje nasilja u vezi sa sportom. Ukazuje se na potrebu za popularisanjem sportskih ideala kroz obrazovne i druge kampanje, zastupanjem ideje ferpleja, posebno među mladima, radi većeg uzajamnog poštovanja i gledalaca i sportista.

Neophodan oblik saradnje između državnih i klupskih organa nadležnih za suzbijanje nasilja i nedoličnog ponašanja na sportskim priredbama, a naročito fudbalskim utakmicama, čini područje njihove međunarodne saradnje sa organima drugih evropskih država. Posebna pažnja se posvećuje profesionalnoj saradnji između sportskih saveza i organa dveju ili više država. To je u potpunosti razumljivo usled činjenice da sportski savezi i organi aktivno učestvuju u izradi strateških dokumenata u oblasti suzbijanja nasilja i nedoličnog ponašanja na sportskim priredbama. Evropska konvencija o nasilju i nedoličnom ponašanju konkretizuje modalitete i forme međunarodne saradnje. Oblici ispoljavanja međunarodne saradnje odvijaju se u više faza čiji okviri su precizno postavljeni. Najpre je neophodno od sportskih organizacija dobiti procenu stepena rizika konkretnih utakmica kod kojih postoji opravdana bojazan da bi mogle dovesti do eskalacije nasilja i nedoličnog ponašanja. U našoj praksi su, uglavnom, pod takvim utakmicama smatrani derbiji između fudbalskih reprezentacija Srbije i Hrvatske.

Kada se utvrdi konkretna utakmica odnosno sportska priredba, koja je prućena visokim bezbednosnim rizicima, onda se pristupa konsultacijama. Održa-

¹³ Kao ilustrativni primer nam može poslužiti fudbalska utakmica između Srbije i Hrvatske, održana u Beogradu 6. septembra 2013. godine. Utakmica je prema odluci Fife označena „najvišim stepenom rizika“. Angažovani su svi raspoloživi kapaciteti policije: helikopteri, konjica, protivterorističke jedinice... Šire o tome: *Politika*, izdanje od 6. septembra 2013.

vanje konsultacija ovakvog tipa mora biti blagovremeno obavljeno (najkasnije dve nedelje pre održavanja utakmice) kako bi se utvrdili okviri i sadržaji mera koje treba preduzeti. Ukoliko okolnosti konkretnog sportskog događaja zahtevaju primenu mera koje izlaze iz okvira predviđenih Evropskom konvencijom o nasilju i nedoličnom ponašanju, onda je iste potrebno preduzeti u skladu sa zakonskim i podzakonskim propisima države. Tako se omogućava potpunija prilagodljivost u postupanju državnih i sportskih organa i organizacija usmerena u pravcu izgradnje efikasnog sistema zaštite učesnika sportske priredbe od nasilja i nedoličnog ponašanja. U praksi, gotovo sve evropske države koriste ovu mogućnost i uspevaju da iznađu najbolja rešenja. Na primer, Engleska je drastično pooštrila propise kojima se reguliše oblast suzbijanja nasilja na sportskim priredbama i tako uspela da se suoči sa ekstremnim oblicima nasilja svojih navijačkih grupa.

Poznato je da se prekršajna i krivična odgovornost mogu utvrđivati samo individualno u odnosu na konkretne postupke svakog pojedinca. Otuda je princip utvrđivanja individualne krivične odgovornosti ugrađen u odredbe Evropske konvencije o nasilju i nedoličnom ponašanju. Prema odredbi člana 5 (identifikacija izgređenika i postupanje s izgređenima) propisane su dve mogućnosti u pogledu postupanja sa pojedincima koji vrše nasilje i nedolično se ponašaju na sportskim priredbama. *Prva mogućnost* se sastoji u krivičnom gonjenju učinilaca krivičnih dela nasilja izvršenih na sportskim priredbama. *Druga mogućnost* daje svakoj državi potpisnici pravo da razmotri mogućnost premeštanja uhapšenih lica u zemlju njihovog prebivališta. Ova mogućnost motivisana je razlozima celishodnosti koji se neuporedivo efikasnije mogu ostvarivati u zemlji iz koje uhapšeno lice potiče. Iako se u ovom slučaju odstupa od principa na kojima se zasniva vremensko i prostorno važenje prekršajnog i krivičnog zakonodavstva, ne treba zaboraviti da se tako doprinosi uspešnijem načinu suzbijanja nasilja na sportskim priredbama.

Pored redovnih mera, koje se preporučuju državama potpisnicima Evropske konvencije o nasilju i nedoličnom ponašanju, uočljiva je namera njenih tvoraca za primenom dopunskih mera (član 6). U tom cilju se strane ugovornice obavezuju na tesnu saradnju sa nacionalnim sportskim organizacijama i, gde je to moguće, vlasnicima stadiona, u vezi s aranžmanima za planiranje i izvođenje prepravki na konstrukciji stadiona ili drugih prepravki, uključujući ulaze i izlaze stadiona. Ovde su Preporuke ciljano usmerene na dva segmenta odnosno nivoa saradnje na polju suzbijanja nasilja i nedoličnog ponašanja na sportskim priredbama.¹⁴ *Prvi nivo* saradnje se sastoji u tesnoj povezanosti državnih

¹⁴ Dejstvo preporuka na polju suzbijanja nasilja i nedoličnog ponašanja neophodno je posmatrati u sklopu opšteg značaja i uloge donetih preporuka i mišljenja u evropskom pravnom prostoru. Iako preporuke i mišljenja spadaju u grupu pravno neobavezujućih akata, one predstavljaju „korisne smernice“ u postupanju državnih organa svake države potpisnice. Pritom, nacionalni sudovi ih moraju uzeti u obzir, u postupku tumačenja i primene nacionalnog prava, kada razjašnjavaju značenje nacionalnih propisa koji su done-ti u cilju njihovog sprovođenja ili sa ciljem da dopune mere Zajednice. Živković Nemanja:

organa, sportskih organizacija i vlasnika stadiona. Pod tim se podrazumevaju, kako oblici neformalne, tako i formalne saradnje. Tako je, na primer, korisno sačiniti i potpisati Sporazume o saradnji između policije i sportskih organizacija i klubova. Na osnovama ovih sporazuma određiće se okviri, sadržaji i dometi buduće saradnje. *Drugi nivo* saradnje se odnosi na readaptaciju postojećih sportskih objekata (stadiona) i njihovo arhitektonsko prilagođavanje u cilju očuvanja potrebnog nivoa bezbednosti svih učesnika sportskih priredbi. Srbija je pristupila rešavanju arhitektonsko-građevinskih problema u fazi izgradnje sportskih objekata. Međutim, usled nedostatka finansijskih sredstava smanjene su mogućnosti na polju upodobljavanja naših sportsko-rekreativnih kompleksa (stadiona i sportskih dvorana) sa evropskim i svetskim standardima.¹⁵

U slučaju kada jedna država odnosno strana ugovornica Evropske konvencije o nasilju i nedoličnom ponašanju raspolaže sa odgovarajućim kapacitetima na svojim stadionima ona mora ispunjavati posebne ili dodatne preporuke. One se sastoje u obavezi utvrđivanja sistemskih kriterijuma kojima se treba rukovoditi kod razmatranja uslova za izbor konkretnog stadiona. Dakle, u svakom pojedinačnom slučaju, neophodno je primenjivati stalne, a ne *ad hoc*, uslove onda kada je to neophodno. Navedeno se posebno odnosi na stadione gde će biti održane sportske priredbe koje uključuju veliki broj gledalaca.

Važan segment uspostavljanja i održavanja neophodnog nivoa saradnje između Saveta Evrope i država potpisnica Evropske konvencije o nasilju i nedoličnom ponašanju predstavlja kontinuirana razmena informacija. Ona se sastoji u formalnom saopštavanju svake države potpisnice o preduzetim zakonskim merama i postupcima na polju primene odredbi Evropske konvencije o nasi-

„Pravo Evropske unije: izvori prava“, 327, u: Pavićević Vladimir (ur.): *Zbornik beogradske otvorene škole*, Beograd 2007.

¹⁵ Problematika izbora najboljih arhitektonsko-građevinskih rešenja za izgradnju sportskih objekata u Srbiji ima svoju istoriju u prvim pokušajima izgradnje sokolskih domova i stadiona. Prilikom izrade arhitektonsko-građevinskih projekata, kao i njihove izgradnje, vodilo se računa o svim bitnim elementima koje treba da poseduje jedna sportska građevina. Kao ilustraciju, navešćemo primer izgradnje sokolskog stadiona u Srbiji predviđenog za održavanje sleta 1930. godine. „Momir Korunović je za Svesokolski slet u Beogradu 1930. godine izradio projekat za privremeni Sokolski stadion na zemljištu Tehničkog fakulteta. Dimenzije stadiona su bile monumentalne – za konstrukciju je iskorišćeno 5.100 m³ drvene građe, što je ovaj objekat u tom trenutku činilo najvećom drvenom konstrukcijom u centralnoj Evropi. Celokupna konstrukcija tribina ležala je na betonskim stopama. Proračun tribina izradio je arhitekta Predrag Zrnić, koji je i nadzirao radove zajedno sa aktivnim sokolskim inženjerom Radivojem Radulovićem, a probno opterećenje izvršila su tri puka vojske. Vežbalište je bilo površine 12.600 m², dok je gledalište moglo da primi 45.000 posetilaca i 3.500 vežbača. Tribine su imale 35.000 sedišta, dok je 189 loža primalo 1.182 gledalaca. Iz Ulice kralja Aleksandra postojao je poseban ulaz za kraljevsku porodicu, članove vlade i diplomatski kor, koji je vodio direktno do njihovih svečanih loža. Publika je mogla ući na četiri reprezentativne kapije, dekorisane u narodnom duhu, dok su Sokoli imali tri odvojena ulaza, koja su direktno vodila u svlačionice ispod tribina, a od njih na teren“. Putnik Vladana: „Sokolski domovi i stadioni u Beogradu“, *Nasleđe* 14/2013, 77.

lju i nedoličnom ponašanju. Pod tim se podrazumevaju oblici institucionalne saradnje na najvišem nivou. Zato se eksplicitno propisuje obaveza svake države odnosno strane ugovornice da dostavlja relevantne podatke Generalnom sekretaru Saveta Evrope. Ovi podaci se odnose na izveštavanje o ostvarenom učinku u zakonodavnoj sferi koja mora biti u funkciji realizacije obaveza koje proizilaze iz odredbi Evropske konvencije o nasilju i nedoličnom ponašanju.¹⁶

Pored održavanja neophodnog nivoa saradnje između država potpisnica s jedne strane, i Generalnog sekretara Savete Evrope s druge strane, Evropska konvencija o nasilju i nedoličnom ponašanju predviđa obavezu osnivanja stalnih tela odnosno Komiteta. Transparentnost u radu Evropskog saveta postiže se tako što svaka država članica, ali i bilo koja druga država članica Evropske kulturne konvencije, koja nije strana ugovornica Evropske konvencije o nasilju i nedoličnom ponašanju, može biti zastupljena u svojstvu posmatrača. Na ovaj način se obezbeđuje potpuniji uvid u rad Evropskog saveta i način njegovog funkcionisanja. Na osnovama predviđenih obaveza možemo izdvojiti tri osnovna polja na kojima Stalni komitet deluje: 1) normativna delatnost se ogleda u razmatranju i unapređenju postojećeg teksta Evropske konvencije o nasilju i nedoličnom ponašanju; 2) delatnost Stalnog komiteta se prostire i na uspostavljanje saradnje u formi informisanja javnosti o postignutim efektima na polju primene ove Konvencije; 3) tome treba pridodati izdavanje preporuka državama koje, još uvek, nisu potpisale Konvenciju da istu potpišu. Radi izvršavanja svojih funkcija, odnosno opštih i posebnih obaveza, Stalni komitet može inicirati organizovanje sastanaka grupa eksperata. U okvirima svoje nadležnosti Stalni komitet je doneo više preporuka kojima se dotiče problematika sprečavanja nasilja i nedoličnog ponašanja na sportskim priredbama.¹⁷

4. Zaključna razmatranja

Nasilje i nedolično ponašanje na sportskim priredbama predstavlja čestu pojavu na društvenoj i sportskoj sceni većine evropskih država. Rešenje za ovaj problem Savet Evrope je ponudio kroz donošenje evropskih pravnih instrumenata. Njima se pružala zaštita ljudskih prava pojedinaca od vršenja nasilja na sportskim priredbama, bez obzira na to da li su neposredni učesnici sportskih priredbi. U skladu sa podelom evropskih pravnih instrumenata na opšte i posebne, u kategoriju opštih svrstana je Evropska konvencija o ljudskim pravima (1950). Poseban ili specijalizovan evropski pravni instrument u oblasti suzbija-

¹⁶ Vidi: Zakon o ratifikaciji statuta Saveta Evrope, *Službeni list SCG - Međunarodni ugovori*, 2/03.

¹⁷ Vidi: *Recommendation Rec (2003)1 of the Standing Committee on the role of social and educational measures in the prevention of violence in sport and handbook on the prevention of violence in sport*; *Recommendation Rec(2001)6 of the Committee of Ministers to member states on the prevention of racism, xenophobia and racial intolerance in sport*.

nja nasilja na sportskim priredbama, predstavlja znatno kasnije doneta Konvencija Saveta Evrope o nasilju i nedoličnom ponašanju na sportskim priredbama, a posebno na fudbalskim utakmicama, sa Preporukama (1985).

Analizom odredbi ova dva evropska pravna instrumenta možemo uočiti smernice u kojima se treba kretati prilikom koncipiranja borbe protiv nasilja na sportskim priredbama u nacionalnom zakonodavstvu. Većina evropskih država je ratifikovala oba pravna instrumenta čime su stvoreni povoljni pravni okviri za suzbijanje različitih oblika nasilja na sportskim priredbama. Pravilno razumevanje i implementacija pravnih rešenja sadržanih u evropskom pravnom instrumentarijumu posebno dobija na značaju u procesu pridruživanja naše zemlje na putu ka članstvu u Evropskoj uniji.

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REPRESSION OF VIOLENCE AT PUBLIC MEETINGS AND SPORTING EVENTS WITHIN THE EUROPEAN LEGAL SPACE

S u m m a r y

Violence and unbecoming behaviour at sporting events stand for a most acute problem in numerous European countries. However, the method and modes of its' repression have been determined within the frames of each country, that is its' national legislation. Thus, a wide range of various regulations referring to the distinctions of this type of violence can be spotted in legislative of each European country. Nevertheless, along with the development and maturing of the idea of the necessity of implementation of both international and regional legal instruments, used for setting up national law of individual states, a number of European legal instruments have also come to life. It comes as no surprise, though, the growing need for more both general and separate legal instruments in the repression of violence and unbecoming behaviour at sporting events in the European legislative. Based on the analysis, it is possible to single out the ones to achieve the strongest effect to our national legislative. Consequently, the general frames of the repression of violence and unbecoming behaviour at sporting events are founded on European Convention on Human Rights and Fundamental Freedoms (1950), whereas the separated ones lie in the Convention of the European Council on the Repression of Violence and Unbecoming Behaviour at Sporting Events, especially the soccer games, with the Recommendation (1985).

The subject of this paper is based on analysis of the legal frames established by the European legal instruments in the field of the repression of violence and unbecoming behaviour at sporting events. The methodological framework throughout the research considers the usage of various methods: historical, linguistic, sociological, logical, normative, analysis of content, etc.

Key words: the European Council, legal instruments, violence, unbecoming behaviour, sporting events, human rights

INTEGRATED MARKETING COMMUNICATIONS PARADIGM IN DIGITAL ENVIRONMENT: THE FIVE PILLARS OF INTEGRATION

This paper is focused on the paradigm of integrated marketing communications (IMC) in digital environment. The integration is analysed through five aspects. First, integration in terms of media; it means that IMC are performed through the mix of traditional media (print – newspapers, magazines; radio; television; direct-response media - telephone, direct mail, catalogue marketing; billboards; other “specific media”: product - especially brand, packaging; price; place; people; process; physical evidence; traditional/offline consumers - WOM communications) and digital media (the Internet; mobile phones and other mobile devices; digital newspapers and magazines through the Internet and mobile devices; digital radio; digital TV; digital consumers - digital WOM communications). Second, integration in terms of communication methods, it means that IMC are a mix of traditional promotion (advertising, personal selling, public relations & publicity, direct marketing, sales promotion), digital communications/interactions (Internet communications, mobile communications, communications via digital radio and TV) and WOM communications/interactions (offline and online). Third, integration in terms of time of communications and possibilities for interaction, it means that IMC are a mix of traditional-static communications (“monologue” towards the target audience) and dynamic communications (“dialogue”) in real time. Fourth, integration in terms of actors, it means that IMC are a mix of communications initiated both by consumers (WOM communications – offline and online/e/digital) and organizations. Fifth, integration in terms of content creation, it means that IMC are a mix of communications based on consumer generated content and marketing content (created by organisations).

Key words: integrated marketing communications, paradigm, traditional communication, digital communication, WOM communications

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1. Introduction

Redirection from the organization monologue towards consumers to the dialogue and interactions with consumers in real time is enabled by the development of Web-a 2.0. As Brennan¹ states, Web 2.0 is used to describe the similar concept of the Internet's evolution from a static environment focused on the one-way provision or receipt of information (Web 1.0), to an interactive community where users can communicate, share, post, blog and create content in real time. "The information technology and information sector within the modern global economy have become a hard core of successful functioning and development of strategies of all entities in economic and social life".² Cory emphasizes the changes in communications towards social media marketing communications.³ The author advises – online reputation is critical. Therefore, one should not talk at people; instead, one should talk with them and to do so in a manner that makes it clear organisation would like them to join the conversation. Jackson⁴ explains that new media technologies – the Internet, mobile broadband, e-commerce, internet-enabled entertainment, social networking, and others – are fundamentally changing the way people interact with each other and the world. Manolica⁵ states that social media represent a paradigm shift in the way that we as people communicate and interact with one another.

Hanna, Rohm and Crittenden⁶ bring up an important difference between traditional and social media. Traditional media is all about reach. But, while reach can be achieved in large numbers, it often does not translate into a true marketing exchange. Consumers become innocent, and often unwilling, bystanders in the actions of marketers. Digital technology allows the transformation of bystanders into active participants. Besides, consumers now also expect to be active participants in the media process. This requires new approaches to media strategy, involving media that do not simply replace traditional media, but rather expand media choices so as to capture reach, intimacy, and engagement.

¹ Brennan Valerie (2010): "Navigating Social Media in the Business World", *The Licensing Journal*, vol. 30, issue 1, 8-12.

² Kotlica Slobodan (2013): "The potential impact of information technology on the restructuring of the Serbian economy", *Megatrend Review*, Vol. 10, no 1, 205.

³ Cory Jesse (2010): "Social Media Comes of Age", *QR – Qualified Remodeler*, vol 36, issue 5, 79-87.

⁴ Jackson Stuart (2010): "New media: debunking the myths", *Journal of Business Strategy*, vol. 31, issue 1, 56-58.

⁵ Manolica Adriana (2011): *Mixing Social Into Social Media: On-line Networking Is Transforming The Way Of Business All Over The Globe*, CES Working Papers, III, (3), 405.

⁶ Hanna Richard, Rohm Andrew and Crittenden Victoria (2011): "We're all connected: The power of the social media Ecosystem", *Business Horizons*, vol. 54, issue 3, 265-273.

Corcoran⁷ classifies all media into three groups:

- owned media (controlled by the marketer; e.g. company website, mobile site, blog, Twitter account);
- paid media (bought by the marketer; e.g., display ads, paid search, sponsorships);
- and earned media (not controlled or bought by the marketer; e.g., WOM).

The rest of the paper is organized as follows: Section 2 focuses on an integrated approach to traditional and new digital media. Section 3 presents an integrated approach to traditional and digital marketing communications. Section 4 examines an integrated approach to actors in the process of communications. Section 5 presents integrated marketing communications paradigm, which is based on five pillars. Section 6 briefly summarises the paper and its contributions.

2. An integrated approach to traditional and new digital media

Authors underline the changes in IMC as a result of social media impact, but they also say that social media present only a part of IMC strategy and of an integrated marketing strategy. Murray⁸ states that social media requires integration with traditional marketing.

“Social media’s marketing potential is lost if it is not woven into the overall marketing strategy.” The tools and strategies for communicating with customers have changed significantly with the emergence of the social media.⁹ Hanna, Rohm and Crittenden suggest the creation of ecosystem of related elements involving both digital and traditional media, strategic integration of social media into a firm’s marketing communications strategy, and social media marketing as a mandatory element of their marketing strategy.¹⁰ They conclude that it is no longer enough to merely incorporate social media as standalone elements of a marketing plan. Companies need to consider both social and traditional media as part of an ecosystem whereby all elements work together toward a common objective. Marketing managers are seeking ways to incorporate social media into their

⁷ Corcoran Sean (2009): *Defining owned, earned, and paid media*, [Online], Available: http://blogs.forrester.com/interactive_marketing/2009/12/defining-earned-owned-and-paid-media.html [7 Aug 2013].

⁸ Murray David (2010): “Boosting Social Media Traffic: Who Goes There?”, *Franchising World*, vol. 42, issue 10, 17.

⁹ Hanna Richard, Rohm Andrew and Crittenden Victoria (2011), 270.

¹⁰ Hanna Richard, Rohm Andrew and Crittenden Victoria (2011): “We’re all connected: The power of the social media Ecosystem”, *Business Horizons*, vol. 54, issue 3, 269.

IMC strategies.¹¹ Mangold and Faulds¹² propose that social media be considered a hybrid component of the promotional mix and therefore be incorporated as an integral part of the organisation's IMC strategy. They compare and contrast the traditional communications paradigm that relied on the established promotional mix, elements which were developed and refined over the past 100 years, with the new communications paradigm which incorporates social media. First, in a traditional sense social media enable companies to talk to their customers, and this role of social media is consistent with the use of traditional IMC tools. Second, in a non-traditional sense social media enable customers to talk directly to one another – it is an extension of traditional word-of-mouth communication. Third, social media also enable customers to talk to companies, which is important for marketing research. “The content, timing, and frequency of the social media-based conversations occurring between consumers are outside managers’ direct control. This stands in contrast to the traditional integrated marketing communications paradigm whereby a high degree of control is present.” So, according to the new communications paradigm, presented by Mangold and Faulds¹³, communications are performed integrally - by combining traditional promotion mix (advertising, personal selling, public relations and publicity, direct marketing and sales promotion) and social media (blogs – company sponsored and user sponsored, social networking sites, video sharing sites, etc.).

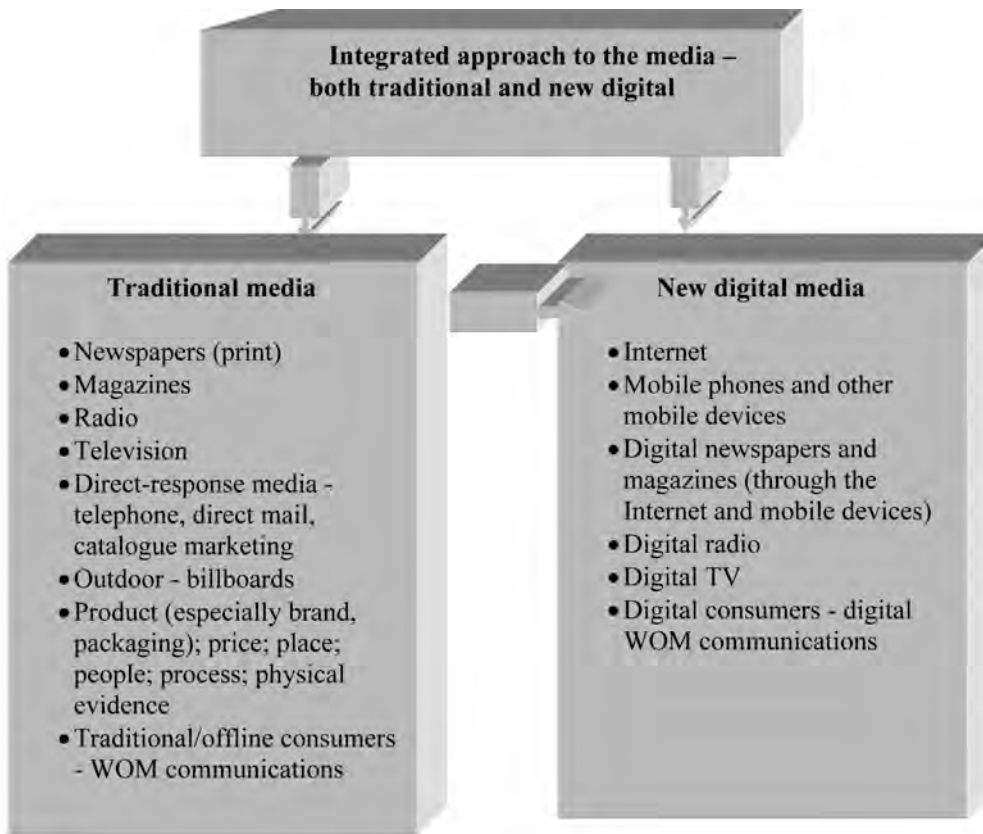
With the development of digital media, consumers change their behaviour, so that they redirect from traditional (classic) to digital media. However, consumers use different media, i.e. the mix of media, so that organisations also need to create messages for different media, i.e. a different acceptance of media by the consumers. Figure 1 shows an integrated approach to the media - both traditional and new digital.

¹¹ Li Charlene and Bernoff Josh (2008): *Groundswell: Winning in a world transformed by social technologies*, Boston: Harvard Business Press.

¹² Mangold Glynn and Faulds David (2009): “Social media: The new hybrid element of the promotion mix”, *Business Horizons*, vol. 52, issue 4, 357.

¹³ *Ibid*, 357.

Figure 1: *Integrated approach to the media - both traditional and new digital*



Consumers use traditional media such as newspapers (print), magazines, radio, television, direct media - telephone, mail, catalogues, external advertising etc. In addition to these typical traditional media, other instruments of marketing mix are equally important. These instruments are not directly focused on the promotion but they can be considered media as well and they represent product / organisation. Nowadays when consumers are constantly “bombarded” by advertising messages and when they do not pay attention to them, it is necessary to have media which would attract the attention of consumers. Such media can be effective packaging. To be specific, consumers can avoid watching TV video clips, they can choose not to listen to radio messages, look at all billboards and thus to avoid influences of typical media. However, when they find themselves in a store, an effective packaging can attract and keep the attention more than any other media. Price also “tells” a lot about the product, so it is an indirect medium. Distribution channels, retailers (knowledge, kindness, politeness, etc.), the process of service delivery, cordial atmosphere additionally represent product/organisation. As a result of the aforementioned influences of media, tradi-

tional - *offline* consumers, through oral recommendation (“word of mouth” – in person), communicate their (dis)pleasure to others, and thus they become the most important i.e. the most influential “movable media”.

The process of digitalisation influences the acceptance of new digital media like the Internet, mobile phones and other mobile devices (e.g. iPad), digital newspapers and magazines (through the Internet and mobile phones), digital radio, digital TV and digital consumers. Online consumers can quickly convey messages to multiple people - friends, acquaintances, but also to strangers.

The Internet, digital radio, digital TV, mobile phones and other mobile devices are used as:

- Media - channels of communication (as a part of multi-channel - integrated marketing communications) - for communications, interactions and relationships with customers and other actors in the micro-environment,
- sales channels,
- distribution channels - for digital products,
- the method of marketing research - consumers and all other actors and forces in the region.

3. An integrated approach to traditional and digital marketing communications

As Aprimo¹⁴ states, every element in marketing mix of an organisation - whether traditional or online - should share a consistent look and feel that aligns with company’s goals.

Consumers behave differently; they use different media, so organisations use IMC. Digital communications are only a part of multi-channel, i.e. integrated communications. The real question is what mix of marketing communications should be used. Based on integrated marketing communications, organisation informs, persuades, reminds us “listens” to consumers about products/services and/or organisation.

The methods of integrated marketing communications are:

- Advertising - paid form of non-personal presentation of products or services of on organisation.
- Sales promotion - includes a variety of short-term incentives that encourage trial and / or purchase of products or services.
- Public relations and publicity are aimed to create and maintain a good image of an organization.

¹⁴ Aprimo (2011): *Insights to Help Advance Digital Marketing*, [Online], Available: <http://research.itpro.co.uk/content12192> [11 Aug 2013].

- Traditional ways of direct communication like using mail, telephone, fax in order to establish direct communications and interactions.
- Personal selling is an interaction face-to-face between dealer and one or more potential buyers in order to organise presentations, answer questions, and obtain orders and product sales.
- Digital marketing communications – using the Internet, databases, mobile devices, digital radio and TV, and other (for the time being) new digital technologies for faster and more effective communications, interactions and the management of relationship with customers and other actors in the internal environment.

The above mentioned classic forms of communication, thanks to digital technology, get their appropriate digital forms. For example, the advertising in classic (traditional) printed newspapers and magazines on one hand, and advertising in digital newspapers and magazines (online and mobile) are different. Classic TV is replaced by Internet TV and digital TV.

Telephone communications are being diverted from landline phones to mobile phones. Mobile phones allow communications with mobile consumers – i.e. consumers on the move - anytime, anywhere - of course, if the consumers are interested in communications. Smart phones offer numerous possibilities for both consumers and organisations.

Organisations can send classic direct mail to a home address and / or to quickly send messages more quickly, electronically – *via email*.

In addition to traditional and digital methods of marketing communications, organisations present their products / services through non-communicative instruments of the marketing mix. All this together makes integrated marketing communications.

- Non-communicative instruments of marketing mix - product (above all brand and packaging), price, channels of distribution, people, process, physical evidence. All these instruments also “speak” a lot about the product and the organization. In other words, all instruments of marketing mix directly or indirectly represent products/services/organizations and can contribute to the value of products and to the experience of consumers.
- *Word of Mouth Marketing (WOMM)* aims to establish *Word of Mouth (WOM)* among users (*word of mouth* – communications “from mouth to mouth”, i.e. *word of mouse* - communications “from mouse to mouse”). Communications among consumers are related to recommendations, comments, suggestions, reviews etc. All previously mentioned forms of IMC have great influence on WOM. This, and not the significance of WOM, is the reason why WOM is listed last. If we talk about their significance, WOM should be listed first. Numerous research results confirm that communications with family members, friends, acquaintances and

customers have greater impact on consumers' behaviour than IMC of organisations.

