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PRODUCT ATTRIBUTE PREFERENCES – A MULTIDISCIPLINARY APPROACH

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Abstract

The basis of buyers' preferences are the differences of goods. Revealed preferences can be deduced from the market behaviour of the consumers, that is from their choices. In marketing consumer preferences are defined as the subjective tastes, as measured by utility, of various bundles of goods. They permit the consumer to rank these bundles of goods according to the levels of utility they give the consumer. In an expert brainstorming process we have identified eight factors that can determine the perception of product attributes: attribute strengths, preference interval, stability, product complexity, consumer task, life-likeness, environment and experience. Our series of research plans to analyse the perception of product attributes and the system of the parameters of preferences related to them in a complex way. We aim to investigate preference systems that relate to the system of attributes with a multidisciplinary, multifocus, hierarchic series of surveys. As a first stage in our experimental study we are investigating intransitivity occurring in participants' preferences during selection between simple, medium complex, and complex products. The participants' task is to make pair-wise comparisons of preference between specific realizations of each product group. There are two possible versions to show up the pairs of virtual products to the subjects. We show up to the subject those attributes, which are not different, then only those that are different from each other. Using a computer based experimental design every participant has the personalized attribute set.

Keywords: Products, preferences, consumer psychology, marketing research

Introduction

The basic hypothesis of microeconomics is that consumers decide on their choices based on their preferences. The basis of buyers' preferences are the real or presumed differences of goods, including also the circumstances of the purchase. In the behaviour of households, microeconomics assumes an effort to maximize utility in the decisions (Schumann, 1998). It was Lancaster (1971) who pointed out that when defining utility, consumers actually evaluate certain measurable features – i.e. attributes - of goods.

Consumer psychology deals with the mental process, the output of which is described by preferences in the utility theory. Psychologists, in this way, are after explanation of preferences. The consumers though, are aware of these preferences only partly and on different levels for each individual, in each situation and for each product. Not conscious i.e. underlying preferences effect their choices just the same way. According to the behaviourist axiom - introduced by Samuelson (1938) - the observable, so called revealed preferences can be deduced from the market behaviour of the consumers, that is from their choices. Usually, with the methods of the psychology of economics and of marketing sciences, only the

revealed preferences can be measured, the underlying preferences can only be assumed if at all. With the examination of revealed preferences, alongside with taking underlying preferences into consideration, the background for consumer behaviour becomes analysable. Researching this behaviour means the survey of characteristics of product choices, or, consumer decisions. Key question to our research is the perception of attributes, that are the object of consumer preferences, the mapping of this system in the consumer's mind.

Revealed preferences from various points of view

process of product selection can be modelled with the process of visual perception, where the individual identifies, evaluates, the seen object (the product) by its certain features (attribute dimensions) then recognizes it or makes a decision regarding it, based on the perceived characteristics. As the shape of a mug suggests the information that it contains liquid and its handle suggests „take me here” so can features be divided into attributes during the perception of products (such as size, shape etc.) Regarding these attributes, apart from the perceived features, experience is also adding to the evaluating process: for example, about the shape of a handle one knows that it is for taking the mug. Translating the perception metaphore onto the general level of product perception: when the consumer perceives the product, it is a perception through its attributes. During the product perception the values to certain attributes (size of the mug) appear based on seen/perceived, others appear based on our knowledge (shape: handle - it is customary to take the mug by its handle). Therefore, during the perception of a product, it is represented by its attributes and the values (realisations) of those. The rational base of consumer decisions are the preferences, that can be either revealed - therefore can be measured - or underlying preferences that are only assumed. The perception of products, including perception of its attributes means the starting point for the consumer decision.

We aim to investigate/analyze preference systems that relate to the system of attributes with a multidisciplinary, multifocus, hierarchic series of surveys. For this, we start with in-person factors proceeding in the direction of environmental factors. In an expert brainstorming process we have identified eight (8) factors that can determine the perception of product attributes, through this the consumer preferences as well (Table 1).

	Factors
1.	Strong vs. neutral characteristics of attributes, from consumer point of view
2.	Interval characteristics of preferences, related to attributes or to their realisations
3.	Stability of preferences related to attributes or their realizations
4.	Complexity of perceived products (the number of attributes and their realizations)
5.	Type of consumer „task” (rating-ranking-choice)
6.	Level of life-likeness of the consumer decision situation during the research
7.	Effect of the decision environment on the preferences
8.	Effect of experience on the preferences (e.g. in case of a repurchase situation)

Table 1. Factors defining product attributes, in hierarhic order

Ad 1. **Strong or neutral characteristics of attributes** means the subjective importance of a given feature. According to our assumption it determines to what extent a given product attribute adds to the preference of an individual. The neutral attributes are less considered by individuals while forming their evaluation, while the strongly important or strongly unimportant attributes play a significant role in consumer decisions. We assume, furthermore, that with the increase of „strong” marker the intransitivity of preferences decreases in product-comparing situations (see Veres, Tarján and Hámornik, 2012). Extremely strong attributes are the „must” or dichotom attributes (as per Kano, 1984), when the presence of a given feature leads to preference and the absence of it leads to dispreference in every case.

Ad 2. Preferences related to attributes cannot be considered as discrete values in every case, what is more, we assume that attribute preferences modelled with discrete values would give us a convenient, but highly simplified hypothesis. Instead, regarding the realization of a certain attribute we think that a preference is deviated or better expressed „floating” within a zone (an **interval**) This area is characterized by its expected value, but it is also characterized by its maximum, minimum and the characteristics of distribution (skewness or kurtosis). In case we do not examine preferences by the expectable values (say discrete values), but rather they are modelled as intervals to a continuous scale then the appearing intransitivities (inversions, ambiguities) are well explained. In case the intervals are (partly or entirely) overlap, then certain preferences can be intransitive as well when compared, still, the expectable values fall to their own intervals. This overlap, according to our expectations, is probably bigger in case of neutral attributes and smaller in case of strong attributes. All this can be examined both in rating and ranking situations as well. It is to be noted that among the axioms of microeconomic system of preferences the unambiguity of rank of utilities, that is the transitivity of consumer comparisons was already set by Hicks and Allen (1934), while Arrow (1963) reveals that as opposed to the transitive rating/evaluation of the individual, the preference system of a group is intransitive.

Ad 3. Revealed preferences, related to attributes that are the objects of our observation, are variable to time and situation. In this research, the examination of their **stability** with investigating ranking, rating and product choice is crucial in order that we will be able to describe those attributes and situations which promote or impede stability. These are the factors that also talk about the possibility of generalization of the results: which preferences under which circumstances remain stable in time, and which ones are changeable.

Ad 4. The choice of products, the product perception establishing preferences of it is greatly influenced by the **complexity** of the product (Hlédik 2012). It is an important point how many attributes describe the product, and how many more potential realizations to these attributes are probable among which (the product variants) the individual should make a comparison. In case of simple products that can be described with a small number of attributes and, as such, easier can be mapped mentally, we can count on more separated and stable preferences. In case of more complex products, where a big number of neutral attributes are present, we can count on more overlapping preference intervals and consequently, on intransitivities, moreover, on lesser stability.

Ad 5. The perception of product attributes, and their preferences can also be determined by the **character of research task**. Depending on whether the individual has to perform ranking, rating or choice, the intervals of product attribute-related preferences and the stability of preferences may change. In the ranking-rating-choice sequence, we assume an increasing thoroughness and commitment of the individuals, therefore we assume more and more separating preference intervals and greater stability in case of the strong attributes. Along with this we also expect less of intransitivity. For examining these assumptions, the experimental situations should comprise of tasks of ranking, rating and choice characters as well. Here we do not enter into the long-disputed question of microeconomics whether or not the consumer is able of continuously „measuring” utilities (cardinal utility) or merely the rank of certain attributes compared to each other mean his/her underlying preferences. (ordinal utility)

Ad 6. Moving away from intra-personal factors, the next important point is the **level of life-likeness of examined situations**. The more life-like a situation is, the more likely it is suitable for analyzing real consumer behaviour. In conjunction with our assumption the more real a behaviour is, the greater extent the underlying preferences and their influence can be captured. Life-likeness increases the ecological validity of research, thus the likelihood of generalization of the results. Life-likeness gradually increases with moving on from

laboratory experiments to in-store field-research. Comparing different situations makes a thorough research of product-related attribute preferences possible.

Ad 7. Life-likeness is closely related to the effect of research **environment**, choice or rating environment on preferences. Therefore, apart from laboratory research, it is necessary to perform field (e.g. in-store) consumer research as well. With the systematic manipulation of the environment we can explore which are the factors that have an effect on the system of preferences. For example, the proportion of intransitivity of preferences, or even the level of overlap of intervals may vary according to the scope of assortment, or to the difference between the products of comparison (the number of their differing attributes).

Ad 8. Finally, the last factor to be analyzed is the effect of **experience** on the features of preferences. According to our assumption, individuals – after using the product or after gaining information on the usage of it -, can change their system of preferences formed regarding the features of a product. Research questions: What experience fosters stability, what experience causes changes, intransitivity?

Apart from the above factors, fatigue and mental strain have also effect on the system of preferences, as a **moderating** agent. Certain features of the environment may also behave as moderators in some situations. And for the sake of historical trustworthiness here we should mention the famous critical analysis of Sen's (1973) which showed that while observing revealed preferences, the interpretation of underlying preferences can be mistaken in at least two cases:

- 1, when the consumer's level of preference is the same and the choice is forced
- 2, when other e.g. moral concerns or external expectations overwrite underlying preferences

Our series of research plans to analyse the perception of product attributes and the system of the parameters of preferences related to them in a complex way. We analyse the effect of intra personal and extra personal factors on these preference systems with the above described hierarchic research design. In the analysis of the relations between our ratings, preferences and behaviour – that is our product choices, the research relies on the classic sociopsychological research direction of relations between attitudes and behaviour, which is rooted in the works of Brehm (1956) and Festinger (1957) (see cognitive dissonance reduction, free-choice paradigm: FCP) and reflects on the questions raised by Chen and Risen (2010) respectively.

Consumer psychology on choice

According to Brehm (1956) the core of FCP is the situation to choose among more alternatives, which do not substantially vary in their attractiveness. This phenomenon is usually studied in experiments by having subjects rate an enhanced number of options, and then the participants are faced to choose between two highly similar alternatives (of approximately similar utility). After the one's choice has been made, researchers have observed a decrease in the rating of the refused object and an increase in the rating of the chosen one (Brehm, 1956; Bendersky & Curhan 2009).

Cognitive psychologists have been also bound up in the cognitive dissonance reduction (Dias et al., 2009). Their problem statement was whether this is a characteristic phenomenon in an intrinsic manner for human mind and information processing, or this is the result of motivational contradictions. Dias et al. (2009) argue that cognitive dissonance reduction is incorrectly thought of as a phenomenon of motivation, as recent results suggest that it is a process typical of the functioning of human mind in an inherent way. They proved this assumption by the findings that cognitive dissonance is present even in the absence of any stimuli in the system, moreover it works unconsciously.

A human tendency toward harmony and to reduce contradictions in opinion, intransitive attitudes in decision, is leading to biases raise the question whether spreading in

free choice paradigm can be explained by the theory of dissonance reduction at all? The limited mental computational capacity on its own leads the system to use heuristics (Eysenck & Keane, 2000) that incorporate biases. The question is that how large is the biasing effect, and what function describes its growth and change? We aim to answer this question using product attributes that participants rank as less important. Despite the low subjective importance of some attributes, these features are present as differences of product realizations, and they could have an effect on decision. More than 40 years after Rosenthal's critics on experimenter bias, Chen and Risen (2010) raise methodological and mathematical arguments against the dissonance reduction in FCP detailed in the next section. This can lead to serious questions about FCP, dissonance reduction, and their application in marketing research.

Mathematical Background

In the first step of the Chen-Risen experiment 10-15 goods should be sorted on the basis of lots of conflicting aspects (i.e. in a transitive way).

Let $k \in \{1, 2, \dots, n\}$ denote the index number of good $x_k \in X$, where X denotes the set of possible goods. If for all goods $x_k \in X$, a „preference level” or „utility value” (denoted by u_k) is associated in such a way that for each pair of goods $x_k, x_l \in X, x_k \neq x_l$ exactly one of the two preference relations hold: $u_k > u_l$ or $u_k < u_l$, then an *underlying preference* is defined for the set X of goods.

Note that the latter is a bijection of X onto the n -element subset of the integer numbers, i.e. a transitive digraph. Let us suppose that people have perfectly stable *underlying preferences* and they are asked (that was the first step of the Chen-Risen's model scheme) to rate all goods $x_k \in X$ in a bijective way that for each pair of goods $x_k, x_l \in X, x_k \neq x_l$ exactly one of the two relations hold: $r_k > r_l$ or $r_k < r_l$. It is supposed, as well that r_k is a random variable of which there exists the expectation and it coincides with the so called associate "preference level" or "utility" u_k of the good $x_k \in X$ that is to say

Assumption 1 (ASMP 1): $E[r_k] = u_k$

The random variable r_k on which it is supposed only that there exists its expectation and that coincides with the "preference level". This is - in our view – an impermissibly broad assumption and due to our criticism as we were able to show that the three mathematical assumptions are too "liberal" as compared to reality. The premise from which the main statement on the (FCP) on the positive spread has been derived, is equivalently reformulated as follows:

ASMP 1a: $\Pr(B_t | A) > 1/2$,

ASMP 2: $\Pr(C | A) > 1/2$,

ASMP 3: $1 > \Pr(A | B_t) > 1/2$,

where the following three types of random events are defined as below:

$A \equiv \{u_k > u_l\}$; $B_t \equiv \{r_k^t > r_l^t\}$; $C \equiv \{c_{\{k,l\}}^2 = x_k\}$.

We have shown that the above three assumptions allow the ratios to range between "dissonance" (disagree) and "consonance" (agree) of both preference & ratings or preferences & choices up to 100%. That is to say the dissonance of the random events A and B_t may extend up to the size of their consonance, or making use of a metaphor the "misdirected transmission" of the stable underlying preferences may have an extent of 100 %, as well.

1) We have there proposed that the extent of the "misdirected transmission" allowed only up to 10~25% instead of that limit of 100%. Thus the positive spreading of the FCP really proves to be with an order of magnitude 5~10-times less than they suppose it. This may

involve that this, in theory, very important spreading effect obtained by pure deduction remains within the measurement error limits.

2) Now we examine another approach to the reality. This is a correction, in a more elementary sense, that is built only on Assumption 1 (ASMP 1), the other three conditions is not necessary for the formulation. Consequently, our findings *are not related only to the FCP-research but to any study of consumer preferences* as well.

It is assumed for the random variable r_k not only that there exist its expected value and it is equal to their "preference level" (ie, $E[r_k] = u_k$), and still arbitrary distribution, but the possible values of r_k may be no longer from minus infinity to plus infinity, but the reasonable value of a certain $r_k \in [u_k - \Delta; u_k + \Delta]$ falls into a finite interval in the vicinity of u_k , where $\Delta, \Delta > 0$ (see 2nd factor in Table 1). It is known about consumer preferences (at least we have good reason to believe) that the above width of the occurrence interval ($\Delta + \Delta$) for the best and the most rejected attributes is less since the uncertainty and the error rate is less than in the mid-range case, which latter therefore has an increased consumer uncertainty, or mistake. This inevitably leads to the fact that the various occurrence intervals of attributes overlap in the center, or even coincide with each other, even though it has been assumed for the *underlying preference* u_k for any pair of attributes $x_k \neq x_l$ either the relation $u_k > u_l$, or the opposite one $u_k < u_l$ is satisfied. When the occurrence intervals fall together with each other approaching to the center, we can get to the "Q-sort" arrangement (or Q methodology) which has been a central and very important tool in psychology and the social sciences during more than the last half century.

Q methodology was introduced in a letter to Nature written by William Stephenson (1935), and it has been widely adopted in the social sciences basically for the technical procedure of Q sorting (see Brown 1966) . Fundamentally, Q sorting calls for a person to rank-order a set of stimuli according to an explicit rule (condition of instruction), usually from agree (+5) to disagree (-5), with scale scores provided to assist the participant in thinking about the task. The operation is inescapably subjective in the sense that the participant is sorting the cards from his or her own point of view.

Now let us show an example of what our above statement asserts if e.g. each attribute x_k has $n = 11$ finite intervals. For simplicity the "preference levels" or "utility values" u_k of the 11 attributes range over the integers from 0 to 10, i.e. $u_k = k$, where $k \in \{0, 1, \dots, 10\}$.

x_k	Δ	Δ	u_k	r_k	$[u_k - \Delta; u_k + \Delta]$	$E[r_k] = u_k$
0	0.5	0.5	0	r_0	$[-0.5; 0.5]$	0
1	0.5	1.5	1	r_1	$[0.5; 2.5]$	1
2	1.5	0.5	2	r_2	$[0.5; 2.5]$	2
3	0.5	4.5	3	r_3	$[2.5; 7.5]$	3
4	1.5	3.5	4	r_4	$[2.5; 7.5]$	4
5	2.5	2.5	5	r_5	$[2.5; 7.5]$	5
6	3.5	1.5	6	r_6	$[2.5; 7.5]$	6
7	4.5	0.5	7	r_7	$[2.5; 7.5]$	7
8	0.5	1.5	8	r_8	$[7.5; 9.5]$	8
9	1.5	0.5	9	r_9	$[7.5; 9.5]$	9
10	0.5	0.5	10	r_{10}	$[9.5; 10.5]$	10

Table 2. Preference levels of attributes

Table 2 clearly shows the "Q-sort" arrangement, where in the central 5 attributes $x_k \in \{3,4,5,6,7\}$ completely overlap, so the following "Q-sort" arrangement no longer distinguish them from each other, then $x_k \in \{1,2\}$ and $\{8,9\}$ $x_k \in \{8,9\}$ attributes or another.

Taking smart-phones as complex products for the testing, 11 attributes are considered to be important, which are in the rows A-K of Table 3. All the 11 attributes have three property types as specified in the rows. Then the subject is asked to perform a one-to-one correspondence between the 11 attributes and the so-called "Q-sort" arrangement in Figure 1

(bijection). It is to mention at this point that the forced choice in Q-sorting is equally advantageous: each attribute „finds” its position in the Q-grid; and disadvantageous: does not allow else but a symmetric distribution of the attributes. This latter can cause a non-measurable distortion in the analysis.

Attribute dimension	Examples of Attribute values / realizations
A. Shape	<i>Classic, flip, slide</i>
B. Brand	<i>Apple, Samsung, Nokia</i>
C. Thickness	<i>Thin, medium, thick</i>
D. Color	<i>Metal, black, vivid color</i>
E. Style	<i>Fancy, simple, elegant</i>
F. Usage	<i>Simple, multifunctional, easy-to-use</i>
G. Camera	<i>Under 2 MP, 2 to 3 MP, above 3 MP</i>
H. User interface	<i>Classic keyboard, QWERTY keyboard, touchscreen only</i>
I. Entertainment	<i>Radio, music player, applications to download</i>
J. Internet	<i>None, WIFI, 3G</i>
K. Connectivity	<i>USB, Bluetooth, Infra-port</i>

Table 3. Attributes (11 pieces)

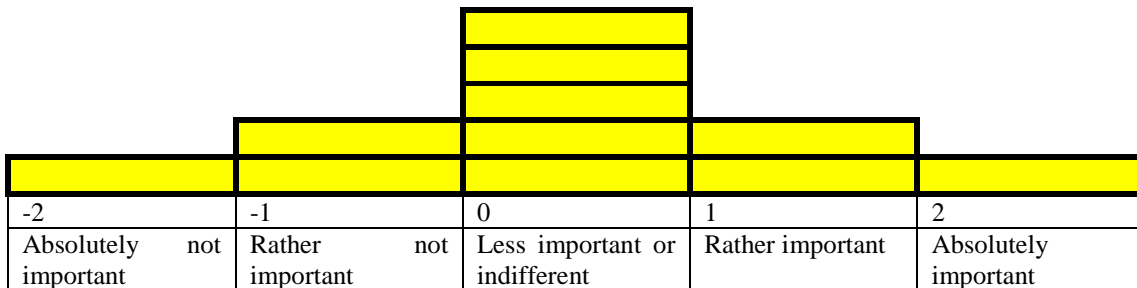


Figure 1. Q-grid

The subjects are asked essentially: what are the most important 3 attributes among the total 11 ones and the least important 3 ones, according to them, and therefore in the middle column will remain 5 attributes. Then "we create", based on the 5 attributes left in the middle column (denote them by {A1, A2, A3, A4, A5}), all the theoretically possible $3^5 = 243$ virtual products, since each attribute has 3 (0, 1, 2) possible states. In selecting from among 243 items 9 pcs (R0 - R8) representative items so that they fall apart as far as possible and fill out "evenly" possible the space formed by the 243 member products. The distance between two products are quite obviously defined as how many times differ the possible states (that could be 0, 1 or 2) between 2 given rows. The distance is denoted by **d**.

Complying with the above conditions, 9 representative items can be easily found. See eg. the following (R0-R8) representative products (Table 4).