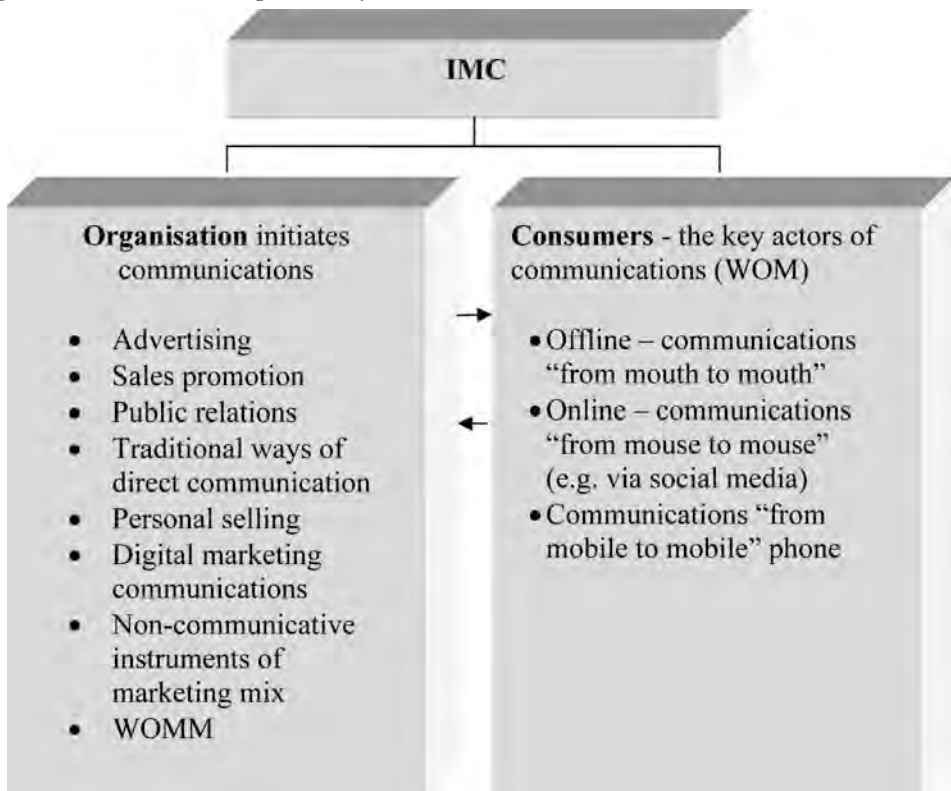
Communications among users can be *offline* (e.g. from mouth to mouth) and online (e.g. through forums, blogs, social networks and other social media). The following terms are used: User Generated Media and User Generated Content.

Availability, prices and acceptance of new digital media by greater number of consumers – market, will in the end lead to the fact that they will also become classic.

4. Integrated approach to actors in the process of communication

Consumers via digital media take control over the communications about brands, so that they can initiate communications, they can be active participants and passive observers and not only the recipients of information. Nowadays, communications can be initiated by both organizations and consumers (Figure 2). Communications become two-way communications. Traditional organisation's monologue "to" consumers and stakeholders through traditional media is being supplemented by digital media that allow two-way communications and dialogue between consumers and organisation, but also among consumers themselves.

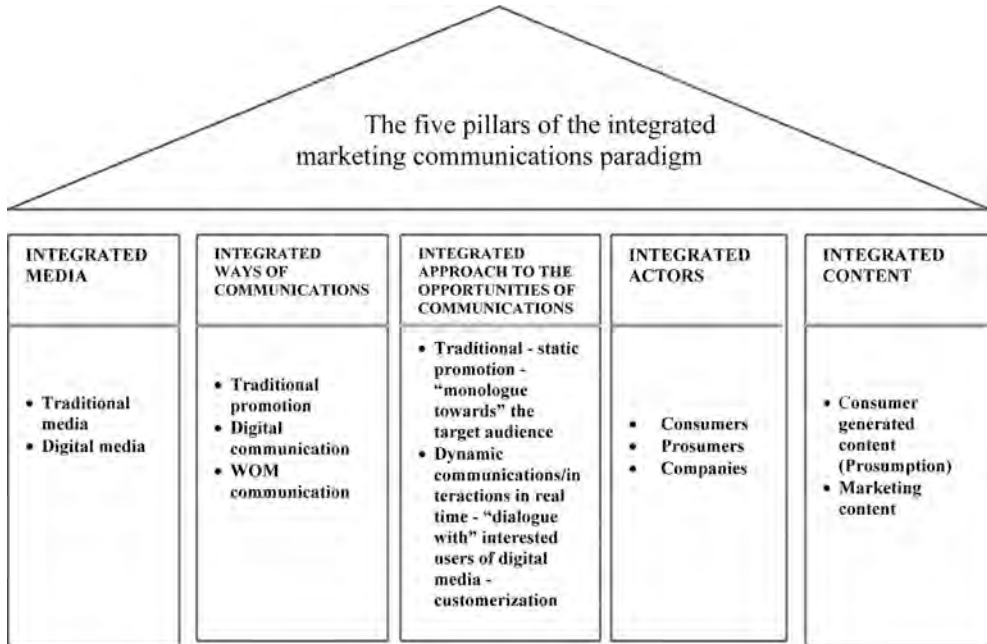
Figure 2: Actors in the process of IMC



5. Integrated marketing communications paradigm: The five pillars of integration

Integrated marketing communications paradigm is based on five aspects of integration (Figure 3).

Figure 3: *The five pillars of the integrated marketing communications paradigm*



5.1. Integrated media

Before the advent of digital media, in order to promote themselves organisations used traditional media such as newspapers (print), magazines, radio, television, direct media - telephone, mail, catalogues, external advertising methods, other "specific media": product (especially the brand, packaging), price, distribution channels, people; process; physical evidence, traditional (offline) consumers - WOM. When digital media have been invented, consumers started increasingly to use them, so the companies had to start to communicate through digital media like the Internet, mobile phones and other mobile devices (e.g. iPad etc.), digital newspapers and magazines (via the Internet and mobile devices), digital radio, digital TV, digital consumers - digital WOM. Consumers use both traditional and digital media, so that integration in terms of media means that organisations also use all media in the process of IMC.

5.2. *Integrated ways of communications*

Before the advent of digital media, organisations were conducting promotion based on traditional promotion mix - advertising, personal selling, public relations & publicity, direct marketing, sales promotion. With the advent of digital media, organisations have begun to use also digital communication / interaction. Integration, in terms of methods of communications, means that organisations use both traditional promotion and digital communications, but they have to pay attention to WOM communications as well, and to stimulate them through word-of-Mouth Marketing - WOMM.

5.3. *Integrated approach to the opportunities of communications*

Before the advent of digital media, organisations were able to promote brands through traditional static forms (of promotion) based on “monologue towards” mass target audience. Digital media have provided opportunity for more dynamic communications - interactions in real time - real “dialogues with” all interested users (of digital media).

Wind and Rangaswamy¹⁵ propose that the next stage of evolution of mass customization is *customerization* - a buyer-centric company strategy that combines mass customization with customized marketing. Digital technologies and consumers will affect more and more the customerization of marketing and business activities as a whole. In the old model-mass and segmented marketing, communications were reduced to advertising and PR. In the new model, marketing communications are integrated, interactive, and customised. For consumers education and entertainment, or as some authors¹⁶ call it “interactive edutainment”, are also very important. “The customerization of the content, format, the educational component and the entertainment/ captivating power of the communication, its mode of delivery, and timing and place is becoming important to a segment of customers and will become an increasingly important part of the portfolio of communication activities of the firm”.¹⁷

5.4. *Integrated actors*

Before the advent of digital media, the key initiators and actors in communications, especially in the promotion, were organisations. Digital media have provided opportunity for consumers to be active participants and initiators of

¹⁵ Wind Jerry and Rangaswamy Arvind (2001): “Customerization: The Next Revolution in Mass Customization”, *Journal of Interactive Marketing*, vol. 15, issue 1, 13-32.

¹⁶ Ibid.

¹⁷ Ibid, 24.

communications. Integration in terms of actors means that both consumers and organisations take part in communications.

Since Toffler¹⁸ has first invented the term the “prosumer,” numerous authors, talk about the importance of prosumers and prosumption, prosumer age, age of the digital prosumer and prosumer capitalism^{19/20/21/22/23/24/25}. Prosumer is the one who is both producer and consumer; and prosumption involves a combination of production and consumption. “Prosumption has always existed, but various social changes (e.g., the rise of the Internet and of social networking on it) have greatly expanded both the practice of prosumption and scholarly attention to it”.²⁶

5.5. *Integrated content*

Before the advent of digital media, content was usually created by organisations (excluding offline WOM communication). However, with the advent of digital media content can be created by consumers as well, who are the users of digital media. Integration in terms of content creation means that the organisation apart from content marketing has to pay attention to user-generated content. User-generated content represents “another way of saying prosumption”.

6. The process of communications based on integrated marketing communications paradigm

Figure 4 shows the process of communications based on integrated marketing communications paradigm. Organisation together with agents (advertising agency, marketing research, public relations firm etc.) conducts promotion

¹⁸ Toffler Alvin (1980): *The third wave*, New York: William Morrow.

¹⁹ Collins Steve (2010): “Digital Fair: Prosumption and the Fair Use Defence”, *Journal of Consumer Culture*, vol. 10, issue 1, 37-55.

²⁰ Comor Edward (2011): “Contextualizing and Critiquing the Fantastic Prosumer: Power, Alienation and Hegemony”, *Critical Sociology*, vol. 37, issue 3, 309-327.

²¹ Cook Willam (1997): “World Wide Wake-Up Call”, *Journal of Advertising Research*, March-April, 5.

²² Davis Jenny (2012): “Prosuming Identity: The Production and Consumption of Transableism on Transabled.org”, *American Behavioral Scientist*, vol. 56, issue 4, 596–617.

²³ Rey P. (2012): “Alienation, Exploitation, and Social Media”, *American Behavioral Scientist*, vol. 56, issue 4, 399-420.

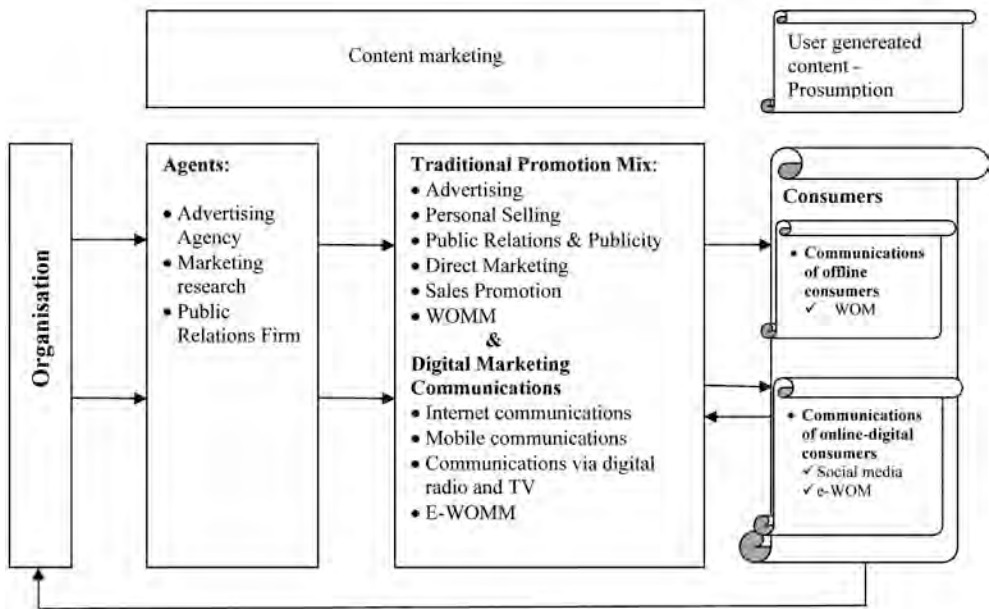
²⁴ Ritzer George and Jurgenson Nathan (2010): “Production, Consumption, Prosumption: The Nature of Capitalism in the Age of the Digital “Prosumer”, *Journal of Consumer Culture*, vol. 10, issue 1, 13-36.

²⁵ Ritzer George, Dean Paul and Jurgenson Nathan (2012): “The Coming of Age of the Prosumer”, *American Behavioral Scientist*, vol. 56, issue 4, 379–398.

²⁶ *Ibid*, 379.

through promotion mix and digital marketing communications with consumers. Consumers can take part in each other's communications, both face-to-face (offline), and through social media. Consumers can take part in communications with representatives of the organisation.²⁷

Figure 4: *The process of communications based on integrated marketing communications paradigm*



Source: Done and adapted from: Mangold and Faulds, 2009: 360.

6. Summary

Digital environment affects changes in IMC. In the age of prosumption and prosumers, organisations are faced with the challenge of the choice of IMC. Consumers behave differently, follow different media, in different context and time. Consumers have different approaches to marketing communications - some are just passive observers of organisations' promotions and interactions, while others are active participants in their mutual interactions via social media and in interactions with organisations in real time. Traditionally oriented consumers are more directed towards traditional communications. Digitally oriented consumers are equipped with smart devices and are ready for digital communications and interactions in real time. The consumers in the digital era, with the

²⁷ Ibid, 386-387.

digital mind-set, are not only up to date with the digital communications, but they are prosumers of marketing content.

On one hand, technologies, media and communications are changing, i.e. they are getting more and more digitised. On the other hand, companies must at least follow the changes, i.e. they have to digitise their business entirely. Organisations respond to that by using the mix of traditional and digital media, communications and business. Integrated marketing communications paradigm suggested in this paper starts from traditional marketing communications and it takes into account changes in the environment. Integrated marketing communications paradigm is based on the five pillars of integration - integrated: media, methods of communications, communications' opportunities, actors and content. **First**, integration in terms of **media** means that IMC are performed through the mix of traditional and digital media. **Second, integration in terms of communication methods** means that IMC are a mix of traditional promotion and interactions among the consumers, as well as among the consumers and organisations. **Third, integration in terms of time of communications and possibilities for interactions** means that IMC are a mix of traditional-static communications ("monologue" towards the target audience) and dynamic communications ("dialogue") in real time. **Fourth**, integration in terms of actors means that IMC are a mix of communications initiated both by consumers (WOM) and organisations. Prosumers are co-creators of the content in the process of IMC. **Fifth, integration in terms of content creation** means that IMC are a mix of communications based on consumer generated content and marketing content (created by organisations). Consumers take part in the process of prosumption.

Shift towards digitisation of communications and, widely observed of entire business, is a part of a general process of digitisation which is rapidly becoming a requirement for survival in a competitive environment. Prosumers and prosumption in marketing communications are only a part of the general trend towards and prosumption.

Digitisation of consumers, media and environment affects the customerization of communications, marketing and business as a whole. "Customerization is not a strategy that replaces traditional mass marketing, but rather it offers additional competitive options in developing an overall marketing strategy".²⁸ Customerization of marketing communications is a part of the integrated customerization strategy. The conditions for application for customerization strategy of marketing communications are: digital orientation and processes; digital education and the willingness of employees to perform digital communications in real time; digitisation of the content and the ways of marketing communications.

Consumers can variously be engaged in the process of marketing communications of organisations (they can be completely passive and/or passive observers and/or active participants - co-creators/co-producers of content - prosum-

²⁸ Wind Jerry and Rangaswamy Arvind (2001), 26.

ers) they can follow different media, in different periods of time, context and so on. On the other hand, it is important for organisations to have an integrated approach to marketing communications. Integrated - combined traditionally digital access to communications is the organisations' response to changes in the digital environment. IMC are a mixture of traditional and digital communications; traditional, static promotion - mass advertising and dynamic - customised interactions; content created by organisations and prosumers; and it is transmitted through traditional and digital media. An integrated approach to marketing communications enables an integrated representation in all touch points with consumers and integrated experience for the consumer. IMC are only a part of the marketing and business strategy. Integrated (combined traditional-digital) approach to communications is only a part of the integrated (combined traditional-digital) approach to marketing strategy and business strategy as a whole.

In short, in the digital environment, consumers' behaviour is a mix of traditional and digital. Integrated marketing communications (and business in general) are a mixture of traditional and digital.

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PARADIGMA INTEGRISANIH MARKETINŠKIH KOMUNIKACIJA U DIGITALNOM OKRUŽENJU: PET STUBOVA INTEGRISANOSTI

S a ž e t a k

U fokusu rada je paradigma integrisanih marketinških komunikacija (IMK) u digitalnom okruženju. Digitalni mediji i ponašanje potrošača utiču na promene integrisanih marketinških komunikacija. Neophodan je integrisani pristup tradicionalnim i digitalnim medijima i komunikacijama. Integrisanost se posmatra sa pet aspekata. Prvo, integrisanost s aspekta medija, znači da se IMK ostvaruju na osnovu miksa tradicionalnih i digitalnih medija. Drugo, integrisanost s aspekta načina komunikacija, znači da IMK predstavljaju miks tradicionalne promocije i interakcija, kako između samih potrošača, tako i između potrošača i organizacija. Treće, integrisanost s aspekta vremena komunikacija i mogućnosti za interakcije znači da su IMK miks tradicionalnih statičkih komunikacija („monologa“ prema ciljnom auditorijumu) i dinamičkih komunikacija („dijaloga“) u realnom vremenu. Četvrto, integrisanost s aspekta aktera, znači da IMK predstavljaju miks komunikacija koje iniciraju i potrošači (WOM) i organizacije. U digitalnom veku, digitalno usmereni potrošači, opremljeni smart uređajima, ne samo da prate digitalne komunikacije, već su i proizvođači i potrošači (*prosumers*) marketinškog sadržaja. Peto, integrisanost s aspekta kreiranja sadržaja, znači da IMK predstavljaju miks komunikacija na osnovu sadržaja koji kreiraju potrošači i marketinga sadržaja (koji kreiraju organizacije). Potrošači učestvuju u procesu i proizvodnje i potrošnje (*prosumption*).

Digitalizacija medija, komunikacija i okruženje utiču na kastomerizaciju (*customerization*), komunikaciju, marketing i poslovanje organizacije u celini. Uslovi za primenu strategije kastomerizacije marketinških komunikacija su: digitalna orijentacija i procesi; digitalno obrazovanje i spremnost zaposlenih na digitalne komunikacije u realnom vremenu; digitalizacija sadržaja i načina marketinških komunikacija.

Potrošači mogu različito da se angažuju u procesu marketinških komunikacija organizacija (da budu potpuno pasivni i/ili pasivni posmatrači i/ili aktivni učesnici, tj. kokreatori sadržaja), prate različite medije, u različitim periodima, kontekstu itd. Na drugoj strani, bitno je da organizacije imaju integrisani pristup marketinškim komunikacijama. Integrisani – kombinovani tradicionalno-digitalni pristup komunikacijama je odgovor organizacija na promene u digitalnom okruženju.

Ukratko, u digitalnom okruženju ponašanje potrošača je miks tradicionalnog i digitalnog. IMK su miks tradicionalnih i digitalnih komunikacija; tradicionalne, statičke promo-

cije – masovnog oglašavanja i dinamičkih – prilagođenih interakcija; sadržaja koji kreiraju organizacije i korisnici, i prenosi se putem tradicionalnih i digitalnih medija. Integrisani pristup marketinškim komunikacijama omogućava integrisano predstavljanje u svim „tačkama dodira“ (*touch-points*) sa potrošačima i integrisano iskustvo za potrošača.

Ključne reči: integrisane marketinške komunikacije, paradigma, tradicionalne komunikacije, digitalne komunikacije, WOM komunikacije

ZNAČAJ I ULOGA STRATEGIJSKOG ALATA USKLAĐENE LISTE U UPRAVLJANJU DIVERSIFIKOVANIM PREDUZEĆIMA

Opravdanost primjene strategije diversifikacije izvodi se iz uspješnosti korporativnog menadžmenta diversifikovanog preduzeća da doda vrijednost portfoliju stratezijskih poslovnih jedinica u svom sastavu u većem iznosu nego što bi to one mogle same postići ili pod nečijom tuđom kontrolom. Takav nivo dodate vrijednosti moguće je ostvariti identifikovanjem i korištenjem stratezijskih sprega između samih stratezijskih poslovnih jedinica ili između stratezijskih poslovnih jedinica i korporativnog menadžmenta. Budući da stratezijske sprega, koje predstavljaju specifične odnose povezanosti i međuzavisnosti, u savremenim preduzećima postoje najčešće među različitim oblicima neopipljive aktive često ostaju neiskorištene jer ih nije lako identifikovati. Čak i kada se prepoznaju mogućnosti za ostvarenje stratezijskih sprega, nije ih lako ostvariti jer je često potrebno usklađeno djelovanje različitih organizacionih cjelina na različitim hijerarhijskim nivoima. Zato izuzetan značaj u upravljanju savremenim diversifikovanim preduzećima ima stratezijski alat *Usklađena lista* (eng. *Balanced Scorecard*).

Ključne riječi: usklađena lista, stratezijski menadžment, strategija diversifikacije

1. Uvod

Korporativni menadžment u diversifikovanom preduzeću ne može da utiče direktno na stvaranje vrijednosti, već samo indirektno preko uticaja na poslovanje pojedinačnih poslovnih djelatnosti (stratezijskih poslovnih jedinica) u svom sastavu. Dodavanje vrijednosti portfoliju stratezijskih poslovnih jedinica predstavlja osnovu opravdanosti postojanja korporativnog vrha. Predmet ovog rada je analiza mogućnosti da se pomoću Usklađene liste, savremenog alata stratezijskog menadžmenta, olakša korporativnim menadžerima da postignu usklađivanje strategija na različitim nivoima preduzeća, u cilju iskorištenja stratezijskih sprega i dodavanja vrijednosti poslovnim i funkcionalnim jedinicama. Polazna hipoteza je da sistem usklađene liste kao alat stratezijskog menadžmenta može da pruži korporativnim menadžerima kvalitetan okvir za usklađivanje

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poslovanja različitih poslovnih jedinica, za identifikovanje i iskorištenje strateških sprega, kao i za prenošenje znanja i kompetencija korporativnog vrha na poslovne jedinice u sastavu preduzeća. Na taj način sistem usklađene liste može biti od pomoći korporativnim menadžerima da ostvare svoju osnovnu ulogu.

Značaj ove teme potiče od činjenica da je korporativna strategija jedna od relevantnih i uvijek aktuelnih tema u stratežijskom menadžmentu i da Usklađena lista predstavlja jedan od najsavremenijih koncepata u oblasti upravljanja performansama. Zato je pitanje mogućnosti za unaprijeđenje performansi korporativne strategije pomoću Usklađene liste vrlo interesantna i aktuelna tema.

U ocjeni opravdanosti korporativne strategije polazi se od principa menadžmenta zasnovanog na vrijednosti, a to je da je osnovni cilj svake strategije stvaranje vrijednosti za vlasnike preduzeća. Zatim će biti ispitana uloga korporativnog vrha u dodavanju vrijednosti pojedinačnim SPJ i SFJ, a potom će biti istražene mogućnosti sistema Usklađene liste da pomogne u rješavanju onih problema sa kojima se susreće menadžment preduzeća u implementiranju korporativne strategije.

2. Specifičnosti stratežijskog menadžmenta u diversifikovanim preduzećima

2.1. Pojam i svrha korporativne strategije

Pitanje strategije preduzeća je pitanje na koji način će preduzeće stvoriti vrijednost za akcionare. Strategija preduzeća koje se sastoji od samo jedne djelatnosti formuliše se na tri nivoa: na nivou djelatnosti – konkurentska strategija, na nivou funkcionalnih područja, kao i na operativnom nivou. U slučaju diversifikovanog preduzeća koje se sastoji od više od jednog biznisa, strategija se formuliše još i na nivou preduzeća kao cjeline – korporativna strategija¹.

Treba istaći da postoji velika razlika između strategije SPJ (konkurentske strategije) i korporativne strategije diversifikovanog preduzeća. Strategija SPJ zasniva se na stvaranju superiornog prijedloga vrijednosti za potrošače, čime se nastoji ostvariti konkurentska prednost u djelatnosti u kojoj SPJ posluje. Konkurentska strategija vezana je za pojedinačnu poslovnu djelatnost. Korporativna strategija se suštinski bitno razlikuje od konkurentske strategije. Korporativni menadžment diversifikovanog preduzeća koje u svom sastavu ima više različitih SPJ, tj. posluje u više poslovnih djelatnosti, ne može direktno da stvara konkurentsku prednost jer nema direktan kontakt sa potrošačima. Jedino može da utiče na stvaranje konkurentske prednosti svake od pojedinačnih SPJ u njenom sastavu. Otuda se vidi da diversifikovana preduzeća moraju da upravljaju strategijom na dva nivoa: na nivou poslovne jedinice strategija se zasniva na pita-

¹ Thompson A. Arthur Jr., Strickland A. J. III: *Crafting and Executing Strategy: Text and Readings*, McGraw-Hill Higher Education, 2001, 52.

nju kako ostvariti konkurentsku prednost, a na nivou korporacije strategija se bavi pitanjem na koji način korporativni vrh može da doda vrijednost portfoliju postojećih SPJ u svom sastavu. Da bi korporativna strategija zaista vodila stvaranju vrijednosti za vlasnike, neophodno je postići da diversifikovano preduzeće bude sposobno za stvaranje veće vrijednosti nego što bi to bile u stanju pojedinačne SPJ u njegovom sastavu poslujući svako za sebe, odnosno neophodno je da se ostvare sinergetski efekti.

Korporativni vrh može da doda vrijednost poslovnim jedinicama, ali takođe može i da umani vrijednost. Svaka SPJ u posjedu diversifikovanog preduzeća je cjelina koja bi mogla da posluje nezavisno. Ekonomska vrijednost takvih pojedinačnih strateških poslovnih jedinica korespondira diskontovanoj vrijednosti projektovanih novčanih tokova tih SPJ u budućnosti. Osim u slučaju ako stavljanje različitih biznisa pod jedinstveni korporativni krov ne vodi povećanju očekivanih novčanih tokova pojedinačnih SPJ u odnosu na nivo koji bi SPJ ostvarile kao samostalna preduzeća, dovodi se u pitanje opravdanost diversifikacije kao strategije rasta preduzeća.

Opravdanost diversifikacije često se pravda smanjenjem nivoa nesistematskog rizika uključivanjem u portfolio preduzeća koja posluju u različitim djelatnostima. Međutim, značajna zamjerka ovom razlogu za diversifikaciju je da investitori mogu i sami diversifikovati sopstveni portfolio jednostavnim ulaganjem u akcije različitih preduzeća na tržištu kapitala, za što im nije potreban posrednik u obliku korporativnog vrha preduzeća. Jedino u slučaju nepostojanja aktivnog tržišta kapitala može se diversifikacija pravdati smanjenjem nesistematskog rizika. Eliminisanjem smanjenja rizika kao potencijalnog razloga za diversifikaciju još više se naglašava značaj neophodnosti ostvarivanja sinergetskih efekata kod diversifikovanih preduzeća.

Bitna karakteristika korporativnog vrha je da samo njegovo postojanje dodaje određene troškove i ograničenja koja umanjuju vrijednost poslovnih jedinica. Tu se prije svega misli na fiksne troškove funkcionisanja korporativne uprave koji dodatno opterećuju dobitna ostvarenja poslovnih jedinica, ali takođe i brojna ograničenja koja se odnose na smanjenje fleksibilnosti SPJ usljed usklađivanja poslovanja SPJ sa korporativnom strategijom. Iz tog razloga, sinergetski efekti moraju da prevaziđu visinu troškova korporativnog vrha da bi se moglo govoriti o vrijednosti stvorenoj diversifikacijom. Ukupna vrijednost diversifikovanog preduzeća može se izračunati, dakle, kao zbir vrijednosti pojedinačnih SPJ i dodate vrijednosti korporativnog vrha. Dodatom vrijednošću korporativnog vrha nazivamo razliku vrijednosti pozitivnih (sinergetskih) efekata koji su posljedica aktivne uloge korporativnog vrha u upravljanju diversifikovanim preduzećem i troškova funkcionisanja korporativnog vrha. Suština korporativne strategije je u dodavanju vrijednosti poslovnim jedinicama u iznosu većem od troškova funkcionisanja korporativnog vrha.

2.2. Uloga korporativnog menadžmenta u dodavanju vrijednosti SPJ

Ispunjenju zadatka korporativne strategije može se pristupiti na nekoliko načina u zavisnosti od koncepta uloge korporativnog vrha. U relevantnoj literaturi mogu se izdvojiti sljedeći koncepti uloge korporativnog vrha u dodavanju vrijednosti poslovnim jedinicama: portfolio menadžer, menadžer sinergije i menadžer roditeljstva².

Portfolio menadžer predstavlja neku vrstu agenta koji posreduje u korist akcionara na finansijskom tržištu i upravlja različitim SPJ na efikasniji i efektivniji način nego što bi to mogli sami akcionari. Njegova uloga je u identifikovanju i pripajanju potcijenjenih SPJ i poboljšavanju njihovih performansi. Za koncept portfolio menadžmenta nije mnogo bitna povezanost između djelatnosti preduzeća koja se pripajaju. Dodavanje vrijednosti zasniva se na usmjeravanju finansijskih resursa od biznisa koji generišu gotovinu prema biznisima koji imaju visok potencijal rasta i visoke potrebe za gotovinom. Prema relevantnoj ekonomskoj literaturi, mogućnosti za stvaranje dodatke vrijednosti preduzeća sve su veće što se pristup ulozi preduzeća kreće od portfolio menadžmenta ka dijeljenju zajedničkih aktivnosti i resursa i transferu znanja i vještina, tj. ključnih kompetencija. Zato u ovom radu kao relevantne za analizu uloge korporativnog menadžmenta uzimamo ulogu menadžera sinergije i ulogu menadžera roditeljstva.

Koncepti menadžera sinergije i menadžera roditeljstva zasnivaju se na međusobnoj povezanosti biznisa u okviru korporativne cjeline i na povezanosti pojedinačnog biznisa i korporativnog vrha. Menadžer sinergije teži da ostvari sinergetske efekte koji se mogu izvući iz odnosa međuzavisnosti poslovnih jedinica u korporativnom portfoliju. Međuzavisnost postoji ukoliko postoje strateški vrijedne sprege, odnosno kada se poslovanje jedne SPJ ili SFJ „uklapa“ sa poslovanjem drugih SPJ ili SFJ u portfoliju preduzeća. To se može postići na sljedeće načine³:

- Dijeljenje zajedničkih aktivnosti (resursa). Ako postoji dovoljno sličnosti između aktivnosti u lancu vrijednosti različitih SPJ onda te aktivnosti mogu biti dijeljene. Različite SPJ mogu, na primjer, koristiti zajednički sistem distribucije, zajedničke prodajne objekte, ili proizvodne pogone. Dijeljenje aktivnosti mora biti fokusirano na one aktivnosti koje su značajne za stvaranje konkurentne prednosti na nivou SPJ.
- Prenošenje znanja i vještina između lanaca vrijednosti različitih poslovnih jedinica. Iako pojedine SPJ imaju odvojene lance vrijednosti, znanje o načinu obavljanja aktivnosti može se prenositi između SPJ čime se stvara mogućnost za usvajanje najbolje prakse.

² Johnson G., Scholes K., Whittington R.: *Exploring Corporate Strategy: Text and Cases*, seventh edition, Financial Times Prentice Hall, 2005, 308-314.

³ Porter E. Michael: „From Competitive Advantage to Corporate Strategy“, *Harvard Business Review*, Vol. 65. 3/May - June 1987, 54-57.

U oba slučaja, uloga korporativnog vrha je u identifikovanju nivoa povezanosti lanaca vrijednosti pojedinih SPJ i kreiranju odgovarajućih mehanizama i struktura namjenjenih podsticanju i olakšavanju saradnje između SPJ.