	A1	A2	A3	A4	A5
R0	0	0	0	0	0
R1	0	1	1	2	2
R2	0	2	2	1	1
R3	1	0	2	1	2
R4	1	1	1	1	1
R5	1	2	0	2	1
R6	2	0	1	1	0
R7	2	1	0	0	1
R8	2	2	2	2	2

Table 4. Between-product distances

It can be seen that any pair of rows in the above matrix (rows of representative products R0-R8) differ in at least 3 columns, i.e.

$d(\mathbf{R}_i, \mathbf{R}_j) \geq 3$, for any $i \neq j$.

Then each pair ($\mathbf{R}_i \leftrightarrow \mathbf{R}_j$, $i \neq j$) of the above 9 products (created as virtual representative products in rows R0-R8) are shown in random order to the experimental subjects to qualify as a better-worse. 2 out of 9, i.e. totally 36 such pairs exist.

A Marketing Science Perspective

Following the simplified microeconomic preference model marketing science and especially corporate marketing practice accept the more comfortable transitivity premise. Consumer preferences are defined as the subjective tastes, as measured by utility, of various bundles of goods. They permit the consumer to rank these bundles of goods according to the levels of utility they give the consumer. In other words, the consumer has different preferences over the different combinations of goods defined by the set of commodity bundles. A latent assumption about the consumer's preferences is consistency in rankings, i.e. transitivity. Nevertheless, transitivity stereotype became deeply rooted in the industrialized market research as well. Companies routinely test the market to find out what customers like and dislike about their products and competitors' product. This is outsourced to a market research firm. After gathering information, the next step for the company is to determine what it means. Analysis of the information may lead the company to change the formula, packaging, color, size or some other feature of the product.

It must be realized that automatic assumption of transitivity can be range among such mental stereotypes as e.g. repurchase willingness of satisfied customers or the natural development of firms' orientation from manufacturing to marketing (Brown, 1995; Reinoso, 2011). Such a simplification can be understood if we think of the daily decision pressure at management level. Without easily applicable rules of thumb the operation of the firm could be paralyzed. Some techniques estimate consumer preference functions by representing „consumer utility” as a function of the product's attribute levels. Such techniques are useful in the product design because they indicate the relative effects of changes in the attributes of that product. Conjoint analysis is an effective technique to measure ordinal preference functions, and this method has been considered for long time as a research mass-product establishing numerous managerial decisions. Traditional technique of conjoint analysis has been quite successful in marketing, but its application can be improved (Veres-Tarján, 2013). As regards the methodological development in such directions only sporadic attempts can be found until now in the marketing research literature (see e.g. Hauser & Shugan, 1980 or Bouyssou & Pirlot, 2002).

The research

As a first stage in our experimental study we are investigating intransitivity occurring in participants' preferences during selection between simple, medium complex, and complex products. In the phase of preliminary data collection, our sample consists of 200 participants (balanced by age) recruited from a business school and a technical university. The participants' task is to make pair wise comparisons of preference between specific realizations of each product group. The product realizations that the participants received for comparison differed in those attribute dimensions that they rated less important in phase 1 (middle in the grid). Currently we are using a computer based experimental design including a web-based application, which performs the procedure detailed above. By this, every participant has the personalized attribute set (that they rated less or medium important) for the pair wise comparisons.

For the pair-wise comparisons the participants were instructed to *”Choose the preferred one among the two presented! Imagine that you can win it as a prize, and imagine that price is indifferent, and equal in this case!”* The test terminated when the participant

gives the first intransitive answer, or if the participant compared all possible pairs. In this phase, we counted with the number of comparisons without intransitivity (the comparisons accomplished until the first intransitive reply) as a dependent variable. To analyze the effect of product complexity on intransitivity, we are going to use a one-way ANOVA design (with levels of simple, medium complex and complex product groups). Participants are blind to the aim of the experiment until the end of the procedure. The test lasts for maximum 20 minutes including debriefing. Participants complete the task online. Both phases are executed with computer-based data collection.

It is important to note that there are two possible versions to show up the pairs of virtual products to the subjects and there may be found arguments for and against. We show up to the subject those attributes, which are not different (In Table 4 at most 2 of such attributes may exist); or only those that are different from each other (these attributes may exist, at least 3). At the latter, the argument is that the test subjects will not be charged by that extra information, while at the former is that all five coordinates (attribute values) may be seen to decide. Of course, the order of the showing up of the attributes are not changed. In each case the vertical order (top to bottom) of the middle column of the Q-sort (e.g. the 5 most indifferent attributes, out of the total 11 ones in case of smart phones), is understood as a horizontal one (left to right). Further details of our research will be presented at the conference.

Instead of epilogue

While "revealed preferences" are empirically measurable notions, "underlying preferences" do exist just in theory i.e. they are purely hypothetical notions. Therefore, the most general framework is if at the start, it is discussed in the context of a conceptual model or within a so-called "black-box". The input of the model are the real or virtual items/products and their properties to qualify or to choose, while the output of it are the "revealed preferences". However, from this point on several hypotheses, axiomatic assumption emerge. The most common is that in our brain a binary relation evolve on the set of objects, which governs this transformation into structured sets. Related to the "underlying preferences" four questions arise immediately:

- 1) Is it justified to assume that there exist?
- 2) If they exist and can be described as binary relations, are they transitive or not?
- 3) Are they constant or stable?
- 4) If they are not stable, a functional relationship or assuming a random rule, can they be modelled in a realistic way?

These are all crucial questions for future research.

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THE RELEVANCE OF ORGANIZATION CAPITAL FOR MARKET CAPITAL RETURNS: AN EXTENDED STUDY

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Abstract

This paper extends the existing findings on the theory of “organization capital” proposed by Lev et al. (2009) through a reproduction analysis on newer data, with a different estimation method. A new empirical perspective is proposed, where the intrinsic relationship of the different profitability measures is analyzed in order to offer a survey over the average firm’s capacity of generating excess returns in relation to the closest neighbor, based on its uniqueness. Nevertheless, the analysis seeks to define how profitable unique skills and knowledge are in comparison to the companion portfolio’s, which characteristics are pervasive and how the time-lags of return on investments in knowledge vary between the individual and aggregate levels.

Keywords: Organization capital, intellectual capital, stock value, portfolio theory, excess returns

Introduction

The “organization capital” concept proposed by Lev et al. (2009) withholds that unique structural and organizational designs, as well as business processes generate sustainable competitive advantages. The paper builds most of its methodology on Fama and MacBeth’s (1973) article, where a portfolio model is evaluated for elasticity and linearity in its ability of predicting future market returns. Although a reliable financial analysis uses hourly or daily stock data, much can be learned by extending the analysis performed by Lev et al. (2009) and formulating a model which can elaborate further on its findings.

In this paper, Lev et al.’s (2009) analysis is reproduced and due to the poor statistical results of the original study, an additional model is proposed to further investigate the ability of organization capital to generate abnormal returns. This new estimation model is formulated on basis of multiplicative errors to extend the existing findings and verify the profitability the portfolio and organization capital theories by applying a new statistical approach and including additional portfolio variables. The model is estimated on basis of a generalized method of moments model, to account for the time-lag trap often encountered in economic studies and to analyze the previous findings further through a new methodological perspective. Nevertheless, this extended model allows for further understanding of the previous findings of both Lev et al. (2009) and Fama and MacBeth (1973) concerning the linearity of risk and returns in portfolio theories, and the ability of stock market data to explain abnormal returns and returns to scale. Nevertheless, this paper has the ambition of visualizing the existing differences in the capacity of firms of generating abnormal returns by re-tabulating the different firm classes’ competitiveness ranks and aiding in the decision-making processes related to firm value and portfolio-based returns models in something more than the competitive equilibrium (i.e. “perfect competition” model) of generating economic rents based on resources’ best abilities.

The remainder of this paper is organized as follows. The methodology and elaboration process of the reproduction analysis and its results are discussed in section two. The extended analysis model and methodological approach are discussed in section three, along with the formulation of hypotheses. The new empirical evidence is presented in section four, whilst the fifth section concludes the paper.

Methodology and Elaboration Process

The elaboration process follows the sampling procedure described in Lev et al. (2009). Financial data were collected from the database Compustat, but no data could be gathered from CRSP. Therefore, all analyses in this paper build on the stock data available in the Compustat. Data were selected for the period 1971 to 2012, a total of 358,101 annual observations. No monthly data is contained in this study.

The data was first deflated to monetary values based on base year 2013. After the calculation of growth rates and exclusion of firms with sales and total assets of less than 5 million USD, the sample consists of 68,661 annual observations. The composition of the data sample was determined on basis of the NAICS 2007 industrial classification standard and the eighteen industries included are presented in Table 1 along with the number of observations used in the market respectively the extended analyses.

TABLE 1: Industry distribution observations

Number of

<u>Industry name</u>	<u>Market</u>	<u>Extended</u>
Accommodation and Food Services	1,143	311
Administrative Support, Waste Management and Remediation Services	1,124	366
Agriculture Forestry Fishing and Hunting	136	39
Arts Entertainment and Recreation	193	71
Construction	1,134	339
Educational Services	110	34
Finance and Insurance	8,294	957
Health Care and Social Assistance	702	49
Information	5,513	794
Manufacturing	25,539	11,817
Mining Quarrying and Oil and Gas Extraction	2,294	539
Other Services (except Public Administration)	136	71
Professional Scientific and Technical Services	1,336	411
Real Estate and Rental and Leasing	1,068	38
Retail Trade	5,094	2,520
Transportation and Warehousing	3,192	137
Utilities	7,591	0
Wholesale Trade	2,869	1027
Total	68,661	19,520

The market analysis consists of estimating regression models to obtain the industry-specific measures of $AbSales_{it}$, $AbCost_{it}$, $AbProfit_{it}$ and organization capital OC_{it} , in agreement with the process described in the source article. For a detailed description of the variables, please see Appendix 1. A constant return to scale Cobb-Douglas production function was used to model the firms' output:

$$SALE_{it} = a_{0it} PPE_{it}^{b1it} EMP_{it}^{b2it} e_{it} \quad (1),$$

where $SALE_{it}$ represents the revenues of firm i in year t , PPE_{it} net plant, property and equipment, $EMPI_{it}$ the number of employees and e_{it} is the error term. The constant a_{0it} is the productivity parameter, modeled as a function of the instrumental variable SGA_{it} , as follows:

$$\log(a_{0it}) = b_{0t} + b_{0st} \log(SGA_{it}) \quad (2),$$

where SGA_{it} represents the selling, general and administrative expenses, computed by capitalizing and amortizing the annual SGA_{it} expense over three years, as follows:

$$\text{Adjusted } SGA_{it} = 1/n (SGA \text{ Expense}_{it} + SGA \text{ Expense}_{it-1} + \dots + SGA \text{ Expense}_{it-(n-1)}) \quad (3),$$

where $n=3$.

The applied production model allows hence for the two types of contributions described in Lev at al. (2009), namely a) the contribution common to all firms (b_{0t}) and b) the firm-specific contribution of organization capital to revenue ($b_{0st} \log(SGA_{it}/SGA_{it-1})$).

TABLE 2: Descriptive statistics of the variables used to estimate organization capital

<u>Variable^a</u>	<u>Mean</u>	<u>Median</u>	<u>1st Q</u>	<u>3rd Q</u>	<u>Std. Dev.</u>
SALE _{it} (\$ millions)	56.88	14.87	6.53	40.61	167.41
COST _{it} (\$ millions)	47.87	12.16	5.27	33.37	150.83
EMP _{it} (thousands)	242.90	80.03	31.07	224.60	582.60
PPE _{it} (\$ millions)	26.37	4.74	1.23	18.91	81.18
SGA _{it} (\$ millions)	9.80	2.22	0.77	6.74	28.22
Log(SALE _{it} /SALE _{it-1})	-2.198	-2.215	-2.295	-2.121	0.3980
Log(COST _{it} /COST _{it-1})	-2.243	-2.218	-2.303	-2.124	0.4474
Log(EMP _{it} /EMP _{it-1})	-2.230	-2.292	-2.331	-2.224	0.7594
Log(PPE _{it} /PPE _{it-1})	-2.203	-2.243	-2.311	-2.145	0.4860
Log(SGA _{it} /SGA _{it-1})	-2.278	-2.214	-2.289	-2.133	0.6603

^a Variable definitions are provided in Appendix 1.

The market models were estimated by substituting equation (2) into equation (1) and by taking logarithms of the annual changes:

$$\log(\text{SALE}_{it}/\text{SALE}_{it-1}) = b_{0t} + b_{0st} \log(\text{SGA}_{it}/\text{SGA}_{it-1}) + b_{1t} \log(\text{PPE}_{it}/\text{PPE}_{it-1}) + b_{2t} \log(\text{EMP}_{it}/\text{EMP}_{it-1}) + \log(e_{it}/e_{it-1}) \quad (4).$$

This equation was estimated annually and cross-sectionally for all eighteen industries to obtain the firm-specific monetary measures of organization capital to revenues (OC_{it}). Table 2 presents the descriptive statistics of the variables used to predict the revenues under the average efficiency assumption without organization capital, which were subtracted from the firms' actual revenues to obtain the measure of $AbSale_{it}$, i.e. the contribution of organization capital to revenue of firm i in year t . A similar procedure was followed for the growth rate of costs and the calculation of $AbCost_{it}$ as the difference between the firms' actual costs and the computed costs without organization capital.

The relationship of $AbProfit_{it} = AbSale_{it} + AbCost_{it}$ was further applied in the calculation of the firms' organization capital measures (OC_{it}) by capitalizing and amortizing $AbProfit_{it}$ over five years scaled by the total assets in year t , as described in equation (3).

The computed organization capital measure (OC_{it}) was thereafter related to the five future years of firm performance, through the calculation of the growth rates of operating income ($OIGrowth_{it}$) and sales ($SALEGrowth_{it}$). The size and book-to-market adjusted excess returns were computed using the portfolio approach, where the firms were grouped by their book-to-market ratio into five equal groups each year. The groups were labeled "A" to "E", where "A" represents the highest book-to-market quintile and "E" the lowest one. The size breakpoints were determined by classifying the companies into five equal groups, where a label of "L" represents the largest companies, "M" middle-sized companies and "S" small companies, with "LM" and "MS" as intermediary labels. The annual excess returns ($ABRET_{it}$) were calculated as the difference between the firms' book-to-market measures and the respective companion portfolio's average book-to-market intensity.

The ten years survival requirement was nevertheless followed by assuring that the firms included in the extended analyses had an organization capital value estimate (OC_{it}) and that performance data was available for the future five years. The final sample consists of 19,520 unbalanced observations and their industrial distribution can be found in Table 1 under the column “Extended”. The majority of the firms included in the study are high-level book-to-market companies (A), of size large (L). Table 3 presents the descriptive statistics of the organization capital and firm performance measures used in the extended analyses.

TABLE 3: Descriptive statistics of organization capital and firm performance

Variable^a	Mean	Median	1st Q	3rd Q	Variance	Std. Dev.
Organizational capital variables						
OC_{it}	-0.000042	-0.000338	-0.005355	0.005048	0.000234	0.015303
OC_{it} (\$ millions)	1.000076	0.999662	0.994659	1.005061	0.000244	0.015626
Operating performance and market performance						
$OIGrowth_{it+1}$	0.022621	0.013376	-0.003800	0.035968	0.115933	0.340489
$SALEGrowth_{it+1}$	0.222361	0.120642	0.018531	0.276653	1.372184	1.171402
$ABRET_{it}$	-0.220315	0.000000	0.000000	0.000000	1.111192	1.054131
$CUMABRET_{it+1}$	-0.451434	-0.804920	-1.202349	0.092937	370.198678	19.240548
Firm characteristics						
$Size_{it}$	3.175822	0.000000	0.000000	10.032277	1.111192	1.054131
$RDCAP_{it}$	-2.755021	-2.688356	-3.189963	-2.161611	1.001837	1.000918
EP_{it}	0.833375	0.000000	0.000000	0.402929	2.835816	1.683988
D_EP_{it}	0.119369	0.000000	0.000000	0.000000	0.105139	0.324251
BM_{it}	4.205889	0.000000	0.000000	12.577997	42.917021	6.551108
VOL_{it}	0.576157	0.000000	-3.376082	1.589700	24.806013	4.980564
R_OC_{it}	0.554000	0.600000	0.300000	0.800000	8.45240	2.90730

^aVariable definitions are provided in Appendix 1.

Reproduction of the Previous Analyses

The first part of this analysis consists of reproducing the univariate analyses described in Lev et al. (2009). The univariate analyses of operating income ($OIGrowth_{it}$), sales ($SALEGrowth_{it}$), abnormal returns ($ABRET_{it}$) and cumulative abnormal returns ($CUMABRET_{it}$) indicate the same findings as the original paper in the case of the operating income and sales, cf. Tables 4 and 5. The trend of firms in the top decile of their industry-year rank (R_OC_{it}) of having higher growth rates of operating income and sales is obvious and statistically significant in all cases.

TABLE 4: Univariate analyses of operating performance $OIGrowth_{it+i}$.

Portfolio of OC_{it}	i is years after portfolio formation				
	i = 1	i = 2	i = 3	i = 4	i = 5
1:Bottom	0.0209	0.0503	0.0821	0.1158	0.1575
2	0.0414	0.0730	0.0813	0.1255	0.1471
3	0.0139	0.0303	0.0525	0.0764	0.1023
4	0.0168	0.0366	0.0571	0.0807	0.1044
5	0.0181	0.0363	0.0682	0.1000	0.1291
6	0.0193	0.0421	0.0648	0.0925	0.1343
7	0.0208	0.0434	0.0664	0.0914	0.1218
8	0.0216	0.0429	0.0710	0.1079	0.1411
9	0.0239	0.0506	0.0796	0.1294	0.1817
10:Top	0.0291	0.0623	0.1061	0.1432	0.2053
Top minus Bottom	0.0082*	0.0120*	0.0240*	0.0274*	0.0478*
t-value	-3.57	-2.13	-2.44	-2.56	-2.87

TABLE 5: Univariate analyses of operating performance SALEGrowth_{it+i}.

Portfolio of OC _{it}	i is years after portfolio formation				
	i = 1	i = 2	i = 3	i = 4	i = 5
1:Bottom	0.2162	0.4970	0.8651	1.2727	1.7058
2	0.2537	0.5210	0.7436	1.1139	1.4944
3	0.1693	0.3553	0.5781	0.8325	1.1094
4	0.1816	0.4022	0.6292	0.8900	1.2080
5	0.1791	0.3847	0.7028	1.0181	1.3780
6	0.2324	0.4659	0.7206	1.0207	1.4496
7	0.2007	0.4373	0.7062	0.9952	1.2961
8	0.2336	0.4927	0.7577	1.0700	1.4647
9	0.2476	0.5564	0.8871	1.3555	1.8713
10:Top	0.2990	0.6681	1.0886	1.6023	2.3538
Top minus Bottom	0.0828*	0.1711*	0.2235*	0.3297*	0.6480*
t-value	-3.74	-3.23	-2.58	-2.74	-3.80

In disagreement with the source article, the results could not be reproduced for the abnormal returns univariate analyses CUMABRET_{it} and ABRET_{it}, cf. Tables 6 and 7. Herein, there are no significant differences between the means of the top and the bottom-ranked firms' levels.

TABLE 6: Univariate analyses of future cumulative excess returns CUMABRET_{it+i}.

Portfolio of OC _{it}	i is years after portfolio formation				
	i = 1	i = 2	i = 3	i = 4	i = 5
1:Bottom	-0.5996	-1.8417	-2.5167	-2.9537	-3.0971
2	-1.1461	0.3137	1.8455	1.9536	1.6690
3	-0.7021	-2.4899	-5.2223	-7.1874	-7.9176
4	0.2028	0.9566	0.5486	-0.7263	-0.6885
5	-0.9783	-4.3585	-7.4646	-10.1974	-13.2982
6	-0.2506	-0.5329	-0.9716	-1.3696	-2.0881
7	0.3677	5.0570	4.3298	3.8633	3.1912
8	-0.9726	-1.4829	-2.5511	-3.9108	-5.4767
9	-0.7925	-1.9173	-3.1063	-4.6522	5.3460
10:Top	0.2182	0.0025	-2.8964	-5.0371	-6.7363
Top minus Bottom	0.8178	1.8441	-0.3797	-2.0834	-3.6391
t-value	-0.84	-0.81	0.19	0.90	1.23

TABLE 7: Univariate analyses of future annual excess returns ABRET_{it+i}.

Portfolio of OC _{it}	i is years after portfolio formation				
	i = 1	i = 2	i = 3	i = 4	i = 5
1:Bottom	-0.5996	-1.2421	-0.6750	-0.4370	-0.1435
2	-1.1461	1.4598	1.5318	0.1082	-0.2847
3	-0.7021	-1.7877	-2.7325	-1.9650	-0.7303
4	0.2028	0.7538	-0.4080	-1.2749	0.0378
5	-0.9783	-3.3802	-3.1062	-2.7328	-3.1008
6	-0.2506	-0.2823	-0.4387	-0.3980	-0.7185
7	0.3677	4.6893	-0.7272	-0.4665	-0.6721
8	-0.9726	-0.5102	-1.0682	-1.3597	-1.5660
9	-0.7925	-1.1249	-1.1890	-1.5459	9.9983
10:Top	0.2182	-0.2157	-2.8988	-2.1407	-1.6992

Top minus Bottom	0.8178	1.0263	-2.2238	-1.7037	-1.5557
t-value	-0.84	-0.61	1.25	1.47	1.58

The second phase of the reproduction analysis consisted of estimating panel data models of the growth rates based on the two multivariate models described in Lev et al. (2009).

The first model analyzes the capacity of organization capital to contribute to future growth while controlling for several major factors:

$$\text{Growth}_{it+i} = a_0 + a_1 \text{R_OC}_{it} + a_2 \text{Size}_{it} + a_3 \text{DIV}_{it} + a_4 \text{RDCAP}_{it} + a_5 \text{EP}_{it} + a_6 \text{D_EP}_{it} + a_7 \text{BM}_{it} + e_{it}$$

(5),

where growth is represented by the operating income (OIGrowth_{it}) respectively sales (SALEGrowth_{it}) growth rates. Please see Appendix 1 for variable descriptions. The fitted multivariate panel data ordinary least squares regressions indicate agreement with the original analyses, cf. Table 8. R_OC_{it} was found to be statistically significant for all five years after the portfolio formation, in similarity with most of the included variables. There was not enough data available in the collected sample to form the ratio of dividend to total assets variable DIV_{it}, so this variable is lacking from the analyses and the results.

TABLE 8: Multivariate linear panel data regression analyses.**Dependent variable is OIGrowth_{it+i} - i is years after portfolio formation**

	i = 1		i = 2		i = 3		i = 4		i = 5	
	Coef.	t-value	Coef.	t-value	Coef.	t-value	Coef.	t-value	Coef.	t-value
Intercept	0.0244	1.0784	0.0974*	2.5107	0.1044.	1.9170	0.2109**	2.6412	0.2636**	2.6822
R_OC _{it}	0.0096**	3.2501	0.0133**	2.6216	0.0144*	2.0072	0.0348***	3.3265	0.0458***	3.5671
Size _{it}	-0.0006	-0.3555	-0.0052.	-1.8512	-0.0065.	-1.6665	-0.0124*	-2.1575	-0.0132.	-1.8726
RDCAP _{it}	0.0044***	4.4670	0.0074***	4.4356	0.0106***	4.5079	0.0151***	4.3882	0.0193***	4.5880
EP _{it}	-0.0030***	-4.5881	-0.0060***	-5.3999	-0.0086***	-5.4308	-0.0105***	-4.6062	-0.0124***	-4.3857
D_EP _{it}	-0.0071*	-2.0310	-0.0179**	-2.9942	-0.0280***	-3.3516	-0.0353**	-2.9062	-0.0473**	-3.1756
BM _{it}	0.0014*	2.0275	0.0022.	1.7689	0.0032.	1.8739	0.0030	1.2106	0.0027	0.8823
Adj R ²	0.0567		0.0539		0.0447		0.0303		0.0246	

Dependent variable is SALEGrowth_{it+i} - i is years after portfolio formation

	i = 1		i = 2		i = 3		i = 4		i = 5	
	Coef.	t-value	Coef.	t-value	Coef.	t-value	Coef.	t-value	Coef.	t-value
Intercept	0.3430**	2.5994	0.9659***	3.5630	1.5254***	3.4584	2.0009**	3.1968	2.2569**	2.9851
R_OC _{it}	0.0601***	3.4722	0.1482***	4.1689	0.1943***	3.3591	0.2745***	3.3428	0.3468***	3.4966
Size _{it}	-0.0153	-1.6062	-0.0500*	-2.5524	-0.0899**	-2.8200	-0.1273**	-2.8134	-0.1355*	-2.4794
RDCAP _{it}	-	-6.2379	-	-6.4255	-0.0949***	-5.6602	-0.1640***	-6.8924	-0.2012***	-6.9993
EP _{it}	-0.0007	-0.1740	-0.0053	-0.6814	-0.0170	-1.3543	-0.0298.	-1.6777	-0.0516*	-2.3967
D_EP _{it}	-	-3.9991	-0.1198**	-3.0285	-0.1860**	-2.8900	-0.2358**	-2.5809	-0.3363**	-3.0469
BM _{it}	-0.0060	-1.4453	-0.0153.	-1.8034	-0.0181	-1.3108	-0.0213	-1.0870	-0.0230	-0.9682
Adj R ²	0.0512		0.0627		0.0480		0.0455		0.0470	

Dependent variable is CUMABRET_{it+i} - i is years after portfolio formation

	i = 1		i = 2		i = 3		i = 4		i = 5	
	Coef.	t-value	Coef.	t-value	Coef.	t-value	Coef.	t-value	Coef.	t-value
Intercept	-18.9893	-1.5142	-52.0928	-0.8349	-62.3919	-0.9217	-52.1970	-0.7240	-42.9840	-0.5673
R_OC _{it}	2.6682	1.3800	10.1745	1.0576	10.9952	1.0535	6.0807	0.5471	2.5707	0.2201
Size _{it}	0.9576	1.0089	4.1602	0.8810	3.8968	0.7606	4.6040	0.8438	4.5800	0.7987
VOL _{it}	0.1719*	2.0198	0.7013.	1.6563	0.7366	1.6036	0.7368	1.5060	0.6735	1.3097
EP _{it}	-0.5047	-1.3765	-0.7365	-0.4038	-1.2605	-0.6370	-0.4081	-0.1936	-0.0249	-0.0112
D_EP _{it}	-0.2602	-0.1261	-2.0647	-0.2011	-0.6952	-0.0624	-5.2254	-0.4405	-6.7580	-0.5420
BM _{it}	0.4766	1.1760	0.0266	0.0132	0.9308	0.4255	-0.3707	-0.1592	-0.9933	-0.4057
Adj R ²	0.0148		0.0074		0.0072		0.0061		0.0056	

Variable definitions are provided in Appendix 1. Significance codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1.

The second model proposed by the authors relates the five future years' cumulative excess returns to the industry-year rank of the organization capital of the firms, along with diverse other control factors:

$$\text{CUMABRET}_{it+i} = a_0 + a_1 \text{R_OC}_{it} + a_2 \text{Size}_{it} + a_3 \text{BETA}_{it} + a_4 \text{VOL}_{it} + a_5 \text{EP}_{it} + a_6 \text{D_EP}_{it} + a_7 \text{BM}_{it} + e_{it} \quad (6),$$

where CUMABRET_{it+i} is the sum of excess returns adjusted for companion size and book-to-market from year t to year $t + i$. The BETA_{it} variable was computed but was not included in the regression output and is therefore omitted from the results of the fitted multivariate ordinary least squares panel data regression analysis presented in Table 8. Herein, only the variance of the previous four years' returns (VOL_{it}) was found to be significant, and only during the first two years, in disagreement with the original analyses which found support for most variables for all the analyzed years.

In summary, in spite of the outlined differences, a major problem of both the original and reproduced analyses is the poor statistical support of the regressions, cf. the adjusted R^2 levels. Therefore, in order to extend the previous findings, an extended model is proposed.

An Extended Regression Model

In the financial perspective, focus lies on creating maximum financial turnover, for both the firms and their stakeholders. As the output variables are concerned with profitability, the proposed model

$$\begin{aligned} \text{CUMABRET}_{it} = & \text{lag}(\text{AbProfit}_{it,n})^{\beta^1} + \text{lag}(\text{OC}_{it,n})^{\beta^2} + \text{lag}(\text{EMP}_{it,n})^{\beta^3} + \text{lag}(\text{Size}_{it,n})^{\beta^4} \\ & + \text{lag}(\text{VOL}_{it,n})^{\beta^5} + \text{lag}(\text{PPE}_{it,n})^{\beta^6} + \text{lag}(\text{OIGrowth.il}_{it,n})^{\beta^7} \\ & + \text{lag}(\text{SALEGrowth.il}_{it,n})^{\beta^8} + \text{lag}(\text{p.OIGrowth.il}_{it,n})^{\beta^9} \\ & + \text{lag}(\text{p.SALEGrowth.il}_{it,n})^{\beta^{10}} + \text{lag}(\text{p.OC}_{it,n})^{\beta^{11}} + \text{lag}(\text{p.BM}_{it,n})^{\beta^{12}} \\ & + \text{lag}(\text{p.EP}_{it,n})^{\beta^{13}} + \text{lag}(\text{p.Size}_{it,n})^{\beta^{14}} + e_{it}^{\epsilon} \end{aligned} \quad (7)$$

contains both the firms' and the portfolios' characteristics. Such an analysis offers a survey over the intrinsic relationship of the growth rates, along with the opportunity of testing the common portfolio membership profitability expectation. Nevertheless, the proposed estimation procedure approaches the time-lag of returns to investment from a different perspective than the source article, yet by serving the same purpose as the original analyses which have a poor statistical support in both the reference article and this reproduction study.

Hypotheses

The applied portfolio methodology provides a suitable base of both evaluating and comparing the member firms, although a comparison of the companies is not the main purpose of analysis. The major intent is to evaluate how firms with similar traces perform by themselves in relation to other member firms in the companion portfolio through a) the inclusion of the organization capital measure as a differential proxy and b) longitudinally, to correct the often misleading variations in short-term corporate value observations and define how these aspects vary in their delay on investment from an aggregated perspective.

Weak linkages between the average firm's profitability and the benefits of its corporate stakeholders are hence analyzed in relation to the closest competitors. By making them equally important and complementary, the variance of the effects of knowledge, skills and capabilities on profit can be expected to differ due to a) variation in implementation practices within the internal business systems and b) by year, due to different economic conditions and advances in e.g. technology and research which are common to all firms.

Departing from Lev et al.'s (2009) article, I first hypothesize that due to the assumed heterogeneity of the companies' skills and knowledge, results should be pervasive for companies with high organization capital measures, i.e. over both time and space:

H₁: *organization capital is a pervasive measure of asymmetric information returns and it exhibits positive excess financial returns*

H₂: *the effects of organization capital are not relative to closest-neighbor firms, but unique and therefore pervasive*

H₃: *the effects of organization capital are traceable regardless of the applied estimation method.*

The source article further suggests that reported operating income and sales information can sometimes be misleading and that therefore organization capital is a more robust measure. A last factor of interest is thus the intrinsic relation of the used profitability measures:

H₄: *the measure of organization capital is robust and indicates the profitability level more precisely than operating cash flow and sales, at both the individual firm level and for firm groups with similar characteristics.*

This last hypothesis differs from previous results since such an extended aggregated analysis allows for the study of all parts, both independent and dependent variables in the same analysis of longevity, on newer financial data and through a different estimation method.

Estimation Procedure

Since no valid results could be obtained for the $BETA_{it}$ variable described in Lev et al. (2009) in the reproduction analysis, the suggested solution relates previous investments to current values by incorporating estimation of log-differenced data. This procedure is equivalent to estimating growth rates expressed as estimates of the slope coefficient (World Bank 2013). This model offers hence an improvement in relation to most previous studies of this kind by defining novel effects in data which are widely available to the stakeholders, while sorting out previous issues of the prevailing time-delays in return on investment and the longevity of intangible assets. The analysis contends the flows of knowledge, allowing for the pervasiveness of knowledge, skills and uniqueness to be captured in relation to exceptional monetary value, as well as in the characteristics of the companion portfolio.

Stochastic Error Representation

The model builds on a restricted Cobb-Douglas production function, which is widely applied in analyses of corporate production based on inputs and outputs. A general Cobb-Douglas production function (Cobb and Douglas, 1928) $y = AK^{\alpha}L^{\beta} + \varepsilon$ can be an appropriate representation of the production systems since in reality, the effects of the inputs are limited. Yet, the production function is not an isolated equation but rather embedded in a system of equations derived from hypotheses about the behavior of entrepreneurs and market structures. Therefore, the stochastic errors might not be independent of each other and the applied estimation procedure should recognize this.

A common difference between the additive and multiplicative error-estimation approaches is that the relative marginal elasticities of α_K and β_L do not agree in magnitudes (Hrishikesh, 2008, pp. 10-11). Fitting the model with generic additive errors assumes the same variability around the model in all areas of the data, i.e. homoscedasticity. However, the normal distribution assumption of the errors of the function, $y = AK^{\alpha}L^{\beta} + \varepsilon$, where ε is a random error, does not carry over efficiently to its expected stochastic representation. To make linear estimation of a Cobb-Douglas function practical, variables should undergo variance-stabilizing transformations through e.g. logarithmic scaling. Yet, zero or close to zero values in the datasets might have an undesired effect on the estimation of the model. In “U-shaped” curved cases, like in economic theory, the variability might be greater near the

peak of a model. Therefore, in such a case, a multiplicative error structure may be more appropriate.

Additive errors are commonly added to the model after the transformation of the variables to logarithmic scales, i.e. $y = AK^\alpha L^\beta + \varepsilon$, is transcribed to $\log(y) = \log(A) + \alpha \log(K) + \beta \log(L) + \varepsilon$. A non-linear representation, $y = f(K,L) = AK^\alpha L^\beta$ is therefore proposed, as it can be solved through logarithmic transformation and multiplicative errors which are a product of their means, so that $y = AK^\alpha L^\beta \varepsilon^u$. This form is commonly used when it is suitable to express change as a percentage instead of a constant amount, which is useful in this study due to the concern with the magnitude of the exhibited returns on investment.

A multiplicative non-linear expression like the one proposed herein translates hence to a linearized form $\log(y) = \log(A) + \alpha \log(K) + \beta \log(L) + \log(\varepsilon)$ in order to be solvable with ordinary least squares. The Cobb-Douglas multiplicative function is especially suitable for this scope since the function is asymptotic to the axes no matter what level of output is chosen and is therefore homothetic, not making it possible to produce anything without all the specified inputs available. Multiplicative error type modeling nevertheless allows for testing an important theoretic tenet of intellectual capitals' dynamics by supporting a non-zero combination of all specified inputs, since intellectual capital theory argues that value is obtained through the combination of the intellectual capitals and not only by their individual contribution (Saint-Onge, 1996; Edvinsson and Malone, 1997; Bukh and Mouritsen, 2005).

Logarithmic transformation is in itself monotonically increasing. In general, any homothetic function (e.g. Cobb-Douglas) is a monotonically increasing transformation of a homogeneous function (Hrishikesh, 2008, p. 28). This characteristic comes with the following restrictions: a) the scale elasticity for homothetic production functions depends only on the output level, b) the elasticity of substitution is 1 and c) the constant elasticity of scale is $1/(1 + \rho)$.

Estimation Model

Croissant and Millo (2008) specify that the unobserved effects model of first difference offers an opportunity of analyzing the data as growth rates even when the errors are autocorrelated. By removing the time-invariant individual components and by first-differencing the data, i.e. lagging the model and subtracting the time-invariant components, the intercept and the individual error components are eliminated. When the fixed model's errors are uncorrelated, usually the first difference model's errors are correlated with approximately $\text{cor}(e_{it}, e_{i,t-1}) = -0.5$ and any individual effect is wiped out when differencing. When the individual errors are not autocorrelated, the dynamic generalized method of moments model is a robust estimation technique for the differenced variables and it offers the possibility of applying instrumental variables to overcome exogeneity and perform the analyses based on intrinsic variance. Nevertheless, by applying panel data research design instead of regular or time-series multiple regressions, the collected data can be reliably analyzed across time and space, i.e. from both the cross-sectional and longitudinal perspectives, as well as multiplicatively in the errors, solving hence both discussed issues simultaneously.

Results

Table 9 presents the results from the cross-sectional and longitudinal regression models of the profitability of the companies, in the presence of the additional firm and companion portfolio characteristics described in equation (7). The results indicate the percentages of increase or decrease in the analyzed output as the inputs are increased by one percent when all other variables are held constant. Since the coefficients measure the elasticity of the output in relation to input changes, the negative signs indicate positive effects

on corporate value and elastic capacities for absolute values bigger than 1. The coefficients' significance is indicated by the significance codes. The gmm models are estimated with different lags and since the independent variable is the growth rate in the following year, "lag 0" corresponds to a contemporaneous setting. Lags "1" to "4" indicate the effects of the one respectively to four years old investments on the output.

In the same year as the investments, the effects of the net income ratio (EP_{it}) and size (*ibid*) are beneficial for abnormal returns, with values of -0.28 respectively -0.15 percent. One year after, returns due to the levels of EP_{it} and size are still value-giving and of approximately the same magnitude. In addition, the previous year's operating income growth ($OIGrowth.i1_{it}$) is the most profitable and elastic (-7.52). Returns are also generated due to the companion portfolio's level of growth in sales ($p.SALEGrowth.i1_{it}$) at a magnitude of -1.72 percent, which also is elastic, whilst the levels of firm sales ($SALEGrowth.i1_{it}$) act negatively on the returns, with 1.19 percent.

Two years after, abnormal returns are heavily driven by the organization capital level of the firms (OC_{it}), -17.86 percent, along with the maintained benefits from size (-0.16). The companion portfolio's aggregated organization capital level ($p.OC_{it}$) acts negatively on the abnormal returns of the average member firm, which can be seen as a side-effect of competitiveness and important economic catalyst. The variance of the returns over the previous years (VOL_{it}) slightly diminishes the capacity of generating returns, by 0.24 percent. Three years after, the variance of the returns over the previous years (VOL_{it}) acts negatively on abnormal returns, (0.22 percent), just as the operating income growth of the previous two years ($OIGrowth.i1_{it}$). An interesting fact here is that although the average member firm's operating income is negative, the aggregated level of operating income in the companion portfolio ($p.OIGrowth.i1_{it}$) generates elastic benefits for the member firms (-40.23 percent).

Four years after, inelastic benefits are obtained by the level of net income (EP_{it}), -0.54 percent. $AbProfit_{it}$, the unamortized component of OC_{it} , and the variance of the previous years' returns (VOL_{it}) act negatively, by 4.87 respectively 0.31 percent. This emphasizes the importance of amortization in economic analyses to maintain the robustness of the measures.

TABLE 9: Generalized method of moments panel data regressions. Dependent variable is CUMABRET_{it+1}.

	lag = 0		lag = 1		lag = 2		lag = 3		lag = 4	
	Coef.	z-value	Coef.	z-value	Coef.	z-value	Coef.	z-value	Coef.	z-value
AbProfit _{it}	0.3733	0.5246	-0.9164	-1.0411	1.9646	1.0784	-0.2697	-0.2107	4.8659.	1.8844
OC _{it}	-5.5323	-0.4614	-31.8761	-0.6055	-17.8619*	-2.2383	12.9473	0.6467	-1.6752	-0.1262
EP _{it}	-0.2849**	-2.6248	-0.2941*	-2.0747	-0.2050	-0.9890	-0.1301	-0.6030	-0.5406*	-1.9801
EMP _{it}	0.3339	0.7456	-0.1886	-1.1954	-0.3843	-0.8240	0.0404	0.0673	-0.4516	-0.7485
Size _{it}	-0.1542*	-2.2271	-0.1131*	-2.0884	-0.1608*	-2.2282	-0.0949	-0.8189	-0.1727	-0.8793
VOL _{it}	0.0707	1.6008	0.0785	1.5482	0.2406*	2.1141	0.2178*	2.0635	0.3077.	1.8632
PPE _{it}	-0.2594	-0.8046	0.1437	1.2381	0.2869	0.8514	-0.0076	-0.0184	0.3974	0.8298
OIGrowth.i1	0.4218	0.1108	-7.5169.	-1.6870	4.5138	0.6220	15.8861.	1.8701	-24.5357	-1.5837
SALEGrowth.i1 _{it}	0.0003	0.0006	1.1850*	2.0278	0.1137	0.0812	-0.8790	-0.5007	-0.1071	-0.0834
p.OIGrowth.i1 _{it}	1.9802	0.2246	-1.3941	-0.1605	-3.7410	-0.4517	-40.2253*	-1.9970	-18.3602	-0.9832
p.SALEGrowth.i1 _{it}	0.7245	1.1439	-1.7212*	-2.3948	-1.0082	-0.7806	0.0102	0.0041	0.3430	0.3132
p.OC _{it}	-2.7754	-0.1571	52.5398	0.6741	42.8365*	2.1043	-40.4542	-0.8032	-18.9136	-0.5920
p.BM _{it}	0.1818	1.4922	0.0700	0.5116	-0.0891	-0.2773	-0.0476	-0.2046	-0.0953	-0.2736
p.EP _{it}	0.1482	0.6514	0.0474	0.2257	0.2443	0.3222	-0.1367	-0.4289	0.7727	1.2395
p.Size _{it}	-0.1834	-1.4463	-0.0354	-0.2869	0.0759	0.2703	0.0331	0.1975	-0.0648	-0.1671
Sargan test	χ^2 (81) 30.00 (1.000)		χ^2 (80) 23.53 (1.000)		χ^2 (81) 65.80 (0.890)		χ^2 (81) 83.92 (0.390)		χ^2 (81) 53.58 (0.992)	
AR(1)	-3.07 (0.001)		-2.80 (0.003)		-2.07 (0.019)		-2.01 (0.022)		-1.90 (0.028)	
AR(2)	1.18 (0.118)		0.63 (0.263)		0.985 (0.162)		0.94 (0.172)		0.26 (0.396)	
Wald coefficient test	χ^2 (15) 60.11 (2.4171e-07)		χ^2 (15) 55.04 (1.7587e-06)		χ^2 (15) 39.72 (0.0004)		χ^2 (15) 35.78 (0.001)		χ^2 (15) 39.98 (0.0004)	

Variable definitions are provided in Appendix 1.