Menadžer roditelj nastoji da upotrijebi sopstvene kompetencije da unaprijedi sposobnost poslovnih jedinica za stvaranje vrijednosti u iznosu većem nego što bi to SPJ mogle kao nezavisne ili pod nečijom drugom kontrolom. Kempbel, Guld i Aleksander nazivaju tu sposobnost preduzeća „parenting advantage“ što u direktnom prevodu znači prednost koja potiče od roditeljstva⁴. Korporativni vrh može, na primjer, da ima visoko iskustvo u oblasti marketinga, finansija ili istraživanja i razvoja, koje može iskoristiti da u toj oblasti poslovanja unaprijedi performanse SPJ. Uloga menadžera roditeljstva je u pronalaženju mogućnosti roditeljstva, odnosno u pronalaženju biznisa koji ne ostvaruju maksimalan potencijal u oblastima u kojima korporativni vrh ima visoke kompetencije. Mogućnosti roditeljstva zasnivaju se na korištenju jezgra kompetentnosti kao i na centralizovanju na nivou preduzeća i specijalizaciji pojedinih aktivnosti podrške koje se mogu iskoristiti za unapređenje poslovanja većeg broja pojedinačnih SPJ istovremeno. Dakle, prema ulozi menadžera roditeljstva, izvori sinergetskih efekata proizlaze iz odnosa međuzavisnosti samog korporativnog vrha i SPJ i SFJ u korporativnom portfoliju.

2.3. Uticaj organizacione strukture na implementaciju strategije preduzeća

Diversifikovano preduzeće predstavlja skup različitih biznisa, resursa, aktivnosti, znanja i vještina među kojima postoji određeni odnos međuzavisnosti. Da bi korporativni vrh ostvario svoju ulogu i dodao vrijednost portfoliju biznisa u sastavu korporacije, potrebno je da različiti elementi preduzeća funkcionišu usklađeno i čine koherentnu cjelinu čija vrijednost prevazilazi vrijednost svojih pojedinačnih dijelova. Da bi se to postiglo, neophodno je odgovarajuće konfigurisanje organizacije na način koji će omogućiti takav nivo integracije. U tom smislu, preduzeća moraju da definišu neke formalne odnose između različitih dijelova preduzeća. Ti odnosi čine organizacionu strukturu preduzeća. U ekonomskoj literaturi, brojni radovi su posvećeni proučavanju odnosa između organizacione strukture i uspješnosti implementacije strategije i činjenica je da odabir odgovarajuće organizacione strukture ima značajan uticaj na strategiju preduzeća.

Funkcionalna, divizionarna i matična struktura su osnovni i najčešći oblici organizacione strukture. Kao dalja nadogradnja ovih osnovnih struktura, razvijene su timska i projektna organizaciona struktura. U novijoj ekonomskoj praksi razvijene su i složenije organizacione strukture koje funkcionišu uzduž i poprijeko tradicionalnih linija komande i odgovornosti, kao što su mrežna i virtuelna struktura i tzv. Velkro organizacija, koja se može rastaviti na sastavne dijelove

⁴ Campbell Andrew, Goold Michael, Alexander Marcus: „Corporate Strategy: The Quest for Parenting Advantage“, *Harvard Business Review*, Vol. 73. 2/March – April 1995, 121.

i ponovo sastaviti prilagođavajući se promjenama u okruženju. Organizaciona struktura je glavni element organizacione konfiguracije, ali bez obzira na to za koji oblik organizacione strukture se preduzeće opredjeli, ona nije sama po sebi dovoljna da bi organizacija funkcionisala na pravi način. Unutar bilo koje organizacione strukture funkcionišu različiti procesi i različiti formalni i neformalni odnosi koje takođe treba integrisati i uskladiti sa strategijom. U savremenom, dinamičnom poslovnom okruženju, svaka organizaciona struktura je previše statična da bi se samo putem nje moglo postići da različiti dijelovi diversifikovanog preduzeća funkcionišu kao jedno.

Struktura mora biti usklađena sa strategijom, a strategija mora biti usklađena sa uslovima poslovnog okruženja. U brzo promjenjivom poslovnom okruženju, ne vrijedi stalno prilagođavati organizacionu strukturu strategiji, već je logičnije tražiti odgovarajući sistem koji može usaglasiti strategiju sa strukturom bez većih promjena u samoj strukturi. Takav jedan sistem predstavlja sistem Usklađene liste.

3. Upravljanje strategijom pomoću sistema usklađene liste

Sistem Usklađene liste prvobitno je razvijen kao moćan alat za upravljanje strategijom na nivou pojedinačne SPJ. Kroz četiri perspektive, uz pomoć ciljeva, mjerila, zadataka i inicijativa, i jasno uočljivih uzročno-posljedičnih odnosa među njima, Usklađena lista olakšava preduzeću da efektivno i efikasno iskoristi nematerijalnu aktivnu, da obavlja adekvatne interne procese i tako stvori superioran prijedlog vrijednosti za potrošača, ostvari konkurentsku prednost na tržištu i tako dovede do zadovoljavajućih finansijskih rezultata preduzeća. Najveća snaga Usklađene liste je upravo u „usklađivanju“. Na nivou SPJ, Usklađena lista povezuje kratkoročne aktivnosti na nižim operativnim nivoima, sve do aktivnosti pojedinačnog zaposlenog, sa dugoročnom strategijom. Prirodno djeluje ideja da se logika Usklađene liste može proširiti i na diversifikovana preduzeća koja u svom portfoliju imaju više različitih strateških poslovnih jedinica.

Princip funkcionisanja Usklađene liste na korporativnom nivou je isti kao i na nivou SPJ, ali razlika je u ciljevima i objektima usklađivanja. Na nivou SPJ usklađuju se operativne aktivnosti sa strategijom u cilju implementacije konkurentске strategije koja se ogleda u stvaranju superiornog prijedloga vrijednosti za potrošače. Za razliku od pojedinačne SPJ, diversifikovano preduzeće ne učestvuje direktno u konkurentskom takmičenju na tržištu roba i usluga, već to čine SPJ u njegovom sastavu. Pored SPJ, velika preduzeća u svom sastavu obično imaju i neke poslovne funkcije (finansije, ljudski resursi, istraživanje i razvoj i sl.) centralizovane na nivou cijelog preduzeća koje pružaju usluge podrške SPJ, koristeći prednosti veće stručnosti i specijalizacije u svojim funkcionalnim područjima. Takve centralizovane poslovne funkcije nazivaju se strategijske funkcio-

nalne jedinice (SFJ) i predstavljaju dio korporativnog osoblja. Stvaranje vrijednosti na nivou diversifikovanog preduzeća zavisi od usaglašenog i koordiniranog poslovanja SPJ i SFJ u sastavu preduzeća koje vodi ostvarivanju takvih rezultata kakve pojedinačne SPJ ne bi mogle ostvariti kao nezavisne ili pod nečijom drugom kontrolom. Dakle, preduzeće mora da igra aktivnu ulogu u usklađivanju poslovanja poslovnih jedinica u svom sastavu da bi se ostvarili sinergetski efekti.

U vršenju uticaja na usklađivanje aktivnosti i resursa preduzeća, značajnu pomoć korporativnom menadžmentu može da pruži sistem Usklađene liste sa svojim uzročno-posljedičnim vezama. Svi faktori koji imaju uticaja na ostvarivanje strategijskih sprega treba da budu artikulisani u Usklađenoj listi preduzeća (korporativnoj Usklađenoj listi). Usklađena lista preduzeća treba da bude prevedena u set strateških prioriteta koji moraju biti pojašnjeni i komunicirani svim poslovnim i funkcionalnim jedinicama u preduzeću. Komunikacija i usklađivanje strateških prioriteta preduzeća vrši se na tri nivoa⁵:

- Usklađivanje korporativnog vrha sa strategijskim poslovnim jedinicama i strategijskim funkcionalnim jedinicama. Nakon razvijanja strategije na nivou preduzeća, svaka SPJ i SFJ razvija dugoročni plan i Usklađenu listu konzistentnu sa korporativnom Usklađenom listom. Strategijska mapa i Usklađena lista svake SPJ moraju biti dvostruko usaglašene. S jedne strane, one moraju da odražavaju suštinu konkurentске strategije, odnosno da pomažu usklađivanje nematerijalne i materijalne aktive u pravcu osnaživanja internih procesa koji vode stvaranju prijedloga vrijednosti za potrošače i realizovanju finansijskih ciljeva vlasnika. S druge strane, one moraju biti usklađene sa korporativnim strategijskim temama i doprinositi ostvarivanju dodate vrijednosti preduzeća putem stvaranja sinergetskih efekata.
- Usklađivanje strategijskih poslovnih jedinica i strategijskih funkcionalnih jedinica. Pored usklađivanja poslovanja SPJ, koje direktno učestvuju u stvaranju vrijednosti na tržištu, vrijednost preduzeća može poticati i od usklađivanja centralizovanih poslovnih funkcija (npr. ljudski resursi, IT sektor, finansije, planiranje) koje pružaju podršku SPJ u implementaciji njihove strategije. Sistem Usklađene liste omogućava preduzeću da iskoristi sve prednosti centralizovanja poslovnih funkcija na nivou preduzeća, i da uskladi aktivnosti SFJ tako da doprinose efikasnijoj i efektivnijoj implementaciji strategije SPJ. Tradicionalno se SFJ, u računovodstvenom smislu, tretiraju kao diskrecioni troškovni centri. Kreiranjem Strategijske mape i Usklađene liste, ove pomoćne jedinice od troškovnih centara postaju strategijski partneri koji doprinose konkurentskoj prednosti strategijskih poslovnih jedinica.

⁵ Kaplan S. Robert, Norton P. David: *Alignment: Using The Balanced Scorecard to Create Corporate Synergies*, Harvard Business School Press, Boston 2006, 10-15.

- Usklađivanje sa eksternim interesnim grupama. Pored usklađivanja internih poslovnih i pomoćnih jedinica, preduzeće može iskoristiti sistem Usklađene liste za unapređenje komunikacije sa vlasnicima i ključnim stejkholderima. Putem Strategijske mape, strategija se jednostavno može prezentirati upravnom odboru, a pojedine kompanije prilažu Strategijske mape čak i uz godišnje izvještaje. Takođe, prilika za stvaranje vrijednosti može se naći i u usklađivanju sa ključnim eksternim partnerima – ključnim kupcima, dobavljačima i partnerima u zajedničkim poduhvatima. Time se omogućava lakše dolaženje do konsenzusa oko zajedničkih ciljeva, boljeg razumjevanja i jačanja povjerenja. Usklađena lista pomjera fokus sa praćenja cijena i troškova na mjerenje odnosa, usluge, pravovremenosti, inovacija, kvaliteta i fleksibilnosti.

Upotrebom korporativne Usklađene liste i Strategijske mape u funkciji usklađivanja strategije preduzeća sa strategijama poslovnih jedinica i eksternih interesnih grupa, mogu se ostvariti značajne koristi za preduzeće. Usklađena lista pruža dobar okvir za usklađivanje organizacione strukture i strategije fokusirajući odvojene poslovne jedinice i različite poslovne funkcije ka istom cilju. Strategijska mapa, koja prikazuje odnose međuzavisnosti između performansi na različitim nivoima organizacije, predstavlja adekvatan alat menadžmenta za identifikovanje i ocjenu vrijednosti strategijskih sprega od kojih zavisi uloga korporativnog vrha u dodavanju vrijednosti poslovnim jedinicama. Mjereći i usklađujući performanse različitih poslovnih jedinica u sastavu preduzeća, Usklađena lista omogućava preduzeću da identifikuje vrijednost tih poslovnih jedinica kao nezavisnih i da obuhvati uticaj korporativnog vrha na poboljšanje performansi tih poslovnih jedinica, odnosno da mjeri kolika je dodata vrijednost koja potiče od preduzeća. Dakle, Usklađena lista predstavlja sveobuhvatan okvir za mjerenje performansi diversifikovanog preduzeća.

3.1. Usklađivanje strategije preduzeća sa strategijama SPJ

Osnovna ideja vezano za usklađivanje poslovnih jedinica putem Usklađene liste preduzeća je da se prati da li i na koji način preduzeće dodaje vrijednost kolekciji poslovnih jedinica u svom portfoliju. Usklađena lista i Strategijska mapa daju dobar okvir za razumijevanje vrijednosti koja potiče od uticaja preduzeća na poslovanje poslovnih jedinica. Vrijednost koja potiče od preduzeća (korporativnog menadžmenta) zasniva se na usklađivanju aktivnosti i resursa svojih poslovnih jedinica tako da im se omogući da stvore više vrijednosti nego što bi uspjele kao nezavisna preduzeća.

Usklađena lista SPJ mjeri uticaj ključnih faktora uspjeha na poslovanje poslovne jedinice kroz četiri perspektive: finansijsku, potrošačku, internih procesa i perspektivu učenja i rasta. I Usklađena lista preduzeća zasniva se na iden-

tičnom okviru koji u četiri perspektive definiše strateške prioritete preduzeća i usklađuje ih sa strategijama poslovnih jedinica. Strateški prioriteti preduzeća definišu se na osnovu izvora sinergetskih efekata koji vode stvaranju dodate vrijednosti koja potiče od preduzeća. Strategija preduzeća kao cjeline treba da odgovori na pitanje kako postići da preduzeće kao cjelina vrijedi više od prostog zbira poslovnih jedinica u svom sastavu. Koristeći okvir Usklađene liste moguće je raščlaniti to pitanje u četiri perspektive:

- **Finansijska perspektiva:** Na koji način možemo povećati vrijednost poslovnih jedinica u portfoliju preduzeća? Preduzeće može dodati vrijednost poslovnim jedinicama čisto putem ostvarivanja finansijske sinergije, koja se zasniva na superiornoj alokaciji finansijskih resursa i balansiranju rizika. Ostvarivanje finansijske sinergije nije zasnovano na povezanosti lanaca vrijednosti poslovnih jedinica u portfoliju preduzeća. Iako su poznati primjeri kompanija koje svoj uspjeh zasnivaju na ostvarivanju finansijske sinergije (kao što je Berkšir Hatavej, na čelu sa poznatim Vorenom Bafetom), danas se pristup diversifikaciji preduzeća pretežno zasniva na odnosu povezanosti između poslovnih jedinica koji se odražava kroz ostale tri perspektive Usklađene liste.
- **Perspektiva potrošača:** Kako možemo dijeliti pristup potrošačima i povećati ukupnu vrijednost potrošača? Poznato je Pareto pravilo da 80% prometa preduzeća potiče od 20% zadovoljnih potrošača. Zadovoljstvo potrošača posljedica je dugoročnog niza aktivnosti preduzeća na isporučivanju odgovarajuće vrijednosti potrošačima i značajno utiče na vrijednost preduzeća. Sinergetski efekti mogu se ostvariti korištenjem iste baze zadovoljnih potrošača za prodaju drugih proizvoda i usluga koje proizvode ostale poslovne jedinice u okviru istog preduzeća, pogotovo ako se prodaju pod istim korporativnim brendom.
- **Perspektiva internih procesa:** Kako možemo upravljati poslovnim procesima da bi ostvarili ekonomiju obima ili integraciju lanca vrijednosti? U velikim preduzećima moguće je ostvariti koristi ekonomije obima obavljajući zajedničke interne procese od strane različitih poslovnih jedinica.
- **Perspektiva učenja i rasta:** Kako možemo razvijati i dijeliti nematerijalnu aktivnu? Najveća opravdanost strategije diversifikacije postoji u slučaju postojanja ključnih kompetencija. Zato, i najveći sinergetski efekti upravo se mogu postići razvijanjem i dijeljenjem nematerijalne aktive. Aktivnim usklađivanjem nematerijalne aktive – znanja i vještina zaposlenih, tehnologije, orgnaizacione kulture i liderstva preko poslovnih i funkcionalnih jedinica preduzeća mogu stvoriti sinergiju koja vodi realizaciji opipljivih finansijskih rezultata preduzeća kao cjeline.

Uspješna korporativna strategija podrazumjeva, prije svega, identifikovanje strategijskih sprega koje vode stvaranju sinergetskih efekata. U tome značajno

može pomoći okvir Strategijske mape koji pomoću vizuelno preglednog sistema uzročno-posljedičnih veza omogućava lakše identifikovanje odnosa i uticaja između različitih SPJ. Zatim je neophodno fokusirati sve organizacione dijelove preduzeća na aktivnosti koje vode maksimalnom iskorištavanju tih strategijskih sprega. Kreiranjem Usklađene liste preduzeća i postavljanjem strateških prioriteta preduzeća kao cjeline, omogućava se dalje usklađivanje poslovnih i funkcionalnih jedinica i eksternih interesnih grupa sa ciljem da se iskoriste sinergijski efekti.

3.2. Usklađivanje strategija SFJ

Nakon usklađivanja strategije preduzeća sa strategijama SPJ, potrebno je usaglasiti i strategije strategijskih funkcionalnih jedinica sa strategijom preduzeća i sa strategijama poslovnih jedinica. U cilju agregiranja specijalizovanog znanja u različitim funkcionalnim poslovnim područjima, većina preduzeća posjeduje centralizovane funkcionalne jedinice na nivou preduzeća kao cjeline, čija uloga je da pružaju stručnu podršku SPJ u izvršenju njihovih strategija. Međutim, posjedovanje centralizovanih funkcionalnih jedinica na nivou preduzeća ili divizije, takođe značajno troškovno opterećuje budžet preduzeća.

Opravdanost postojanja centralizovanih funkcionalnih područja na nivou preduzeća trebalo bi da zavisi od uticaja njihove podrške poslovnim jedinicama u stvaranju vrijednosti. Pitanje koje se postavlja je: kako mjeriti doprinos podrške SFJ povećanju stvorene vrijednosti na nivou poslovnih jedinica? Na ovo pitanje je nemoguće dati precizan odgovor iz prostog razloga što se podrška SFJ poslovnim jedinicama manifestuje u neopipljivom obliku, tako da je nemoguće kvantitativno mjeriti intenzitet uticaja. Za razliku od SPJ, čiji se rezultati poslovanja javljaju u vidu proizvoda i usluga čija vrijednost se može precizno mjeriti, rezultati poslovanja SFJ se najčešće javljaju u vidu podrške ekspertskog znanja čiji se troškovi ne mogu direktno alocirati na proizvode i usluge poslovnih jedinica. Zato se SFJ u tradicionalnoj literaturi iz oblasti upravljačkog računovodstva tratraju kao diskrecioni troškovni centri. Pored troškova koje izazivaju, centralizovana funkcionalna područja na korporativnom nivou često predstavljaju problem u smislu iznalaženja adekvatne organizacione strukture. Centralizacija funkcija sama po sebi teži da vodi stvaranju birokratske i nefleksibilne organizacije koja više koči nego što pomaže implementaciju strategije poslovnih jedinica. Slaba horizontalna i vertikalna komunikacija van okvira sopstvenog funkcionalnog područja vodi nerazumjevanju potreba ostalih funkcionalnih područja, čime se stvara „efekat silosa“, kao i potreba decentralizovanih poslovnih jedinica za lokalnim prilagođavanjem strategije.

Izazov koji se postavlja pred preduzeće je da uskladi strategije poslovnih funkcija sa strategijama poslovnih jedinica i korporativnog vrha na takav način da SFJ budu fleksibilne i responsibilne prema njihovim potrebama, kako bi im pružile takav nivo podrške koji bi vodio stvaranju konkurentne prednosti. Da

li postoji mogućnost za takav nivo usklađivanja, moguće je utvrditi poređenjem sa opcijom outsourcinga pojedinačnih poslovnih funkcija. Naime, na eksternom tržištu usluga mogu se naći nezavisne kompanije koje se profesionalno bave pružanjem specijalizovanih usluga u oblasti pojedinačnih funkcionalnih područja koja preduzeće posjeduje. Na primjer, preduzeće može imati centralizovan sektor računovodstva u okviru sopstvenog preduzeća ili može koristiti usluge nezavisnog računovodstvenog preduzeća. Prosta logika upućuje na ulaganje sopstvenih sredstava preduzeća u one poslovne oblasti u kojima preduzeće posjeduje jezgro kompetentnosti, a sporedne usluge podrške nabavljati na eksternom tržištu, od preduzeća koja su specijalizovana i mogu pružiti usluge poslovne podrške po nižoj cijeni i kvalitetnije. Ostavljanje centralizovanih funkcionalnih područja u okviru sopstvenog preduzeća može se pravdati jedino ako postoji mogućnost da sopstvene SFJ pružaju usluge po nižoj internoj cijeni nego što to mogu nezavisna eksterna preduzeća ili ako mogu ponuditi diferenciran prijedlog vrijednosti poslovnim jedinicama, superioran u odnosu na eksterna preduzeća. Ukoliko ne postoje takve mogućnosti, onda SFJ praktično ne mogu pomoći poslovnim jedinicama u stvaranju veće vrijednosti i te poslovne funkcije je isplativije iznajmljivati na eksternom tržištu poslovnih usluga.

Okvir Usklađene liste predstavlja adekvatan menadžerski alat za usklađivanje strategija funkcionalnih područja sa strategijom preduzeća i poslovnih jedinica. Kaplan i Norton predstavili su dva modela kreiranja Usklađene liste za usklađivanje strategijskih funkcionalnih jedinica⁶:

- Model strateškog partnera: poslovne jedinice razvijaju Usklađene liste koje odražavaju korporativne prioritete i strategije pojedinačnih SPJ, a SFJ se pojavljuju kao partneri u tom procesu.
- „Business in a Business“ model: SFJ smatraju sebe zasebnim poslovnim jedinicama, a strategijske poslovne jedinice smatraju svojim klijentima.

Prema modelu strateškog partnera prvo se kreiraju Usklađena lista preduzeća i Usklađene liste SPJ koje direktno prodaju proizvode i usluge na tržištu. Nakon toga se kreiraju Usklađene liste SFJ, što omogućava SFJ da se fokusiraju upravo na podršku SPJ u njihovom nastupu na eksternom tržištu. Proces usklađivanja odvija se u nekoliko koraka:

- 1) Sporazum o pružanju usluga: prvi korak u usklađivanju odnosi se na stvaranje formalnog sporazuma o očekivanim uslugama i troškovima. Neophodno je postići potpuno razumjevanje strategije preduzeća i poslovnih jedinica od strane SFJ. U tome najviše i doprinosi prethodno kreiranje Strategijske mape i Usklađene liste poslovnih jedinica. Nakon toga, svaka pojedinačna SFJ definiše u kojim oblastima može pomoći

⁶ Kaplan S. Robert, Norton P. David: *The Strategy Focused Organization: How Balanced Scorecard Companies Thrive in the New Business Environment*, Harvard Business School Press, Boston 2001, 192.

preduzeću i poslovnim jedinicama u implementaciji njihovih strateških prioriteta.

- 2) Kreiranje Usklađene liste SFJ: nakon razumjevanja strateških prioriteta u čijem ostvarenju SFJ mogu biti od pomoći, potrebno je uskladiti internu organizaciju u okviru svake SFJ i definisati na koji način će SFJ najefikasnije i najefektivnije pružiti podršku SPJ.
- 3) Povezujuća lista ciljeva: strategija SFJ zasniva se na poboljšanju performansi koje ostvaruju SPJ. U Usklađenoj listi SFJ nalaze se ciljevi, mjerila i zadaci kojima se prate performanse internih aktivnosti u okviru poslovnih funkcija. Međutim, pošto te aktivnosti moraju voditi poboljšanju performansi poslovnih jedinica kojima SFJ pružaju podršku, one moraju preuzeti odgovornost i zasluge za poboljšanje poslovanja SPJ koje potiče od podrške SFJ. U povezujućoj listi nalaze se ciljevi i mjerila SPJ čije performanse moraju biti unaprijeđene uticajem podrške funkcionalnih jedinica.
- 4) Pružanje povratnih informacija: SFJ povremeno moraju dobiti povratne informacije o aktuelnim performansama SPJ.

Drugi model Usklađene liste SFJ predlaže da se na djelatnost SFJ gleda kao na „preduzeće unutar preduzeća“ (business in a business). Mnoga velika preduzeća imaju ogromna funkcionalna odjeljenja koja se mogu porediti sa bilo kojom nezavisnom kompanijom na tržištu i teoretski bi mogle da funkcionišu kao samostalne SPJ koje pružaju usluge iz oblasti svog funkcionalnog područja. Međutim postoje značajne razlike između SFJ i samostalnih preduzeća. Cilj internih funkcionalnih jedinica nije stvaranje profita na tržištu. One ne prodaju svoje usluge na eksternom tržištu, već su orijentisane na pružanje poslovne podrške internim klijentima – strategijskim poslovnim jedinicama.

Usklađena lista predstavlja upravljački alat koji menadžmentu funkcionalnih područja omogućava da izgradi profesionalan i konkurentski orijentisan pristup zadovoljavanju potreba poslovnih jedinica, sličan pristupu koji bi zauzeli eksterni dobavljači poslovnih usluga, usput koristeći sve prednosti internog posjedovanja funkcionalnih odjeljenja. Ovaj pristup promovise funkcionalnu izvrsnost čime se kompenzuje nedostatak eksplicitnih veza sa Usklađenim listama preduzeća i SPJ. Pošto menadžment SFJ vidi sebe kao preduzeće u okviru preduzeća, ono razvija Usklađenu listu sličnu Usklađenim listama poslovnih jedinica, samo što umjesto zadovoljavanja potreba eksternih potrošača, Usklađena lista SFJ ima za cilj zadovoljavanje potreba internih strategijskih poslovnih jedinica.

4. Prevođenje sinergije u operativne termine putem sistema usklađene liste

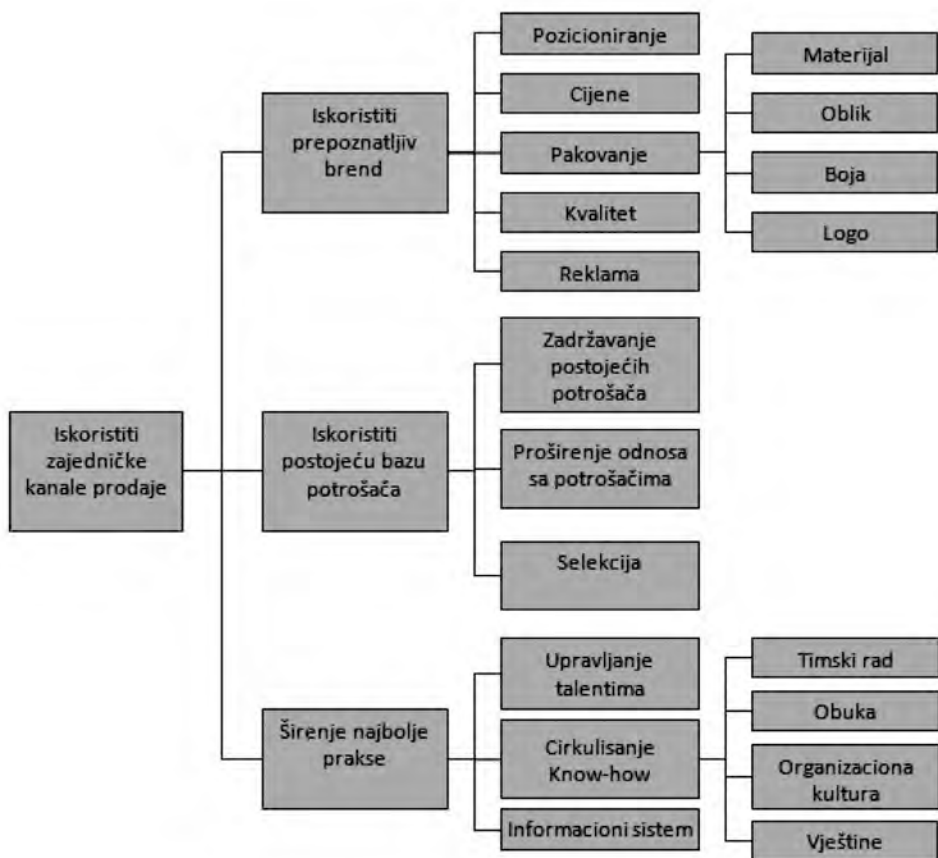
Na osnovu prethodnog teksta može se zaključiti da u diversifikovanom preduzeću postoji širok spektar potencijalnih sinergetskih efekata čijim ostvariva-

njem se može ostvariti dodata vrijednost koja potiče od korporativnog vrha i opravdati troškovi diversifikacije. Njihovi izvori leže u postojanju strategijskih sprega resursa i aktivnosti između povezanih djelatnosti u diversifikovanom preduzeću. Međutim, samo postojanje strategijskih sprega između različitih SPJ u preduzeću ne znači i da će one biti pretvorene u sinergiju. Potreban je direktan uticaj vrha preduzeća na usklađivanje poslovanja različitih grupa poslova, da bi se strategijske spregе identifikovale i pretvorile u sinergetske efekte, u čemu se sistem Usklađene liste nameće kao logično rješenje. Na osnovu dosadašnje analize moguće je identifikovati dvije osnovne uloge sistema Usklađene liste u vezi sa upravljanjem sinergetskim efektima:

- fokusiranje pažnje SPJ i SFJ na korištenje sinergetskih efekata;
- prevođenje široko definisanih ciljeva u vezi sa ostvarenjem sinergije u set razumljivih, preciznije definisanih ciljeva na operativnim nivoima.

Nedostatak fokusa na ostvarivanje sinergetskih efekata može da potiče od nekoliko razloga. Prva mogućnost je da menadžment SPJ i SFJ nije svjestan potencijalnih koristi koje se mogu postići saradnjom. Menadžment poslovnih jedinica prvenstveno je zainteresovan za implementaciju sopstvene konkurentne strategije, dok saradnja sa ostalim SPJ u sastavu preduzeća ne privlači dovoljno pažnje. Usljed nedovoljne informisanosti i nedostatka konstantnog uvida u poslovanje drugih SPJ, velika je vjerovatnoća da će dobre prilike za ostvarenje sinergetskih efekata ostati neprimjećene i neiskorištene. Druga mogućnost je da menadžment SPJ posjeduje svijest o postojanju strategijskih sprega, ali pogrešno procjenjuju potencijalne troškove i koristi koji bi bili posljedica saradnje. Takođe, moguće je i da postoji jednostavno nedostatak motivacije za saradnju na nivou SPJ. U svim ovim situacijama neophodna je intervencija korporativnog vrha preduzeća da bi se aktivnosti i resursi poslovnih jedinica fokusirali na saradnju koja vodi ostvarenju sinergetskih efekata.

Slika 1: Primjer dezagregiranja ciljeva pomoću strategijske mape



Ciljevi ostvarenja sinergetskih efekata često su preširoko definisani. Tako, na primjer, cilj „koordiniranog odnosa sa potrošačima“ je nedovoljno precizno definisan i može biti prilično različito shvaćen od strane menadžera različitih SPJ, što može biti uzrok neuspješne implementacije strategije preduzeća. Putem Strategijske mape, široko definisani ciljevi sinergetskih efekata mogu se dezagregirati u set od nekoliko preciznije definisanih ciljeva. Preko uzročno-posljedičnih veza koje vizuelno pojednostavljeno prikazuje Strategijska mapa, lako je pratiti uticaj specifičnih ciljeva na nižem nivou na ostvarenje šire definisanih ciljeva sinergetskih efekata na nivou preduzeća. Svaki specifični cilj se može dalje rastavljati na sastavne komponente, sve dok se ne dođe do ciljeva jasnih svim zaposlenim radnicima na svim organizacionim nivoima u preduzeću (slika 1).

Usklađena lista omogućava menadžmentu preduzeća da uspostavi formalizovan sistem praćenja performansi poslovnih i funkcionalnih jedinica u ostvarenju sinergetskih efekata. Formalizovanim sistemom praćenja performansi koje

potiču od korištenja sinergetskih efekata, pažnja cijelog preduzeća fokusira se na ostvarenje sinergetskih efekata. Fokusiranje na sinergetske efekte postiže se prije svega komunikacijom prioriteta preduzeća svim horizontalnim i vertikalnim nivoima organizacije. Prioriteti preduzeća definišu se u okviru korporativne Usklađene liste (preduzeća kao cjeline), a odnose se na opšte ciljeve zajedničkog djelovanja SPJ i SFJ u sastavu preduzeća. Ovi opšti ciljevi reflektuju se u Usklađenim listama poslovnih i funkcionalnih jedinica kao strategijske teme. Tako svaki organizacioni dio preduzeća, u svojoj Usklađenoj listi, pored strategijskih tema vezanih za ostvarenje sopstvene strategije ima i strategijsku temu vezanu za ostvarenje sinergetskih efekata, što konačno vodi ispunjenju strategije preduzeća kao cjeline. U okviru strategijskih tema koje se pojavljuju u Usklađenim listama SPJ i SFJ, prioriteti ostvarenja sinergetskih efekata se dalje, putem ciljeva, mjera, zadataka i inicijativa prevode u operativne termine, tako da svi zaposleni na svim nivoima ispunjavajući svoje operativne ciljeve zapravo posredno učestvuju u ostvarivanju sinergetskih efekata i strategije preduzeća.

5. Zaključak

Kao osnovna premisa logike koja je korištena u ovom radu stoji pretpostavka da svaka strategija koja ne vodi dugoročnom stvaranju vrijednosti za vlasnike ne može biti opravdana. Druga bitna činjenica je da postoji suštinska razlika između konkurentne strategije na nivou pojedinačnog biznisa (djelatnosti) i korporativne strategije na nivou diversifikovanog preduzeća kao cjeline. Svrha i opravdanost korporativne strategije mjere se njenom sposobnošću da dodaje vrijednost kolekciji postojećih djelatnosti preduzeća. Pri tome, uticaj korporativnog vrha na poslovanje SPJ u sastavu preduzeća mora da bude takav da pomogne SPJ da ostvare poslovne rezultate kakve ne bi mogle dostići kao samostalna preduzeća ili pod kontrolom konkurentskih preduzeća. Takav uticaj korporativnog vrha preduzeća vodi pojavi da preduzeće kao cjelina vrijedi više od prostog zbira sastavnih dijelova, odnosno vodi stvaranju sinergije.

Sinergija u diversifikovanom preduzeću može da potiče ili od nivoa povezanosti između samih poslovnih i funkcionalnih jedinica u sastavu preduzeća ili od nivoa povezanosti poslovnih i funkcionalnih jedinica sa korporativnim vrhom preduzeća. Povezanost postoji ukoliko postoje strategijski vrijedne sprege, odnosno kada se poslovanje jedne SPJ „uklapa“ sa poslovanjem drugih SPJ u portfoliju preduzeća ili sa sposobnostima korporativnog vrha. Sposobnost preduzeća da iskoristi strategijske sprege i ostvari sinergetske efekte dosta zavisi, prije svega, od koncepta uloge korporativnog vrha u dodavanju vrijednosti SPJ. Takođe, na sposobnost preduzeća da iskoristi sinergetske efekte može da utiče i oblik organizacione strukture preduzeća. Organizaciona struktura diversifikovanog preduzeća mora biti takva da olakšava korištenje strategijskih sprega.

Međutim, ne postoji idealna organizaciona struktura, niti se samo putem organizacione strukture mogu maksimalno iskoristiti strategijske sprege. Ona može da bude manje ili više prilagođena, ali potreban je dodatni sistem usklađivanja i učvršćivanja strategijskih sprega koji će da ojača uticaj preduzeća na stvaranje sinergije.

U oblasti usklađivanja svih materijalnih i nematerijalnih resursa preduzeća i u oblasti fokusiranja različitih nivoa organizacije na izvršenje strategije, sistem Usklađene liste se u dosadašnjoj praksi pokazao kao vrlo efektivan alat strategijskog menadžmenta. Na osnovu analiziranih činjenica možemo reći da Usklađena lista obezbjeđuje jasan vizuelni okvir za identifikovanje strategijskih sprega između različitih SPJ i SFJ kao i između korporativnog vrha i nižih nivoa organizacije. Na taj način, obezbjeđuje se fokusiranje cijele organizacije na ostvarenje sinergetskih efekata zajedničkog i usklađenog poslovanja. Pored toga, usklađena lista, takođe, pruža jasnu i preglednu formu za dezagregiranje strategije od najopštijih ciljeva na korporativnom nivou sve do specifičnih ciljeva najnižih operativnih nivoa u preduzeću. Na taj način se postiže da svi organizacioni dijelovi diversifikovanog preduzeća budu fokusirani na implementaciju strategije preduzeća kao cjeline.

Dakle, sinergetski efekti su osnova za formulisanje korporativne strategije, a oni se mogu postići samo aktivnim učestvovanjem korporativnog vrha u usklađivanju poslovanja na svim nivoima u preduzeću. Zato se koncept Usklađene liste može lako iskoristiti u svrhu fokusiranja svih nivoa preduzeća na sinergetske efekte, što posredno vodi uspješnoj implementaciji korporativne strategije preduzeća.

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THE IMPORTANCE AND ROLE OF STRATEGIC TOOL OF BALANCED SCORECARD IN DIVERSIFIED ENTERPRISES MANAGEMENT

S u m m a r y

Justification of the diversification strategy is derived from the success of the corporate management of diversified companies in adding value to a portfolio of strategic business units in its composition to a greater amount than they could achieve alone or under someone else's control. Such a level of added value can be achieved by identifying and using strategic fit between strategic business units themselves or between strategic business units and corporate management. Since the strategic fits, which represent a specific interdependence relationships, in modern companies usually exist among the various forms of intangible assets, they often remain unused because they can not be easily identified. Even when we recognize the opportunities to achieve strategic fits, it is not easy to achieve them because it is often necessary coordinated action of different organizational units at different hierarchical levels. Therefore strategic tool Balanced scorecard have great importance in the management of modern diversified enterprises.

Key words: balanced scorecard, strategic management

EKSPATRIJATI U MULTINACIONALNIM KOMPANIJAMA – TREND U SRBIJI

Ekspanzija međunarodnog poslovanja nameće nove zahteve multinacionalnim kompanijama, posebno u oblasti menadžmenta ljudskih resursa. Ključna specifičnost međunarodnog menadžmenta ljudskih resursa ogleda se u činjenici da se u međunarodnom okruženju zaposleni pomeraju van granica jedne države i preuzimaju različite uloge u stranim filijalama multinacionalnih kompanija, dok se jedna od najvažnijih odluka koju multinacionalna kompanija mora da donese odnosi na izbor zaposlenih koje će angažovati u filijalama u stranim zemljama u zavisnosti od nacionalnosti, odnosno zemlje iz koje potiču. Ovaj rad pokušava da istraži značaj i ulogu ekspatrijata u ostvarivanju uspeha multinacionalne kompanije u međunarodnom poslovanju, kako bi ukazao na prednosti koje angažovanje ove grupe zaposlenih može doneti multinacionalnoj kompaniji. Cilj rada je da pokuša da sagleda jedan od ključnih problema sa kojima se suočavaju multinacionalne kompanije u globalnom okruženju – proces ekspatrijacije, sa posebnim osvrtom na stanje u pogledu broja ekspatrijata iz matične zemlje multinacionalne kompanije i trenda promene njihovog broja u filijalama stranih multinacionalnih kompanija u Srbiji, kao i porekla menadžera na ključnim pozicijama u filijalama (generalnog direktora i HR menadžera). Empirijsko istraživanje sprovedeno putem ankete u ovim filijalama ukazalo je na izvesne specifičnosti filijala multinacionalnih kompanija u Srbiji u kojima je, nasuprot očekivanjima zasnovanim na teorijskim konceptima i rezultatima istraživanja drugih autora u drugim zemljama i okruženjima, broj ekspatrijata povećan od osnivanja filijala do danas. Međutim, kako je i bilo očekivano, analiza rezultata je pokazala da su u većini filijala od osnivanja do danas ekspatrijate na poziciji generalnog direktora filijale (kao i menadžera za ljudske resurse) vremenom zamenili lokalni menadžeri, što kompanijama, osim smanjenja troškova, donosi i brojne druge prednosti.

Ključne reči: menadžment ljudskih resursa, međunarodni menadžment ljudskih resursa, multinacionalne kompanije, ekspatrijati

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1. Uvod

Multinacionalne kompanije (u daljem tekstu: MNK) posluju u većem broju zemalja sveta preko svojih stranih filijala. Filijala multinacionalne kompanije predstavlja delimično autonomni entitet koji poseduje preduzetnički potencijal i koji posluje u okviru kompleksne konkurentne arene koju čine interno okruženje (druge filijale, interni potrošači i interni dobavljači) i eksterno okruženje (potrošači, dobavljači i konkurenti)¹. Filijale u stranoj zemlji (odnosno zemlji domaćinu) su jedinstvene organizacione jedinice koje moraju istovremeno da se prilagođavaju i internom i eksternom okruženju kako bi uspele da budu konkurentne i u jednom i u drugom². Imajući u vidu da danas ljudski resursi (u daljem tekstu: HR) sa svojim znanjima, sposobnostima i veštinama predstavljaju ključ uspeha poslovanja svih kompanija, a posebno multinacionalnih kompanija, menadžment ljudskih resursa ima značajnu ulogu u stvaranju i održavanju konkurentne prednosti multinacionalnih kompanija.

2. Vrste zaposlenih u multinacionalnim kompanijama

Jedan od ključnih izazova sa kojim se multinacionalne kompanije suočavaju je na koji način popuniti položaje u različitim filijalama rasprostranjenim širom sveta. Ova odluka se u međunarodnom poslovanju uglavnom odnosi na odabir zaposlenih u zavisnosti od nacionalnosti. Tako, multinacionalne kompanije imaju mogućnost izbora između tri opcije: zaposleni u multinacionalnoj kompaniji koji su građani zemlje u kojoj se nalazi korporativna centrala kompanije (*parent-country nationals*), zaposleni u multinacionalnoj kompaniji koji su građani zemlje u kojoj se nalazi strana filijala (*home-country nationals*) i zaposleni u multinacionalnoj kompaniji koji nisu građani ni zemlje u kojoj se nalazi centrala multinacionalne kompanije niti zemlje u kojoj se nalazi strana filijala (*third-country nationals*)³.

Međutim, pored navedenih vrsta zaposlenih u multinacionalnim kompanijama, u literaturi međunarodnog menadžmenta ljudskih resursa se vremenom ustalio i termin „ekspatrijat“. Pod ovim terminom podrazumeva se „zaposleni u

¹ Birkinshaw Julian, Hood Neil, Young Stephen: “Subsidiary Entrepreneurship, Internal and External Competitive Forces, and Subsidiary Performance”, *International Business Review*, 14(2)/2005, 228.

² Colakoglu Saba, Tarique Ibraiz, Caligiuri Paula: “Towards a Conceptual Framework for the Relationship between Subsidiary Staffing Strategy and Subsidiary Performance”, *International Journal of Human Resource Management*, 20(6)/2009, 1294.

³ Tarique Ibraiz, Schuler Randall, Gong Yaping: “A Model of Multinational Enterprise Subsidiary Staffing Composition”, *International Journal of Human Resource Management*, 17(2)/2006, 207.

stranoj službi⁴, odnosno bilo koji pojedinac koji privremeno živi i radi u stranoj zemlji, ali ostaje građanin svoje matične zemlje. Dakle, ekspatrijat predstavlja zaposlenog koji radi van svoje zemlje porekla, a koji planira da se vrati u svoju zemlju ili pređe u neku drugu zemlju po završetku međunarodnog angažovanja. Na osnovu navedenog može se tvrditi da ekspatrijat predstavlja globalnog menadžera, bez obzira na zemlju iz koje potiče. Pritom, zaposleni iz matične zemlje kompanije i zaposleni iz treće zemlje se uvek mogu smatrati ekspatrijatima, zbog toga što rade van svoje matične zemlje. Takođe, i zaposleni iz zemlje domaćina u kojoj se nalazi filijala multinacionalne kompanije mogu postati ekspatrijati, u slučaju da ih kompanija premesti na određeni period u centralu ili u neku od filijala u zemlji porekla kompanije. U tom slučaju se ovi zaposleni nazivaju „inpatrijati“⁵.

3. Međunarodna angažovanja zaposlenih u multinacionalnim kompanijama

Multinacionalna kompanija šalje svoje zaposlene da rade u stranim filijalama na različite periode u zavisnosti od cilja transfera i prirode posla koji će obavljati. Međunarodno angažovanje uglavnom inicira multinacionalna kompanija koja nudi zaposlenom da pređe u stranu filijalu u kojoj postoji upražnjeno radno mesto. Pritom se često dešava, posebno u slučaju dužih međunarodnih angažovanja, da zaposleni koje prelaze zbog posla u stranu zemlju sa sobom vode i svoje porodice, što dodatno povećava kompleksnost ovog procesa.

Postoje različite vrste međunarodnih angažovanja u multinacionalnim kompanijama – kratkoročno angažovanje, dugoročno angažovanje, kao i nestandardni alternativni vidovi međunarodnog angažovanja, kao što su *frequent flyer* i „putujuće“ angažovanje⁶, angažovanje po ugovoru, rotaciono angažovanje⁷ i virtuelno angažovanje⁸.

⁴ Cascio F. Wayne: *Managing Human Resources: Productivity, Quality of Work Life, Profits* (6th ed.), McGraw Hill/Irwin, New York 2003, 620.

⁵ Reiche B. Sebastian: “The Effect of International Staffing Practices on Subsidiary Staff Retention in Multinational Corporations”, *International Journal of Human Resource Management*, 18(4)/2007, 524.

⁶ Harris Hilary, Brewster Chris, Sparrow Paul: *International Human Resource Management*, CIPD, London 2003.

⁷ Welch E. Denice, Welch S. Lawrence, Worm Verner: “The International Business Traveller: A Neglected but Strategic Human Resource”, *International Journal of Human Resource Management*, 18 (2)/2007, 173.

⁸ Meyskens Moriah et al.: “The Paradox of International Talent: Alternative Forms of International Assignments”, *International Journal of Human Resource Management*, 20(6)/2009, 1441.

Kratkoročna angažovanja su angažovanja utvrđene dužine trajanja, obično u trajanju od jednog meseca do jedne godine⁹. Ona često podrazumevaju međunarodna angažovanja tehničke prirode sa ciljem rešavanja konkretnih problema ili tehničkih pitanja¹⁰ ili angažovanja čiji je cilj nadgledanje rada na konkretnom projektu. Porodica zaposlenog se prilikom ovih angažovanja najčešće ne premešta u stranu zemlju. Kratkoročna angažovanja se uglavnom koriste u svrhu transfera veština u stranu filijalu i, u manjoj meri, za razvoj samih menadžera.

„Putujuće“ angažovanje predstavlja angažovanje u kome zaposleni zbog posla putuje iz matične zemlje u stranu zemlju, obično jednom nedeljno ili jednom u dve nedelje¹¹. Imajući u vidu da porodica zaposlenog ostaje u matičnoj zemlji¹², ovaj vid međunarodnog angažovanja omogućava prevazilaženje različitih problema u vezi sa premeštanjem porodice zaposlenog u stranu zemlju, koji se inače javljaju kod dugoročnih angažovanja. U slučaju *frequent flyer* angažovanja zaposleni često ide na službena putovanja, ali se ne seli u drugu zemlju. Ovaj vid međunarodnog angažovanja uglavnom se koristi u svrhu ostvarivanja kontrole menadžera nad stranom filijalom. Pod rotacionim angažovanjem podrazumeva se međunarodno angažovanje u kome zaposleni putuje iz svoje matične zemlje u stranu zemlju zbog posla na kratak unapred definisani period, a zatim pravi pauzu u svojoj zemlji (npr. rad na naftnoj platformi). Angažovanje po ugovoru koristi se u slučaju kada kompanija treba da pošalje u stranu zemlju zaposlenog koji je od ključne važnosti za međunarodni projekat na period od šest meseci do godinu dana (npr. jedna od oblasti u kojoj se angažuju zaposleni na ovaj način je istraživanje i razvoj). Virtuelno angažovanje podrazumeva oblik međunarodnog angažovanja u kome se zaposleni ne premešta u stranu zemlju, već iz matične zemlje virtuelno upravlja radnom grupom u stranoj zemlji, pri čemu se komunikacija uglavnom odvija putem elektronskih medija. Ovaj vid angažovanja se često koristi za regionalne pozicije, gde je zaposleni lociran u regionalnom centru u jednoj zemlji, a koordinira aktivnostima za koje je zadužen u svim zemljama u konkretnom regionu.

Međutim, od svih navedenih formi angažovanja zaposlenih u inostranstvu, multinacionalne kompanije pod pojmom međunarodno angažovanje najčešće podrazumevaju dugoročno angažovanje ekspatrijata u stranoj filijali kompanije, koje se drugačije naziva i tradicionalno angažovanje ekspatrijata. To je vrsta međunarodnog angažovanja u kome se menadžer sa porodicom seli u stranu zemlju¹³ na period duži od godinu dana, iako u praksi obično traje između tri i

⁹ CARTUS: *Emerging Trends in Global Mobility: Policies and Practices Survey*, Danbury 2007, 1.

¹⁰ Meyskens Moriah et al., 1442.

¹¹ Scullion Hugh, Collings G. David: *Global Staffing*, Routledge, New York 2006, 160.

¹² Meyskens Moriah et al., 1442.

¹³ Mayerhofer Helene et al.: "Flexpatriate Assignments: A Neglected Issue in Global Staffing", *International Journal of Human Resource Management*, 15(8)/2004, 1372.

pet godina. Ovaj tip međunarodnog angažovanja podrazumeva da kompanija premešta zaposlenog u stranu filijalu kako bi rešio konkretan problem ili u cilju ostvarivanja bolje kontrole nad stranom filijalom¹⁴, pri čemu su uloga i pozicija ekspatrijata u filijali u zemlji domaćinu jasno definisane.

4. Proces ekspatrijacije u međunarodnom okruženju

Multinacionalne kompanije sve više teže da jednoj od najvažnijih funkcija – upravljanju ljudskim resursima – pristupaju iz globalne perspektive. Pritom se, kako bi se ova funkcija obavljala uspešno, kompanije najčešće oslanjaju na potrebu da obezbede dovoljan broj kvalifikovanih globalnih menadžera koji treba da omoguće i olakšaju rast i razvoj kompanije na globalnoj osnovi. Kako bi ovo ostvarile, kompanije posebnu pažnju posvećuju pronalaženju, selekciji, motivisanju i zadržavanju kvalifikovanih zaposlenih koji poseduju specifične karakteristike, znanja, sposobnosti i veštine neophodne za postizanje uspeha u međunarodnom okruženju. Proces ekspatrijacije uključuje sledeće faze: identifikaciju kandidata za ekspatrijate, selekciju, trening i razvoj, nadoknade, vrednovanje učinka, zadržavanje i fluktuaciju, planiranje nasleđivanja i repatrijaciju (tj. povratak ekspatrijata u matičnu zemlju po završetku međunarodnog angažovanja)¹⁵.

Kao kritična komponenta međunarodnog menadžmenta ljudskih resursa ekspatrijacija zaslužuje posebnu pažnju. Iako ekspatrijacija može da uključi transfer svih vrsta zaposlenih koji rade u multinacionalnoj kompaniji¹⁶, najveći deo literature koja se bavi međunarodnim menadžmentom ljudskih resursa ekspatrijatima naziva samo zaposlene koji potiču iz zemlje u kojoj se nalazi centrala multinacionalne kompanije.¹⁷

Postoje različite vrste ekspatrijata u multinacionalnim kompanijama, kao što su: tradicionalni ekspatrijati, ekspatrijati dobrovoljci, ekspatrijati fokusirani na razvoj karijere i globalni ekspatrijati¹⁸. Tradicionalni ekspatrijati rade u inostranstvu u trajanju od jedne do tri godine, a po završetku međunarodnog angažovanja obično se vraćaju u svoju zemlju. Pod ekspatrijatima dobrovoljcima podrazumevaju se pojedinci koji žele da rade u inostranstvu u određenom peri-

¹⁴ Evans Paul, Pucik Vladimir, Björkman Ingmar: *The Global Challenge: International Human Resource Management* (2nd ed.), McGraw-Hill/Irwin, New York 2011, 139.

¹⁵ Harvey Michael, Moeller Miriam: "Expatriate Managers: A Historical Review", *International Journal of Management Reviews*, 11(3)/2009, 276.

¹⁶ De Cieri Helen, Cox Julie Wolfram, Fenwick Marilyn: "A Review of International Human Resource Management: Integration, Interrogation, Imitation", *International Journal of Management Reviews*, 9(4)/2007, 288.

¹⁷ Harvey Michael, Moeller Miriam, 279.

¹⁸ Mathis L. Robert, Jackson H. John: *Human Resource Management* (9th ed.), South-Western College Publishing, Cincinnati 2000, 123.

odu zbog ličnog razvoja ili razvoja karijere – oni često volontiraju na kratkoročnim angažovanjima u trajanju do godinu dana, kako bi zatim mogli da pređu na novu lokaciju i da se upoznaju sa drugim kulturama. Ekspatrijati fokusirani na razvoj karijere se obično šalju na jedno do tri angažovanja u različitim zemljama nakon čega se vraćaju u svoju zemlju. Oni prihvataju angažovanje u inostranstvu kako bi mogli bolje da razumeju međunarodno poslovanje i na taj način pomognu kompaniji da razvije kapacitete za efektivno upravljanje u međunarodnom okruženju. Globalni ekspatrijati predstavljaju pojedince koji se stalno premeštaju iz jedne zemlje u drugu i koji često više vole da rade u inostranstvu nego u svojoj zemlji.

5. Uloge ekspatrijata u multinacionalnim kompanijama

Ekspatrijati mogu imati raznovrsne uloge i doneti brojne koristi multinacionalnim kompanijama. U literaturi koja se bavi proučavanjem međunarodnog menadžmenta ljudskih resursa najčešće se navode sledeći razlozi za ekspatrijaciju: popunjavanje položaja u stranim filijalama, razvoj menadžera i razvoj organizacije¹⁹.

Uobičajeni razlog za ekspatrijaciju je popunjavanje upražnjenih radnih mesta u stranoj filijali u situaciji kada se ona ne mogu popuniti ljudskim resursima iz zemlje domaćina. Multinacionalne kompanije koje otvaraju filijale u zemljama u tranziciji često se suočavaju sa brojnim izazovima, posebno u oblasti pribavljanja ljudskih resursa, tj. pronalaženja, a potom i zadržavanja kandidata sa odgovarajućim kvalifikacijama, veštinama i iskustvom a koji su voljni da prihvate angažovanje u zemlji u tranziciji. Manjak kvalifikovanih ljudskih resursa je često problem sa kojim se suočavaju multinacionalne kompanije kada osnivaju filijale u zemljama u tranziciji, poput Srbije, čije tržište radne snage karakteriše nedostatak stručnih i iskusnih kandidata za određene (posebno menadžerske) položaje, zbog čega multinacionalne kompanije često moraju da šalju svoje menadžere – ekspatrijate u strane filijale. Pored ozbiljnog manjka kvalifikovanih menadžera i zaposlenih koji poseduju potrebne veštine, zemlje u tranziciji karakteriše i višak ljudskih resursa koji ne poseduju potrebne veštine ili poseduju vrlo malo veština, treninga ili adekvatnog obrazovanja. Dakle, od ekspatrijata se, pored popunjavanja položaja u stranim filijalama multinacionalne kompanije, očekuje i da prenose kompetencije i ekspertizu iz centrale kompanije²⁰, kao i tehnička ili

¹⁹ Edström Anders, Gaibraith R. Jay: "Transfer of Managers as a Coordination and Control Strategy in Multinational Organizations", *Administrative Science Quarterly*, 22(2)/1977, 252.

²⁰ Dowling J. Peter, Welch E. Denice: *International Human Resource Management: Managing People in a Multinational Context* (4th ed.), Thomson, London 2006, 70.

menadžerska znanja u strane filijale, da obučavaju lokalne zaposlene²¹ i podstiču ih da razvijaju međunarodnu perspektivu.

Ekspatrijati služe kao veza između centrale kompanije u matičnoj zemlji i strane filijale zato što prikupljaju potrebne informacije o stranoj zemlji u kojoj se nalazi filijala u skladu sa zahtevima centrale kompanije, ponašaju se kao predstavnici kompanije u stranoj zemlji, a često se od njih očekuje i da usaglašavaju terminologiju matične kompanije sa terminologijom na jeziku strane zemlje u kojoj se nalazi filijala²², posebno u slučaju kada se jezik matične zemlje multinacionalne kompanije i jezik zemlje domaćina razlikuju (što može predstavljati ozbiljan problem u zemljama u tranziciji u kojima se dešava da veliki broj zaposlenih ne govori jezik matične zemlje multinacionalne kompanije). Od ekspatrijata se očekuje da prenose kulturu matične kompanije u strane filijale²³, čime doprinose kreiranju međunarodne korporativne kulture. Ovo je od posebne važnosti kada postoje velike razlike u kulturi između zemlje porekla kompanije i zemlje domaćina. Pored toga, kako ih kompanija premešta iz jedne filijale u drugu, ekspatrijati stvaraju mreže ličnih kontakata koje kasnije mogu koristiti za izgradnju neformalnih komunikacionih mreža u multinacionalnoj kompaniji²⁴.

U literaturi iz oblasti međunarodnog menadžmenta ljudskih resursa obično se navodi da ekspatrijati imaju ključnu ulogu u uspešnoj implementaciji HR politika i praksi iz matične kompanije u filijalama multinacionalnih kompanija. Imajući u vidu da ekspatrijati upravljaju filijalama u skladu sa pravilima i procedurama koje je definisala centrala kompanije, popunjavanje menadžerskih položaja u stranim filijalama ovim zaposlenima omogućava konzistentno poslovanje različitih filijala širom sveta. Nepoverenje u efikasnost lokalnih praksi u zemlji domaćinu dovodi do toga da ekspatrijati najčešće pokušavaju da u stranoj filijali uvedu politike, prakse i način rada iz svoje matične kompanije. Na ovaj način multinacionalna kompanija može da primenjuje isti stil menadžmenta u svim zemljama u kojima posluje²⁵ i da ostvari čvršću povezanost filijala sa matičnom kompanijom.

Šlanje ekspatrijata iz matične kompanije u strane filijale predstavlja jedan od načina na koji multinacionalna kompanija pokušava da ostvari kontrolu nad svojim filijalama. Imajući u vidu da su upoznati sa korporativnom kulturom multinacionalne kompanije, da poznaju ciljeve, politike, procedure i prakse

²¹ Harzing Anne-Wil: "Who's in Charge? An Empirical Study of Executive Staffing Practices in Foreign Subsidiaries", *Human Resource Management*, 40(2)/2001b, 140.

²² Dowling J. Peter, Welch E. Denice, 71.

²³ Selmer Jan: "Expatriates' Hesitation and the Localization of Western Business Operations in China", *International Journal of Human Resource Management*, 15(6)/2004, 1096.

²⁴ Harzing Anne-Wil: "Of Bears, Bumble Bees, and Spiders: The Role of Expatriates in Controlling Foreign Subsidiaries", *Journal of World Business*, 36(4)/2001a, 369.

²⁵ Banai, Moshe: "The Ethnocentric Staffing Policy in Multinational Corporations: A Self-fulfilling Prophecy", *International Journal of Human Resource Management*, 3(3)/1992, 453.

multinacionalne kompanije, ovi zaposleni teže da obezbede da ih filijale primenjuju, kako bi pomogli kompaniji da sprovedi efektivnu kontrolu nad svojim filijalama²⁶. Ekspatrijati olakšavaju menadžerima u centrali proces sprovođenja direktne kontrole nad poslovanjem filijale i zamenjuju centralizaciju donošenja odluka u centrali kompanije, ali služe i za sprovođenje neformalne kontrole nad stranom filijalom kroz proces socijalizacije²⁷.

Ekspatrijacija se danas često smatra neophodnom stavkom u radnom iskustvu menadžera koji teže napredovanju i usavršavaju u karijeri²⁸. Kao što je ranije navedeno, neki ekspatrijati (globalni ekspatrijati) provedu veliki deo svog radnog veka na međunarodnim angažovanjima, premeštajući se iz jedne zemlje u drugu kako bi stekli međunarodno iskustvo potrebno za razvoj karijere i pripremili se za obavljanje budućih važnih zadataka u stranim filijalama ili u centrali kompanije²⁹.

Međutim, uprkos brojnim koristima koje kompanijama donosi angažovanje ekspatrijata u stranim filijalama, veliki problem predstavljaju izuzetno visoki troškovi koji prate ekspatrijaciju. Imajući u vidu da je angažovanje ekspatrijata veoma skupo za kompaniju, multinacionalne kompanije teže da tokom vremena smanjuju broj ekspatrijata u stranim filijalama i da na ključne položaje u filijalama počnu da postavljaju lokalne zaposlene.

U praksi se kompanije uglavnom u najvećoj meri oslanjaju na ekspatrijate u ranim fazama procesa internacionalizacije. One tada obično zanemaruju značaj međunarodne strategije upravljanja ljudskim resursima i prilikom osnivanja filijala u stranoj zemlji najčešće primenjuju etnocentrični pristup, tako što u strane filijale šalju ekspatrijate posebno na ključne menadžerske položaje. Matična kompanija ima poverenje u ekspatrijate od kojih očekuje da prenose HR politike i prakse, znanja, kompetencije, korporativnu kulturu na zaposlene u filijali u zemlji domaćinu i obezbede da filijala posluje u skladu sa zahtevima centrale. Posle nekog vremena kompanije počinju da usvajaju policentrični pristup, tj. smanjuju oslanjanje na ekspatrijate a povećavaju broj lokalnih zaposlenih u stranim filijalama³⁰. Vremenom raste poverenje matične kompanije u lokalne menadžere u stranim filijalama, što dovodi do njihovog unapređivanja na najviše položaje u filijali koje su prilikom osnivanja najčešće popunjavali ekspatrijati³¹.

Lokalni menadžeri (posebno na poziciji generalnog direktora ili HR menadžera) najčešće mogu lakše i bolje razumeti probleme sa kojima se suoča-

²⁶ Tarique Ibraiz, Schuler Randall, Gong Yaping, 214.