Significance codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1.

In summary, benefits due to the unique skills and characteristics are obvious two years after the investments. Yet, value erosion occurs due to the skills present in the portfolio.

All models were fitted after close considerations of the methods outlined by Croissant and Millo (2008), who specify that the choice of the suitable panel model depends on the properties of the error term. All models are validated with the built in tests, with robust values against autocorrelation and heteroskedasticity. It can be read from the model diagnostics that the Hansen-Sargan tests of overidentifying restrictions indicate a reliable use of instruments (the first to fifth differences of labor in this case), by rejecting the null hypotheses at high p-values, ranging from 0.390 to 1.000. The hypothesis being tested with the Hansen-Sargan test is that the instrumental variable is uncorrelated with the residuals and therefore is an acceptable and healthy instrument. The Arellano-Bond tests of serial autocorrelation AR (1) indicate that no autocorrelation is present in the original errors, at p-values lower than 0.05 and the AR (2) tests indicate that the first lag variables are autocorrelated, just as they should be, at p-values higher than the 95 percent confidence interval. The Wald tests of the coefficients indicate that the null hypotheses of a 0 difference between the coefficients can be rejected at p-values smaller than 0.05, meaning that the estimators are relevant.

The elasticity of scale of the restricted Cobb-Douglas production function is the sum of the coefficients. The elasticity of scale defines the ratio of the proportionate increase in output to the proportionate increase in inputs.

TABLE 10: Univariate analyses of returns to scale. Dependent variable is CUMABRET_{it+1}.

Portfolio of OC _{it}	lag = 0	lag = 1	lag = 2	lag = 3	lag = 4
1:Bottom	-0.3984	-1.2039	-1.5044	-0.4117	-0.9793
2	-0.2292	-1.2530	-1.0921	-1.0576	-1.8544
3	-0.8049	-0.7276	-0.9348	-0.4481	-0.6852
4	-0.8137	-0.7547	-0.8238	-0.6157	-0.7000
5	-0.8228	-0.7330	-0.7357	-0.6908	-0.7185
6	-0.8271	-0.7926	-0.7415	-0.8312	-0.7681
7	-0.8062	-0.7701	-0.6022	-0.9226	-0.7398
8	-0.8480	-0.7360	-0.5451	-1.0853	-0.7978
9	-0.8565	-0.7241	-0.3594	-1.2240	-0.7505
10:Top	-0.7582	-0.6993	0.0396	-1.8821	-1.0189
Top minus Bottom	-0.3598*	0.5046*	1.5440*	-1.4703*	-0.0396
t-value	7.92	-18.51	-33.40	32.59	0.39

It can be observed from Table 10 that the returns to scale are lower than 1 in the same year (lag 0) and that the firms of all organization capital ranks exhibited decreasing returns to scale, although net income (EP_{it}) and size acted positively in the results described in Table 9. Thus, doubling the investments in the respective inputs did not lead to a doubling of the abnormal returns immediately.

The first year after the investments, the regression analysis supported the elasticity of operating income (OIGrowth.i1_{it}) and realized sales levels of the companion portfolio (p.SALEGrowth.i1_{it}) of the previous year, cf. Table 9. Table 10 shows that the negative effect of the previous year's sales levels of the average firm (SALEGrowth.i1_{it}) and the positive effects of operating income (OIGrowth.i1_{it}) and size were not as successfully balanced in the excess returns of the bottom-ranked firms. The top firms managed to capitalize more efficiently in these conditions, although at diminishing returns to scale.

The table further indicates that returns due to organization capital (OC_{it}) are positive two years after (lag 2), and this only for the top ranked firms. This value is supportive of the findings of Lev et al. (2009) which could not be reproduced in the analyses presented in

Tables 6, 7 and 8. It is nevertheless the single positive returns to scale value and the differences are diminishing in agreement with the $R_{OC_{it}}$ rank of the firms, just as in the original analyses. In addition, it is noteworthy that in the regression analysis, the companion portfolio's level of organization capital ($p_{OC_{it}}$) acts negatively on the cumulative excess returns, and that in spite of the existing competitiveness, the top-ranked firms managed to attain higher returns to scale than their lower-ranked companions.

During the third year after the investments, it seems that the lower-ranked firms benefit more from the positive effects of the previously generated levels of operation income of the companion portfolio ($p_{OIGrowth.i1_{it}}$) than the top-ranked companies, although the operating income level of the average member firm ($OIGrowth.i1_{it}$) is acting negatively.

During the fourth year, the difference between the differently ranked firms has phased out and the seemingly diminishing returns from the unamortized profit component of organization capital ($AbProfit_{it}$) and previous returns' variance (VOL_{it}) acting negatively did not result in a statistically significant difference between the excess cumulative returns of the firms.

In order to visualize how the dynamics of organization capital varied during the analyzed years, the marginal rates of organization capital are computed for both the individual firms and the portfolios. Table 11 indicates the results, from where it can be read how the capacity of the individual firms of different ranks varied in comparison to the portfolios' organization capital benefits. All results are statistically significant for the analyzed years.

TABLE 11: Univariate analyses of organization capital marginal rates. Dependent variable is $CUMABRET_{it+1}$.

Portfolio of OC_{it}		lag = 0		lag = 1		lag = 2		lag = 3		lag = 4	
1:Bottom		0.5446	-0.5138	0.0973	-0.3784	0.3753	-0.9200	-0.2720	0.8688	0.0352	0.4062
2		0.2345	-0.2178	0.0419	-0.1604	0.1616	-0.3901	-0.1172	0.3684	0.0152	0.1722
3		0.1462	-0.1358	0.0261	-0.1000	0.1008	-0.2432	-0.0730	0.2297	0.0094	0.1074
4		0.0839	-0.0777	0.0150	-0.0572	0.0578	-0.1391	-0.0419	0.1313	0.0054	0.0614
5		0.0338	-0.0318	0.0060	-0.0235	0.0233	-0.0570	-0.0169	0.0539	0.0022	0.0252
6		-0.0120	0.0110	-0.0022	0.0081	-0.0083	0.0198	0.0060	-0.0187	-0.0008	-0.0087
7		-0.0673	0.0616	-0.0120	0.0454	-0.0464	0.1104	0.0336	-0.1042	-0.0044	-0.0487
8		-0.1319	0.1203	-0.0236	0.0886	-0.0909	0.2154	0.0659	-0.2034	-0.0085	-0.0951
9		-0.2286	0.2117	-0.0408	0.1559	-0.1576	0.3790	0.1142	-0.3580	-0.0148	-0.1674
10:Top		-0.5465	0.5137	-0.0976	0.3783	-0.3766	0.9198	0.2730	-0.8687	-0.0353	-0.4061
Top	minus	-1.0911*	1.0274*	-0.1949*		-0.7519*		0.5450*		-0.0705*	
t-value		59.93	-222.21	59.93	-222.21	59.93	-222.21	-59.92	222.21	59.93	222.21

*Individual firm OC marginal rates are indicated to the left, portfolio OC marginal rates to the right.

In general, the average top-ranked firm's marginal returns on its organization capital value are phased out by a portfolio belonging, whereas the opposite is true for the bottom-ranked firms, for which there are financial benefits of being associated with similar firms.

For the sole year where the returns to scale were positive for the top-ranked firms and the variables OC_{it} and $p_{OC_{it}}$ were significant in the regression analysis, i.e. lag 2, Table 11 clearly indicates how the marginal rates vary by rank and individuality vs. portfolio belonging. It can be observed that the marginal rates of the average firm increase along with the level of organization capital and that the marginal rate of -0.38 of the top ranked firms is below zero, i.e. profitable. On the portfolio side, it can be observed that the benefits of individual capabilities are eroded in the higher organization capital ranks. These results are in agreement with the findings presented in Table 9, where the individual skills (OC_{it}) were

beneficial whilst the competition with similar firms expressed through the portfolio belonging ($p.OC_{it}$) eroded the excess returns.

Conclusion

The purpose of this study was to first reproduce and thereafter extend the findings of Lev et al. (2009). The performed analyses supported the original findings to a great extent, although with the minor limitation of not having dividend data available. Given the fact that the sample companies experienced two economic crises during the analysis period, it is worthwhile to mention that organization capital was found to have a delayed and positive effect on excess returns, in agreement with the source article. Likewise, one could argue that in spite of the regularly slower growth of larger companies, the top-ranked industry-year companies capitalized on unique capabilities to a higher degree than their lower ranked companions and that the developed organization capital measure was robust in capturing this phenomenon.

In addition, some new findings could be generated on this slightly different data sample (newer financial years and divided by the NAICS 2007 industrial standard), with a different estimation method and survey perspective. The results indicate that the companion portfolio's skills can be daunting for some firms and that stakeholders should therefore not blindly assess the value of a firm only based on its characteristics and earnings level. The major risk lies as identified in the analyses in the levels of other firms' exceptional skills and knowledge.

The level of operating income, more commonly known as cash flow dedicated to maintenance and growth of operations, was important one year after the investments. Especially noteworthy was the finding that although the effects of operating income diminish from one to three years after the investment, the level of cash flow present in the portfolio is a gold mine. The sales levels of the companion portfolio also brought excess returns for the average firm in the respective portfolios, although the average firm's sales level from the previous year was found to be a noticeable risk factor. Firm size had beneficial effects until two years after an investment, although inelastic ones. The variance of the previous book-to-market returns acted as a risk factor after two years from the investment, whilst the operating income was steadily value-giving.

This study makes thus several contributions to existing literature. First, this study contributes to management theory through new and convincing evidence of differences in financial and market value of firms, across firms of different sizes, and across industry types. Second, the extended modeling presents an accurate and complete picture of both the time and space dimensions of knowledge management, where the delayed returns on investment are successfully linked to future values, facilitating hence the estimation of future returns and understanding about the dynamics of the measure of organization capital. Third, the suggested statistical representation of the production function applies multiplicative error structures based on the assumption that non-zero contributions of the respective intellectual capitals are not possible in practice, which is applied on the data from a different perspective than previous analyses.

In conclusion, the effects of the measure of organization capital were traceable through this new perspective as well, and similar results could be supported on basis of the new findings as in the reference article. Organization capital is a robust measure and its relation to sales and operating income ratio should definitely be taken into account when assessing firm value.

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Appendix 1 – Variable Definitions

AbCOST_{it} - Predicted cost and actual cost;

AbProfit_{it} - AbSALE_{it} + AbCOST_{it};

ABRET_{it} - Annual excess return adjusted for the companion size and book-to-market portfolio returns;

AbSALE_{it} - Actual sale minus predicted sale without organization capital;

BM_{it} - Book value of equity divided by market value of equity;

COST_{it} - Cost of goods sold plus the selling, general and administrative expenses;

CUMABRET_{it+i} - Cumulative excess returns, ABRET cumulated from year t to year t + i;

D_EP_{it} - Indicator variable that equals one if net income divided by market value of equity is less than 0, and zero otherwise;

EMP_{it} - Number of employees;

EP_{it} - Net income divided by market value of equity if the ratio is greater than 0, and zero otherwise;

OC_{it} - Organization capital, computed by capitalizing and amortizing AbProfit over five years scaled by total assets;

OIGrowth_{it+i} - Average difference between operating income in year t+i minus operating income in year t, scaled by total assets in year t;

PORTFOLIO - Categorical variable to indicate a firm's book-to-market, size and organization capital industry-year rank classification;

PPE_{it} - Gross plant, property, and equipment;

R_OC_{it} - The industry-year based decile rank of organization capital OC_{it};

RDCAP_{it} - Research and development expenditure plus capital expenditure, scaled by sales;

SALEGrowth_{it+i} - Average difference between sale in year t+i minus sale in year t, scaled by total assets in year t;

SALE_{it} - Sales revenues;

SGA_{it} - Selling, general, and administrative (SG&A) capital computed by capitalizing and amortizing the SG&A expenses over three years;

SIZE_{it} - Log of market value of equity;

VOL_{it} - Variance of the annual returns of a firm (book-to-market value) over the previous four years.

THE DETERMINANTS OF INVESTMENT: PANEL DATA ANALYSIS OF G7 COUNTRIES

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Abstract

Foreign direct investment has registered a renewed interest by changing global economic and political environment. One of the fundamental aims of economic policies is to increase capital accumulation in terms of investment that is necessary to maintain a desirable and sustainable growth rate in the developing and developed countries. The majority of empirical studies show that per capita GDP growth, external debt, foreign trade, capital flows, public sector borrowing requirements, and interest rate are the main determinants of investment. Therefore, the aim of this study is to investigate whether financial development has contributed to an increase in investment in G7 countries. To reach an empirical and firm conclusion, an investment function, including the traditional potential determinants along with financial development, is estimated by utilizing the developments in the panel data econometrics in terms of panel unit root tests and panel cointegration for the period 1994-2010 in G7 countries.

Keywords: Pedroni panel data, full modified ordinary least square, investment, financial development

Introduction

Levine and Renelt (1992) has shown that the rate of accumulation of physical capital is an important determinant of economic growth by using large sample of countries' data.

The decline in investment is a matter of concern, given the close connection between the level of investment and the rate of economic growth as documented in recent studies (Ben-David, 1998; Chari, Kehoe & McGrattan, 1997; Barro, 1991; Khan & Reinhart, 1990; Kormendi & Meguire, 1985). It is therefore worthwhile to investigate the factors that determine the level of domestic investment in the developing and developed countries. This paper investigates the role of financial factors in determining domestic investment and private investment in G7 countries. The premise of this study is that financial development facilitates the channeling of resources from savers to the highest-return investment activities, increases the quantity of funds available for investment, and thus reduces the liquidity constraints. Thus a large and liquid financial system reduces the overall costs and risks of investment, which stimulates capital accumulation.

The analysis is based on a reduced-form investment model that relates a country's domestic investment to the level of financial development while controlling for other nonfinancial factors. Following a standard practice in panel data analysis, the investment equation is specified as a dynamic model (see Hsiao, 1986; Anderson & Hsiao, 1982, 1981). To test the effects of financial development on investment, four indicators are used alternatively: credit to the private sector, total liquid liabilities of financial intermediaries, credit provided by banks, and a composite index combining these three indicators. Before 2000 there are lots of studies that have been done for industrialized countries. Lately, there is

no study using G7 countries data. To analyze the last effect of FDI to these countries is the contribution of this study.

Theoretical Approaches

Conventional models such as the flexible accelerator proved quite successful in explaining aggregate investment in industrial countries. However, there is not an exact applicable model for the developing countries. The main underlying assumptions of these models are the assumption of perfect capital markets, absence of liquidity constraints, and abstraction from the role of government. Research in the past decades has shifted attention toward the role of financial factors in explaining investment over time and across countries. Studies that emphasize the role of financial determinants for investment in developing and developed countries have revived the original ideas of Schumpeter (1932) about the importance of the financial system in promoting technological progress. These studies also embed the Keynesian view that the "state of credit" is an important determinant of investment (Keynes, 1937, 1973). One key difference between developed and underdeveloped countries, as Gurley and Shaw (1955) argued, is the level of organization and sophistication of financial intermediaries, especially because of their role in facilitating the flow of loanable funds between savers and investors.

Recent studies go beyond the McKinnon(1973)- Shaw(1973) tradition that is based on the assumption that limited access to credit in developing countries forces investors to accumulate enough real balance before they can initiate investment projects. This view establishes a positive relationship between real interest rate and investment. These studies also relate investment to financial development in general by emphasizing the special services that financial intermediaries provide to investors. The financial system is the key to matching financial resources to investors' needs both through short-term credit expansion and, through its maturity transformation function, by channeling saving into long-term credit markets. Financial markets play an important role in allocating investment capital to high return activities (Greenwood & Smith, 1997).

Some studies (Bayoumi, 1990; Dooley, Frankel & Mathieson, 1987; Feldstein & Horioka, 1980) find that countries with low saving rates also have low investment rates. The positive relationship between domestic saving and domestic investment is often viewed as evidence of imperfect international capital flows and various country-specific institutional and noninstitutional rigidities (Feldstein & Horioka, 1980). However, this approach, that assumes that saving directly causes investment, has important limitations. First, this view is an equilibrium (static) approach. Second, this view only considers the real side of the saving behavior and regards saving as a residue of income after consumption.

Empirical studies have shown that a number of nonfinancial factors also affect domestic investment in developing and developed countries. This paper pays particular attention to three categories of factors: factors hypothesized by conventional investment theory (output growth and interest rate); factors related to government policy (government consumption, government borrowing, and inflation); and open-economy factors (trade flows, foreign debt, and black market activities).

Government policies may also affect domestic investment. First of all government spending may crowd out domestic investment by raising interest rates, reducing the pool of funds in the markets, and increasing distortionary taxation on investment activities. It is also possible, however, for government spending to "crowd in" domestic investment through the accelerator channel. The net effect depends the empirical data period.

Literature review up to date is given in Table 1. Both investment and economic growth relationship and determiners of the investment examples are chosen to consider.

Table 1. Literature Review

Authors	Methodology	Country	Result
Scaperlanda and Laurence (1969)	Least-squares multiple regression	European Economic Community	U.S. direct investment appeared to have been somewhat affected by the establishment of the E.E.C., the stability of the market-size elasticity between the pre- and post-E.E.C. periods indicated that the E.E.C. has had little impact on the sensitivity of investment to changes in growth.
Agarwal (1980)	Review	All	A survey about determinants of foreign direct investment
Terpstra and Yu (1988)	OLS	USA	Oligopolistic reaction in foreign investment activities may involve a larger number of players in service industries than in manufacturing industries.
Morck et al. (1990)	OLS	USA	The explanatory power of relative stock returns for investment might be evidence of the market exerting pressure on managers, although it also seemed likely that the market was picking up the effect of imperfectly measured fundamentals
Loree and Guisinger (1995)	OLS	USA	Significance is found for non-policy variables such as political stability, cultural distance, GDP per capita and infrastructure.
Chen (1996)	Time Series	China	The lack of clear delineation of private property rights, the lack of a clearly established system of contract and patent law as well as the high levels of political risk have discouraged advanced technology transfer.
Borenstein et al. (1998)	Cross Country Regression	OECD Countries	FDI is more productive than domestic investment. The effect of FDI on growth depends on the human capital accumulation.
Cheng and Kwan (1999)	Dynamic Panel Regression	China	There is no convergence in the equilibrium FDI stocks of the regions. On the other hand, there is a convergence in the deviations from the equilibrium FDI stocks.
Chakrabarti (2001)	OLS	135 Countries	Market size of the host country as measured by per capita GDP is found a potential effect on FDI.
Asiedu (2002)	OLS	Africa	A higher return on investment and better infrastructure has a positive effect on foreign direct investment.
Saumitra N. Bhaduri (2005)	Panel Analysis	Data India (firms)	The empirical findings revealed mixed evidence in favor of the hypothesis that the liberalization effort has succeeded in relaxing financial constraint faced by the Indian firms
Koo and Maeng (2005)	Panel Analysis	Data Korea (firms)	Financial liberalization significantly reduced the financial constraints confronted by firms
Günçavdı and Bleaney (2005)	Vector Error Correction Model	Turkey	The short-run dynamics of investment were altered by financial liberalization, with reduced sensitivity to the

				availability of credit, but with no evidence of increased sensitivity to the cost of capital.
Ndikumana (2006)	Dynamic correlation model	serial- model	30 sub-Saharan African countries	Financial development could stimulate economic growth through capital accumulation.
Love and Zicchino (2006)	Panel Analysis	Data	36 Countries	The impact of financial factors on investment, which indicates the severity of financing constraints, is significantly larger in countries with less developed financial systems.
Aykut and Sayek (2007)	Cross Sectional Analysis		54 Countries	Both demand and the supply factors are the main indicators of investment.
Jongwanich and Kohpaiboon (2008)	Cointegration		Thailand	The key finding was that private investment in Thailand had borne the brunt of aggregate demand contraction since the outbreak of the Asian financial crisis in 1997
Ang (2009)	Cointegration		Malaysia and India	Financial repressionist policies, in the form of significant directed credit controls, appear to have retarded private investment in both India and Malaysia.

Data and Methodology

All data are gathered from International Financial Statistics online services reported by the International Monetary Fund (IMF) and World Bank data services. This publication has annual data for G7 countries from 1994 to 2010. The variables used in this paper are private domestic investment as a percentage of GDP, PI_t ; real per capita gross domestic product, $PGDP_t$; discount rate (real interest rate), r ; and financial development indicators (see Ndikumana, 2000; Levine, 1997 for a discussion of measuring the items of financial development). By following Ndikumana (2000),

- Total credit to the private sector as a percentage of GDP (**FD1**)
- The ratio of broad money to GDP is used as a measure of size of the financial sector (**FD2**)
- The relative importance of banks in the supply of credit is measured by total domestic credit provided by the banking sector as a percentage of GDP (**FD3**)
- Claims on government as a percentage of GDP (**FD4**)
- A composite index of financial development (**FDindex**)

The formula for the FDindex that is developed by Demirgüç-Kunt and Levine (1996) is adapted to our paper as the following:

$$FDindex = \frac{1}{4} \sum_{i=1}^4 [100 * (FD_i / \overline{FD}_i)] \tag{1}$$

where FD_i is an indicator of financial development, \overline{FD}_i is the sample mean of indicator i .

In this paper, we create a model dealing with private investment (PI_t). In this model besides real interest rate (R), real per capita gross domestic product ($PGDP_t$); financial development indicators are changed to each other to see their individual effect on PI_t , i.e.:

$$PI_t = f(PGDP_t, R, FD_i) \quad \text{for } 1 \leq i \leq 4 \quad \text{and } i = \text{index} \tag{2}$$

Empirical Results

In the analysis, to ensure robustness for the common components private domestic investment as a percentage of GDP, PI_t ; real per capita gross domestic product, $PGDP_t$; discount rate (real interest rate), R ; financial development indicators (FD_i) and a composite indicator (FD_{index}) unit root test is employed.

Table 2. Im Peseran and Shin Unit Root Test Results

Series	W Statistics (Probabilities)		
	Level	First Difference	Results
<i>PI</i>	-0.752 (0.2257)	-3.800 (0.000)	I(1)
<i>PGDP</i>	-0.382 (0.351)	-3.849 (0.000)	I(1)
<i>R</i>	-0.839 (0.052)	-4.240 (0.000)	I(1)
<i>FD1</i>	1.339 (0.909)	-2.338 (0.009)	I(1)
<i>FD2</i>	2.794 (0.997)	-3.037 (0.001)	I(1)
<i>FD3</i>	2.590 (0.995)	-2.528 (0.005)	I(1)
<i>FD4</i>	0.247 (0.597)	-3.746 (0.000)	I(1)
<i>FDindex</i>	2.036 (0.979)	-2.839 (0.002)	I(1)

- 1) Newey-West bandwidth selection using Bartlett kernel.
- 2) Individual Effects

Im Peseran and Shin (2003) unit root test results are presented in Table 2. According to the unit root test results, we have found that PI , $PGDP$, R , $FD1$, $FD2$, $FD3$, $FD4$ and FD_{index} series are stationary in first differences.

Due to the VAR lag order selection criteria, it is found that lag length is 1. We use the Akaike information criteria and Schwarz information criteria that is the mostly used in the literature.

Having verified that the series are non stationary and same order integration as $I(1)$, it is tested whether there exist any long run equilibrium relationship between the variables using Pedroni and Kao panel cointegration tests.

Table 3. Panel Cointegration Tests

Panel A. Pedroni Panel Cointegration Test			
Within Dimension Test Statistics		Between Dimension Test Statistics	
Panel v -statistics	-1.388(0.9175)	Group rho-statistics	3.480(0.999)
Panel rho-statistics	2.662(0.9961)	Group PP-statistics	-4.000(0.000)*
Panel PP-statistics	-2.901(0.001)*	Group ADF-statistics	-4.230(0.000)*
Panel ADF-statistics	-3.657(0.000)*		
Panel B. Kao Residual Cointegration Test			
<i>t</i> -statistics	-5.154(0.000)*		

Notes: Probability values are in parenthesis. Out of the seven tests, excluding Panel v -statistics and Group panel rho-statistics all remaining tests reject the null hypothesis of no cointegration at the 5% significance level.

Because of the data constraint we use PI , $PGDP$, R , $FD1$, $FD2$, $FD3$ and $FD4$ for the Pedroni test. On the other hand, for the Kao(1999) test we use PI , $PGDP$, R , $FD1$, $FD2$, $FD3$, $FD4$ and FD_{index} . We have seen from the Pedroni Panel Cointegration test, four out of seven statistics reject the null hypothesis of no cointegration. That is, there is a long run relationship

between the variables. Due to test statistics Kao cointegration test also reject the null hypothesis of no cointegration.

In the next step, the fully modified ordinary least square (FMOLS) technique for heterogeneous cointegrated panels is estimated (Pedroni 2000)¹. Table 4 shows this FMOLS result.

Table 4. Panel FMOLS Estimation

$$: PI = 1.20PGDP + 12.43R + 1534.80FDindex$$

(4.25) (4.10) (3.99)

Note: T statistics are in paranthesis.

According to FMOLS estimation; the effect of per capita GDP on private investment is positive and statistically significant. In addition, interest rate's effect on private investment is positive and statistically significant, too. The last variable that is used for index of the broad money, total credit to private sector, domestic credit provided by banking sector and claims of government has a positive influence on private investment.

Conclusion

This paper's aim is to analyze relationship between private investment and its determiners using panel data for G7 countries over the period 1994-2010 within a multivariate framework. 1997 Asian crises, 1998 Russian crises and the early 2000s recession was a decline in economic activity which mainly occurred in developed countries. The recession affected the European countries during 2000 and 2001 and the USA in 2002 and 2003. The UK and Canada, avoided the recession. Japan's 1990s recession continued. On the other hand, mortgage crisis in USA in 2007, also affected the other developed and developing countries. Following by GDP fall in USA, interest rates was forced to decline by the government. So savings were used either for import or as foreign saving in the third world countries that had relatively higher interest rate. Because of this, domestic investment began to fall. This can be the first view for explaining positive relationship between the interest rate and investment. Secondly, the positive relationship between interest rate and private investment shows that limited access to credit forces investors to accumulate enough real balance before they can initiate investment projects as McKinnon (1973) and Shaw (1973) mentioned.

For the further studies, together with financial development indicators and index, one may use other macroeconomic indicators. Also it may be good to compare developing countries data with industrialized ones.

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QUALITY RESEARCH IN AUDITS

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Abstract

During the financial crisis multiple company scandals led to high financial damage for shareholder. This led to an international discussion over the quality of audits, since prior to this almost all of the affected companies concerned had received an unrestricted audit certificate. To regain the trust in statutory audits, political leaders were forced to take action, the European Union passed the Directive 2006/43/EC.² This article contains an analysis of how different researchers on the topic, such as Linda Elizabeth DeAngelo, Kai-Uwe Marten, Matthias Rebhahn and Mark Leuchtmann, describe and evaluate quality in audits. These researchers focused either on direct or indirect audit quality research, which will be outlined after a short description of the different definitions. Afterwards, a short abstract of a research project conducted by the author will be presented. Here it is outlined if the size of an auditing company has an effect on the quality of audits.

Keywords: External quality control, quality in audits, company size

Introduction

There are extensive theoretical approaches and empirical studies examining the influence of various factors on quality of audits, such as the size³ and/or the specialization⁴, the duration of the mandate and accounting policy and a possible competitive pressure. They examine, to what extent there is a correlation between the respective factor and the quality of audits. Some of these scientific studies⁵ show, that in large auditing companies – simply due to their size – the quality is better than in small auditing companies, namely the models of DeAngelo and Ewert. Other studies examine the correlation between the quality of audits and the size and specialization of the auditing companies. They also attempt to prove that large and specialized auditing companies have a higher quality of audits than small or non-specialized auditing companies.⁶ The empirical studies examined by Jany, however, were not able to show such a correlation in all countries,⁷ Studies for the USA, after the introduction of the Private Litigation Reform Act and for China, showed a correlation between liability provisions and the varying quality of audits between small and large auditing companies⁸. A study which was carried out in Europe, on the other hand, was not able to find such a correlation. Other studies by Choi et al. and Francis/Wang came to contrary conclusions. They examined the influence of liability regulations on the difference in quality between large and small auditing companies and compared it internationally.⁹

² Lanfermann; Maul, 2002, p. 1725

³ DeAngelo, 1981b, p. 183

⁴ Jany, 2011, p. 201, examined whether the design of liability rules has an impact on quality differences between large and small and specialized and non-specialized firms.

⁵ Francis & Yu, 2007 pp. 1521

⁶ Jany, 2011, p. 153

⁷ Jany, 2011, pp. 151

⁸ Jany, 2011, p. 149

⁹ Jany, 2011, p.151

The theoretical studies and models of DeAngelo and Ewert come to the conclusion, that the large auditing companies have a greater incentive to produce a higher quality of audits than small auditing companies¹⁰, and that the motivation to produce a higher quality of audits directly depends upon the amount and the probability of the mandates that could potentially be lost as well as the loss of mandates itself.¹¹ In the analysis of 39 examined studies on the actual quality of audits, however, Jany¹² came to the conclusion the results can differ quite a bit, even if their tendency confirms the theoretical models. Twenty-three of the studies examined by him come to the conclusion that the quality of audits is higher in large auditing companies than in small ones, fifteen do not reach a consistent conclusion and only one study shows a higher quality of audits for small auditing company. Among the studies examined by Jany, only the studies of companies in the USA showed a higher quality of audits in large auditing companies, the studies focusing on companies in Europe either reached mixed conclusions or showed nearly insignificant differences in quality.¹³

Description of Different Definitions

In recent years there have been a lot of discussions about the term “Audit Quality”. However, as Marten¹⁴ criticizes, there are – at least in German – no sufficient definitions of the term available to the expert audience. According to Marten, it is taken for granted, that in the auditing profession, everyone is supposed to know, what the term “quality” denotes.¹⁵ DeAngelos’ (American researcher on quality in audits) definition has for a long time been the most quoted.¹⁶ : “The quality of audit services is defined to be the market-assessed joint probability that a given auditor will both (a) discover a breach in the client’s accounting system, and (b) report the breach.”¹⁷ To DeAngelo, quality therefore means the “auditor’s technological capabilities” and his independence.¹⁸

In the German speaking area there is no uniform working definition for what is to be understood by quality in auditing. This applies to research as well as to legislation and profession. Nevertheless, there certainly is a multitude of approaches to be found with try to explain the term. One can make a distinction between those two approaches, similar to the quality of services: Differentiating between those with a product-oriented approach and those also considering the expectations of the recipients concerning the final audits; therefore the customer-oriented approach.

According to Schmidt¹⁹, a supporter of the product-oriented approach, this means that the quality of audits depends on whether the auditor is able to give a reliable judgment about the conformity of the annual financial statement computed on the basis of accounting policies. “The quality of the final audit is the qualification of the annual auditor (meaning his ability and independence to judge) and accomplishment of action of audit (that means the appropriate judgment) for giving a reliable audit judgment about accounts.”²⁰ For Schmidt, an audit therefore is of premium-quality, once it manages to fulfill the legal and professional

¹⁰ DeAngelo 1981b, p. 183

¹¹ DeAngelo, 1981b, p. 183, Ewert, 1993, p. 156

¹² Jany, 2011, p. 91

¹³ Jany, 2011, p. 91

¹⁴ Marten, 1999, p. 184

¹⁵ Marten, 1999, p. 184

¹⁶ Marten, 1999, p. 184

¹⁷ DeAngelo, 1981b, p. 186

¹⁸ DeAngelo, 1981b, p. 186

¹⁹ Schmidt, 2000, p. 12

²⁰ Leffson, 1988, p. 66

demands. Copley and Doucet also take the point that the quality of audits depends exclusively on the compliance with auditing-norms.²¹

What's more, Niehues defines quality as product-oriented by stating that quality of the final audit means the implementation and reporting through a member of the profession, who complies with all rules and regulations while performing his duties. The addressee as the recipient of the audit is not being considered. Marti and Eberle anticipate a high quality when one complies with the auditing-norms, but nevertheless concede that the auditing-norms will never be fully able to meet the norms in each and every situation and therefore remain partly in the responsibility of the auditor.²² Additionally, it is not possible for the external addressee of the audit to assess the performance – in this case controlling the compliance with auditing norms. Only the reviewed annual account with the audit certificate will be published.

It seems, according to Marten²³, that the term audit quality is understood as “synonymous with compliance with requirements and statutes.”²⁴ For a long time, the recipient of the services of the auditors, the companies which are audited or the interested public, have not been in the focus by the definition of quality in audits.²⁵

One of the first, who also considered a customer-oriented approach into the definition of quality measurement, was Leffson.²⁶ He describes “quality as trustworthiness of the judgment which includes as essential component accuracy belongs.” Thereby however it is assumed, that trustworthiness in the auditor's judgment only can be evaluated by the receiver. Leffson defines quality in the way that the auditor hands in a “trustworthy and flawless” judgment. For Leffson, preconditions for that is the power of judgment of the auditor – the general as well as the specific knowledge; the freedom of judgment – the autonomy of the auditor; as well as the appropriateness of judgment, which is given, once the auditor bears in mind the principles of integrity, essentiality and objectivity. Leffson demands, that the processes of judgment on behalf of the auditor has to be comprehensible for third parties – he includes the recipient of the final audit into his definition.²⁷

Dr. Anke Müßig is searching for a definition of the term “quality”, as well. She comes to the conclusion, that in the case of financial audits, it is all about the fulfillment of expectations.²⁸ To define what “quality” means for financial audits, one needs to question whose requirements and expectations need to be fulfilled. Does the judgment of the definition differ on the part of the observer? The few examples show, that an absolute definition of this term does not exist, because the subjective requirements of the service recipients for financial audits are diverse. The auditor himself would certainly define “quality” in a different way than the company that is being audited would do. Similarly the chief executive officer (CEO) would have another definition than the supervisory board would arrive at.

For the auditor quality means to perform the audit in a special amount of time and to reduce the risk of liability. For the profession of financial auditors “audit quality is not simply about following a rulebook of auditing standards and regulations (...), it is about professionals reaching the appropriate judgment in difficult and complex situations.”²⁹ For the CEO or the management, as the receiver of the service “financial audit”, an audit with high quality is an audit that is run fast and without any problems, questions and discoveries. In contrast to that, a supervisory board judges an audit positively if it gets the information fast

²¹ Copley; Doucet, 1993, pp. 89

²² Marti, Eberle, 2004, p. 418

²³ Marten, 2004, p. 15

²⁴ Lindgens-Strache, pp. 275; qtd. in Marten, K., 2004, p.15

²⁵ Marten, 2004, p. 15

²⁶ Leffson, 1988, p. 8

²⁷ Leffson, 1988, p. 6

²⁸ Müßig, 2008, p. 173

²⁹ Institute of Chartered Accountants in England & Wales, 2006, p. 3

and if the mistakes are cleared up fast. The public's expectation for quality in financial audits is again to receive an audit which contains no mistakes and which they can trust.

Langenbucher³⁰, who defines quality of audits from the customer perspective, finds that a final audit deserves a very good or good quality judgment, once it meets the expectations of as many stakeholders as possible. He perceives an optimization problem, at the point (as outlined above), where the interests of the addressees of the final audit are divergent.

Interim results

These examples already show that there is no standard answer to the question what "quality" for financial audits means. There is no universal definition to be found in neither in the German speaking or in the English speaking area. Regardless of this, new laws, communiqués, and standards are decreed just to raise the quality in the financial audit. It has been worked out, that the different existing definition of quality can be divided into product- and customer-oriented approaches – similar to the distinction in service quality. The definitions that are solely product-oriented and regard quality as the fulfillment of the legal and professional expectations are too narrowly defined. That it is absolutely necessary, to include the recipient of the final audit in the evaluation of quality, is reflected by the recurrent expectation gap in the domain of audits. The term expectation gap means the falling short of public expectations of the audit and the actual professional conduct of the auditors.³¹

Theoretical and Empirical Papers on the Quality of Audits

When further considering the term "quality" in auditing, the aim is not to find additional single definitions of different authors, but to offer an overview of the current status approaches of audit research (both theoretical and empirical) that examine in how far other factors, such as the size of the auditing office, the reputation, the specialization, the remuneration or the competitive context influence the quality. In the following, the selected research approaches will be outlined and critically evaluated according to the amount of their influence.

Within the scope of investigating the audit quality, one can differentiate between direct and indirect inquiry methods.³² For the indirect inquiry, factors such as the size of the audit company, the specialization, the remuneration or the balance policy are used for measuring the quality.³³ The direct measurement of audit quality derives from such factors and tries to evaluate audit quality on the basis of predefined quality features. As already shown, it is possible that the audit quality can be evaluated in a product-oriented way as well as based on subjective perception. At that, the product-oriented perspective refers to the compliance with certain norms in the sense of an internal objective view on quality. When gauging audit quality on the basis of subjective perceptions, the focus is on the recipients. This takes into account the subjective, demand-oriented view of quality.³⁴ It is all about the differentiation of actual and perceived quality. The actual quality is what the auditor achieves effectively; the perceived quality however denotes the perception of quality on behalf of the addressees.³⁵

³⁰ Langenbucher, 1997, p. 63

³¹ Marten, 1999, p. 78

³² Ruhnke, 1997, p. 332

³³ Ruhnke, 1997, p. 332

³⁴ Rebhan, 2012, p. 70

³⁵ Jany, 2011, p. 23

Direct Audit Quality Research

In the European area, the works of Marten (Germany 1999)³⁶, Leuchtman (Switzerland, 2006)³⁷ and Rebhan (Austria, 2012) rank high among the direct audit quality research papers. In the following, all of those are outlined shortly.

The models of Marten, Leuchtman and Rebhan

Marten further developed the GAP-Model by Parasuraman, Zeithaml and Berry, which they had developed for service quality, in order to find a concept for measuring and controlling the quality of financial audits. They additionally tested this model empirically for its practicability.³⁹ The basis of Marten's GAP-Model is a comprehensive understanding of quality which considers the compliance with all relevant norms of final audits as well as the expectations of the customers and thus connects the provider and the customer domain. The gaps he found in the symmetrical GAP-Model – 11 in total – were tested empirically by him, in order for him to prove that those GAPs consisted mainly of informational and communicational discrepancies between auditors and customers of audits.⁴⁰

Leuchtman's work from 2006 is oriented towards the work of Marten. Leuchtman developed 25 quality features and surveyed businesses officially listed at the Suisse Stock Exchange as well as their auditors. He came to a conclusion similar to that of Marten, but also determined significant differences in the attitude in which his subject group answered.⁴¹ As Marten's work dates back to 1999 and the work of Leuchtman (2005) only considers the Suisse market, disregarding the European guidelines, the findings of Rebhan's research work (2012) will be outlined below.

Rebhan examined the Austrian auditing market, also building on Marten's GAP-Model. On the basis of the aforementioned studies, he developed 26 quality features relevant for Austria and took both, providers and customers, into consideration in order to detect relevant gaps in the symmetrical GAP-Modell. Of special interest for Rebhan were those gaps referring to processes between provider and customer. Those gaps are the perception gap (GAP 8), the evaluation gap (GAP 10) and the expectation gap (GAP 11).⁴² In the summer of 2010, 1096 subjects from groups of auditors, executive boards, supervisory boards and financial analysts were surveyed with a response rate of 11, 3%. In contrast to the results of the studies by Marten and Leuchtman, Rebhan draws the conclusion, that there are distinctly fewer significant quality gaps in existence in Austria. Concerning the given quality features, the quality of audits in Austria was rated significantly higher.⁴³

Evaluation of the research papers

The research papers of Leuchtman and Rebhan draw on the GAP-Model, which had been developed by Marten in order to measure and control the quality of audits. Marten used the Servqual-approach by Parasuraman, Zeithaml and Berry for measuring, and the GAP-Model, which had been developed for services, by Parasuraman, Zeithaml and by Berry for control. The transfer and application of a chosen method is possible, as auditor services show similar characteristics of services. The assumptions Marten made on his symmetrical GAP-Model, were tested empirically. As the GAP also considers the expectations of the customers

³⁶ Marten, 1999

³⁷ Leuchtman, 2006

³⁸ Rebhan, 2012

³⁹ Marten, 1999, p. 327

⁴⁰ Marten, 1999, p. 328

⁴¹ Leuchtman, 2006, pp. 137

⁴² Rebhan, 2012, p. 98

⁴³ Rebhan, 2012, p. 197

in addition to all relevant quality norms of final audits, it postulates a comprehensive understanding of quality which the two other research papers adhere to as well. Through the identification of gaps, it is possible to measure the subjectively perceived audit quality. Thus guidance for raising audit quality can be derived. The model is therefore certainly suitable for revealing gaps and for offering guidance to auditors. However, it does not contain a forecast value.