²⁷ Harzing Anne-Wil (2001a), 369.

²⁸ Dessler, Gary: *Human Resource Management* (12th ed.): Prentice Hall, Boston 2011.

²⁹ Harzing Anne-Wil (2001b), 140.

³⁰ Detaljnije Perlmutter V. Howard: "The Tortuous Evolution of the Multinational Corporation", *Columbia Journal of World Business*, 4(1)/1969, 9–18.

³¹ Monks Kathy, Scullion Hugh, Creaner Jane: "HRM in International Firms: Evidence from Ireland", *Personnel Review*, 30(5)/2001, 541.

vaju lokalni zaposleni u filijali, kao i njihove potrebe, imajući u vidu da ne postoje jezičke i kulturne barijere koje inače mogu dovesti do velikih problema u komunikaciji i poslovanju. Pored toga, kako bi povećala šanse da će lokalni menadžer za ljudske resurse obavljati svoj posao u skladu sa zahtevima koje nameće matična kompanija, i kako bi se obezbedila nesmetana primena određenih HR politika, procedura ili praksi iz centrale multinacionalne kompanije u filijale u Srbiji kompanija ga može slati na potrebne dodatne treninge u matičnoj kompaniji, kako bi mogao da primenjuje zahtevane prakse u skladu sa očekivanjima centrale kompanije, ali i da prenosi stečena znanja na ostale lokalne zaposlene.

6. Prisustvo ekspatrijata u filijalama multinacionalnih kompanija u Srbiji

Empirijsko istraživanje sprovedeno je u toku 2013. godine u filijalama multinacionalnih kompanija u Srbiji sa ciljem da se prikupe podaci o prisustvu ekspatrijata u stranim multinacionalnim kompanijama koje posluju na ovom tržištu. U istraživanju su se pod ekspatrijatima podrazumevali samo zaposleni iz matične zemlje multinacionalne kompanije, i to posebno na ključnim položajima u filijalama. Podaci u okviru ovog istraživanja prikupljeni su putem ankete distribuirane elektronskom poštom ili dostavljene lično HR menadžerima ili generalnim direktorima filijala ovih multinacionalnih kompanija. Anketa je poslata u 108 kompanija, ali je odgovor u vidu popunjene ankete stigao iz ukupno 65 kompanija. Anketirane multinacionalne kompanije u uzorku potiču iz 18 različitih zemalja, pri čemu više od polovine (55,3%) ispitanih filijala multinacionalnih kompanija ima centralu u SAD, Austriji, Francuskoj i Nemačkoj, dok ukupno 46 kompanija (70,8% uzorka) ima centralu u nekoj od zemalja Evropske unije. Među anketiranim kompanijama njih 44 pripadaju uslužnom, a 21 proizvodnom sektoru, pri čemu najveći broj kompanija posluje u sektoru industrije (20%), dok gotovo tri četvrtine uzorka (72,3%) čine kompanije iz delatnosti industrije, bankarstva, trgovine, hemije i farmacije, rudarstva i energetike. U pogledu dužine postojanja filijala, prikupljeni podaci su pokazali da skoro polovina (44,6%) ispitanih kompanija ima svoje filijale u Srbiji između šest i deset godina, 26,2% kompanija između 11 i 15 godina, 16,9% kompanija duže od 15 godina, a najmanje je filijala osnovanih u prethodnih pet godina – njih 12,3%.

Istraživanje je pokazalo da danas malo više od polovine anketiranih filijala (52,3%, odnosno 34 filijale) stranih multinacionalnih kompanija u Srbiji nema ekspatrijate. Uvidom u broj ekspatrijata u filijalama MNK u Srbiji u trenutku kada su filijale osnovane uočava se da 32 filijale (odnosno 49,2% uzorka) nisu imale ekspatrijate. Dakle, kada se uporedi stanje u filijalama MNK u Srbiji u trenutku osnivanja sa sadašnjim stanjem, može se uočiti da udeo filijala koje imaju ekspatrijate u ukupnom broju filijala MNK u Srbiji nije značajno promenjen od osnivanja filijala do danas, odnosno da je samo neznatno povećan broj

kompanija koje su poslale ekspatrijate u svoje filijale u Srbiji. Pritom, analiza nije pokazala da postoje razlike u pogledu broja ekspatrijata u trenutku kada su filijale osnovane i danas u zavisnosti od starosti, odnosno dužine postojanja filijale u Srbiji, tj. približno je isti broj filijala u kojima je povećan, smanjen ili ostao isti broj ekspatrijata u svakoj od starosnih grupa filijala.

Pored toga, rezultati istraživanja ukazali su na to da je ukupan broj ekspatrijata u analiziranim filijalama multinacionalnih kompanija u Srbiji tokom vremena povećan za 29,6% (sa 98 na 127 ekspatrijata). Poređenjem stanja u filijalama u pogledu broja ekspatrijata u trenutku osnivanja i danas uočava se 25 filijala (38,5% uzorka) koje nisu imale ekspatrijate ni kada su osnovane ni danas (tabela 1 i tabela 2). U polovini analiziranih filijala (33 filijale, odnosno 50,8% uzorka) broj ekspatrijata je ostao nepromenjen od njihovog osnivanja do danas (ovde spadaju većinom filijale bez ekspatrijata i samo osam filijala koje imaju ekspatrijate), u 18 filijala (odnosno 27,7% uzorka) broj ekspatrijata je povećan, dok je u 14 filijala (odnosno 21,5% uzorka) smanjen broj ekspatrijata. Takođe se može uočiti sedam filijala (10,8% uzorka) koje prilikom osnivanja nisu imale ekspatrijate, a danas ih imaju, kao i devet filijala (13,8% uzorka) koje su imale ekspatrijate prilikom osnivanja a danas ih više nemaju.

Tabela 1: Broj ekspatrijata u filijalama multinacionalnih kompanija u Srbiji trenutno

Broj ekspatrijata	Broj filijala	Procenat
0	34	52,3%
1	8	12,3%
2	4	6,2%
3	9	13,8%
4	2	3,1%
5	2	3,1%
6	1	1,5%
7	1	1,5%
8	1	1,5%
10	1	1,5%
15	1	1,5%
20	1	1,5%
Ukupno:	65	100%

Tabela 2: Broj ekspatrijata u filijalama multinacionalnih kompanija u Srbiji u trenutku osnivanja

Broj ekspatrijata	Broj filijala	Procenat
0	32	49,2%
1	13	20,0%
2	7	10,8%
3	3	4,6%
4	7	10,8%
5	1	1,5%
14	1	1,5%
15	1	1,5%
Ukupno:	65	100%

Istraživanje je pokazalo da je danas broj ekspatrijata u većini filijala veoma mali – najveći broj filijala (90,8%) ima najviše pet ekspatrijata, trećina filijala (32,3%) ima između jednog i tri ekspatrijata, dok 12,3% filijala ima samo jednog ekspatrijata. Približno je isti broj filijala sa najviše tri ekspatrijata u momentu kada su osnovane i danas. Međutim, danas je značajno manji broj filijala koje imaju samo jednog ekspatrijata (ovaj procenat je smanjen sa 13 filijala, odnosno 20% uzorka u momentu osnivanja na 8 filijala, odnosno 12,3%), dok znatno više filijala ima pet i više ekspatrijata nego u momentu osnivanja (osam, odnosno 12,1% uzorka naspram tri filijale, odnosno 4,5% uzorka) (tabela 1 i tabela 2).

Kada se posmatra dužina postojanja filijala (tabela 3) uočava se da među filijalama osnovanim u poslednjih pet godina nema onih u kojima je vremenom broj ekspatrijata smanjen, već da je ovaj broj ili povećan (kod malo više od jedne trećine filijala) ili ostao nepromenjen. Sličan nalaz se dobija i u najstarijim filijalama (koje postoje u Srbiji duže od 15 godina) među kojima takođe nema filijala u kojima je broj ekspatrijata smanjen (u 27,3% filijala njihov broj je povećan, dok je u ostalima ostao nepromenjen). Sve filijale koje su smanjile broj ekspatrijata od osnivanja do danas postoje između šest i 15 godina (pri čemu je u 31% filijala koje postoje između šest i deset godina i u 23,5% filijala koje postoje između 11 i 15 godina smanjen broj ekspatrijata). Dakle, poređenje broja ekspatrijata u filijalama prema dužini postojanja filijala ovde nije dalo rezultate koji bi mogli imati neki značaj za istraživanje.

Tabela 3: Dužina postojanja filijala multinacionalnih kompanija u Srbiji

Starost filijale	Filijale u kojima je broj ekspatrijata ostao nepromenjen		Filijale u kojima je broj ekspatrijata povećan		Filijale u kojima je broj ekspatrijata smanjen		Ukupno filijala
	Broj	Procenat učešća	Broj	Procenat učešća	Broj	Procenat učešća	
0 – 5 godina	5	62,5%	3	37,5%	0	0%	8
6 – 10 godina	11	37,9%	9	31%	9	31%	29
11 – 15 godina	10	58,8%	3	17,6%	4	23,5%	17
Preko 15 godina	8	72,7%	3	27,3%	0	0%	11
Ukupno	34	100%	18	100%	13	100%	65

6.1. Poreklo generalnih direktora filijala multinacionalnih kompanija u Srbiji

Iako mogu pripadati bilo kom hijerarhijskom nivou, pod ekspatrijatima se najčešće podrazumevaju menadžeri, pa je samim tim i celokupan proces njihovog premeštanja u stranu zemlju znatno kompleksniji. Ako se posmatra nacionalnost zaposlenog, na poziciji generalnog direktora može biti lokalni zaposleni iz Srbije, ekspatrijat iz zemlje porekla MNK ili zaposleni iz treće zemlje (koja nije ni Srbija, niti zemlja porekla MNK).

Trenutno malo manje od polovine (46,2%) filijala ima stranca na poziciji generalnog direktora, pri čemu su ekspatrijati (tj. zaposleni iz matične zemlje MNK) na čelu ukupno 18 filijala (tabela 4). U momentu osnivanja u više od polovine (36 filijala, odnosno 55,4%) filijala u Srbiji stranci su bili generalni direktori, a od tog broja ekspatrijata je bilo ukupno 28. Dakle, prilikom osnivanja manje od polovine analiziranih filijala (43,1% uzorka) imalo je ekspatrijata na poziciji generalnog direktora, dok je danas taj broj znatno manji – 27,7% filijala ima generalnog direktora iz zemlje porekla MNK. Lokalni generalni direktor je u trenutku osnivanja filijala bio na čelu manje od polovine filijala (njih 29, odnosno 44,6% uzorka), a danas je taj broj veći – ukupno 35 filijala (odnosno 53,8% uzorka) ima generalnog direktora iz Srbije.

Tabela 4: Poreklo generalnog direktora u filijalama multinacionalnih kompanija u Srbiji

Poreklo generalnog direktora	Trenutno		U momentu osnivanja	
	Broj filijala	Procenat	Broj filijala	Procenat
Iz Srbije	35	53,8%	29	44,6%
Iz matične zemlje MNK	18	27,7%	28	43,1%
Iz treće zemlje	12	18,5%	8	12,3%
Ukupno	65	100%	65	100%

Kada se analizira broj ekspatrijata – generalnih direktora filijala prema dužini postojanja filijala, može se primetiti da je u svim filijalama, bez obzira na starost, smanjen broj ekspatrijata na poziciji generalnog direktora.

6.2. Poreklo HR menadžera u filijalama multinacionalnih kompanija u Srbiji

Kada je reč o poreklu menadžera za ljudske resurse u filijalama multinacionalnih kompanija u Srbiji, analiza prikupljenih podataka pokazala je da ukupno osam ispitanih filijala trenutno nema HR menadžera. Od preostalih 57 filijala koje imaju menadžera za ljudske resurse čak u 52 filijale (91,2% uzorka) ovaj menadžer je iz Srbije, dok je samo u dve filijale iz matične zemlje multinacionalne kompanije, a u tri filijale HR menadžer je iz treće zemlje (tabela 5). Prilikom osnivanja analiziranih filijala njih 22 nisu imale HR menadžera, a kod onih koje su imale takođe je najveći procenat filijala čiji je HR menadžer bio iz Srbije (35 filijala, odnosno 81,4% uzorka), dok je u samo sedam filijala (16,3%) menadžer za ljudske resurse bio ekspatrijat, a u jednoj filijali iz treće zemlje.

Tabela 5: Poreklo HR menadžera u filijalama multinacionalnih kompanija u Srbiji

Poreklo HR menadžera	Trenutno		U momentu osnivanja	
	Broj filijala	Procenat	Broj filijala	Procenat
HR menadžer iz Srbije	52	91,2%	35	81,4%
Iz matične zemlje MNK	2	3,5%	7	16,3%
Iz treće zemlje	3	5,3%	1	2,3%
Ukupno	57	100%	43	100%

Dakle, može se tvrditi da se ekspatrijati uglavnom ne nalaze na poziciji menadžera za ljudske resurse u filijalama multinacionalnih kompanija u Srbiji, odnosno da se ova pozicija u najvećem broju slučajeva popunjava lokalnim zaposlenima. Slično onome što je navedeno za poziciju generalnog direktora, može se uočiti da je i na poziciji HR menadžera vremenom smanjen broj ekspatrijata

(od ukupno sedam kompanija koje su ovaj položaj popunjavale zaposlenima iz matične zemlje u momentu osnivanja danas ih je samo dve).

Isti zaključak se može izvesti i kada se analizira nacionalnost HR menadžera u filijalama prema starosti filijala, ali samo u grupama koje čine filijale starosti između šest i deset, kao i one starije od 15 godina, u kojima je broj ekspatrijata na poziciji HR menadžera smanjen od njihovog osnivanja do danas. Menadžeri za ljudske resurse u svim analiziranim filijalama koje postoje do pet i između 11 i 15 godina su i prilikom osnivanja i danas lokalni zaposleni iz Srbije.

7. Zaključak

U teoriji koja se bavi proučavanjem ekspatrijata navodi se da će, imajući u vidu da je angažovanje ekspatrijata veoma skupo, multinacionalne kompanije težiti da tokom vremena smanjuju broj ekspatrijata u stranim filijalama i da na ključne položaje u filijalama počnu da postavljaju lokalne zaposlene. Istraživanje sprovedeno u Srbiji putem anketiranja filijala stranih multinacionalnih kompanija pokušalo je da ustanovi kakav je trend u Srbiji kada je u pitanju broj ekspatrijata u filijalama u sadašnjem momentu u odnosu na vreme osnivanja filijala. Rezultati istraživanja pokazali su da postoji suprotan trend u odnosu na navedene teoretske postavke. Tako su, nasuprot očekivanjima, filijale u Srbiji pokazale trend porasta broja ekspatrijata, i to kako u pogledu ukupnog broja ekspatrijata u analiziranim filijalama u Srbiji, tako i u pogledu povećanja broja filijala koje imaju pet i više ekspatrijata. O tome svedoči činjenica da je kod 18 od 65 anketiranih filijala (ili 27,7% uzorka) broj ekspatrijata povećan, dok je samo kod 14 filijala broj ekspatrijata od osnivanja do danas smanjen, pri čemu je devet multinacionalnih kompanija iz svojih filijala povuklo sve ekspatrijate i zamenilo ih lokalnim zaposlenima. Pri tome, podaci dobijeni kroz istraživanje pokazuju da je neznatno povećan broj filijala koje danas nemaju nijednog ekspatrijata u odnosu na njihov broj u momentu osnivanja i to sa 32 (ili 49,2%) na 34 (ili 52,3%), što je u skladu sa očekivanim trendom, ali to smanjenje nije statistički značajno da bi dovelo u pitanje prethodno potvrđeni nalaz o trendu povećanja broja ekspatrijata. Pritom, analiza promene broja ekspatrijata u filijalama posmatrano prema starosti filijala nije pružila objašnjenje ovih tendencija, imajući u vidu da i među najmlađim i među najstarijim filijalama ni u jednoj posmatranoj filijali nije došlo do smanjenja broja ekspatrijata u odnosu na stanje prilikom osnivanja.

Kada se posmatra broj filijala kod kojih su na ključnim položajima (generalnog direktora i menadžera za ljudske resurse) ekspatrijati, istraživanje je pokazalo da su u najvećem broju slučajeva ekspatrijate zamenili lokalni zaposleni, što je bilo i očekivano imajući u vidu da kompanije često u velikoj meri koriste

ekspatrijate za transfer znanja i obuku lokalnih zaposlenih kako bi oni vremenom mogli da počnu da preuzimaju ključne položaje u filijalama u Srbiji.

Dakle, rezultati istraživanja pokazali su da je došlo do značajnog smanjenja broja ekspatrijata na poziciji generalnog direktora u filijalama stranih multinacionalnih kompanija u Srbiji, tj. ove položaje su u znatno većem broju zauzeli lokalni menadžeri. Ovaj nalaz ide u prilog tvrdnji zasnovanoj na rezultatima drugih istraživanja da MNK prilikom osnivanja filijala u stranim zemljama ključne položaje u filijalama popunjavaju ekspatrijatima, od kojih se očekuje da obuče lokalne zaposlene kako bi efektivno mogli da obavljaju posao u skladu sa zahtevima korporativne centrale, nakon čega lokalni zaposleni preuzimaju ključne funkcije u filijali. Međutim, nasuprot tome, istraživanje je pokazalo da su u većini filijala MNK u Srbiji na poziciji generalnog direktora i prilikom osnivanja filijala i danas stranci.

Kada se radi o poziciji HR menadžera, zapošljavanje lokalnog HR menadžera u filijali ima brojne prednosti za kompaniju i predstavlja jedan od načina da kompanija obezbedi da sve HR politike, procedure i prakse budu implementirane, a zatim i sprovedene u skladu sa zahtevima koje nameće regulativa u zemlji domaćinu, tj. u Srbiji. Kao što se može videti iz podataka dobijenih kroz istraživanje, većina analiziranih filijala ima lokalnog HR menadžera iz Srbije, kao što je bio slučaj i prilikom osnivanja filijala. Smanjenje troškova predstavlja primarni cilj MNK za zapošljavanje lokalnog HR menadžera umesto ekspatrijata. Međutim, pored toga, lokalni HR menadžer može doneti i druge prednosti multinacionalnoj kompaniji – upoznat je sa lokalnom zakonskom regulativom (posebno u specifičnim oblastima u kojima se najčešće mogu javiti problemi, poput selekcije ljudskih resursa, zapošljavanja ili otpuštanja), kao i sa specifičnostima lokalnog tržišta rada i uobičajenih praksi poslovanja sa kulturnim, ekonomskim, političkim i pravnim okruženjem u stranoj zemlji, pa je, u skladu sa tim, očekivano da može znatno bolje da obavlja posao nego stranac.

Rezultati istraživanja pokazali su da postoji suprotan trend u Srbiji u pogledu kretanja broja ekspatrijata u filijalama MNK u odnosu na teoretske postavke i u odnosu na situaciju u drugim zemljama. Međutim, na bazi podataka dobijenih kroz ovu anketu, istraživanje nije moglo da utvrdi faktore koji utiču na takav trend, odnosno da ustanovi koje su to specifičnosti poslovnog, pravnog ili kulturnog okruženja u Srbiji zbog kojih filijale multinacionalnih kompanija koje posluju u Srbiji povećavaju broj ekspatrijata, što bi moglo da bude predmet nekog drugog šireg istraživanja.

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THE EXPATRIATES IN MULTINATIONAL COMPANIES – A TREND IN SERBIA

S u m m a r y

Expansion of international operations has imposed new demands to multinational companies, especially in the area of human resource management. International human resource management is primarily characterized by movement of employees across the boundaries of one country in order to take various roles in foreign subsidiaries of multinational companies. One of the most important decisions a multinational company has to make refers to selection of employees to fill in positions in its foreign subsidiaries depending on nationality of employees. This paper tends to explore the significance and roles of expatriates in obtaining success of multinational company in international operations in order to emphasize the advantages expatriates may bring to a multinational company. This paper aims to analyze one of crucial issues that multinational companies face in global environment – the process of expatriation, particularly focusing on the number of expatriates (parent country nationals) in subsidiaries of foreign multinational companies in Serbia and the tendency of changing their number in these subsidiaries, as well as nationality of managers in key positions in these subsidiaries (CEO and HR manager). Empirical research performed through a questionnaire has shown certain features of subsidiaries of multinational companies in Serbia, indicating that the number of expatriates has increased since their founding until today (contrary to expectations based on theoretical concepts and results of studies performed in other countries and environments). However, as it was expected, the analysis of results has shown that most subsidiaries in Serbia have replaced their expatriates in the position of CEO (and HR manager), which has brought companies numerous benefits, such as lower expenses.

Key words: human resource management, international human resource management, multinational companies, expatriates

ECONOMICS OF EDUCATION IN SERBIA: BETWEEN HUMAN CAPITAL AND SIGNALING AND SCREENING THEORIES**

This article analyzes education in Serbia from the point of view of the two principal strands of economic theory of education: human capital theory and the theory of signaling and screening. Based on the available statistical data from the Statistical Office, the rate of return to education is calculated for Serbia and its implications discussed. From another point of view, the comparative employment opportunities of graduates from public and private universities are discussed based on the signaling and screening theory. Since no university specific employment statistics exist at present in Serbia, only a hypothetical theoretical discussion is provided as a basis for future research. Finally, the prospects for development of education in Serbia are analyzed.

Key words: education economics, human capital, signaling and screening

1. Introduction: The structure of the economics of education

The economics of education is an exciting applied field of economic theory with versatile and surprising theoretical tools, and great practical significance that cannot be overemphasized. Its inception in its modern form is attributed to Theodore Schultz's address to the American Economic Association in December 1960, in which the principal theoretical paradigm, that education can be regarded as an investment in human capital, analogous to investments in physical capital, was reintroduced.

The most famous historical precedent of this idea is Adam Smith's classic statement that:

'a man educated at the expense of much labor and time to any of those employments which require extraordinary dexterity and skill, may be compared to one of those expensive machines. The work which he learns to perform, it

must be expected, over and above the usual wages of common labor, will replace to him the whole expense of his education.¹

This still remains the main trait of education economics, namely that education raises productivity, and by increased productivity compensates and earns above the investment of money and effort. In the next section we will take up this idea and calculate the internal rate of return to investment in education in Serbia and discuss the implications.

While human capital theory certainly remains pivotal for the economics of education, it is not the only theoretical paradigm. Very exciting and to a certain degree surprising body of theory has come from the microeconomic theory of asymmetric information, which is one of the cases of market failure. When employer and employee have asymmetric information concerning the capabilities and efforts of the employees, employer has to rely on some signals to distinguish among different kinds of employees. Since education is more difficult to obtain for less talented workers the level of education can signal the intrinsic abilities of employees. In the simplified model, productivity is not raised at all, the only effect is signaling. By that way, in this extreme case of signaling and screening models, the link between education and increased productivity, characteristic of human capital theory, is completely severed.

There are many related subjects of practical relevance, such as the role of investments in human capital in the emergence of South and East Asian economies; the widening gap in the distribution of incomes in the developed world in favor of highly educated workers, whether as a consequence of emergence of South and East Asian economies or the bias in technological change itself.

The question of externalities in education is another prominent topic, as externalities are in general, but the field of education is especially important in this respect. Externalities in education imply differences between the private returns to education and social returns, stressing the importance of policies to enhance education, as its importance goes above what each individual feels.

Another branch of research relates to understanding of education process itself, that is to say, how education transforms less productive into more productive individuals, or the topic of educational production function. The famous classical example is studies into influence that class size has on pupils' performance.

Lastly, an important topic has become the financing of education, the study of variety of models for funding education, which is very costly and takes significant percentage of budgets of modern states. The high costs have aroused

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¹ Adam Smith: *The Wealth of Nations*, Alfred A. Knopf., New York [1776] 1991.

increased interest in the appropriate mechanism for financing education, among them for voucher systems.

Due to the intensive research, education economics is now a mature field of economics, with first bibliographies appearing as early as in 1966² and many encyclopedic treatments being already available^{3,4}, and the intensive research still goes on.

2. Estimating rates of return to education in Serbia

2.1 Human capital and the rate of return to education

As noted in the introduction, the notion of human capital means that education can be regarded as an investment that is analogous to investments in physical capital. Consequently, economically rational individuals evaluate the investment in their own education in a manner similar to that of the firms when they decide to invest in new machinery.

What makes both decisions complex is the fact that the investment in each case entails current costs, and yields future benefits; so that there is a need for a sound methodology to consistently evaluate different patterns of cash flows over an extended period of time. In the case of education the period of interest is actually the whole life span.

Many methods could be used for the purpose of selecting among alternative cash flows. Some of them are: present worth, future worth, annual worth, rate of return, payback period etc. They all entail the idea that in order to compare cash flows from different periods of time, they must be transformed into cash flows that refer to the same point of time, by means of discounting factors, so as to be comparable.

The first step in all these methods, and we are here primarily interested in the internal rate of return, is to correctly specify the schedule of cash flows in time. There is certain flexibility, depending on the aim of the research and the point of view, but we will adopt the time frame that is used in some international studies, to be more easily comparable.

For example, we will take five years as duration of high education, although it is four in Serbia for most majors. This way, we actually assume bachelor and master degree, instead of only bachelor. It means that the time period for higher

² Blaug Mark: *Economics of Education: A Selected Annotated Bibliography*, Pergamon Press, Oxford 1978.

³ Johnes Geraint Jill Johnes (eds.): *International handbook on the economics of education*, Edward Elgar, Cheltenham UK 2004.

⁴ Hanushek A. Eric, Welch Finis (eds.): *Handbook of the Economics of Education*, North Holland, Amsterdam 2006.

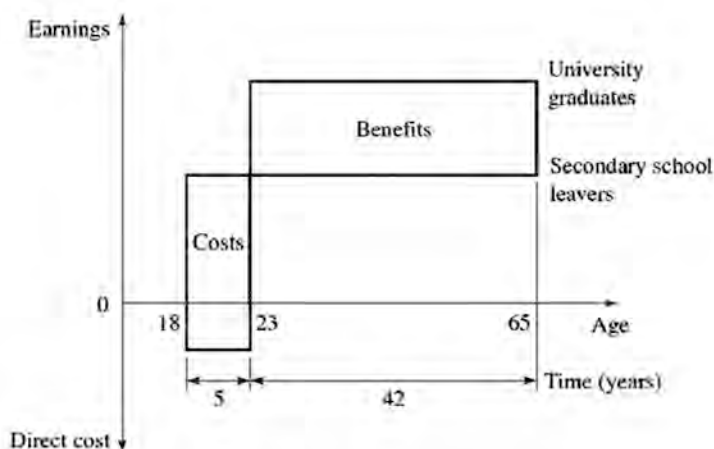
education would be from the age of 18 to the age of 23. Also, we take the working period to be from the age of 23 to the age of 65. This complies well with the retirement practices in Serbia, except that it is possible to retire after 40 working years, even before the age of 65. These flexibilities are acceptable because the estimate of the rate of return can at best be rough approximate.

This framework for the problem of calculating the rate of return to education is illustrated by the Figures 1 and 2. The Figure 1 shows simplified view of the problem. Earnings are designated on the positive y axis, and costs on the negative one, while time is measured on x axis. Simplification is in that costs and earnings are taken to be constant over the whole period. That is to say, each year of study costs the same, whether on the first or the last year, and earnings also don't increase over time.

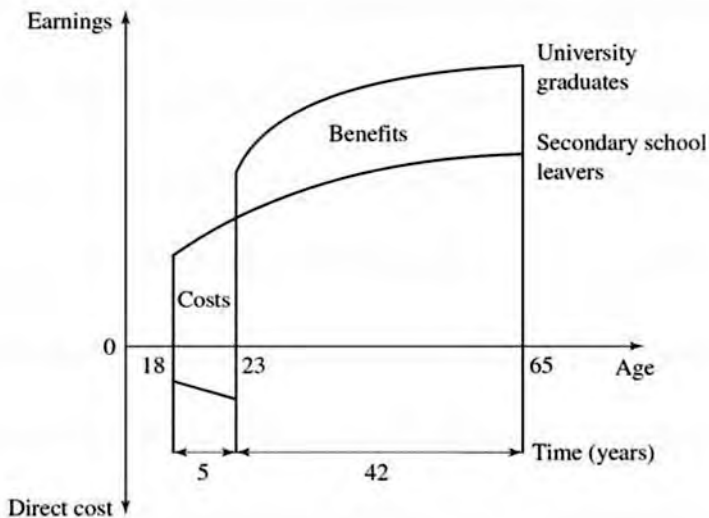
From years 18 to 23 some people undertake high education, and their costs over these five years are not only direct, like tuition fees *etc.*, but also an opportunity cost of forgone salaries. Benefits, on the other hand consist of higher earnings after graduation. Of course, there is also a utility cost of effort invested in education from cost side, and a utility benefit of working in generally better conditions that prevail on working places that require higher education. These details are left over in this kind of rough estimate analysis.

The Figure 2 shows more realistic and general, though it is still stylized picture of the problem. Generality is in that salaries are allowed to rise with time, and education costs could also rise on the higher years of study.

Figure 1: Simplified stream of constant cash flows⁵



⁵ Johnes Geraint Jill Johnes (eds.): *International handbook on the economics of education*, Edward Elgar, Cheltenham UK 2004, 7.

Figure 2: General stylized pattern of cash flows⁶

Having specified the pattern of cash flows, we now turn to the statistical data that provide the numerical values to be fitted in the above schedule. We need two kinds of data. The first one is the cost of each year of study. For this data we take the cost to be 1500 EUR, the cost of studying at the private universities, in dinar value according to the exchange rate of 114 dinars for 1 EUR.

The other part of the data is the average salaries and wages *by level of educational attainment*. This data is available from Statistical Office of the Republic of Serbia and is presented in the next section.

2.2 The Data

Estimation of the rate of return to education crucially depends on the availability of data on average salaries and wages specific by level of educational attainment. Statistical Office of the Republic of Serbia is publishing such data under the section Employment and Earnings, Statistical Releases ZP12.

Data are derived from the regular semi-annual statistical survey on employees and their salaries and wages (RAD-1), which is carried out twice a year (as of 31 March and 30 September). That means that data in this article are the newest available, that of 31 March.

The survey covers employees in legal entities (enterprises, institutions, cooperatives and organizations). Employees that are not covered by this survey are those engaged in some small-size enterprises and in unincorporated enterprises (entrepreneurs), as well as employees in Ministry of Defense and in Ministry of Interior.

⁶ *Ibid.*, 4.

What is important to have in mind is that the salaries and wages are defined pursuant to the Law on Labor (“Official Journal of the Republic of Serbia”, no 24/2005 and 61/2005). This is to say that gross (including contributions for social security), and not net salaries are presented. That is why to an observer familiar with economic conditions in Serbia numbers might look higher than expected.

Figure 2 presents the data from the statistical release in table, while Figure 3 presents the data in a convenient graphical form. We will use only the total numbers, as there is no need for the purpose of this article to distinguish between sexes.