Indirect Audit Quality Research

Within the indirect audit quality research, factors are used to make audit quality measurable. The size of the audit company, membership in the Big4, specialization, liability risk and remuneration are a few factors for measuring audit quality. In the following, because of the importance of DeAngelo's work, the importance of the size of an audit, quality as a factor will be presented. In the following, only the current research papers by Linda Elizabeth DeAngelo will be more closely discussed.⁴⁴

The size of an auditing company as an indicator of quality – Linda Elizabeth DeAngelo's theoretical contribution to research

DeAngelo's paper of 1981 examines the influence of "the size of the auditing company", measured in reference to the mandates carried out and, the quality of auditing performances. Marten regards DeAngelo's paper as the most influential examination in respect of measuring the audit quality by the help of factors.⁴⁵ The main elements of DeAngelo's quality definition are (a) the professional qualification of the auditor together with (b) his independent reporting: "The quality of audit services is defined as joint probability assessed by the market that a given auditor will both (a) discover a breach in the client's accounting system, and (b) report the breach."⁴⁶

DeAngelo sees a connection between the independence of an auditor and the size of the auditing company. She stated that a bigger auditing company with a higher number of mandates is potentially more independent than a smaller company with only a few mandates, though as far as remuneration is concerned are more important mandates. She therefore assumes that smaller offices are exposed to a higher pressure on the part of the managements of the audited companies, if those threaten with e.g. a change of auditors.⁴⁷ To support her view, she brings in her „quasi-rents-model“. The quasi-rents-model supposes that the remuneration of the final audits are in total competition in the auditing market and are higher in case of an original inspection, which means that the remuneration of the original inspection does not cover the expense of the audit. This pricing policy is also called "low balling".⁴⁸ The auditor is able to compensate for this loss through the expected quasi-rents from follow-up audits in the succeeding years.⁴⁹ The basis for this model is that the auditor is concentrated for other audits as well, and that the remuneration rises with increasing duration of mandates (fee cutting). As a company has to pay transaction fees for a change of auditor, it will refrain from it, as long as the cash value of the audit fees of the current auditor does not exceed the cash value of the new auditor and the additional transaction cost for the company.⁵⁰ DeAngelo derives the conclusion from her quasi-rents-model that bigger auditing companies

⁴⁴ A comprehensive presentation of the theoretical and empirical studies to evaluate research, the Annex to the work of Jany, 2011, pp. 207

⁴⁵ Marten, 1999, p. 49

⁴⁶ DeAngelo, 1981b, p. 186

⁴⁷ DeAngelo, 1981b, p. 189

⁴⁸ DeAngelo, 1981a, p. 113

⁴⁹ Ballwieser, 2001, p. 106

⁵⁰ Marten, 1999, p. 51

ceteris paribus have a higher incentive to report an error than auditors with a smaller mandate base: “This implies that, ceteris paribus, the larger the auditor as measured by the number of clients, the less incentive the auditor has to behave opportunistically and the higher the perceived quality of the audit.”⁵¹ It follows from the foregoing that dependence of an auditor is all the more at risk, the higher the remuneration to be lost is concerning one mandate by comparison to others.⁵²

Research

With the introduction of external quality control the auditing profession is supposed to be supervised, to ensure quality through an inspection of the quality assurance systems established in the auditing companies.⁵³ One goal of the introduction of quality control is to raise the quality of audits⁵⁴, even though there is no common definition of quality. As small and medium-sized auditing companies are especially affected by the number and scope of the constant new legal and professional restrictions, the authors research project will focus exclusively on their concerns.

Overall four research questions have been analyzed. In this research paper, only question 3 will be analyzed.

1. Is there a uniform understanding of quality in the profession of auditors?
2. Has the introduction of external quality control increased the quality of audits?
3. Does the size of an auditing company have an effect on the quality of audits?
4. Does external quality control have an effect on the continuance of small and medium-sized auditing companies?

In total 46 expert interviews in 4 different groups of accredited professionals have been conducted. These experts were asked, amongst others, about their understanding of quality, the importance of the implementation of an external quality control system and the influence of external quality control on the quality and on their company. In this article only a short abstract of the research project can be shown.

Influence of the Company Size on the Quality

The size of a company as a means of measuring quality was doubted by 85.3% of all interviewees. Spread across the individuals, 84.6% of the auditors interviewed doubt this statement. They stated that size does not automatically mean good quality.

It was however acknowledged, that the bigger companies have more resources for specialization, employee training, and internationalization. A better quality – solely due to size – was nevertheless not agreed upon.

The evaluation of this question was divided according to the company’s size, hints at whether or not the owners of big companies are more likely to be of the opinion that they have a better quality just because of their size.

It is evident that small companies without employees share the opinion, that bigger companies do not have a higher audit quality simply because of their size. This might be due to the fact, that in these companies, the auditor carries out all audits himself, is on site continually and thus guarantees a high audit quality through his performance. The answers of those companies with up to 10 or more than 10 employees are to the greatest possible extent similar. 85.7 per cent of the companies with up to 10 employees and 76.9 per cent of the companies with more than 10 employees doubt a better quality in big auditing companies simply because of the size of a company.

⁵¹ DeAngelo, 1981b, p.

⁵² Bigus; Zimmermann, 2009, pp. 1283

⁵³ Maccari-Peukert, 2011, p. 96

⁵⁴ Marten, 2001, p. 24

The vote of the quality control reviewers is unambiguous on this question. All of them, i.e. 100%, are of the opinion that big auditing companies do not offer a better quality just because of their size and do not have a bigger interest in rendering a high-quality audit, as small companies would have. Rather the opposite of this is believed to be true. As for the reasons for this, it is stated that it is important especially for small and medium-sized auditing companies, which operate in regional surroundings, in which they are rooted privately and live with their families, to deliver high quality.⁵⁵ Professional errors harm the reputation of small companies in such a way, that their whole existence is at risk and thus also the existence of the owners and their families. In addition, at small and medium-size auditing companies, it is the owner who is liable with his assets; insofar losses are not covered by liability insurance. Small and medium-sized auditing companies usually carry the name of the respective auditor in their company's name, so that the name always represents the company / association and is always affected in case of errors, e.g. "wrong certificates". The reputation of the auditor is thus lost for a long time not only in his professional, but also in his private surroundings.

Question 10a of the questionnaire: large companies have a greater interest in providing a high-quality audit

Group		Frequency	Percentage	Valid Percentage	Accumulated Percentage
Auditors	No	31	91,2	91,2	91,2
	Yes	3	8,8	8,8	100,0
	Total	34	100,0	100,0	
Reviewers	No	10	100,0	100,0	100,0
Education	No	1	100,0	100,0	100,0
	Yes	0	0,0	0,0	100,0
	Total	1	100,0	100,0	
Professional	No	1	100,0	100,0	100,0
	Yes	0	0,0	0,0	100,0
	Total	1	100,0	100,0	
All 4 Groups	Total	46	100,0	100,0	100,0

Table 1: Results question 10a

Conclusion

The complete research project found out that a rethinking is taking place in the profession; an effect of external quality control on the company's quality has been affirmed by the majority of the interviewed companies. External quality control has, even though a slight overregulation is being lamented, definitely led to the fact, that a new understanding of quality has been created in many – especially medium-sized – auditing companies. Quality standards have been written down for the first time and audit processes have been standardized. External quality control has thus led to an increase in quality.

As this article only shows an abstract of the complete research it has to be said that the influence of the size of a company on its quality has been shown not to exist without equal clarity. The medium-sized companies remarked that bigger companies have greater reserves respective their specialization, internationalization, and employee training, but that this is not the single guarantee for quality.

A connection between quality and the size of an auditing company is clearly rejected. The majority of all interviewed companies doubt whether a better quality in big auditing companies is simply due to their size. This vote is unambiguous, as all, i.e. 100%, are of the opinion, that big auditing companies do not offer a better quality just because of their size and do not have a higher interest in providing a high audit quality as smaller companies would have. Rather the opposite of this is believed to be accurate. It is stated that it is

⁵⁵ Interview Schwane, Edwin, 2012

important especially for small and medium-sized auditing companies, which operate in regional surroundings, to provide a high quality. Professional errors harm their reputation in such a way, that their whole existence – both professional and private - is at risk. Furthermore, at small and medium-sized auditing companies, it is the owner who is personally liable with his assets; insofar losses are not covered by liability insurance. Small and medium-sized auditing companies usually carry the name of the respective auditor in their company's logo, so that the name represents the company and is always affected in case of auditing errors.

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PUBLIC PRIVATE PARTNERSHIPS IN ROMANIA VERSUS ALBANIA: THE CHALLENGES TO IMPROVE LEGISLATION FOR ATTRACTING MORE FINANCIAL RESOURCES

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Abstract

Having in mind the current international economic context and the economic crisis without precedent, implementing public-private partnerships represents an essential tool for developing the emerging markets and for finalizing large scale infrastructure projects, with a great positive impact on the long term. Major focus is being put on private-public partnerships during the last years, as the world economy is growing and also turbulent times were passed through starting with 2008, when the international financial crisis started.

Various countries around the world in general, and around Europe, in particular, apply different type of private – public partnerships: even though the partnership applied is a concession or a institutional PPP, the expected result is the same: the goal of attracting money and finishing important projects, of national interest should be achieved either way.

Still, some countries manage to finish successful PPPs, other pass through permanent legislative changes and no final results are encountered. What is the path towards success? Trying to answer the above question, the elements that make the difference between applying different kind of partnerships, following different legislation are analyzed. Albanian and Romanian legislation applied during 2012 are discussed through comparison, starting with the EBRB classification and ranking among less compliant towards most compliant legislations. Improvement solutions are proposed for both countries in the attempt to attract as many financial resources as possible.

Keywords: Public-private partnerships (PPPs), concessions, institutional and contractual PPP, competitive dialogue, open procedure

Introduction

Having in mind the current international economic context and the economic crisis without precedent, implementing public-private partnerships represents an essential tool for developing the emerging markets and for finalizing large scale infrastructure projects, with a great positive impact on the long term. Major focus is being put on private-public partnerships during the last years, as the world economy is growing and also turbulent times were passed through starting with 2008, when the international financial crisis started.

Different types of private – public partnerships are applied all over the world and all over Europe. Considering the fact that some countries are more successful than others in applying PPPs, the lessons of international ways of PPP legislation and implementation should be learnt for the improvement of the success rate.

This article will discuss and analyze through comparison the Albanian and Romanian legislation applied during 2012, using the European Bank for Reconstruction and

Development (“EBRD”) classification and ranking among less compliant towards most compliant legislations as the starting point.

The focus is put on the legal framework and main legislative enforcements that can make the difference. The characteristics of both legislations are discussed.

The main research question is: *What could each of the two countries learn from the other, what could be changed, stated or defined differently in order to improve the PPP/ concession legislation so that the EBRD scoring in terms of compliance is also improved?*

Having in mind the fact that EBRD uses the researches and analyses they perform in order to decide what are the countries where money should be invested into and what are the possible obstacles and risks in case such projects are launched, improving the legislation so that the EBRD rating shall also be improved may lead to extra financial resources being invested in these countries, therefore reaching the targeted goal: attracting more money into the economy and finalizing important systemic projects for the country.

The article does not attempt to judge either the EBRD rankings or the legislation of Albania or Romania, but to propose improvement solutions.

Compliance and effectiveness of law

EBRD performs constant surveys and reports regarding the compliance and effectiveness of laws in the private-public partnership sector, in all affiliated countries. Focused studies address PPP area considering the fact that, in many countries, the public measures applied after the financial crisis focus on public investments and PPP is a very powerful and resourceful instrument to perform these investments. There is an increased demand for infrastructure, while the resources are scarce and the competition for state budgetary allocations is high.

When dealing with compliance, the following are being analyzed: existence of specific PPP/ concession law and comprehensive regulations regarding PPP/ concessions, existence of a clear definition of scope and limitations of the PPP/ concession law, selection criteria for the Private Party, flexibility of the contractual framework, risk allocation, instruments for cash flow securization (including “step-in” rights, possibility for government financial support, or guarantee), clear settlement of remedies in case of breach and arbitration in case of conflicts.

Effectiveness of the law means in fact evaluating if a policy framework at the state/ local level exists, if an institutional PPP framework exists and if the awarded PPP projects have actually been implemented in compliance with the law.

As a general remark, significant improvements have taken place in many EBRD’s countries of operation regarding policy and legal framework of PPPs and concessions. (*The legal framework for public private partnerships (PPPs) and concessions in transition countries: evolution and trends*, Alexei Zverev, Senior Counsel, EBRD, 2012)

Considering the latest EBRD assessment (May 2012), Albania is labeled to be both high compliant and high effective, while Romania is medium compliant and only low effective.

Table 1 – comparative assessment regarding compliance and effectiveness of PPP legislation based on the EBRD study

Assessment	ALBANIA	ROMANIA
1. COMPLIANCE		
<i>General Rating</i> ⁵⁶	85.7%	64.2%
	High compliance ⁵⁷	Medium compliance

⁵⁶ For both categories (compliance and effectiveness) special symbols were used for each type of answer, specific points being assigned (Yes – 3 points, Yes with reservations – 2 points, No, with limited compliance/ redeeming features – 1 point, No – 0 point, Not applicable – 0 point or not included in total).

⁵⁷ The following correspondance was established between the score and the final qualifications:

2. EFFECTIVENESS		
<i>General Rating</i>	55%	45.3%
	Medium effectiveness	Low effectiveness
OVERALL RATING	70.3%	54.8%
	High compliance/ effectiveness	Medium compliance/ effectiveness

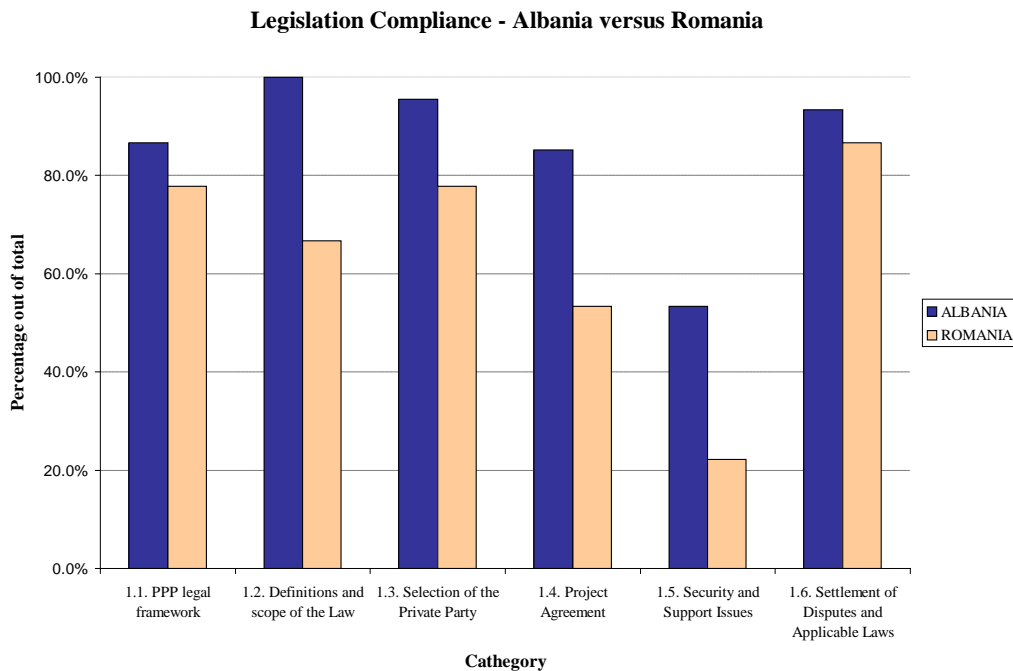
(Source for data: EBRD, Gide Loyrette Novel, Romania – Overall Assessment of the Quality of the PPP legislation and of the effectiveness of its implementation; EBRD, Gide Loyrette Novel, Albania – Overall Assessment of the Quality of the PPP legislation and of the effectiveness of its implementation)

Considering the latest EBRD study and the EBRD proposed scoring for all categories, a comparative analysis between Albanian 9663/ 2006 Law and Romanian 178/2010 Law was performed regarding the assessment of the compliance, pointing out the elements that could be improved in one country or the other, so that the EBRD scoring to be improved.

What makes the difference?

Figure 1 below underlines the EBRD scoring differences between Albania and Romania in terms of legislation compliance, according to the last assessment performed, mentioning and analyzing each sub-category.

Figure 1 – legislation compliance considering EBRD scoring in Romania versus Albania



It is easily visible that Albania scored better than Romania in all existing categories. Still, the highest differences are added regarding definitions/ scope of the law, project agreement and security, support issues. All these categories shall be analyzed and described below.

- >= 90%: Very High Compliance/ Effectiveness
- >= 70% - 89%: High Compliance/ Effectiveness
- 50% - 69%: Medium Compliance/ Effectiveness
- 30% - 49%: Low Compliance/ Effectiveness
- < 30%: Very Low Compliance/ Effectiveness

PPP legal framework

Regarding the legal framework, the weakest point for Romania is represented by the fact that the country does not have only one clear act dealing specifically with PPP/concessions, while Albania has only one act. On the other hand, the legislation of the both countries allows BOT or other derived contracts.

While both countries have clear and distinct public procurement laws, Romania loses points due to the fact that sectorial specific laws apply and no clear distinction is being stated in any law regarding the law applicable – PPP law or specific industrial law. On the other hand, Albania has no sectorial laws to regulate the PPPs therefore no confusions can be produced.

Still, Romania gains points for this category considering the fact that the law is in fact a law which regulates the institutional PPP, the private and public partners settling a new SPV company for developing the project. On the other hand Albania regulations do not specify anything regarding the members of the consortium – therefore, not clearly defining, but also not prohibiting either.

PPPs in Albania started to be implemented since 1992, after post-communist period and the first law on concessions and participation of the private sector in public infrastructure was released in 1995 (7973/1995).

Still, the reference law was released during 2006 – Law “On concessions” (9663), which was further improved and amended during 2007 / 2010.

In 2013, a new law was released – “On Concessions and Public Private Partnership” no. 125/2013 (24.04.2013), entering into force on 25th of May 2013, which is further called “The New Law”. It is still debatable whether a new law was really needed.

Romania has also a concession law – dated 2006, which was further updated many times from 2006 until 2013. Furthermore, a PPP law was also launched in 2010 (Law 178/2010), further updated two times during 2011 addressing institutional PPPs. No clear line is drawn between the concession law applicability and the PPP law. It is worth mentioning that the initial version of the 178/2010 PPP law was extremely controversial regarding its compliance with the European Union rules and principles, rising the risk of infringement procedures by the European Commission against Romania.

Contractual and institutional partnership

In Albania, the partnership is in fact contractual – specific to concession contracts: the “Contracting Authority”, which is a public authority that has the power to enter into a concession contract enters into an agreement (“Concession”) with the “Concessionaire”, under which the latter performs the following:

- (a) Carries out an economic activity which would otherwise be carried out by Contracting Authority related to a concession project, management contract or other public services;
- (b) Assumes all or substantial part of risks related to such economic activity;
- (c) Receives a benefit by way of:
 - (i) Direct payments paid by or on behalf of contracting authority;
 - (ii) Tariffs or fees collected from users or customers;
 - (iii) A combination of such direct payments and tariffs.

(Law no 9663, dated 18.12.1006)

In Romania, considering the provisions of the 178 Law, the partnership is institutional, as the project is developed by a “Project Company” – a commercial company, Romanian legal person, whose shareholders are both the public partner and the private partner, that are represented proportionally according to their involvement in the public-private partnership project, the public partner’s part being in kind and the private partner providing the financing.

(Law No. 178 from 1 October 2010)

Proposed improvements

- Albania: legislation changes could be proposed so that the implementation of institutional PPPs to be also allowed
- Romania: one single law which regulate all possible types of public private partnerships should be applied or a clear distinction should be made between the sphere of appliance of the PPP Law and of the Concession Law. Also, it should be clarified to what extend the specific regulations applicable to particular laws (example: energy, oil, gas) apply and which specifications prevail

Definitions and scope of the Law

This is the category that significantly differentiates the two countries.

The applicable legislations for each of the two countries define the main terms of the law and the contracting authority. It is also specifically mentioned under the laws of Romania and Albania that both local and foreign companies can be awarded with the contracts, so no discrimination is applied.

Please find detailed below the basic principles of appliance mentioned under both laws (Table 2):

Albania	Romania
Transparency	Transparency
Fairness	Non-discrimination
	Equal treatment
Efficiency	Efficient use of funds
Long-term sustainability	Assumption of responsibility
	Proportionality

The sectors under which the law applies are the differential factors.

Under the Albanian law, in article 4, a clear distinctive list of sectors under which concessions may apply is defined. Furthermore, the list is not exhaustive, as the Council of Ministers can authorize exceptions of concession implementation in other sectors also, upon the proposal of the Minister responsible for economy. (Albania, Law no 9663, dated 18.12.1006, Art. 4, par. (2).) On the other hand, regarding Romania, there is no clear list of industries of applications, and even more, many restrictions and limitations are defined (Art. 5)

Table 3 – industries of application of PPPs in Albania vs. Romania

Albania (clearly defined under the law)	Romania (incorporation from various articles and interpretations of law provisions)
Management contract or provision of public services	Contracts which are assigned to carry out a relevant activity in the public utility sectors: gas, heat and electricity, water, transport, postal services, exploration or extraction of oil, gas, coal or other solid fuels, as well as ports or airports.
Transport (railway system, rail transport, ports, airports, roads, tunnels, bridges, Parking, public transport)	Provision or operation of networks providing a public service in transport by rail domain, through automated systems, with tramway, trolley, bus or cable.
Generation and distribution of electricity and heating	Production, transport or distribution of electricity
Production and distribution of water, treatment, collection distribution and administration of waste water, irrigation, drainage, cleaning of canals, dams	Production, transport or distribution of drinking water; Evacuation or treatment of sewage; Hydraulic engineering projects, irrigation or drainage Evacuation or treatment of sewage
Recycling projects, rehabilitation of land and forests, in industrial parks, housing	a) Exploration or extraction of oil, gas, coal or other solid fuels;

	b) Making available to carriers by air, sea or inland waterway, airports and maritime or inland ports or other transport terminals.
Natural gas distribution	Production, transport or distribution of gas or heat;
	Postal services; Management of courier services; Services with added value related to electronic mail and provided entirely by electronic means; Postal financial services; Logistics services.
Collection, transfer, processing and administration of solid waste	
Telecommunication	
Education and sport	
Health	
Tourism and culture	
Prison infrastructure	
Governmental buildings, service of maintenance of IT and data base infrastructure	

Proposed improvements

For this section, Romania could follow the Albanian example stated in the law: define under the law a clear list of industries of application and should also propose a waiver mechanism and responsible authority bodies that could grant the waivers of application.

Selection of the private party

Both laws regulate the aspect of the selection procedure to be applied, a competitive process being assured.

Regarding Albania, the steps for the selection of the private party are briefly detailed below:

1. The contracting authority announces the pre-selection procedure and pre-qualifications documents needed, by publishing the invitation, according to the legislation;
2. The procedures shall take place in one or two stages.
3. In case a pre-qualification procedure applies, the prequalified bidders must be provided with the proposal and related documents. Otherwise, the request for proposal shall be issued to all potential bidders.
4. For the two stages procedure, the interested bidders are required to send their financial and technical proposals, they can meet the contracting authority to discuss and clarify all documents sent on the both sides. After all proposals are examined, the contracting authority might adjust the bidding documentations;
5. For the second stage of the procedure, bidders are invited to send their final offers/proposals
6. After evaluating all offers and disqualifying the ones that do not fulfill the necessary criteria, the remaining offers are ranked and results are notified to the companies.
7. If no claims are presented, the contracting authority invites the bidder with the best rating for the final negotiations (not on elements which were announced from the beginning as “non-negotiable”)
8. If the contracting authority is convinced after a period of time that the negotiations will not have a positive outcome, the negotiations can be stopped and the next qualified bidder is called for negotiations.
9. The final winner is announced, and detailed information has to be released.

All in all, the procedure which applies is in fact competitive dialogue, for the extended version of the formalities and, in case there is only one step, this is in fact an open procedure.

When referring to Romania, under the first version of the 178/2010 law it was stated that the negotiation procedure applies for the selection of the contracting party. Still, the law had to be changed as it was not compliant with the European Union directives and with the changes from 2011, both the open procedure and the competitive dialogue may apply, being specifically defined:

- a) “open procedure – it is a selection procedure of the private partner which takes place in only one stage, in compliance with the provisions of the present law, and within which any private investor can submit a tender”;
- b) „competitive dialogue - it is a selection procedure of the private partner by the public partner, procedure in which any private investor can take part, which takes place in two stages, the assessment stage and the negotiation stage, within which the public partner leads a dialogue in compliance with the provisions of the present law”.

According to article 18, for complex projects (from technical and financial standing point) the competitive dialogue can be applied, as long as the open procedure would not be appropriate for establishing the winning party. This is also the case for the French legislation and statistically, the main part of the contracts is attributed using the competitive dialogue procedure.

The main steps of the 2 procedures are detailed below, as a comparison (Table 4):

Open procedure	Competitive dialogue
1. project initiation by publishing the selection announcement and initial information regarding the project	1. project initiation by publishing the selection announcement
2. submitting the initial offers by the private investors interested in the project	2. submitting the intention letters by the private investors
3. evaluation of the offers and corresponding documents	3. evaluation of the intention letters and corresponding documents
4. announcement of the winning bidder	4. negotiation through dialogue
5. signing the PPP contract	5. submitting the final offers
	6. announcement of the winning party
	7. signing the PPP contract

When selecting the winning private party, multiple principles have to be applied and both regulations mention clear provisions regarding the principles, steps and recommendations to be used for selecting the private partner. Also, the decision to disqualify or reject an applicant has to be sustained by written arguments.

Another aspect covered under this category is the level of notoriety achieved when announcing the launch of a PPP contract. Clear provisions regarding the publication of the bidding procedure are enclosed in both legislations.

In Albania, the invitation for participation must be published into the Public Announcements Bulletin, as well as in the international and local press, while in Romania notices must be published in SEAP (“Sistemul Electronic de Achizitii Publice” – Electronic System of Public Procurement) as well as in the Official Journal of the European Union, according to certain thresholds. It should be underlined that until the end of 2012, SEAP was not fully developed and integrated in order to fulfill all publishing regulations for the announcement of PPPs.

The award of the project is very similar between the two countries: for both, the Law clearly states that all proposals must be ranked on predefined evaluation criteria, that information regarding the winner has to be made public and track record of the evidences must be kept.

The Romanian law offers no explicit details regarding post award negotiations, while the Albanian law has clear provisions in this respect. However, the Romanian law mentions under article 18 that in case a competitive dialogue procedure was applied and the

negotiations with the first ranked cannot lead to a final contract, negotiations can be started with the second ranked investor. This aspect is also clearly stated under the Albanian law.

Proposed improvements

For the Romanian case, in order to ensure full transparency, it should be allowed the public access, at least for the interested parties, to the records kept by the Authority regarding the selection procedure and corresponding documents.

Also, clear provisions regarding post award negotiations should be made under the Romanian law, “borrowing” the Albanian model: to what extend the contracts can be negotiated, what are the limitations over which no concession can be made and what are the decision makers.

Project agreement

The embedded provisions and possible interpretations of the contractual clauses are the most important aspects for the success of this type of projects. Being self-liquidating projects, the contracts are highly important and the flexibility granted by the legislation for the transcription of the contracts is the ground on which the project is further constructed.

When talking about the contracts, both legislations state a minimum list of information and aspects that are mandatory to be dealt with under the public-private partnerships/ concessions.

Regarding the provisions for duration of the contract, even though Romania was disqualified with one point at this section, as no clear references are made to both investment amortization and return on the capital, Albania legislation does not mention as well the necessity to take into account the return on the capital when deciding regarding the maturity of the concession contract. It is only mentioned that the maturity can be adjusted according to project specifics, and can not exceed 35 years.

The Albanian contract can be terminated in specific cases and also following mutual agreement between the two parties. The Romanian legislation leaves the termination clauses to the mutual agreement and negotiations of the two parties.

Still, in case the contract is terminated by the public authority, the investors are not explicitly entitled to receive compensations for losses, not in Albania, nor in Romania.

Collection of tariffs by the private party is explicitly mentioned under both legislations. The main difference comes from the fact that the Romanian legislation lacks details regarding the possibility for the private party to receive both fixed and / or consumption-based payments from the contracting authority or other public authority.

Proposed improvements

Romanian law:

1. It should be mentioned that no extension of the Project Agreement is allowed, only in special circumstances, in order to limit possible abuses and to establish clear final deadlines.

2. Compensations for the private party should be defined for works already executed under the contract – this would add extra comfort to the financing institutions.

Both the Romanian and the Albanian laws should clearly make distinctions and propose guidelines and interactions between the state authorities responsible for PPP award and for tariffs and services standards, if there are different institutions.

Security and Support Issues

For the success of a PPP and for assuring the necessary funds for such a project, this is a section that can make a high difference between a successful or a failed project.

Securities and support issues are important for any financing institution who may consider the financing of such project.

The Romanian regulator has considered the financing institutions and has provided the possibility of mortgaging the assets of the project, except the public property goods. On the other hand, there are no provisions under the Albanian law regarding guarantees that can be assured for a potential financier.

No financial or guarantee support can be granted by the contracting authority or by the state under the Romanian legislation, this being one of the main flows of the 178/2010 PPP law. The public partner can provide capital to the SPV to be constituted between the public partner and the private partner only in kind, with no other support.

On the opposite, the Albanian legislation mentions that the contracting authority or other relevant public authorities can have liabilities into the project (article 27 (j)), which can be interpreted as guarantees or support for the implementation of the project.

Even though the Romanian legislation allows mortgages, there are no major impact rights defined for the lenders, specifically referring to the “step-in” right, with a proper new Private Party, but without initiating a new tender process. This right was inserted under the Albanian law during 2008, when the amendments were approved, making Albania one of the first and few European countries to include this specific right.

On the other hand, the possibility to step in without organizing a new tender procedure might affect the principles announced for the legislation and can be debatable and subjective whether the new private party was properly selected or not.

Proposed improvements

- Albania: clear provisions should be included regarding the guarantees and mortgages that can be established for the financing of the project. Clear provisions should also be included regarding the ways and extend to which the public partner can offer guarantees and can financially support the project.

- Romania: no limitations regarding the contribution of the public partner should exist, therefore the possibility of the Contracting Authority to contribute in nature (not only in kind) should be proposed. Also, the limitations regarding the guarantee and support of the public partner should be excluded from the legislation. The introduction of the “step-in right” is extremely important for the comfort of the financing institutions, therefore this clause should be allowed and stated under the legal provisions.

Under both legislations, special provisions regarding project financing and special rights for the lenders might be added.

Settlement of Disputes and Applicable Laws

No major differences between the two countries are encountered for this section. Both legislations have a distinct chapter regarding appeals and contestations: for the Albanian law – article 26 and for the Romanian law – article 28.

The Albanian law establishes only the general framework regarding applicable legislation in article 30 and 31, mentioning that the concession contract is governed by the laws of Albania and in case there are any disputes between the two parties, the mechanisms for arbitration that apply are the one mentioned under the concession contract, therefore allowing the two parties to decide those mechanisms at the moment of contract signing. The only other law mentioned, with which a connection is being made is Law no. 9643 /2006 – “Law on Public Procurement”.

On the other hand, the Romanian law makes many connections to other applicable laws as follows:

- Law no. 213/1998 regarding public property, when defining the public asset

- Description of postal services, according to Government Ordinance no. 31/2002 and amendments and completions by Law no. 642/2002
- Civil Law, regarding appeals solving and disputes as well as Law 146/1997 regarding judiciary stamp taxes
- Government Ordinance no 2/ 2001, amended and supplemented by Law 180/2002 regarding contraventions that apply

Proposed improvements

More flexibility could be added to the Romanian legislation in terms of governing laws and it could be clearly allowed to the parties to decide the applicable laws governing their relations. Making so many connections with other laws of Romania complicate the contractual provisions and may slow the implementation of the project.

Conclusions and recommendations

The ways Albania and Romania address public-private partnerships are different, starting with the contractual features and further analyzing the ways of implementation and control.

However, there are small changes that each country could make in order to attract more financing as EBRD is a major financing institution for large scale infrastructure projects. Considering the specific legislation of each country, EBRD performs periodic studies regarding the compliance and effectiveness of each country regulations, specific scorings are computed and considered when addressing the financing opportunities in each country.

Even though it is easily visible that Albania scored better than Romania in all existing categories, both countries can make specific changes in order to score even better.

The following brief improvements could be applied:

1. PPP legal framework: Albania could introduce also the concept of institutional PPP and Romania could centralize all PPP types under one single law or could make clear distinctions between appliances of each law.
2. Definitions and scope of the Law: Romania could define a clear list of industries of application for the law and a waiver mechanism
3. Selection of the private party: Romania could establish a procedure to offer unlimited access to the interested public for bidding documentation and also clear guidelines regarding contractual negotiation flexibility.
4. Project agreement: Romania should state clearly undertakings in case project maturity is not fulfilled and also compensations for the private party in case of defaults. Both legislations should propose guidelines and interactions between state authorities responsible for PPP award and for tariffs and services standards, in order to ensure consistency over the way the projects are addressed.
5. Security and support issues: clear provisions for guarantees and mortgages under the Albanian law and no limitations regarding the public partner contribution in the project under the Romanian legislation. Step in right for the Romanian legislation and special rights for the lenders to be addressed under both legislations.
6. Settlement of disputes and applicable laws: more flexibility and fewer references to other laws for the Romanian PPP law.

The governments should also investigate the examples offered by the other more successful countries which have a solid background in PPP implementations and should try to make the best they can in order to ensure a proper legal framework for all stakeholders, including top international financing institutions such as EBRD.

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THE INFORMATIONAL POWER OF DIVIDEND POLICIES AND THE IMPACT ON THE VALUE OF THE FIRMS IN CHILE

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Abstract

The proposed research shows the informational power that the dividend policies of firms have in the Chilean stock market. For this purpose, the stocks of firms belonging to the main index, the Selective Stock Price Index (IPSA) of the Santiago Stock Exchange, were put into groups considering the percentages of profit sharing of their shareholders.

By using the valuation ratios, it is possible to determine the intrinsic values of the shares comprising the index. This leads to the suggestion of purchasing undervalued securities that were undervalued by the market from stocks that reached the highest dividend distribution rates. In addition, they showed that greater dividend rates were preceded by growth rates of large firms.

Complementing the results above, the firms that share higher profits to shareholders are those who have property in greater concentration, along with reaching greater yield results than those obtained by firms that spend a smaller percentage of their dividend distribution.

Keywords: Information, dividends, valuation

Introduction

The news related to the end of economic stimulus stated by the Federal Reserve of the United States have strongly impacted the yields of securities in emerging markets. Such scenario has caused an obvious outflow of investment to developed capital markets, reflected by the historical standards achieved by the Dow Jones Industrial Average or the Standard & Poor's 500.

In Chile, the Santiago Stock Exchange, through its main indicator IPSA (it holds 40 firms of higher stock market capitalization), fell 11% only during the first half of 2013.

Therefore, if yields are generally low or directly negative for most of the securities, it is necessary to propose a methodology that allows profitable investment portfolios and the interpretation of the information given by the profit-sharing policies from different firms.

Objectives

General Objective

To identify and interpret the policies of dividends of firms in the Chilean capital market; belonging to the Selective Stock Price Index (IPSA).

Specific Objectives

- To determine the profit of a defensive portfolio
- To conclude whether or not the percentage of control of the property of the firms analyzed influence dividend policies.
- To interpret dividend policies through valuation indices or financial reasoning.

- To demonstrate the relation between growth rates and dividend payments.

Theoretical Framework

At a time when the security yields have given negative results, one of the possibilities portfolio managers have is to focus their analyses on stocks that distribute a larger amount of dividends. In Chile, the current legislation requires publicly- traded corporations (the largest ones) to distribute at least 30% of realized profits from their late previous year.

If we recall some of the basic tenets in valuing stocks, we can say in its primitive form that their profits are given by capital realized gains (sale price higher than the purchase price), plus dividend yields during the period in which the shares belonged to its owner.

$$r = \frac{D_1 + (P_1 - P_0)}{P_0}$$

Now, if you cannot "buy low and sell high a stock" as a basic principle of investment because the economic conditions are not favorable, another way to make profit is through dividend payments.

For this reason, we must focus our portfolio in stocks that distribute a higher amount of dividends, the so-called "defensive stocks".

For the purposes of valuing shares by using indices or financial reasons, and selecting the securities that could be part of an investment group, the following criteria have been considered:

1. Pay out: It represents the percentage distributed as a dividend in relation to the profits obtained in the period.

2. Reinvestment Rate: If the previous index shows, in relative terms, the amount of profit distribution, the reinvestment rate would indicate the profit rate available in the firm for its reinvestment.

3. Historical Growth Rate: If we ask ourselves what elements of financial statements we should focus our analysis on in order to determine a firm's growth, it is understood that it should reflect at least a growth in its assets, liabilities, equity, incomes and sales.

The ratio, Return on Equity (ROE) index, groups these variables. Through reinvestment adjustments, it reveals publicly available information that could infer a firm's growth by using audited and published financial statements.

4. Price Earning Ratio (PER): It represents all those investors who are willing to pay for earnings. A high PER suggests: investors are willing to pay more; greater sacrifice from consumer surplus; good market perception; low risk level for the firm; and a high pay back; therefore, gives more time to recover the investment and a low beta.

5. Book-to-Market Ratio: It compares the book value (i.e. accounting value) of a stock to its market value in the stock exchange.

6. Intrinsic Value: It relates the PER, from the point of view of the perception of the market, with projected profits as a potential generator of flows.

This intrinsic value is compared with the current stock value, determining if securities are at an underlying stock's price (to buy) or strike price (to sell).

Methodology

In a three- year period with figures that closed on June 30th, 2013, 5 types of portfolios or investment portfolios were constructed according to the percentage of the profits to pay dividends. Group 1 includes firms whose dividend rate is between 70% and 100%; group 2, firms whose dividends are between 53% and 69%; group 3 for those who distribute

50%; group 4 for firms that distribute between 33% and 49%; and group 5, those who distribute the statutory minimum of 30%.

Results

1. Profitability of portfolios, according to dividend distribution

In the investigation period, the only portfolio that obtained positive returns was group 1, i.e. one that is constructed of stocks whose firm distributes as much of their earnings as dividends. The returns obtained reach 12.14% for group 1, in circumstances where the Chilean benchmark fell 11%.

A summary of the results is shown in the following table:

Group	Return last 12 months
1	12,14%
2	-1,77%
3	-19,57%
4	-4,59%
5	-17,66%

Firms that only distribute the legal minimum obtained a negative return of -17.66%.

2. Relation between the percentage of ownership and the dividend distribution:

Considering both regulatory agency figures of firms issuing public stock offering and control rate of the 12 largest shareholders, the results were:

Group	Control 12 largest shareholders
1	88,30%
2	84,81%
3	80,30%
4	80,11%
5	74,14%

Therefore, the firms that pay higher dividends have a more concentrated ownership structure compared to those who share a lower proportion of their profits.

3. Cash flow and profit-sharing:

Group	EBITDA/N°STOCKS
1	541
2	775
3	686
4	103
5	123

As stated by one of the latest theories related to dividend policies, the so-called life cycle of dividends suggests that firms tend to pay dividends when they are established, mature and have high cash flows.

In this study, we came to the result of firms with a higher level of EBITDA adjusted accordingly to the firm size, shared a greater amount of dividends.

4. Relation between growth rates and dividend payments:

Group	Growth
1	0,05
2	0,04
3	0,03
4	0,06
5	0,03

Higher growth rates, depending on the proposed valuation ratios, are associated with higher dividend payments. The firms that distribute a larger amount of dividends grow at an

average rate of 5%, related directly with the GDP growth of the Chilean economy in the same period.

5. Valuation ratios and dividend policies:

After calculating the valuation ratios necessary to determine the intrinsic value of the share, the results are:

Group	Purchase Recommendation	Sales Recommendation
1	100%	0%
2	66%	34%
3	77%	23%
4	71%	29%
5	75%	25%

In the case of firms that distributed all of their earnings as dividends, and determined their intrinsic value as a function of generator power of profits and market perception, 100% of the cases presented higher intrinsic values than the stock prices; therefore, it is recommended to purchase all the stocks of the group.

6. Dividend policies and economic sector:

Economic Sector	Dividend (%)
Industry	53,1
Bank	53,4
Retail	35,8
Commodities	42,5
Construction	30
Utilities	58,6

From the point of view of organizing the economic sector in accordance to the firms they represent, the ones that pay the most dividends are those whose activity is oriented to basic services (electricity and water), with 58,6% on average, mainly because they are services regulated by the Chilean law, which makes their cash flows constant and considerable in time.

However, firms classified in the construction and real estate business have the lowest rates of dividends, according to the high levels of investment required, and lower profit-sharing results.

Conclusion

Through the calculations of the indicators, we came to the conclusion that dividend payments have a high informational content. A generous dividend policy implies portfolios that deliver higher returns in periods where yields are generally negative in all the Chilean stock market.

On the other hand, we can infer that higher dividends come from firms that have more concentrated ownership structures, higher rates of growth (according to valuation indices), higher cash flows and that are more mature. They also recommend the acquisition of securities that contain intrinsic values undervalued by the market.

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APPLIED RESEARCH OF TRANSPORT INFRASTRUCTURE FOR SLOVAK CAPITAL DEMAND

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Abstract

Bratislava as the capital of Slovakia is very important knot in Slovak business or tourism. That is why transport infrastructure plays very important role. The increase role of green bicycle transportation and the demand for sustainable tourism require building corresponding infrastructure for urban cyclists, cycle commuters and cycle tourists. The priority of government should be to develop this industry. They should also generate pressure on private entrepreneurs operating public transportation to mind the safety of their clients. It is also related to innovation and improving the quality of services that they provide.