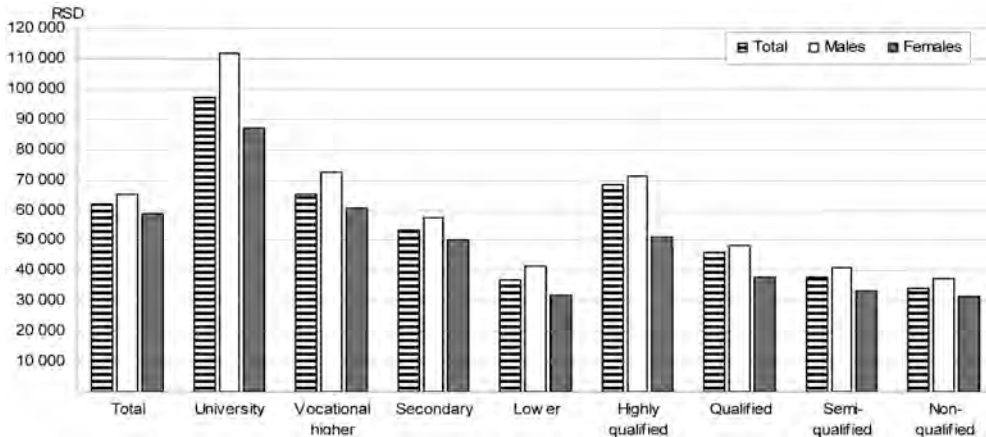
Table 1: Average salaries and wages by level of educational attainment⁷

Average salaries and wages by level of educational attainment and sex, March 2013								
RSD								
	Republic of Serbia							
	Total	Serbia – North			Serbia – South			
		Total	City of Belgrade	Region of Vojvodina	Total	Region of Sumadija and Western Serbia	Region of Southern and Eastern Serbia	Region of Kosovo and Metohia
Total	62102	68777	75900	59839	52667	52296	53114	...
University educational attainment	97228	108293	117850	93640	78809	78749	78880	...
Vocational higher educational attainment	65279	70645	74844	64828	57784	57921	57623	...
Secondary educational attainment	53611	57352	61455	52220	47684	47820	47539	...
Lower educational attainment	36949	38592	39705	37384	34552	36909	31794	...
Highly qualified	68240	71454	73012	67496	63294	56054	75061	...
Qualified	46056	49335	52925	45640	42433	41699	43411	...
Semi-qualified	37711	40230	41929	38563	35513	35498	35535	...
Non-qualified	34317	36805	36090	37213	31784	31597	32021	...

⁷ Source: Statistical Office of the Republic of Serbia: “Employees in legal entities in the Republic of Serbia, by salaries and wages size and level of educational attainment, March 2013 (ZP12)”, 9, <http://webrzs.stat.gov.rs/WebSite/repository/documents/00/01/07/99/zp12072013e.pdf> (06.09.2013).

For us the data on average salaries and wages for two levels of educational attainment are important, those for university educational attainment, 97.228 dinar, and secondary educational attainment, 53.611 dinar. Those will be utilized in Section 2.4 to calculate the ROR.

Figure 3: Average salaries and wages by employees' sex and level of educational attainment, March 2013 Republic of Serbia⁸



2.3 Methodology

What makes investment decisions complex both in physical and human capital case is the fact that the investment in each case entails current costs, and yields future benefits; so that there is a need for a sound methodology to consistently evaluate different patterns of cash flows over extended period of time. In the case of education the period of interest is actually the whole life span.

When there are such cash flows over an extended period of time, then in order to make meaningful economic decisions and comparisons, it is not sufficient to just add benefits, add costs and then subtract overall costs from the benefits, because, for example, it is not economically the same to have a stream of 1000\$ costs today and 2000\$ benefit next year, or the same costs and benefits but 2000\$ arriving only after five years. Obviously, preferable is the first pattern.

The reason is the *time value of money*, the fact that 1\$ is worth more today than next year, although nominally is the same, but dollar today can earn interest over a year, and is therefore *equivalent* to more than one dollar in a one year time.

Many methods could be used for the purpose of selecting among alternative cash flows. Some of them are: present worth, future worth, annual worth, rate of return, payback period etc. They all entail the idea that in order to compare

⁸ *Ibid.*

cash flows from different times they must be, by means of discounting factors, transformed into cash flows in the same point in time so as to be comparable.

Among them, the method of internal rate of return is the one that determines the implicit rate of return, the rate of return which, when used as a discounting factor, equalizes costs and benefits, making the present value of the stream of cash flows equal to zero. In other words, internal rate of return is the discounting rate that makes the net value of the investment zero.

With the assumption that high education lasts five years and working period forty two, the rate of return r is the solution of the following equation:

$$\sum_{t=1}^{42} \frac{(W_u - W_s)_t}{(1+r)^t} = \sum_{t=1}^5 (W_s + C_u)_t (1+r)^t$$

Where W_u is the earnings of university graduate (W standing for wage and subscript u for university graduate), W_s the earnings of a secondary school graduate (subscript s for secondary), and C_u designates the direct costs of university education (tuition, fees, books).

This formula entails that present value of the investment is calculated for the time point of graduation and beginning of the working period. Obviously, other point of time, like beginning of the study period could equivalently be chosen.

The internal rate of return implies that financing of education by loans with interest rate less than ROR would imply positive present value and would be therefore economically feasible.

2.4 Calculation of the internal rate of return

Now we can actually calculate the ROR to education. With 1500 EUR annual tuition, under the exchange rate of 114 RSD per 1 EUR, the annual tuition in dinars is -171000 RSD, minus sign denoting costs.

To have full costs we must add the forgone salaries for the same one year period. Since in the period before graduation the salary would be that of the workers with secondary educational attainment, the foregone salaries are 53611 times twelve months: $53611 \times 12 = 814332$. It is important not to forget to multiply with 12 months, as calculation is on an annual basis.

On the side of benefits, our data show that the average salary for the university educational attainment is 97.228 dinar, and for the secondary educational attainment is 53.611 dinar. Then the net benefit of education is measured by their difference: $97.228 - 53.611 = 43617$, which again must be multiplied by 12 to get the annual value: $43617 \times 12 = 523404$.

These data can now be filled into Excel sheet: for the first five years, - 814332, and for the rest 42 years, 523404. ROR can be calculated by Excel's convenient built-in function IRR(). Its syntax is:

IRR(first_cell, last_cell),

Or, having in mind that theoretically it is possible that ROR is not unique, a guess value can be inserted into IRR() function to single out the expected ROR value from the set of possible ones.

IRR(first_cell:last_cell, guess)

In the cash flow streams of practical significance this rarely happens.

Table 2: shows the data and the calculated rate of return.

Table 2: Calculation of the rate of return to education in Serbia

year	cash flow	
-5	-814332	IRR
-4	-814332	10%
-3	-814332	
-2	-814332	
-1	-814332	
1	523404	
2	523404	
3	523404	
4	523404	
5	523404	
6	523404	
7	523404	
8	523404	
.....	
35	523404	
36	523404	
37	523404	
38	523404	
39	523404	
40	523404	
41	523404	
42	523404	

The result for the internal rate of return obtained is 10%. This number complies well with the fact that average returns to schooling are lowest for the non-

OECD European, Middle East and North African group of countries, Serbia belonging to non-OECD European countries. For the world as a whole, average is 10.8%, (since we have not included subsidization of education, our estimate should be compared with data for full or 'social' returns).

Although the calculated rate of return to education is not among the highest in the world, it testifies to the fact that it is still very well worth for students to invest in education in Serbia, as opposed to leaving education after secondary school. This can explain the fact that almost all available places in public universities are occupied, and that private universities also have great number of students.

And it should be kept in mind that the rate that we obtained is the minimal estimate. As pointed before, if the fact that most of the students in public universities don't pay tuition fees is taken into account, together with the fact that the first year is free of charge on some private universities, then on average the rate of return would be even higher. Also, when other benefits of working on working places that require higher education are taken into account, the meaningful rate of return would be considerably higher. Therefore, from the individualistic economic perspective, education should be in high demand.

3. Comparative employment opportunities of graduates from public and private universities from the signaling and screening perspective

3.1 Assymmetric information and signaling and screening

Asymmetric information is one of the notable cases of market failure - situations when market does not result in an efficient Pareto-optimal state. Baseline models that guarantee Pareto-optimality all assume that both buyers and sellers are perfectly informed about the quality of the goods being sold in the market. However, this assumption is violated in practice on many markets, and if it is costly to verify the quality of goods, this can make problems to the efficient operation of markets.

This is essentially because, since it is impossible to distinguish between products of different quality, only one price would prevail, by means of which the sellers of good commodities would be economically 'punished' and those of bad commodities rewarded. This negative externality between sellers of indistinguishable commodities of different quality leads to the negative or adverse selection.

Adverse selection can cause the owners of good items to leave the market, so that only bad items remain. By means of that, many gains from trade are lost, because people who would otherwise trade, would not trade. In extreme cases, this phenomenon can completely destroy the market for certain goods.

The seminal article that introduced the problem of asymmetric information into economic theory is George Akerlof: "The Market for Lemons: Quality Uncertainty and the Market Mechanism", *Quarterly Journal of Economics*, 84/1970, 488-500, in the context of the market for used cars, where some cars are in good state, 'plums', while the others are in bad state, 'lemons'. The current owner of each car knows its quality, but the prospective purchasers don't know whether any given car is a plum or a lemon. For this work, Akerlof was awarded the 2001 Nobel Prize in economics.

One way to solve the problem of asymmetric information is to amend for the uncertainty about the quality of the goods by the actions of the agents in question. For example, the sellers of good cars could afford to offer a warranty, while those of bad cars could not. Therefore, the offer of a warranty would be a credible signal that could separate good from bad cars.

Another notable example of the market where asymmetric information is important, that is of concern to us, is the labor market, because it is not easy to distinguish between productive and less productive workers. This point has repercussions on our understanding of the education market, as education can serve as a signal that can separate workers of different quality, essentially because it is more costly, in terms of effort, (and also money, because of the longer time needed for graduation), for less productive workers to attain education. The basic model and its consequences is introduced in the next section.

3.2 Illustrative model of signaling in the education and labor markets

Signaling related to labor and education market was first examined by Michael Spence in his PhD thesis in 1972 and subsequently succinctly presented in Michael Spence: "Job Market Signaling", *Quarterly Journal of Economics* 3/1973, 355-374. Original model is simple and with very illustrative graphs, but stylized version that appears in Hal R. Varian, *Intermediate Microeconomics: A Modern Approach*, W.W. Norton & Company - New York 2010, 727 - 730 is more accessible, so we will follow it here.

There are only two groups of workers, able with marginal product a_2 , and unable with marginal product a_1 , $a_2 > a_1$. Fraction of able workers is b , and consequently, fraction of unable workers is $1 - b$. With linear production function the total product is $L_2 a_2 + a_1 L_1$, where L_i denotes the number of respective workers.

If the type of workers could be easily observable, each kind of workers would gain the competitive wage equal to her marginal product, $w_i = a_i$. If on the other hand firms cannot observe productivity of the workers, they would have to pay the wage equal to the average product, $w_i = (1 - b) a_1 + b a_2$. Still, the overall output would be the same, profits the same, the only difference being the redistribution among two types of workers, in favor of less able.

If, now, the workers can purchase a signal that can distinguish them, like education, the situation changes. By e_i , we will denote the quantity of acquired education by each type of worker, and by c_i the costs of acquiring the unit of education. Since type two workers are more able, their cost is assumed less, $c_1 > c_2$.

It turns out that equilibrium in this situation is that unable workers acquire 0 level of education, while able workers acquire e^* level of education, where e^* satisfies the following inequalities:

$$\frac{a_2 - a_1}{c_1} < e^* < \frac{a_2 - a_1}{c_2}$$

The result is the so called separating equilibrium, because able workers have by way of purchasing education signal separated themselves from unable ones, and are now paid their marginal product. From the social point of view, however, the education signal, since it is presumed to be only a signal that does not raise productivity, is a total waste.

The model therefore shows the situation completely opposite to the human capital theory, namely education in this model does not raise productivity at all; it just serves to signal to the employers something about the workers characteristics, namely their innate productivity (unaltered by acquired education).

Similar case is the famous 'sheepskin effect' in the returns to education⁹. It has often been observed that there is a large gap in wages between the people who graduate and those who drop out, even if the difference between the two is only in the few remaining exams. Since it does not look likely that just one or two more exams can make such a difference in productivity, the reason for this discontinuous non-linear jump in economic returns begged an explanation. Since the diplomas were traditionally written on sheepskins, this phenomenon became known as sheepskin effect.

One of the explanations in economic literature for this effect, that is relevant for the topic discussed in this section, is presented in Weiss Andrew: "High school graduation, performance, and wages", *Journal of Political Economy* 4 /1988, 785–820.

Weiss found that graduation is not correlated with output per hour, and that graduates did not appear to have comparative advantage in more complex jobs. This would suggest that wage differentials are not due to higher productivity gained by acquiring additional skills, as would suggest baseline human capital theory, but that there must be another explanation, based on signaling theory. Graduation sends a signal.

⁹ Hungerford Thomas Solon Gary. (1987): "Sheepskin Effects in the Returns to Education", *Review of Economics and Statistics*, 69/1987, 175-77.

Weiss also found that graduates were significantly less likely to quit or to be absent, and since quits and absences are costly to firms, they prefer those less likely to quit or to be absent, and use graduation as a signal to that effect!

Graduates get more because they *are* indeed more productive, but this productivity is not the result of education and graduation, graduation has just revealed their intrinsic higher productivity, in that they have lower quits and absentee rate.

This explanation that education can serve to emit signals about various intrinsic characteristics of employees, and that its effect is not necessarily limited to the content of the curricula, is the key to our explanation of generally perceived favorable employment opportunities of graduates from private universities in Serbia, which is the subject of the next section.

3.3 Comparative employment opportunities of graduates from public and private universities

After the theoretical foundation has been laid in the previous two sections, we can now proceed to the central topic of this chapter, the discussion of comparative employment opportunities of graduates from public *vs.* private universities in Serbia.

The question is very novel and interesting, though, at this moment, the unavailability of data prevents exact scrutiny. Therefore it is only possible to have a hypothetical theoretical analysis, based on the prevailing sentiments as a first guess. It is probable that in the future there will be more statistical data concerning the employment, specific by universities from which employees have graduated. Then it would be easy to group the data according to whether universities are public or private, or according to other classifications of interest.

The starting point of this discussion is relatively widespread impression that graduates from private universities find jobs relatively easy. This is despite the fact that public universities have much longer tradition and are perceived as being more difficult and demanding. The explanation that we offer for this apparent paradox is based on the signaling theory. We have seen that the difference between human capital theory and signaling theory is in that the later deemphasizes the significance of the curricula, and emphasizes intrinsic characteristics of graduates, that are only revealed by means of education. In simple models like the one we introduced in the previous section the extreme assumption that the education doesn't affect worker productivity at all was taken.

In reality, of course, both human capital and signaling play part in the explanation of employment opportunities. And it might well be that for some jobs like the positions of top management of the Central Bank, the graduates from the public universities would have an advantage at present time, but for the majority

of average jobs that prevail on the market we argue that signaling might be even more important.

It is, of course, also possible that, even from the point of view of human capital theory, the curricula on private universities are better suited to the market demand, and therefore lead to higher productivity, as overinflated curricula of some public universities does not necessarily mean higher productivity.

If we accept the signaling paradigm, that it is not that much that different productivity results from the differences in the study programs themselves, but that degrees on different universities send different signals about the intrinsic characteristics of the candidates, then we are led to inquire what kind of signals are sent by different diplomas. We would summarize the possible difference in signals into following three groups.

Firstly, students who attend private universities tend to be more oriented toward future employment. Having invested in tuition fees, they expect a return. On the other hand, studying for free on the public universities can be a way to meaningfully spend time without too much pressure to look for the job. Employers, I would argue value the commitment of employees to the job.

Secondly, employers know the same what most citizens know, that it was traditionally very hard and tiresome to graduate from the public universities in Serbia. The fact that average time of studies was significantly higher than four years, sometimes even double that time, testifies to that. After graduating, students would probably need considerable time to recover. On the other hand students on private universities, studying in far more student friendly environment tend to better preserve their energy. I would argue that this might also be very important to employers.

And thirdly, it is possible that students on private universities, being enrolled to the universities that are themselves market entities that compete and behave according to the laws of market economy, that they internalize much of that market culture, and that this market behavior might be another trait that is appreciated by the employers.

It remains for future research to follow the dynamic developments in this field, and it is to be expected that there will be more research by means of surveys of employers, and also that Statistical Office and National Employment Office would come out with more statistical data.

4. Prospects for the development of education in Serbia

For a relatively small country like Serbia that has passed through a very difficult period of history, integration of its education system into an international arena is essential. The system of high education has been radically transformed to comply with the Bologna Declaration of 19 June 1999. It is to be expected that

the principles of Bologna: easily readable and comparable degrees, establishment of a system of credits and promotion of mobility will ensure convergence of education systems and quality improvements and assurance.

The convergence to the education systems of developed countries has also resulted in the reform of curricula and especially significant is the fact that many foreign textbooks have been translated, especially in the field of economics. There is also much more versatility in textbooks for primary and secondary schools. Teachers can choose among different publishing houses, and although there might be some incentive problems associated, this is a step in right direction.

These positive processes of convergence are compounded by one of the most important changes in recent time, the emergence of private schools and universities. Since at present, the mechanisms for competition and innovation exist mainly between different schools and universities, while there is not much institutional framework for competition among teachers and managers within the public sector, the private sector has great potential to contribute to the development of education and innovation in Serbia.

However, the fact that private sector has to compete with public sector which is subsidized and mostly provided for free certainly limits its scope. Therefore, it should be considered how state could help the development of private sector. At present, even the scientific databases that are provided for free to the public sector are not shared with the private sector, although it would certainly be more economic for the country if the terms would be negotiated for all the universities united.

Although this is not always very popular among the general public, economists have always been arguing for market approach, based on free enterprise and competition, where it is also important to have an equal playground. These principles of innovation, free enterprise and competition, as well as remuneration according to the results, should be enhanced also within the public sector. Otherwise, a lot of the potential for innovation that could come from within the pool of educators and that could be screened out through the education system to eventually provide best practices and clue in what direction system should evolve, would be lost.

At any rate, significant breakthroughs in education are possible only when education is recognized as the key factor in the development of the society.

5. Conclusion

In this article we have explored how two main strands of the economic theory of education could be related to the education in Serbia. The rough estimate of the rate of return to education was obtained at around 10%. This moderately high rate of return shows that: 1. Education is a good investment for an individual in Serbia; 2. It explains high demand for education from both public and pri-

vate universities; 3. Moderately high rate of return makes it economically viable to finance education from loans. 4. Estimation of the ROR of education makes possible comparisons with other countries in this respect. Further research could refine these initial estimates.

The question of comparative employment opportunities as between graduates from public and private universities was examined as a novel topic resulting from the changes in education system in Serbia after privatization and market economy was introduced. Since there are still no available data, at this point only theoretical analysis and informed hypothesis could be set for future research to confirm or alter.

Generally perceived good employment opportunities of graduates from private universities, despite the favorite position of public education, could be explained in part by more market oriented curricula. This part of explanation would belong to the realm of classical human capital theory.

The second part of explanation could be found in the realm of signaling theory, as general wisdom suggests that significant part of the curricula is not what the employers are relying on when making employment decisions. Signals that education sends might also be of great importance, and some of the signals that graduates from private universities might send are identified to be: 1. Studies oriented toward the employment, 2. Preserved energy due to the student-friendly environment, 3. Entrepreneurial or market oriented spirit.

It remains for further empirical research to develop on these ideas. The contribution of this article has however been to draw the attention to the importance of signaling in this context.

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EKONOMIJA OBRAZOVANJA U SRBIJI: IZMEĐU LJUDSKOG KAPITALA I TEORIJA SIGNALIZACIJE I SKRININGA

S a ž e t a k

Ovaj rad analizira obrazovanje u Srbiji sa stanovišta dva osnovna pravca ekonomske teorije obrazovanja: teorije ljudskog kapitala i teorije signalizacije i skrininga. Na osnovu raspoloživih statističkih podataka iz Republičkog zavoda za statistiku, izračunata je stopa povratka obrazovanju u Srbiji i analizirane su njene implikacije. S druge strane, razmotrene su komparativne mogućnosti zapošljavanja diplomiranih studenata sa državnih i privatnih univerziteta na osnovu teorije signalizacije i skrininga. Pošto trenutno u Srbiji ne postoji statistika zapošljavanja posebno za univerzitete, rad se oslanja samo na hipotetičku teorijsku raspravu kao osnovu za buduća istraživanja. Rad na kraju analizira izgled za razvoj obrazovanja u Srbiji.

Ključne reči: ekonomija obrazovanja, ljudski kapital, signalizacija i skrining

LIFELONG LEARNING AND ADVANCEMENT IN A COMPANY: EXPERIENCE FROM SERBIA***

Lifelong learning concept is the concept that brings humanism in both everyday and business life of people. It promotes education, learning, cooperation and advancement in people's lives. During last two decades it became obvious that it is important to implement this concept, particularly in the field of economy in order to achieve better economic results.

The aim of this paper is to find out if there is an actual implementation of lifelong learning concept in Serbia. Besides that it will also show if there are instances of advancement for employees in the companies that are implementing lifelong learning concept.

The paper contains empirical research that was conducted in 15 companies in Serbia, primarily state-owned. This research gathered the opinion of 492 individuals, both female and male, with every type of education possible in Serbia.

By analyzing the given results, the authors of this paper will give a proposal for future improved implementation of lifelong learning concept in Serbia.

Key words: lifelong learning, advancement, company, Republic of Serbia

1. Introduction

Lifelong education as a term and concept is not something new, since the Plato's *The Republic* has. However, it was not until the mid seventies of the 20th century that it became important for substantial development of society, while it flourished during the nineties. It must be pointed out that the concept was first called lifelong education, and it was later changed to lifelong learning. This change of the term was not only the result of semantic but also an essential change, which indicated a shift from the field of humanism to the field of enabling employees for better competitive conditions. It seems that at that time

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people finally came to realize that rapid development of technology and communication system, which is very important for business in the globalization era, cannot be fully realized without permanent advancement of employees. Thus, lifelong learning does not only mean advancement through formal education, but also through various forms of informal learning and skills acquisition, both through everyday work and leisure.

What is lifelong learning exactly and how is it defined? There numerous definitions in accordance with different views on it, and we will present some that contribute to understanding of the above mentioned topic.

According to Mocker and Spear¹: „Lifelong learning is a system consisting of four generic types of learning:

- 1) Type one – formal learning: acquired during primary, secondary and higher education or through military training. *What* is learnt and *how* is controlled by those who teach, while those who learn. i.e. acquire knowledge have little or no control over what is learnt.
- 2) Type two – nonformal learning: here individuals decide about *what* they want to learn, and those who organize some form of learning (e.g. seminar or workshop organizers) control *how* it is learnt.
- 3) Type three – informal learning: here individuals control *how* they will learn something and someone else (e.g. a company or a manager) controls *what* should be learnt.
- 4) Type four – self-directed learning: here individuals have a complete control over *what* and *how* they will learn.”

In that respect, in the document passed by the Great Britain government called UK Government’s Green Paper on Lifelong Learning, The Learning Age (Secretary of State for Education and Employment, 1998) it is written: In future, learners need not be tied to particular locations. They will be able to study at home, at work, or in a local library or shopping centre, as well as in colleges and universities. People will be able to study at a distance using broadcast media and on-line access. Our aim should be to help people to learn wherever they choose and support them in assessing how they are doing and where they want to go next.²

In 1996, UNESCO’s Delors Report acknowledged the need to „rethink and update the concept of lifelong education so as to reconcile three forces: *competition*, which provides incentives; *co-operation* which gives strength; and *solidarity*, which unites”. It further contended that: “There is a need to rethink and

¹ Donald W. Mocker, George F. Spear, “Lifelong learning: Formal, Nonformal, Informal and Self-directed”, Information series number 241, National Center Publications, National Center for Research in Vocational Education, Columbus , Ohio, 1982, 2

² Mike Sharples, “The Design of Personal Mobile Technologies for Lifelong Learning”, *Computers and Education* (34), 2000, 177-178

broaden the notion of lifelong education. Not only must it adapt to changes in the nature of work, but it must also constitute a continuous process of forming whole beings—their knowledge and aptitudes, as well as the critical faculty and ability to act. It should enable people to develop awareness of themselves and their environment and encourage them to play their social role and work in the community”.³

Thus, the above mentioned implies that the education system of the employed is becoming a very topical issue. The process of education, professional training and advancement of employees is considered a very complex and responsible activity. That activity takes place within human resources management system. Furthermore, it is regarded as one of the most important sub-functions of that system, i.e. one of the most significant managerial activities.

The process of education and professional training of employees is realized in various ways. Thanks to that fact, we can talk about different programs and trends in the field of education of employees. Everything is focused on exerting the best possible effects of education.

2. Modern trends in education of employees

It has already been pointed out that modern organizations increasingly focus on education, professional training and advancement of their employees. Accordingly, they invest more in the process of expanding the knowledge, skills and abilities of their employees. For this purpose, organizations provide various educational programs for them. Positive experience of many successful companies speaks in favor of this fact.

It is quite obvious that education is no longer a duty and privilege of only those who have higher positions in the company hierarchy or those who perform complex and technical tasks in an organization. In years, it has become a right and privilege of all employees, regardless of the job they perform or where they work. In simple terms, a modern man needs to learn, i.e. he needs to educate himself and professionally advance from the first to his last working day, particularly if he wants to be successful, have good results, successfully build up and develop his professional career, generate high income, provide good living conditions for his family, etc.

The bigger an organization is, the greater costs of education and professional training of employees it will have. Educational programs are various, irrespective of the fact that they are often customized for advancement of managerial and leadership skills, computer training of employees, improvement of commu-

³ Carolyn Medel-Añonuevo, Toshio Ohsako, Werner Mauch, "Revisiting Lifelong Learning for the 21st Century", UNESCO Institute for Education in Hamburg, Art Angel Printshop, Philippines, 2001, 4

nication skills, enabling staff to perform the technical tasks successfully, etc. Table 1 verifies the above mentioned.

Table 1: *Common types of educational programs in modern organizations*

EDUCATIONAL PROGRAM	ORGANIZATIONS (percent)
Managerial and leadership skills	91
Basic computer skills	90
Communication skills	87
Supervisory skills	86
Skills necessary for performing technical tasks	82
New methods, processes and procedures	80
Professional development of managers	77
Customer relations	76
Professional development of employees	73
Skills necessary for performing administrative activities	73
Skills and knowledge necessary for performing activities in the field of working relations	67
Sales skills	56
Basic education	48

Source: Michael Harris, *Human Resource Management: A Practical Approach*, Forth Worth, TX, The Dryden Press, 2003, p. 308

It is interesting to point out that certain organizations provide numerous other educational programs for their employees. For example, a lot of companies are interested in programs which improve customer relations. As this is becoming an increasingly topical issue, the programs related to it are up-to date. However, besides the programs shown in Table 1, modern organizations are also interested in realizing educational programs for employees in specific fields. Accordingly, it should be pointed out that the educational programs provided for employees in a large number of companies are related to the following fields:

- employee performance assessment (75%);
- leadership skills improvement (73%);
- interpersonal skills (71%);
- affirmation and improvement of the concept of team work (71%);
- use of personal computers (71%);
- solving problems in the recruitment field (70%);
- time management (67%);
- sexual harassment at work, and partially out of work (64%);
- stress management (60%);
- management of differences at work and those related to work (47%);
- ethical values and moral understanding of things (41%);

- learning foreign languages (35%);
- acquisition of basic knowledge in the field of mathematics (32%).⁴

It is obvious that modern organizations put a lot of effort in providing high quality education and professional training for their employees. Surely, they do not do that in order to simply satisfy their needs, but to satisfy the needs of their employees, too. In other words, that is in the best interest of both an organization and its employees. Thus, it is not surprising that all the categories of employees are involved in the education process. This is shown in Table 2.

The organizations which provide diverse types of education and professional training are on the increase. Virtually all successful companies devote maximum attention to it. The number of hours intended for education and professional advancement of employees increases. Even job advertisements specify that performance of some jobs requires previous completion of a certain number of days or hours of training or other forms of professional advancement. The aim of this is to attract skillful and development-oriented staff, i.e. future employees interested in development of their professional career.

Thus, it is obvious that permanent education, professional training and advancement during working life are duties that we all have. A growing need for additional training and retraining of employees, i.e. acquisition of new skills and competences increases the need for permanent training of not only managers and experts, but also production workers. The fact that an increasing number of organizations chooses quality management concept speaks in favour of this. That concept, among other things, means familiarizing employees, both production workers and other staff, with rules, procedures and standards, which need to be fulfilled when it comes to the quality of products and services.

Table 2: *Categories of employees, i.e. managers who are most commonly included in the programs of education and professional training*

CATEGORIES OF EMPLOYEES, I.E. MANAGERS	Organizations that realize the programs (percentage)	Average number of hours by an employee, i.e. manager
Experts	70	36
Junior managers	66	36
Sales staff	41	33
Middle managers	76	33
Senior managers	74	32
Production workers	37	32
Employees who work with customers	52	29

Source: Michael Harris, p. 308

⁴ Michael Harris, *Human Resource Management: A Practical Approach*, Forth Worth, TX, The DrydenPress. 2003, 307-308

2.1 Investing in education and professional training of employees

Current trends in the field of education and professional advancement of employees are a subject of various scientific disciplines. Modern organizations invest more and more money, time, information, energy and other resources in education, professional advancement and training of their employees. It has become evident that education and advancement of employees are the most efficient and important factors of successful business, competitive advantage, strong competition for the trust of customers, i.e. service users, etc. In other words, education and professional development of employees are becoming the key preconditions not only for further development but also for survival of modern organizations. This is more and more evident from day to day.

As knowledge and skills are becoming key preconditions for survival and development of modern organizations, it is not a surprise that investing in education of employees is a significant indicator of understanding the rules and principles which are a basis for current conditions of economy and work. The fact that investing in education of employees, i.e. managers is increasing only affirms this. For example, American companies spend more than 3,000 dollars per employee a year for that purpose, while Japanese expend more than 6,000 dollars per worker. Investing in education of employees in certain countries rises by about 3-5% every year, which was almost inconceivable in the past. But, times have changes.

The research revealed that the total amount of investment in education of USA employees exceeds 250 billion dollars annually.

Organizations commonly invest 3-5% of their income in realization of different programs for education and professional advancement, not only in the USA but in other countries as well. It has become a rule that every employee, i.e. a clerk spends a certain number of days 'in the classroom' during a year. Their training, i.e. education and advancement, usually lasts between 10 and 20 days, on annual level.

However, company investment in education and career advancement of managers are by far greater. Recent studies testify about the fact that managers should spend about 20% of their work time on education, training and career advancement. In other words, it means that they should, on average, spend every fifth work day, i.e. one day a week in the 'classroom'. This illustrates how much is invested in their education and advancement. This was inconceivable in the past. However, the conditions of business operations are becoming harsher from year to year, resulting in the need to invest in knowledge and skills of employees and their managers. Without it, companies cannot be successful and survive on the market.

2.2 Reasons for investing in education and professional training of employees

The reasons for investing in education, professional training and advancement of employees, i.e. managers, are numerous and diverse. We have mentioned many. Despite that, it is useful to go into a greater detail about them and give thorough and comprehensive data about them. Accordingly, it is not hard to conclude that the most important reasons for investing in education and professional advancement of employees, i.e. managers are the following:

- rapid development of science and technology;
- more complex conditions of work and business operations;
- human tendency to forget acquired knowledge relatively fast;
- changes in the environment (effects of internal and external factors of the environment);
- changes in the requirements of workplace (modern business requires a good knowledge of interpersonal and communication skills, conflict management skills, etc.);
- an increasing gap between the requirements of working process and current knowledge on the labour market;
- gap between the education system and requirements at work ;
- shorter span of usable knowledge;
- intellectualization of work (work is based on knowledge and intellectual abilities rather than physical strength and activities);
- fiercer competition on the market;
- increased requirements of consumers, i.e. service users, etc.

The above mentioned reasons are a result of the fact that among employees there are those who are almost completely illiterate. For example, in the mid nineties of the previous century there were more than 25 million employees in the USA who lacked basic knowledge and skills in the field of writing, reading and computers, despite the fact that they needed these skills to perform the tasks at work . Meanwhile, this did not change significantly. The situation is similar in many other countries, both rich and poor.

A very significant is also the fact that a large number of organizations are not able to considerably improve their business and technology due to the lack of qualified workers. That problem is particularly present in organizations that specialize in highly technical jobs, i.e. the jobs that require specific knowledge and skills. It is not easy to find employees with such knowledge and skills on the labor market. They must be 'produced' by an organization itself. It can only be achieved by education, professional training and development of employees, i.e. managers.

2.3 Potential effects of education and professional advancement of employees

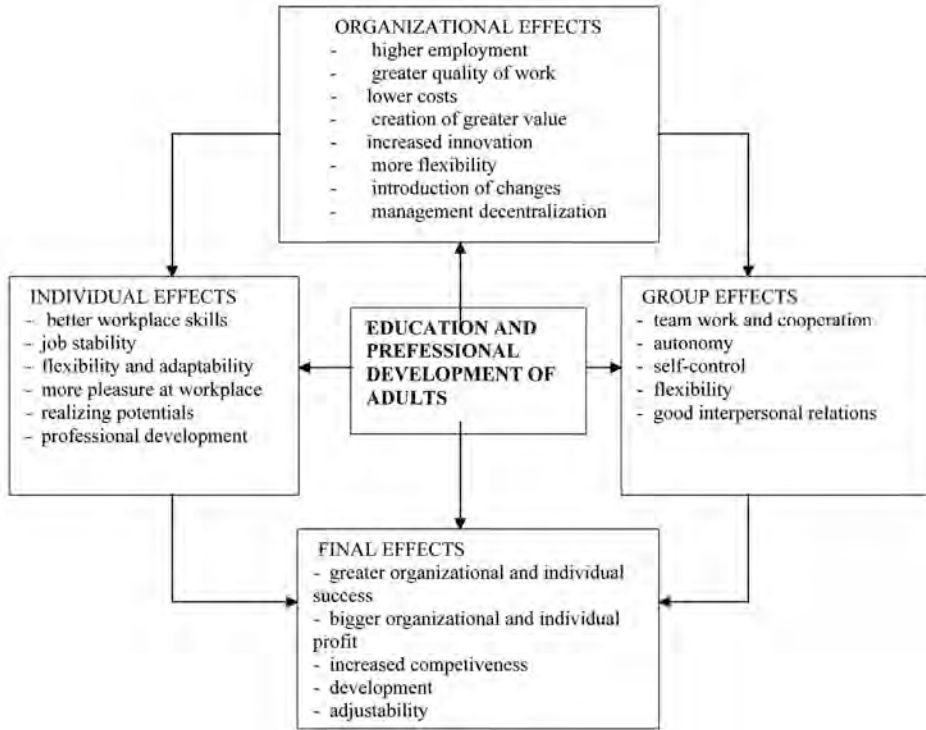
Numerous effects are exerted by the systems of education and professional development of employees and their managers. They can be regarded in different ways: a) from the point of view of an organization; b) from the point of view of employees; c) from the point of view of organizational unit, group or team and d) as the final effect. The effects regarded from the point of view of an organization are considered organizational effects, the effects from the point of view of employees are individual effects, while the effects from the point of view of organizational unit, group or team are group effects, which is shown in the following graph.

Thus, it is obvious that potential effects of education and professional advancement of employees are great, not only for an organization, but for employees as well. Besides the effects shown in the picture, education of employees can result in many other positive effects. In that respect, it is necessary to point out the potential effects related to:

- familiarizing employees with competitive organizations, both in their country and abroad, which can be of crucial importance for increasing competitiveness of the organization and its performance in international market;
- acquisition of new knowledge and skills necessary for working with new technologies;
- enabling employees to work in a team;
- enabling employees to improve the quality of products and services;
- developing the organizational culture which encourages innovation, creativity, permanent learning and professional development;
- reinforcing job security, through continuous adjustment and expansion of knowledge, skills and abilities of employees;
- creating a climate where good interpersonal and cooperative relations are nurtured, etc.

Together with all the above mentioned, it is perhaps the most important to point out that the process of education and professional advancement of employees generates key preconditions for increase of organizational and individual gain, which is a 'dream' of every organization and each employee. Besides, companies exist precisely because of that 'dream'. The dream is the reason why people get hired in the first place. Thus, it is quite clear why its fulfillment is of great significance.

Figure 1: Possible effects of education and professional advancement of employees



Source: Goldstein Irwin, Gilliam Patrice, "Training Systems Issues in the Year 2000", *Amerikan Psychologist* 45 (2), 1990, 134-143

3. Characteristics of the current state in education in the Republic of Serbia

Educational system in the Republic of Serbia includes preschool, primary school, secondary school and higher education, which represent the formal education system. According to the latest data, there are over than 1,300,000 pupils and students within the educational system and about 110,000 employees working in this field. It is about 20% of the total population, which a very low percentage. According to the data from 2002, almost 22% of population older than 15 have not completed primary schooling, while 24% of them have completed it as their educational maximum. Thus, almost 46% of population live on the very basic educational minimum of life and working habits.⁵ All of the above

⁵ Despotović Miomir, Aleksandra Pejatović, Centri za kontinuirano obrazovanje odraslih u srednjim stručnim školama – koncepcija i strategije razvoja, Beograd, 2004, 6 http://www.vetserbia.edu.rs/CentrizakontinuiranoKoncept_nacrt_cir.pdf (25.07.2013.)

mentioned, together with the fact that there is a large number of illiterate people, implies that the total educational structure of the Serbian population is still unfavourable and lags behind many developed countries.

The situation is the same when it comes to the educational system of employees, which is largely informal and also much undeveloped compared with other countries. The principal developing resource in developed countries is human capital, whose quality is mainly defined by education and training. Besides contributing to the national development, they also contribute to the permanent development of individuals. This is the reason why all the countries that have a high standard of quality and living give the highest priority to education and development of human resources. They adopt education and development strategies which make the substantial contribution to economic, social and cultural development of society and personal development of its individuals. This explains why it is right to measure the degree of development of a society by the level of education and quality of its members.

The education system of employees in our organizations should be given a greater importance and it should be involved in the process of reforms in accordance with the needs and interests of Serbian citizens and modern world trends in the field of education of employees. Ignoring education of employees in Serbia would undoubtedly have a negative effect on the development of our economy, culture and society in general. That is why this process requires maximum attention.

Nonformal education as a segment of education in Serbia has for a long time been neglected by both the state and society. There are centers for adult education and numerous language and computer training schools which issue certificates that are not officially recognized. On the other hand, formal system is not flexible enough to adjust to the needs on the labour market and provide a wide range of competences and skills. As the trends in economy, technology, IT and all other fields are unpredictable; an increasing number of people in our country is made redundant. One of the greatest challenges of Serbian economy and society is decreasing the unemployment rate. Solution of current problems requires the reform of the system of education of adults.

Modernization of the country and its orientation towards modern technologies must affect innovation of objectives of professional education and getting closer to developed countries. Hence, it is necessary to carry out the reform of extending professional knowledge and greater flexibility for complying with ever changing requirements of work and acquiring key skills for professional development of employees. Having in mind that our society is moving towards the knowledge society, it is necessary to raise awareness of, primarily young population, about inevitability of individual advancement, so that we could keep up with the trends.

Acquisition and use of knowledge, especially in adulthood, has become the key to solving crucial social and individual problems. This is precisely why per-

permanent education of adults and employees is the basic factor of modern development. Permanent education of employees is becoming increasingly important in organizations and institutions worldwide and in our country as well, and is most commonly implemented through so called courses of functional education provided for employees, managers, and those who do not have complete degrees of education, with the aim to acquire knowledge and skills needed for successful performance of work tasks. The concept of permanent education of employees in our organizations has started recently and is becoming a fundamental factor of development and success of companies.

4. Impact of education on progress in companies in the Republic of Serbia

The presented survey included 492 respondents working in 15 public and private companies. It was conducted during 2011 and 2012 on the territory of the Republic of Serbia, for the needs of PhD thesis of Olivera Milutinovic titled "On-The-Job Learning as a Basis of Human Resource Management". The basic indicators of the sample structure, taking into account the characteristics of respondents, are shown in Table 3.

Table 3: *Indicators of the structure of respondents sample*

No	Indicators	Respondent characteristics
1	Sex	male respondents female respondents
2	Age	from 20 to 30 from 31 to 40 from 41 to 50 over 50
3	Years of employment	from 1 to 10 years from 11 to 20 years from 21 to 30 years over 30 years
4	Degree of professionalism	3 rd degree 4 th degree 6 th degree 7 th degree
5	Ownership structure of an organization	public company private company

The respondents were asked to fill in the following questionnaire.

QUESTIONNAIRE

1. How much time does your organization spend on training of employees on weekly, monthly and annual basis?	from 1 to 3 hours a week	from 3 to 8 hours a month	from 3 to 10 days a year
2. How much working time do employees spend on learning and professional advancement?	from 1 to 3 hours a week	from 3 to 8 hours a month	from 3 to 10 days a year
3. How much does your organization invest in your professional advancement on annual level?	10-30 thousand dinars	30-100 thousand dinars	Over 100 thousand dinars
4. To what extent do newly acquired knowledge and skills affect a more rapid advancement and career development of employees?	It does not affect at all	It affects inconsiderably	It affects significantly
5. Is it possible to improve the existing system of work by lifelong learning and professional advancement?	Yes	No	Partially
6. In what way could the existing system of work be improved by lifelong learning and advancement?	By lifelong learning and advancement	By occasional learning and advancement	By participation at seminars and conferences

Table 4 shows a list of companies that agreed to participate in the survey. The survey included fifteen organizations, both public and private. Public companies accounted for 96.08% of respondents in the survey, and 3.92% were private companies. The respondents were permanently employed workers.

The largest number of respondents were from Ministry of Interior (79), Telekom Serbia (78), Rusanda Spa (52), Vinca (43), which is logical, having in mind that those are large companies.

The survey included 492 respondents- 47.56% of which were male and 50.81% female, Out of 50.81% of women, 37.75% were aged between 31 and 40, while 14.46% of them were older than 50. Male respondents accounted for 47.56% of the total number of respondents, and 32.62% of them were between 31 and 40 years old, while 12.02% were men older than 50.

Out of 492 respondents, 32.11% have between 11 and 20 years of employment, and 30.89% between 1 and 10 years. Comparing the age, we found that only 13.21% of respondents are older than 50, i.e. 9.95% have more than 30 years of employment. This implies that the staff working in the surveyed organizations is predominantly young.

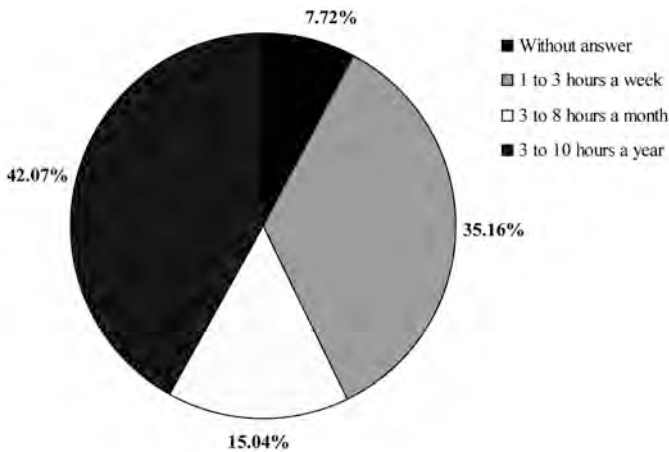
Out of the total number of respondents, 42.07% had a high school diploma, 19.72% had a college degree, while 28.05% were with a university degree.

Table 4: Companies and employees that participated in the survey

Companies	Number	Percentage	Cumulative percentage
Municipality of Smederevska Palanka	36	7.3%	7.3%
Kolubara	19	3.9%	11.2%
Water Management	6	1.2%	12.4%
Primary School „Vojvoda Stepa“	8	1.6%	14.0%
Intesa Bank	13	2.6%	16.7%
Elektromorava	10	2.0%	18.7%
Belgrade electric power plants	16	3.3%	22.0%
Institute Vinča	43	8.7%	30.7%
Tax Department	25	5.1%	35.8%
Telekom Serbia	78	15.9%	51.6%
Serbian Army	49	10.0%	61.6%
Rusanda Spa Melenci	52	10.6%	72.2%
PTT Serbia	23	4.7%	76.8%
Ministry of Interior of Serbia	79	16.1%	92.9%
Jugoinspekt	35	7.1%	100.0%
Total	492	100.0%	

The following graphs (2,3,4,5,6,7) show the results of the survey. The interpretation of the obtained results is also given.

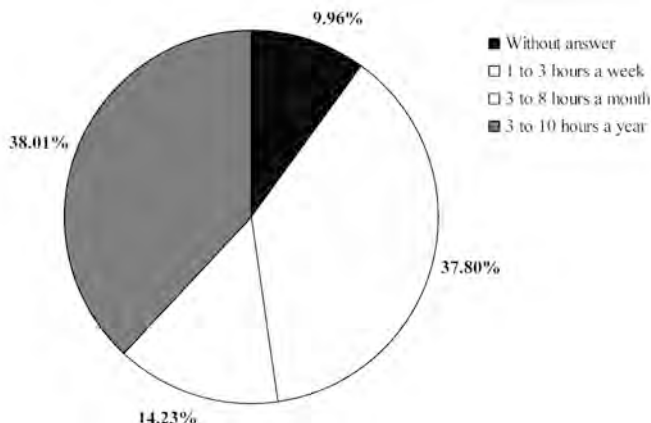
Figure 2: Graphic display of the answer to the question: „How much time does your organization spend on training of employees on weekly, monthly and on annual basis?“



The graph shows that out of 492 respondents, 42.07% spend from three to ten days on trainings on annual level, while only 15.04% does it between 3 and

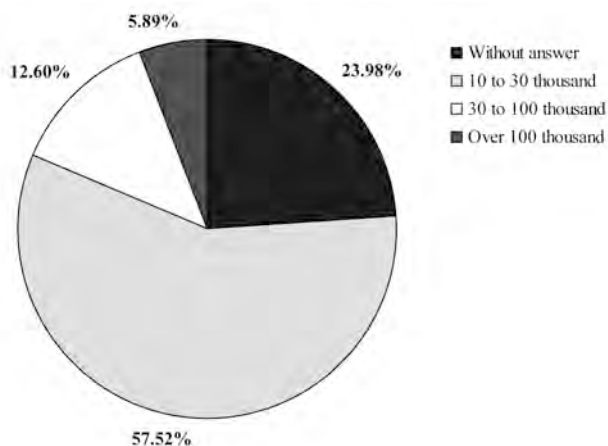
8 hours a month. This leads to a conclusion that little time is spent on training of employees in the organizations where they work.

Figure 3: Graphic display of answer to the question: “How much working time do employees spend on learning and professional advancement?”



As shown above, 38.01% of respondents answered that they spend between three and ten days a year on professional advancement during working time, while 9.96% of them did not have any attitude about it, which can be explained by the fact that they do not engage in job-embedded learning or advance professionally during working time. This is supported by the fact that the majority of respondents have the third and the fourth degree of professional qualification, i.e. 51.01% of respondents.

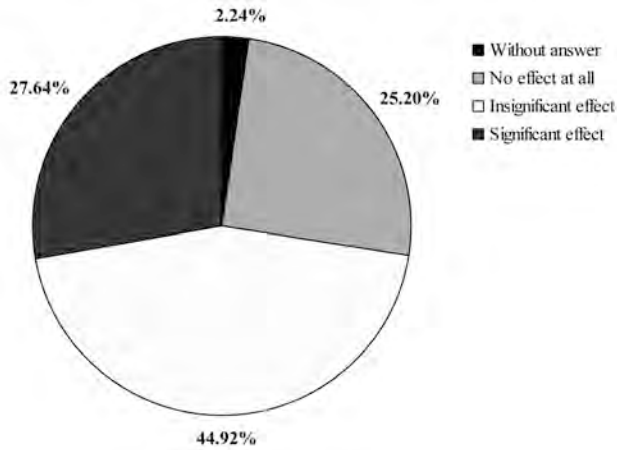
Figure 4: Graphic display of the answer to the question: “How much does your organization invest in your professional advancement on annual level?”



Even 23.98% of respondents did not give an answer to this question, which implies that the organizations they work for do not allocate funds for their education. Only 5.89% of respondents said that their companies spend over 100 thousand dinars on annual level. Vinča Institute is a leader in this field, which is reflected in its overall percentage. The surveyed organizations spend 57.52% of their funds yearly in the amount ranging from 10 to 30 thousand dinars on education and professional advancement of their employees.

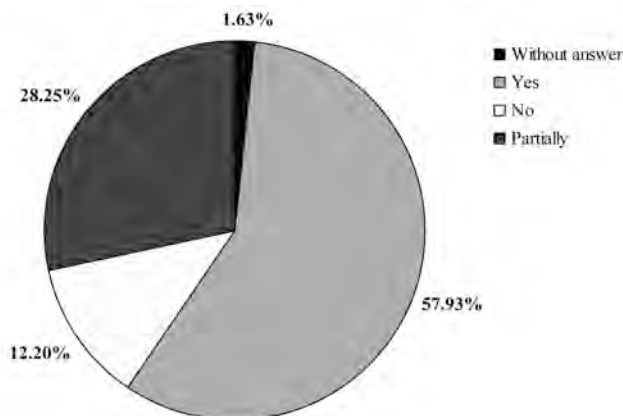
Figure 5. *Graphic display of the answer to the question:*

„To what extent do newly acquired knowledge and skills affect a more rapid advancement and career development of employees?“



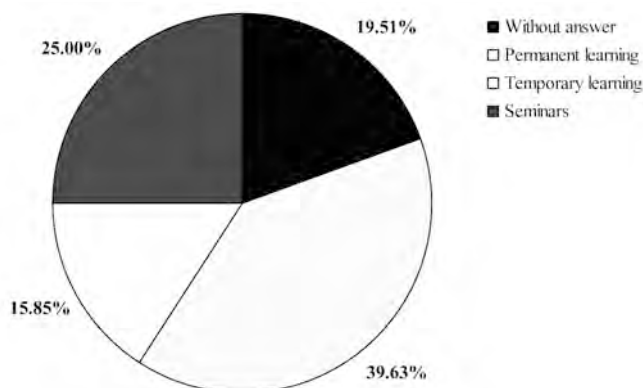
The percentage of respondents who think that newly acquired knowledge and skills do not at all affect a more rapid advancement and career development is 25.20%, while 44.92% of respondents think that it has an insignificant effect. The fact that a majority of respondents works in state-owned companies implies that employees who acquire knowledge during their working life, attend courses, seminars, study for further education while working, etc. are not accordingly awarded or appropriately systemized-the time invested, money spent (either personal or that of an organization), and effort are not followed by material satisfaction. Only 27.64% of respondents think that newly acquired knowledge affects a more rapid career advancement and development.

Figure 6. Graphic display of the answer to the question: "Is it possible to improve the existing system of work by lifelong learning and professional advancement?"



Only 12.20% of respondents gave a negative answer. The fact that 57.93% of respondents think that the existing system of work in their organizations could be improved by permanent learning and advancement, and 28.25% of them think that it brings about a slight improvement, implies that the respondents, employees working in state-owned companies, organizations and private companies are dissatisfied with the existing system of work and results achieved in their companies and think they can perform better, be more successful and more competitive. If 86.18% of respondents said they are ready to learn, and think it can contribute to their personal success and success of the organization they work for, then it means that organizations can put more effort in further education, professional advancement and training of their employees.

Figure 7. Graphic display of the answer to the question: "In what way could the existing system of work be improved by lifelong learning and advancement?"



As it is shown in the graph, 19.51% of respondents did not provide an answer to the question, which meant that they are not ready to engage in job-embedded learning. The following percentage is also quite impressive: 25% would go to seminars organized by their companies, 15.85% are in favour of temporary learning, while 39.63% are ready to engage in permanent job-embedded learning. The conclusion is that our employees do not avoid professional advancement and further education, but they yearn for it and think that it could result in success of their organizations and their personal success.

5. Conclusion

The aim of this paper was to show how accepted the concept of lifelong learning in the Republic of Serbia is, how employees see it and whether they think it is necessary for their advancement in a company.

The results showed that the situation is not satisfactory regarding the quantity of money Serbian companies spend on professional advancement of employees and their satisfaction with rewards for the effort they put in further education. Thus, Serbian employees do not have a good experience with additional professional training or learning. However, it is interesting that 80% of them think that the system of work could be improved through their training.

The conclusion is that although economic situation in Serbia is difficult, the motivation for different concepts of lifelong learning is low and rewards minor or none, there is awareness that it is immensely important.

What could be done about this? Firstly, employees should be provided with some techniques of education and professional advancement, which do not necessarily need to be expensive, as they would be trained by their superiors or other employees who have the required qualifications.

Second, despite the difficult situation, companies should make it possible for their employees to advance professionally and allocate a fund for promotion and rewarding of their staff.

Last, and perhaps the most significant, it is necessary that CEOs and senior managers understand that improvement of education of employees will have multiple results, the most important being the increase of company profits.

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DOŽIVOTNO UČENJE I NAPREDOVANJE U KOMPANIJU: ISKUSTVA IZ SRBIJE

S a ž e t a k

Doživotno učenje je koncept koji unosi humanizam, kako u svakodnevni, tako i u poslovni život ljudi. On promovise obrazovanje, učenje, kooperaciju i napredovanje u životima pojedina. U toku poslednje dve decenije postalo je jasno da je važno implementirati ovaj koncept, pogotovo u oblasti ekonomije, kako bi se postigli bolji ekonomski rezultati.

Cilj ovog rada je da otkrije da li postoji stvarna primena doživotnog učenja kao koncepta u Srbiji. Takođe, on će pokazati da li postoji mogućnost za napredovanje zaposlenih u kompanijama koje primenjuju ovaj koncept.

U ovom radu je sadržano empirijsko istraživanje koje je sprovedeno kod 15 kompanija u Srbiji, koje su uglavnom u državnom vlasništvu. Istraživanje je obuhvatilo 492 pojedinca, kako žena, tako i muškaraca, sa svim tipovima obrazovanja koji postoje u Srbiji.

Analiziranjem dobijenih rezultata, autori ovog rada će dati predloge za buduće poboljšano implementiranje doživotnog učenja kao koncepta u Srbiji.

Ključne reči: doživotno učenje, napredovanje, kompanija, Republika Srbija

THE SIGNIFICANCE AND MODALITIES OF INTERNET ABUSE AS THE PRIMARY GLOBAL COMMUNICATION COMPUTER NETWORKS IN CYBERSPACE

Along with the rapid development of computers, computer networks have also been developed. Computer crimes are carried out in a specific environment - cyberspace, whose important characteristic is transnational scope, which goes beyond the control of the territorial nation-states. There is no doubt that computer networks can be subject of various abuses. They appear in a triple role: as a target or object of the attack, as a means or a tool, or as a framework of the offense. This kind of crime rapidly changes forms and forms of manifestation, the border between the states and the other injured. The biggest problem in this area is the misuse of the Internet, as the main global computer network communication, which has fundamentally revolutionized many areas of human life and work. The subject of this paperwork is analyzing the most important modalities of Internet abuse, as well as the scope and importance of using the Internet in a modern society. A separate section is dedicated to case studies of judicial authorities in Republic of Serbia.

Key words: cyber space, computer networks, Internet, case study.

1. Introduction

Opposed from traditional forms of crime, cyber crime is characterized by considerably expanded scope of criminal activities that do not require the presence of the perpetrator at the scene of the crime. Users of computer technology can move in the virtual world of IT, without control, regardless of the time category or where the offender is located.

Since computer crimes are carried out in a specific environment, called cyberspace, it implies a lot of new and interesting implications. Bearing in mind this important feature of cyber crime, "the fact that is performed in the informa-

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tion environment, gives some specifics which are reflected on the fact that crime in the information environment compared to the classic situation is running easier, faster, more varied, extensive and more anonymous, which is the most important from the criminals point of view.¹

Cyber space offers endless possibilities: different ways of communication with other persons and expressing their own thoughts and feelings, informative, and free pieces of information regarded to any topic, various forms of entertainment, business opportunities and more. An important feature of cyberspace is a global and transnational scope, that goes beyond the control of the territorial nation-states.

The term cyberspace („cyberspace”) was first used by William Gibson in a trilogy of science fiction „Neuromancer”², which was published in the 1984th year.³ Inspired by first reviewing the term cyberspace, many authors had chosen to determine more precisely the meaning and characteristics of this new phenomenon, in their papers. Cyber space as a distinctive and individual dimension, during the time has crystallized its present meaning. Michael Benedict considers cyber space as a „new universe, a parallel universe created and maintained by using” computer world“ and lines of communication.⁴ Kevin Hughes gives us different perspective and defines cyberspace as „mutually connected environment via computer which are presented to all previously created media.”⁵ According to current views, cyberspace is seen as a new social action dimension and social topology, which was developed from computer networks, particularly the Internet. Cyberspace is a socio-cultural layer, required upgrade of the technical infrastructure of the Internet. As virtual reality, it enables entirely new forms of social action. It is a prerequisite and a result of modern social knowledge’s.

Accordingly, cyber space is an artificial creation that requires high technical equipment, a good information infrastructure that is anyone’s and everyone

¹ Petrovic, S.: „About information revolution in the context of information technology abuse“, 6; http://www.itvestak.org.rs/ziteh_04/radovi/ziteh-20.pdf (20.09.2010.)

² Gibson, W.: *Neuromancer*, An Ace Book, The Ace Publishing Group, New York, 1984, Electronic edition: August 2003

³ On page. 51, William Gibson provides this description of Cyberspace: “Cyberspace. A consensual hallucination experienced daily by billions of legitimate operators, in every nation, by children being taught mathematical concepts...A graphical representation of data abstracted from the banks of every computer in the human system. Unthinkable complexity. Lines of light ranged in the non-space of the mind, clusters and constellations of data. Like city lights, receding...”

⁴ Benedikt, M.: Ed. *Cyberspace First Steps*. Cambridge, MA, MIT Press, 1991, quoted by: Schneider, V and Hyner, D.: *The Global Governance of Cybercrime: Issue Space and the Transnational Policy Network*, University of Konstanz, 2003, 4; <http://www.essex.ac.uk/ecpr/events/jointsessions/paperarchive/edinburgh/ws11/SchneiderHyner.pdf> (28.08.2010.)

⁵ Hughes, K.: *From Webspaces To Cyberspace*, 1995, quoted by: Schneider, V and Hyner, D., 4.

else's property, which coexist in parallel virtual and real, and with whom the communication is collective. In such environment, it is extremely difficult to talk about crime and national scale social danger, at least not in the conventional sense of the word. Therefore this crime is classified as the most prominent form of transnational crime against which struggle can not be conventional. Social and economic context of the crime is not identical with classical transnational crime in cyber space, because different rules are applies - which shows global study on Organized Crime (Global studies on organized crime) of the Center for the Prevention of Crime and the International Institute for the Research of the United Nations interregional crime.⁶

Bearing in mind the previous introductory notes aimed at clarifying spatial component as a kind of framework for various abuses of information technology, this paper will be focused on significance and modalities of Internet abuse, as the primary global communication computer networks in cyberspace.

2. The most important modalities of Internet abuse

There is no doubt that a computer network can be a subject of various abuses, object of action of more crimes and can be found in several different roles. Furthermore, there are different categories of perpetrators of cyber crime, since there are many different criminal acts which they make and bearing in mind motives that drive them to carry out these activities.⁷

Crime related to computer networks is a form of criminal behavior in which the specificity of the environment is the reason why computer networks appear in a triple role: as the goal or object of the attack, as a means or a tool, or as a framework of the offense.

If we observe computer network as a target or object of attack, we recognize services which have been attacked, functions and facilities that are located on the network. Services and data's are being steeled, parts or entire networks and computer systems are being damaged or destroyed and computer systems and their functions are being disrupted.

In 1998. the first mass attack on the Internet was occurred, when in the network is loaded worm that destroyed data on computers and spreads across

⁶ United Nations office at Vienna, Global studies on organized crime, 1999., <http://www.oun.org> cited according to: Drakulic, M. i Drakulic, R: „Cyber kriminal“, <http://www.bos.rs/cepit/idrustvo/sk/cyberkriminal.pdf> (03.09.2010.)

⁷ Matijasevic, J.; Spalevic, Z.: „Specific characteristics of computer criminal offenses with regard to the law regulations“, XLV International Scientific Conference on Information, Communication and Energy Systems and Technologies – Icest 2010 CONFERENCE, 23.-26. June 2010., Faculty of Technical Sciences, University „St. Clement Ohridski“, Bitola, Ohrid, Macedonia, 2010, *Proceedings*, (http://www.icestconf.org/index.php?option=com_content&view=frontpage&Itemid=98, (05.02.2011.)

the network independently („computer worm”), who made a lot of damage and virtually destroyed nearly a third of U.S. internet content. For subsequent years, there was almost no website important government institutions in the United States, multinational corporations, international organizations which was not „hacked” or whose content was not deleted, replaced or removed with other content on the Internet for some time, by making unauthorized access to a computer-server which kept track of information on these sites. In 2003. was released so far most destructive worm, called. „Sapphire worm”, which in within ten minutes had infected 90% computer systems on the planet who did not have (adequate) protection.⁸

If we observe network as a means or a tool, we find that a large number of modern criminals use more and more computer networks as a tool to carry out their intentions, due to environmental possibilities.

„Cyber stalking” is an example of using computers and the Internet as a tool of making traditional crimes easier. This term, generally refers to the use of the Internet, e-mail or other means of electronic communication for „hunt” on the other person, where „stalking” in the traditional sense, means the participation in the repeated harassment or threatening behavior such as face tracking, disturbance by phone, or sending threatening messages or objects, which causes the victim reasonable fear for life or bodily integrity.⁹ Disturbance primarily takes places through the endless sending electronic messages to a person who does not want or have no reason to communicate with the sender. Harassment can take the form of threats, sexual associations, pejorative labeling using hate speech, Anti-Semitism, nationalism, etc.. Specific form of harming the reputation of an individual using a global computer network capacity, is sending emails harmful content to a site, where the sender is signed in as someone else, who wants to offend or undermine his reputation by sending messages.

According to research conducted in Privacy Rights Clearinghouse (PRC), a nonprofit consumer organization in San Diego, California¹⁰, whose main aim is protection of people’s privacy, there are proven tactics that include cyber stalking. These are: sending manipulative, threatening, harassing or obscene e-mail messages from a range of e-mail, the invasion victims online accounts and

⁸ How dangerous cyber crime, it can be seen from the attack, which took place in February 2007. year, when the “hackers” attacked simultaneously, in order to complete incapacitation, six of the thirteen so-called root servers on the Internet. If they succeeded in their intention, it would be completely stopped functioning. Fortunately, there are only two servers suffered significant consequences. Source: Mannes, A.: „Threats to Internet“, *Computer Crime Research Center*, 2007; <http://www.crime-research.org/articles/threat-ti-internet> (06.02.2011.)

⁹ The Attorney General Report, *Cyberstalking: A New Challenge for Law Enforcement and Industry*, <http://www.usdoj.gov/criminal/cybercrime> (25.08.2010.)

¹⁰ More about in: Privacy Rights Clearinghouse (PRC), a nonprofit consumer organization, San Diego, California, http://www.privacyrights.org/about_us.htm (01.02.2011.)

change the settings and passwords that the victim was set, creating false accounts for online social networking, using of the victim's personal information or establishing contact with the victim by using false information, sending messages to online forums, discussion groups, with victims personal information such as home address, phone number or social security number. Messages can be rude or controversial, and as result victim receives numerous messages, calls or visits from people who read the messages on the network, reporting for a number of mailing lists and online services, using the victim's name and e-mail.¹¹

Research constructed in this area within the education system, „Ruder Boskovic” from Belgrade came to a very alarming data. In order to explore the possibility of abuse chat rooms¹² compared to the children's population, the model of „virtual girl” was used. The results show that the „virtual girl” spent a total of 80 hours a month in one Internet chat rooms. She has managed to achieve over 412 contact (not on his own initiative), with 398 males, without any highlighting their own personality and without showing the pictures. Different forms of sexual harassment occurred 162 times, 24 times she was exposed to sexual fantasies and 6 times she was offered money for sexual favors.¹³

We will mention one more way of using computer networks. Sending e-mail has become the most common form of communication in last years According to current research in this area, in 2009. average of sent e-mail messages per day was 247 billion, while in 2010. the number was 294 per day. Data of 294 billion messages sent leads us to conclusion that every second more than 2.8 million messages were sent. About 90% of these messages is spam (spam), or contains malware.¹⁴ Perpetrators of crimes through spam have countless opportunities to defraud potential customers, damage computer systems in the world within just a few hours and expose the vulnerability of corporations and the state administration by attacking them with computer viruses. Some commercial services include spam botnets for sending these messages that help to avoid anti-spam measures to protect users' computers and servers on the Internet service provider, operating in such a way to block IP addresses that have been posted on the „black list”. Today there are a large number of IP addresses from where these messages have been sent and which have been identified as carriers of spam acti-

¹¹ Are you being stalked? – Cybestalking, Privacy Rights Clearinghouse (PRC), San Diego, California, posted–june '94, revised–july '10; <http://www.privacyrights.org/fs/fs14-stk.htm#1> (01.02.2011.)

¹² Communication channels and impacts on a specific target group are performed by the passive method through Web Portals with illegal content, while the active method applies to sending e-mail messages, Chat-servise and mobile telephony.

¹³ The education system “Ruder Boskovic”, *Abuse of Internet - predators on children*, Belgrade, 2003, 7

¹⁴ Radicati Group Statistics, http://email.about.com/od/emailtrivia/f/emails_per_day.htm (12.02.2011.)

vity.¹⁵ The other side of spam is getting junk mail. Reason for getting junk mail, lays in fact that users leave their valid e-mail address during the registration on websites. Those websites gives users e-mails for free or for fees to different companies, which send a huge number of (real or fake) commercials for various products. There is actually done (illegally) filtering - opposed from the automatic sending to addresses that may not be active or not even there, here are only used existing, active addresses and „provides” the attention of their users. Although this kind of „assignment” of the data is certainly punishable in most countries, according to the regulations of the protection of personal data, it is virtually impossible to determine whether and how some of the sites transferred someone’s e-mail address.¹⁶ In some cases, user himself, allow finding his e-mail addresses on these kinds of lists, by agreeing with this option without reading text carefully, during the registration at a Web portal Web sites.

Most spam messages have marketing aspect. In general, sending this kind of mail is the cheapest way of advertising. However, it is possible to send the spam message, in an attachment, some harmful - the malicious program. If that happens, the case is not in the gray zone of borderline cases, it is a criminal offense.

If we observe the computer network as environmental of a crime, we will recognize that the environment is used to effectively conceal criminal activity.

Computer networks have been devoted as a result of various military and governmental institutions in the United States. These networks were only for internal use, with strong protection against unauthorized intrusion and privacy and without any intention to commercialize. However, several civilian networks were created on such methods, often on different universities, which have experimented with computer networks as a new mode of communication between users. These networks over the past 15 years were replaced by the development of the global computer network - the Internet.¹⁷

3. The scope and importance of using the Internet for a modern society

Particularly pronounced problem in modern society is a misuse of the Internet as the main global computer network communications. If we look at the role, previously explained, in which computer network can take part, we will conclude that Internet is highly suitable primarily as a means of performing various cri-

¹⁵ Uljanov, S., Urosevic, V., Ivanovic, Z.: „Cyber crime from the perspective of the international criminal police cooperation “, Proceedings of the international scientific conference *International and national cooperation and coordination in the fight against crime*, International Association of Criminologists, Banja Luka, Vol. 3, 1/2010, 530-541, 534

¹⁶ Prlja, D., Reljanovic, M.: „Cybercrime – comparative Experiences“, *Foreign legal life*, Institute of Comparative Law, Belgrade, 3/2009, 171.

¹⁷ Komlen-Nikolic, L. et.al.: *Combating cyber crime*, the Association of Public Prosecutors and Deputy Public Prosecutors of Serbia, Belgrade, 2010, 10

minal offenses. The problem of the Internet, which is favorable for performance various illicit activities, is an identity. It is difficult to determine someone's internet real identity. An interesting argument for this contention is the text beneath the famous cartoons published 05.07.1993. in the New Yorker-in, which displays a dog who surfs the internet - On the internet nobody knows you are a dog.¹⁸ Huge opportunities, which are daily provided to all customers, are constantly subjected to a various abuses. Therefore, it is necessary to provide measures in criminal law, to protect this segment of the computer system.

World's global network has revolutionized many areas of human life and work, by opening unexpected and so far the theory unprecedented possibilities of human communication and exchange of information in different fields of human creativity. That offers a new dimension of scientific research, commercial activities, state planning, warfare, threats and creating security. New opportunities for planning, preparation and execution of various types of crime, propagation of dangerous ideas, ideology and information have been created as well as opportunities for action and cooperation of the security services, strengthening the safety culture of citizens and establishing a partnership of all stakeholders of the security system at different levels.¹⁹

Since the second half of the nineties until now, researchers are examining the effect of Internet on social relationships, habits and personality of the user. The Internet is presented as significant for strengthening the existing stable social relationships, strengthening social activities, for forming identity and personality. On the other hand, Internet is blamed for the development of overwhelmingly, weak relationships with acquaintances (instead of the previously nurtured stable, strong relationships with relatives, friends), social isolation, loneliness, depression, and other offensive behavior. Early skepticism of the positive impact on social relations of the Internet was influenced by two University Studies: Carnegie Mellon²⁰ and Stanford²¹. The public was informed that Internet not only does not encourage sociability, but has negative effects, where the same phenomenon called Internet paradox²². Time which people spend reading newspapers, watching TV, shopping, driving under the influence of the Internet decreases

¹⁸ Reed, C.: *Internet Law – Text and Materials*, London 2000, quote according to: Babovic, M.: „The hacker subculture and Computer Crime“, *Legal Life*, The Association of Lawyers of Serbia, Belgrade, Year LIII, 9/2004, Book 485, 1-1356, 744

¹⁹ Kesetovic, Z.: „Internet as a tool of terrorists“, *Journal of Safety*, The Center for Security Studies, Belgrade, Year II, 4/2008, 37

²⁰ Kraut, R. et. al.: „Internet paradox: A Social Technology That Reduces Social Involvement and Psychological Well-Being?“ *American Psychologist*, 53, 9/1998, 1017-1031

²¹ Nie, N., Erbring, L.: “Internet and Mass Media: A Preliminary report”, *IT&SOCIETY*, 1, 2/2002, 134-141

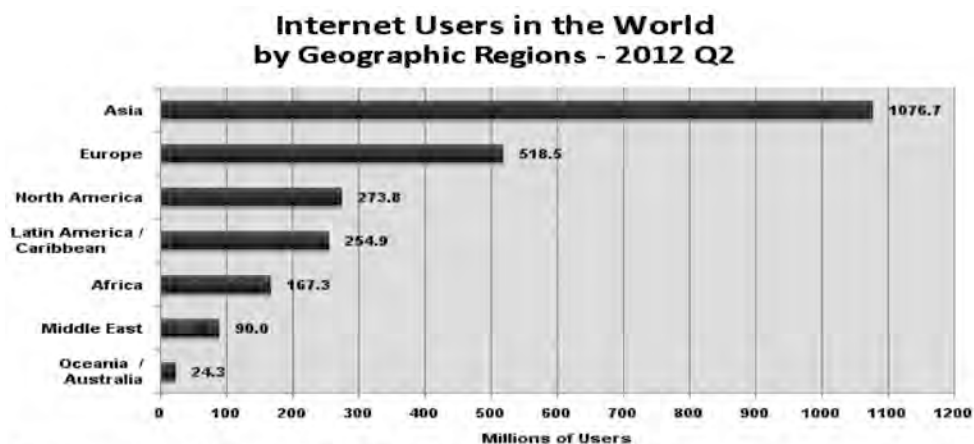
²² Kraut, R. et. al., *Ibid.*

and the number of working hours at home and at work increases.²³ The results of the study of those respected institutions were later constantly disputed, including the authors of the study, and in their later works.²⁴

A fact which is in favor of the significance of the Internet, as the primary and most important global communication and computer network, is billion users and 100 millions website reached in 2008. Daily average of new users of Internet is 100 000.

Since luxury and abstract experiment, unbeknownst to most people, Internet has become a necessity and a means of information and communication, entertainment and education used daily by a half billion people around the globe (see Figure 1 and 2). Number of users is constantly increasing.

Figure 1: *The number of Internet users in the world given by region*²⁵



Source: Internet World Stats - www.internetworldstats.com/stats.htm
2,405,518,376 Internet users estimated for June 30, 2012
Copyright © 2012, Miniwatts Marketing Group

²³ Nie, N. & Erbring, L., *Ibid.*

²⁴ Kraut, R. et. al.: "Internet Paradox Revisited. *Journal of social science*", 58, 1/2002, 49-74

²⁵ Internet users ending with the date 30.06.2012. Internet World Stats, Copyright © 2012, Miniwatts Marketing Group; <http://www.internetworldstats.com/stats.htm> (05.04.2013.)

Figure 2: The number of Internet users in the world by region, expressed in percentage²⁶

Internet Users in the World Distribution by World Regions - 2012 Q2



Source: Internet World Stats - www.internetworldstats.com/stats.htm
 Basis: 2,405,518,376 Internet users on June 30, 2012
 Copyright © 2012, Miniwatts Marketing Group

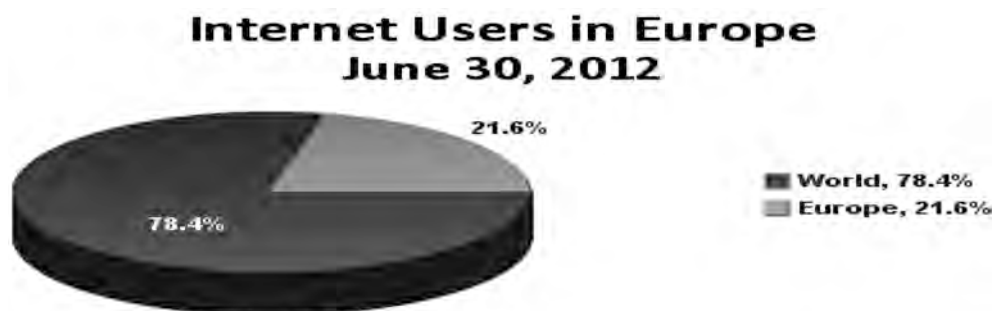
The scope of Internet usage and Facebook, as the most popular Web site that serves as a social network service, it is significant to observe from European level. Internet is also presented in a large percentage in Europe and data are presented in Table 1 and in 3th third and 4th charts.

Table 1: The usage of Internet in Europe - Internet User Statistics & Population for 53 European countries and regions

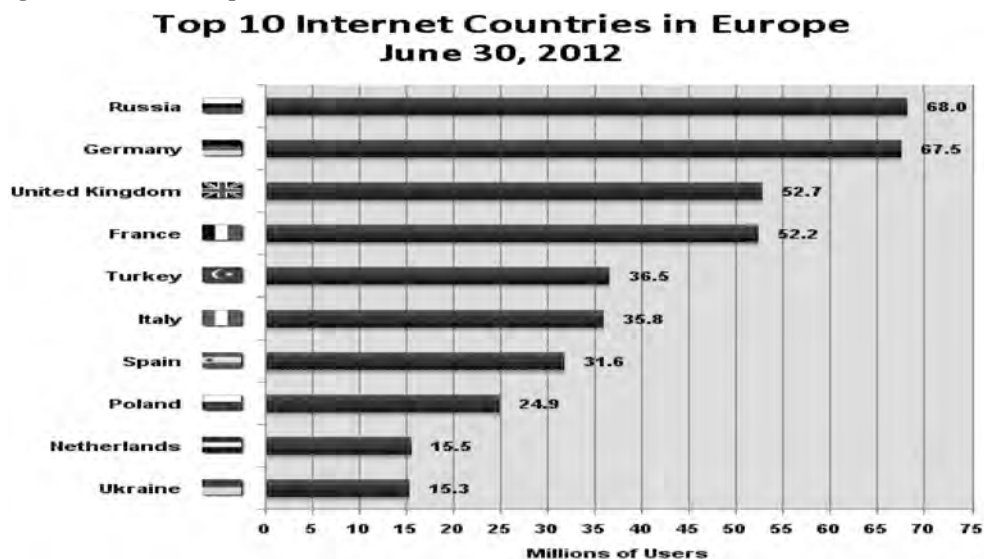
Internet and Facebook Usage in Europe						
EUROPE	Population (2012 Est.)	Pop. % of World	Internet Users, 30-June-12	Penetration (% Population)	Internet % World	Facebook 31-Dec-12
Europe	820,918,446	11.7 %	518,512,109	63.2 %	21.6 %	250,934,000
Rest of World	6,196,928,476	88.3 %	1,887,006,267	30.5 %	78.4 %	725,009,960
TOTAL WORLD	7,017,846,922	100.0 %	2,405,518,376	34.3 %	100.0 %	975,943,960

Source: Internet usage in Europe - Internet User Statistics & Population for 53 European countries and regions, <http://www.internetworldstats.com/europa2.htm> (05.04.2013.)

²⁶ Internet users, ending with the date 30.06.2012. Internet World Stats; Copyright © 2012, Miniwatts Marketing Group; <http://www.internetworldstats.com/stats.htm> (05.04.2013.)

Figure 3: The percentage of Internet users in Europe²⁷

Source: Internet World Stats - www.internetworldstats.com
Based on 2,405,518,376 estimated world Internet users for 2012 Q2
Copyright © 2012, Miniwatts Marketing Group

Figure 4: Ten European countries which use the Internet the most²⁸

Researches, implemented on the global level, in recent years, included the testing of data related to the area of the European Union. Researches whose results are listed below include an examination of the scope of the Internet usage in the 27 member states of the European Union. Special overview to the above problem has been made in 9 countries - candidates for entry into the European

²⁷ The percentage of Internet users in Europe in 2012. year; Internet World Stats; Copyright © 2012, Miniwatts Marketing Group; <http://www.internetworldstats.com/stats.htm> (05.04.2013.)

²⁸ Ten European countries that use the Internet the most; Internet World Stats; Copyright © 2012, Miniwatts Marketing Group; <http://www.internetworldstats.com/stats.htm> (05.04.2013.)

Union. The results of these studies are presented below in Table 3 and 4, as well as in Chart 5.

Table 3: *The usage of Internet in the European Union – Internet User Statistics & Population for the 27 EU member states:*

Internet Usage in the European Union						
WORLD REGION	Population (2012 Est.)	% Pop. of World	Internet Users, 30-June-12	Penetration (% Population)	Internet % Users	Facebook 31-Dec-12
European Union	503,824,373	7.2 %	368,021,986	73.0 %	15.3 %	192,746,920
Rest of World	6,514,022,549	92.8 %	2,037,496,390	31.3 %	84.7 %	783,197,040
TOTAL WORLD	7,017,846,922	100.0 %	2,405,518,376	34.3 %	100.0 %	975,943,960

Source: The usage of Internet in the European Union – Internet User Statistics & Population for the 27 EU member states, <http://www.internetworldstats.com/europa2.htm> (05.04.2013.)

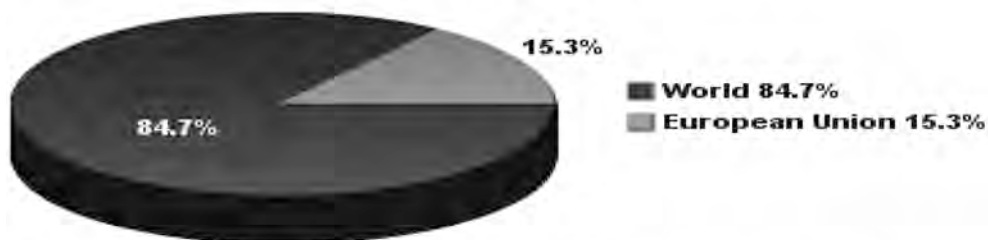
Table 4: *The usage of Internet in the EU Candidate Countries:*

Internet Usage in the EU Candidate Countries					
EUROPEAN UNION CANDIDATES	Population (2012 Est.)	Internet Users, 30-June-12	Penetration (% Population)	Users % Table	Facebook 31-Dec-12
Albania	3,002,859	1,471,400	49.0 %	3.0 %	1,097,800
Bosnia-Herzegovina	3,879,296	2,327,578	60.0 %	4.7 %	1,345,020
Croatia	4,480,043	3,167,838	70.7 %	6.4 %	1,595,760
Iceland	313,183	304,129	97.1 %	0.6 %	227,000
Kosovo	1,836,529	377,000	20.5 %	0.8 %	n/a
Macedonia	2,082,370	1,180,704	56.7 %	2.4 %	962,780
Montenegro	657,394	328,375	50.0 %	0.7 %	306,260
Serbia	7,276,604	4,107,000	56.4 %	8.3 %	3,377,340
Turkey	79,749,461	36,455,000	45.7 %	73.3 %	32,131,260
Total EU Candidate States	103,277,739	49,719,024	48.1 %	100.0 %	41,043,220

Source: The usage of Internet in the EU Candidate Countries, <http://www.internetworldstats.com/europa2.htm> (05.04.2013.)

Figure 5: Internet users in the European Union²⁹

European Union Internet Users June 30, 2012



Source: Internet World Stats - www.internetworldstats.com
 368,021,986 Internet Users in the EU on 2012 Q2
 Copyright © 2012, Miniwatts Marketing Group

As it can be seen from presented tables and figures, the volume of Internet usage on the global and European level is pretty high. If we take a look at results of conducted research, the following conclusions can be made:

- 1) First, total number of Internet users is 34.3% on the global
- 2) Second, total number of Internet users is 63.2% on the European level
- 3) Third, total number of Internet users in the European Union (27 Member States) is 73%
- 4) Fourth, total number of Internet users at the national level - a candidate for joining the European Union (9 countries - candidates) is 48.1%
- 5) Fifth, percentage ratio of Internet users in Europe is 21.6% and in the world is 78.4%
- 6) Sixth, percentage ratio of Internet users in the European Union's 15,3% and in the world is 84.7%.

4. Case study analysis³⁰

DI (42) from Krusevac was found guilty. Appelled D.I. in period from February 2006. to January 2009. had unauthorized copied and put on market various authors' works, movies to DVD and Divx format, television shows, musical interpretations of various authors and musicians, recorded music concerts, computer programs and games in order to obtain self gain in the amount of RSD 70, 000.00. D.I. had previously purchased a copy and recorded them on

²⁹ Internet users in EU for 2012. year; Internet World Stats, Copyright © 2012, Miniwatts Marketing Group; <http://www.internetworldstats.com/stats.htm> (05.04.2013.)

³⁰ The practice of the Special Prosecutor's Office for the High-Tech Crime Department and the fight against cyber crime High Court in Belgrade, Serbia

the memory of his computer as well as to optical discs (CD-R and DVD-R). Sale of those copies was advertised through his web site at www.dvdfilmovi.org. In order of establishing communication with clients and realization of purchase and sale, he had set electronic addresses dvdfilmovi22@gmail.com, dvdfilmovi22@hotmail.com dvdfilmovi22@yahoo.com. Also he had made catalog and price list contained of 7500 titles of copyright works and offered for sale. After offers arrive, he made copies on his computer of copyright work, than packed them and sorted them by order and they were sent by mail-cash on delivery. He achieved a gain of 70000.00 dinars, before the intervention of authorized officials of the Department for the Fight against cyber crime, SBPOK, the CID. Interior Ministry of Republic of Serbia on day 21.01.2009. raided the apartment and other premises in Krusevac street Topličkih Partizan No.22 and found and with confirmation of the suspect temporarily seized objects of the offense: a computer without black mark, nine hard drives „Western Digital” which contented 1450 of individual copyright works in DVD format and an unspecified number of installations of software and games, CD covers, etc., and a total of 5914 pieces of pre-recorded optical discs (5199 DVD and 715 CD), with contents of the mind above listed different types of copyright works, which were placed in envelopes handwritten by serial numbers from the catalog that was published on the Internet on page www.dvdfilmovi.org.

The Court's in his judgment, according to legal provisions 457 Paragraph1 of the Code Criminal Procedure Paragraph and Paraphraph 91. And 92 of Criminal Code D.I. imposed D.I. the confiscation of property gain in the amount of 70000.00 RSD, according to which D.I. is obligated to pay total amount of proceeds obtained by the designated time of the offense earned as a recipient of payments through postal money orders by mail traffic RJ „Krusevac” PTT „Serbia”.

KT FTC 33/2008³¹ - Criminal offenses unauthorized access to a protected computer, computer network and electronic data processing from Article 302 paragraph 2. Related to Paragraph 1. of Criminal Code and the Computer Fraud Article 301. Paragraph 1. of Criminal Code.

The proposal to undertake certain investigative activities of the Special Prosecutor Kt.vtk. no. 33/2008 in 24 July 2009, M. Ž. (18) from Belgrade, was charged of unauthorized access to server NS1.ACCELERATEBIZ.COM in February 2008 through Internet. Server was physically located in Miami, Florida, USA, where, among others, was also hosted a commercial Web site (Web site) which was intended for the education of future barista - expert for making coffee beverages, located at www.baristabasics.com.au. Violating measures of protection and using the code and the site administrator authority, on the Web site used

³¹ Special prosecution of cyber crime, „KT VTK 33/2008“: http://www.beograd.vtk.jt.rs/index.php?view=article&catid=50%3Abeybednost-racunarskih-podataka&id=118%3Aktvrk-33-2008&tmpl=component&print=1&layout=default&page=&option=com_content&Itemid=89&lang=sr (19.02.2011.)

for business purchases (online store), M.Ž. had made unauthorized access to all payments and payment card data from the users of the above-mentioned Internet – store. He had unauthorized recorded - taken data from about 600 numbers, „American Express” and „VISA payment cards” born. Then, by using proceeded credit cards numbers (BIN numbers and CVV2) on 06.02.2008. years, on the Internet domain (www.e-ducana.com) he had tried to order and pay electronically two computer monitors with data from „American Express” and”” VISA payment cards, with last numbers: 3002, 0684, 1006, 1933, 3004 i 1011 on six occasions, using ID number 67999 for the registration and ordering online services „e-shop” and the IP address 89,216. This IP address has been assigned to him by the Internet service provider „SBB Serbian Cable Network”. In order to gain illegal profit, he brought false information or he failed to enter the correct information regarding to owner of the card and billing address (billing address - an address that is linked to the parent bank card holder) which entered their personal data (name and surname, address) – that affected on result of electronic processing and transmission of data. He had achieved to order and pay for the monitor brand „Samsung SyncMaster 920NW”, value \$ 285.50, with „Amex”’s credit card last payment card numbers **** 1011 (BIN numbers) causing a damage to E-store in the amount of value monitore, which he had to reimburse on the bank account of actual cardholder.

KT FTC 55/2007³² - A criminal offense of fraud under Article 208 Paragraph 1. in conjunction with Article 33rd and Article 61of Criminal Code.

Indictment by the Special Prosecutor KT VTK. Number 55/07, the judgment of the District Court in Belgrade found guilty J.S. (30) and his girlfriend T.D. (29) for fraud committed over the Internet. J.Š. and T.D. from Novi Sad in order to obtain an unlawful material benefit had falsely represented themselves as representatives of the Agency of “Exit apartments” in the period of January to 15th July 2007. Referred agency provided accommodation for visitors of international music festival “Exit 07”, with a place in Novi Sad, maintenance, lasting 12.-16. July 2007. Using a computer, computer networks and computer data, as well as other agencies material and products in electronic form, they had mislead British citizens, a total of 29 and thus led them to pay to the account, „Erste Bank „total 3937 euros or in RSD 314,960.00 din for agreed accommodation services. Defendant J.Š. had previously concluded contract on opening foreign currency current account with Erste Bank. He had also submitted an application for registration of international domain www.exitapartments.com with an Internet service provider „Neobee.net”. His acquaintance through the services of web hosting Internet - Provider „Eunet”, produced and posted website created by step instructions principal defendant. Website was used for offering living accom-

³² Special prosecution of cyber crime, „KT VTK 55/2007“: http://www.beograd.vtk.jt.rs/index.php?option=com_content&view=article&id=62%3Akt-vtk-br-5507&catid=50%3Abeybednost-racunarskih-podataka&Itemid=89&lang=sr (19.02.2011.)

modation for the price of 30 to 60 euros in one-and three-room hotel „Gymnas” in Novi Sad. Defendants never had a business relationship and cooperation with mentioned hotel. According to the instructions on the website www.exitapartments.com, visitors had opportunity for booking and paying in advance by laying a deposit of 30% of the package price to the specified account „Erste Bank”, through SWIFT, as one of the fastest ways of conducting international payments. Before taking deposits and arrival at „Exit 07” British and Irish citizens were performing communication by calling T.D. mobile number +381964 / 668th ... which was published on the site and through the designated electronic address info@exitapartments.com and exitapartments@neobee.net. During those phone calls she had falsely represented herself as manager of public relations agency „Exitapartments” from Novi Sad, answering their questions about payments, quality apartments, apartments position in relation to the place of the festival, and the like. After the payments had been done, she informed them about meeting place in Novi Sad, from where they would be transferred to their apartments - which would be followed by the payment of the full amount. In addition to the reached agreements they avoided any contact with the victim after their arrival in Novi Sad. As it is described above, they have retained the proceeds of 3937 euros in total or in RSD 314,960.00 dinars. Several British, except deposit, after getting in Novi Sad, gave them a cash in the amount of 710 euros. They had previously agreed meeting that on 10 07th 2007th in the cafe in the „Oliva” in Boulevard of Libertation No.133. in Novi Sad. The British gave them the money on behalf of the alleged co-payment for accommodation and she stamped them contract and a business card with the words „Agency for rent apartments.” Taxi would take them to the hotel „Passenger” in Novi Sad, where they would have realized that they were cheated.

5. Conclusion

Seizing the characteristic features of cyberspace, but also taking into account other characteristics, such as high rates of potential and great opportunities, misuse of information technology, especially computer networks grows into a serious national and supranational - a global problem.

It is kind of crime that rapidly changes forms and forms of manifestation, the border between the states and the other injured. These criminal acts are carried out covertly, often without any visible and close spatial relationship even the offender and the victim. They are difficult to detect and even harder to prove. Those crimes remain virtually undetected for a long time until victim does not suffer huge damage that is visible in the computer information system.

It should be emphasized that beside criminal acts directed against the security of computer technology and information system elements, there are a num-

ber of traditional criminal offenses with the usage of computers and computer components perform faster, easier, offenders are difficult to trace and the consequences are far more serious and more.³³

We emphasize the problem of Internet abuse, given that this segment of the information technology has fundamentally revolutionized many areas of human life and work, by opening unexpected and so far the theory unprecedented possibilities of human communication and exchange of information in different fields of human creativity.

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³³ Matijasevic, J. i Petkovic, M.: „Criminal offenses against the security of computer data – analysis of positive solutions and significance in the context of combating cyber crime“, Proceedings of the international scientific and professional conferences *Criminal-forensic research*, held on 14.-15. october 2011. year. International Association of Criminologists - IAK, Banja Luka, 598-609, Vol. 4, 1/2011, 599

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ZNAČAJ I MODALITETI ZLOUPOTREBE INTERNETA KAO OSNOVNE GLOBALNE KOMUNIKACIJSKE RAČUNARSKE MREŽE U SAJBER PROSTORU

S a ž e t a k

Uporedo sa brzim razvojem računara razvile su se i računarske mreže. Kompjuterska krivična dela se vrše u specifičnom okruženju – sajber prostoru, čija je važna karakteristika transnacionalni obim, koji prevazilazi teritorijalnu kontrolu nacionalnih država. Nesumnjivo je da računarske mreže mogu biti predmet različitih zloupotreba. U tom smislu, pojavljuju se u trostrukoj ulozi: kao cilj ili objekat napada, kao sredstvo ili alat, ili kao okruženje izvršenja krivičnog dela. U pitanju je takva vrsta kriminaliteta, koji brzo menja forme i oblike ispoljavanja, granice među državama, kao i vrstu oštećenog. Posebno izražen problem u ovoj oblasti jeste zloupotreba interneta, kao osnovne globalne komunikacijske kompjuterske mreže, budući da je ona iz temelja revolucionisala mnoge oblasti ljudskog života i rada. Iz tih razloga predmet rada jeste analiza najznačajnijih modaliteta zloupotrebe interneta, kao i obima korišćenja i značaja interneta za savremeno društvo. Poseban odeljak rada posvećen je analizi slučajeva iz prakse pravosudnih organa Republike Srbije.

Ključne reči: sajber prostor, računarske mreže, internet, studija slučaja