Keywords: Tourism, transportation, disabled clients, cyclists, cycling

Introduction

Public transportation in developed country should be automatically supported by Municipal Corporation as well as by government. Each day it transfers thousand inhabitants and tourist. Everybody who uses public transport relies on it and expects it will be in good condition. Many tourists come to cities and towns without their own means of transport and have to rely on public transport services. These visitor are given first destination feeling through contact with railway or airport premises and then with public transport to be able to reach the chosen point. The public transportation network including cycle infrastructure in Slovakia is managed by the Ministry of Transport, Construction and Regional Development, as well as by specific cities and towns where they are or through which they pass. The recent increased attention to improving cycling infrastructure is mainly caused by the citizens themselves who through civic associations and non governmental organisation push local governments to create better conditions for cycle transportation and tourism. The recent actions of the government in improving conditions for cycle transportation and tourism are in accordance with the EU policy to reduce the greenhouse gas emissions by 20% by 2020. (Commission of the European Communities, 2007).

Transportation services are not only used for transportation of domestic or foreign population, but also serve as the town's trademark.

The research was about reconnaissance of public transport places – 8 train stations in Bratislava and city borough and 1 bus station.

Infrastructure as an Important Aspect of Tourism Development

Transportation belongs to the basic services in the tourism product and is one of the conditions of tourism emergence and development. Travelling is connected with movement and accommodation. Movement stage is related to transportation, which acts as a demand driver for transport services. Transportation needs are basic and without their satisfaction it is not possible to talk about tourism.

Transport infrastructure significantly affects economic development. The geographical and geopolitical position of Slovakia connects its transport infrastructure to the European transport network. According to the World Economic Forum, which annually assesses the quality of land transport infrastructure, Slovakia was ranked number 71 out of 139 evaluated countries in 2012. In comparison with the Czech Republic, we are 61 positions lower than our Western neighbours. (Source: Travel & Tourism Competitiveness Report 2011) The competition in the sphere of supply in developed transport markets focuses on qualitative indicators. These include reliability, flexibility, convenience, the quality of service offered. A developed transport market is considered to be a liberalized market, which is able to cooperate and, if necessary, to integrate into international transport markets. Slovakia has substantial reserves for the development and refinement of road transport and cycle infrastructure, which, among other things, will contribute to tourism development. A major factor in road transport is bus transportation. Bus transportation encompasses not only the quality of roads and carriage stock, but further components as well such as bus stops, bus stations, the quality of services provided at stations, the ability of co-operation with other modes of transport and the like. The second most widespread transportation on the territory of Slovakia is rail transport. Railways of the Slovak Republic were subject to extensive development in the previous economic system.

One of very significant transportation within bigger cities in Slovakia is public transport. Unfortunately permanent lack of capital resources distributed through the state budget made it impossible to keep rolling stock in perfect condition all time.

Currently cycle transportation and tourism do not have a high share on overall transportation modes in Slovakia but its importance is rising. In 2012 the share of cycle transportation in Bratislava was around only 3 % comparing to the several Netherlands towns with 35 % - 40% . In countries with a high share of cycling also cycle tourism is much more developed and practised. Bratislava has a great potential for cycle tourism as two international cycle routes EuroVelo 6 and 13 pass through it.

From traveller's point of view, this shortage negatively affects the quality of services provided. There is a permanent decrease in the number of railway passengers, with the main outflow driver being private motor vehicles. Cleanliness of coaches and the stops are slowly improving, but still do not belong to the strong side. The carriage stock undergoes a gradual renewal, but economically weaker regions will still have to wait for the replacement. Cycle tourists and commuters tend to use from public transportation rail transportation the most as the trains are the most convenient for bicycle transportation. In Slovakia only a private transporter RegioJet has all trains adjusted for bicycle transportation. The national rail transporter has only few trains suitable for comfortable bicycle transportation and their recognition in timetables is impossible. Moreover most of Slovak train stations especially in bigger towns do not offer easy access to the platforms and provisions for safe bike storage. Slovakia is competitive in rail transport as we have a very well-established rail infrastructure. In 2011, the report on tourism competitiveness evaluated it more positively than road transport, ranking it number 21 out of 139. (Source: Travel & Tourism Competitiveness Report 2011)

Rail transport should be linked to road transportation. Because it would be inconceivable for passengers to get off the train at any place without being offered a possibility for prompt continuation of their trip to the final destination. Lines should be connected to the bus transportation of national, regional level as well as with the public transport network of cities and towns. Cyclists need safe and foreigners even well signed cycle paths to and from the stations.

OECD supposes that the increase in greenhouse gas emission, particularly in the sphere of transport and industry, creates potential problems for meeting Slovakia's medium

and long term goals in emission reduction. Recommendations that could help to reduce greenhouse gas emissions include the elimination of subsidies for coal in power generation, removal of excise tax exemption for energy intensive industries, and, most importantly, the modernization of railway infrastructure. It is therefore assumed that the improvement of rail services will be one of the priorities as far as the transport in Slovakia is concerned.

Reconnaissance Bratislava regions

Research under the name Reconnaissance of environment for needs of tourism in the capital of Bratislava and its quality evaluation was conducted over four months in 2012 direct in a terrain. The basic model of the research project was prepared under the guidance of prof. JUDr. Ľudmila Novacká, PhD. She has proposed a method of processing research. Research was conducted following methods. By reconnaissance we can understand the field inspection, survey. Reconnaissance was conducted by personal observations by the researchers in the field. They primarily used the information with the help of standardized questionnaire prepared in advance. The questionnaire comprised of certain points which were further processed to fill out. Afterwards we made photo documentation. We evaluated all positive and negative externalities examined the subject by analyses which affect the quality of service. In the end we used the method of synthesis as well as statistical methods for evaluation of established facts.

A partial goal of the research was to map a real situation in terms of transportation to the capital Bratislava. Mainly we focused on the negative externalities that may influence the tourists.

The subject of our partial goal was reconnaissance the railway stations and the bus stations. Research was done by 16 researchers by direct observation in the terrain. Reconnaissance of cycle paths and infrastructure were carried out by 54 students by direct observation in the terrain during 4 months in 2012.

Evaluation of the Railway Station Inspection in Bratislava

There are 10 railway stations in the Slovak capital. We performed reconnaissance at 8 stations – the Main Station (Hlavná stanica), Vinohrady, Predmestie, Nové Mesto, Rača, Devínska Nová Ves, Lamač and Petržalka. The remaining 2 stations - Vajnory and Podunajské Biskupice – are not very important from tourism perspective; nevertheless, in certain time spans on week days, they are intensively used by commuters working in Bratislava.

The building of the stations Devínska Nová Ves, Petržalka and Nové Mesto were completely renovated several years ago, thus the inspection results were positive. In Rača, the train station was also renovated, but, basing on the inspection, we evaluated its state as being inferior to the above mentioned. The reconstruction was mainly targeted at security elements of platforms and specific tracks, as the railway station is situated in the country-wide corridor route.

In course of the reconnaissance, we evaluated the station's exterior and its surroundings, indoor spaces, and our primary focus was on detecting negative features and shortcomings. Examination of the station's exterior consisted of the evaluation of single platforms, targeted at the general appearance and cleanliness, of roofing, lighting, benches, dustbins as well as safety arrangements for wheelchair users and baby carriages, the visually challenged, or suitability for senior citizens. Assessing the interior, we concentrated attention on the entrance hall, in terms of its cleanliness in particular, on the station decoration with greenery, posters or welcome boards. We observed whether there are enough benches in the hall, as well as possibilities for buying refreshments, leaving luggage or using the toilette. We also evaluated notices on information boards and posters, mainly in terms of their clarity,

time relevance and multi-language availability. From the total questionnaire output, were chosen the most important research objects, in our opinion, which should be a priority for rail service providers to maximize customers comfort and satisfaction.

Terrain researcher always had to choose in two possible answers in the questionnaires. One of them was positive and second one negative. After counting positive and negative answers we counted over a percentage to total amount of the station under research.

benches in the entrance hall	4	50,0%
functions of cloak-room	7	87,5%
cleanness of cloak-room	6	85,7%
adjustment for disabled people	3	37,5%
parking possibilities	6	75,0%
litters damages	3	37,5%
left luggage room	1	12,5%
station decoration	4	50,0%

Tab. 1 Evaluation of questionnaires at the stations under research.
Source: own processing

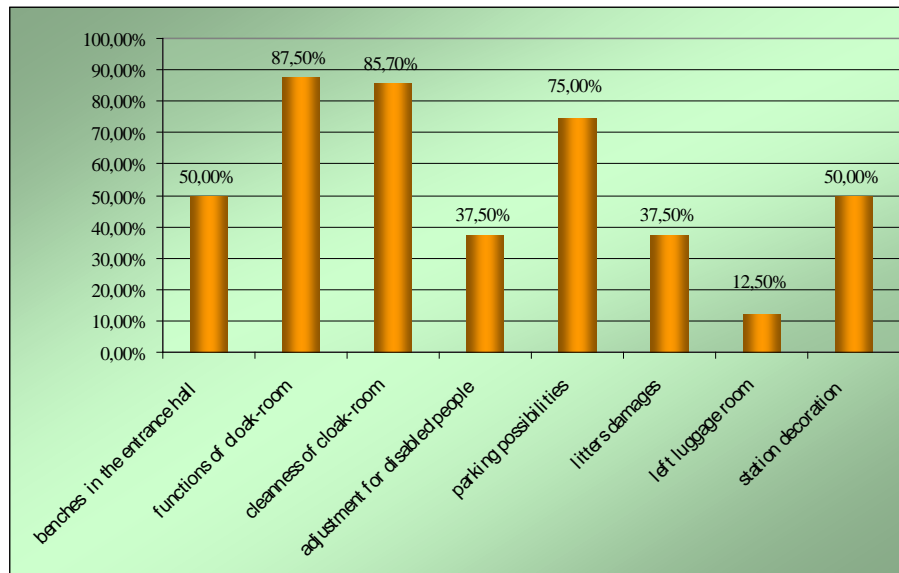


Chart 1 Percentage evaluation of questionnaires at the stations under research. Source: own processing

The given data show that only half of the stations under research have benches in the hall. Those were the stations that have undergone renovation, namely the stations Devínska Nová Ves, Petržalka, Nové Mesto and Lamač. The busiest stations – the Main Station and Vinohrady - have no benches. Although the Main Station is equipped with a waiting room, it is located on the top floor and is inaccessible for mothers with baby carriages and for wheelchair users because there is no elevator. The Vinohrady station used to have benches in good condition, which, for inexplicable reasons, were ordered to be removed by the railway management around the year 2008. Currently, there are some seats there, which cannot be evaluated positively in terms of reconnaissance as they are only a few.

Sanitary facilities are an essential part of transport operations. The inspection showed that they are present at almost every station. They only lack at the station Predmestie as its building is in desolate condition and is closed for security reasons. Therefore, Chart 1 considers only 6 stations in the percentual evaluation of the "cleanness of toilets" criterion. During our inspection, we determined that the cleanness of sanitary facilities does not meet the required standards only at the station Vinohrady. Interestingly, not all stations charge fees for the use of toilet.

Criteria: possibilities for disabled people

Public transport should serve for all without any restrictions. This means that it also has to be adjusted for clients with disabilities as well as for mothers with baby carriages. Therefore, we wondered how the Railways of the Slovak Republic provide facilities for this client segments. The Main Station, which renovated all platforms a few years ago, could not avoid criticism for the lack of platform elevators precisely for these clients. Platforms are well-equipped for the visually challenged, but mothers with baby carriages or wheelchair users face problems. Throughout the station premises, they are only able to move around the two main halls of the entrance hall, but toilets, which are located below the hall, are out of their reach. They equally have no access to the waiting room with stairs leading to it. They can only reach as far as Platform 1. Railways provide a service of sending trains to Platform 1 upon a request filed 24 hours before train arrival. In fact, with an exception of the stations Nové Mesto and Devínska Nová Ves, other stations are not very well (or in some cases at all) adjusted for clients with disabilities. It is worth noting, that the station Vinohrady is equipped with a ramp, which allows wheelchair users to get into the entrance hall. There is also a lift there bringing them to platforms 2 and 3. The station Vinohrady has 4 Platforms. The first send trains to Nové Zámky, Štúrovo and Banská Bystrica. Platform 3 sends trains in the direction of Žilina and Košice. From Platform 2 and 4 the client can only get to the Main Station. A very important fact is that in case of using this means of transportation to the Main Station, the train might arrive at a different platform and the traveller will result being trapped at the station. The platform location is very low, which makes it a problem for an able-bodied person to get on and off a train; this would be impossible for people with disabilities and extremely difficult for senior citizens. For mothers, it is impossible to lift the baby carriage upwards and get it onto the train. The station is entirely unsuitable for the visually challenged because of damaged pavement on the platform. At the station Rača, there is an elevator, which was out of order in the time of the reconnaissance. There are some facilities for the visually challenged. During the inspection of this element, we detected very serious shortcomings in this regard. In order to become competitive, the railways must gradually renovate all the stations.

Criteria: Parking

Another object of investigation was the parking possibility by the stations. Here we also found serious deficiencies. None of the parking areas is guarded. At the Main Station, it is chargeable and not large enough. Some stations, such as Vinohrady, have no parking lot. Most parking lots are not fixed up or properly marked. The parking lot at the Petržalka Station can serve as an model. The parking rate is 0.5 €for 30 min., in case of all-day parking it is 4 euros. Its further advantage is a good security system and entryway to the parking lot. Surrounding area offered further parking possibilities. Convenient access for motor vehicle and possibility of free short-term parking at railway stations should be provided for as a matter of course. Railways should realize that a parking lot is a necessary part of the infrastructure.

Criteria: Left-luggage room

As one of the most serious drawbacks, we qualify the absence of left luggage offices at 7 out of 8 stations under investigation. We were aware of the fact that the peripheral stations are small and the tourist flow there is not too intensive. However, we assume that there is always a possibility to operate a left luggage office without raising additional costs. A left luggage office serves not only for tourists who make a trip to our capital. As a considerable drawback we view a break in left luggage office operation at the Main Station in the afternoon hours. The office closes for a break even despite the fact that trains arrive and

depart at this time. Consequently, travelers must sometimes come 40 minutes unnecessarily earlier so as to be able to pick up the luggage. We recognize the fact that a left luggage officer is entitled by law to have a break, but we subscribe to the opinion that the railways should cover this daily service interruption by additional workforce.

Criteria: Visual perception of entry to the station

The premises of a railway or bus station are the first thing a visitor sees on arriving in Bratislava. First impression should fill them with positive emotions. In our research, we, thus, concentrated on this element as well. Again, we came to a conclusion that only the renovated stations have decorations.

As the general assessment of our investigation, we came to the conclusions that joint stock companies providing services in rail transportation must take radical steps to increase their competitiveness and attract passengers back. The steady decline in passenger numbers is directly related to the quality of railway station facilities. After negative experiences and unfulfilled expectations, passengers choose another alternative.

Evaluation of the Bus Station Inspection in Bratislava

Another alternative in the use of public transport in Slovakia is bus transportation. Performing designed reconnaissance of the environment for tourism in the capital city, Bratislava, and evaluating its quality at the bus station Mlynské Nivy, we also proceeded according to the assigned questionnaire. The questionnaire consisted of 11 points for evaluation, and namely - dustbins, cleanliness, left luggage, possibilities of buying refreshments, station decoration, walls, notices, a telephone booth, security, the staff of ticket and information offices. Each of these points contained further, more specific questions that had to be answered. Inspection was carried out directly at the premises of the station, which allowed for the answers in the questionnaire to be recorded on the basis of real experience. The main methods used by us were observation and subsequent analysis of the state observed.

During the reconnaissance of the bus station Mlynské Nivy we came to several conclusions. We consider a very limited number of parking spaces to be the biggest deficiency. Parking system is almost non-existent. We found no designated parking lot or parking spaces. Cars are mostly parked on the sidewalk and by the roadside. There is no security system here, a lot of parking places are reserved for taxis. Car owners can never be sure whether their cars are parked correctly or can be towed away by the police. Station neighbourhood is not safe as there are antisocial individuals moving in the cars' vicinity.

Another significant drawback is the lack of any arrangements for people with disabilities. Within the station, there is no lift or ramp by means of which such clients could comfortably get from the waiting room to the platforms. The only possibility is to proceed directly from the entrance hall, where there is an inclined plane for wheelchairs and baby carriages. However, we were surprised by an immense paradox – a warning against walking across bus lanes. As there is no other way for such travellers to reach the platform directly from the hall, nobody complies with this prohibition.

The construction of the bus station was carried out in the years between 1975 and 1983, and since then, no reconstruction work has taken place. For this reason, the building and platforms look shabby. In winter, waiting in the waiting room or the entrance hall is very unpleasant because of the incessant cold. The whole station looks gloomy and not at all safe. In the future, it is necessary to improve the overall appearance of the bus station, because it is visited daily by a large number of not only native dwellers but also foreigners who await European standards of travel, to which the station in its present state fails to correspond.

On the other side, we can positively evaluate the electronic information system that notifies about arrival and departure of buses. It also gives information on the attractions of

Bratislava and Slovakia which are worth seeing. The disadvantage of the system is its low visibility.

The conducted research shows that result. We summarized some of them in the following Table 2. The Bratislava railway stations and the bus station will be competitive when they remove the identified many deficiencies.

Station/Criteria	benches-entrance hall	benches-platforms	lighting-station	Left luggage room	Functions of cloak room	carpark
Devínska Nová Ves	yes	yes	satisfactory	no	yes	yes
Hlavná stanica	no	yes	satisfactory	yes	yes	inconvenient
Lamač	yes	yes	satisfactory	no	yes	yes
Nové Mesto	yes	yes	satisfactory	no	yes	inconvenient
Petržalka	yes	yes	satisfactory	no	yes	yes
Predmestie	no	inconvenient	absent	no	no	yes
Rača	no	yes	satisfactory	no	yes	inconvenient
Vinohrady	inconvenient	inconvenient	yes	no	yes	inconvenient
Bus station	inconvenient	inconvenient	deficient	yes	yes	inconvenient

Tab. 2 Synthesis table of research result. Source: own processing

Particularly we made a synthesis for disabled people and for families which travel with prams.

Stanica/Criteria	Access to the cloak room	Stairs/lift	Access to entrance hall	Phone box	Comfortable entry to the platforms	Elements for blind
Devínska Nová Ves	yes	not necessary	yes	no	yes	yes
Hlavná stanica	no	no	yes	yes	no	yes
Lamač	yes	not necessary	yes	no	yes	yes
Nové Mesto	yes	yes	yes	yes	yes	yes
Petržalka	yes	yes	yes	yes	yes	yes
Predmestie	no	no	no	no	no	no
Rača	no	yes	yes	no	no	yes
Vinohrady	no	yes	yes	no	no	no
Bus station	yes	inconvenient	no	no	no	no

Tab. 3 Synthesis table of research result of assurance for disabled people. Source: own processing

Evaluation of the Railway and Bus Stations Inspection in Bratislava for Cyclists' Needs

As the cyclists have special requirements for comfortable train and bus travelling we added additional criteria to evaluate the stations. We assessed all 10 Bratislava station including Vajnory a Podunajské Biskupice stations, which as it was mentioned above, are important for commuters. We evaluated the access to the stations, the existence of marked cycle paths of any category segregated or integrated and cycle stands in the area of stations. Safe cycle stands are important mainly for the visitors who need to stop at the stations for a short time. The next criterion was a long time bicycle parking. The commuters need a safe bike storage - bike parking to leave their bikes for a longer period mostly a day sometimes even overnight. In the countries with a high share of cycling for work and with the strong environmental orientations they already have a very sophisticated bike garages for hundreds of bikes. In Slovakia mainly in smaller towns or villages the bike cages are used for a safe bicycle storage. The last criterion was easy access to the platform. The barriers of stairs often discourage people to combine cycling and train use to get to work or to school. As we inspected also smaller borough flat stations without the stairs leading to the platforms in the evaluated table we we state it as flat station. In case of bigger stations with stairs leading to platforms we stated if any provision is made to overcome the stairs we name the provision as e.g. lift, ramp or rail on the stairs.

Stanica/Criteria	Cycle path to the station	Cycle stands	Bicycle parking	Access to the platforms
Devínska Nová Ves	no	yes	no	yes/flat station
Hlavná stanica	no	no	no	no/ stairs
Lamač	no	yes	no	yes/flat station
Nové Mesto	no	no	no	no
Petržalka	yes	no	no	yes/1st platform
Predmestie	under reconstruction			
Podunajské Biskupice	yes	no	no	yes/flat station
Rača	no	yes	no	yes/lift
Vajnory	no	no	no	no
Vinohrady	no	no	no	no
Bus station	no	yes	no	no

Tab. 4 Evaluation of the Railway and Bus stations inspection in Bratislava for cyclists needs

Conclusion

Public transport is almost everybody's part of life. When you travel by it daily, maybe you do not take notice many either positive or negative things because it is a routine for you. It can go on many years until you face to solve something like transport a pram or a wheelchair or maybe when you see a blind person at a station or you decide to use your bicycle to get to work or to do bicycle trip. Students of tourism did this research according to given instruction. They spent hours at the station to observe and evaluate the situation. Many people still prefer to travel by car because of greater convenience. But they forget the fact that travelling by public transport, trains and buses contribute significantly to reducing road fullness, decreasing CO₂ emissions, when using bicycles to improve health and fitness and moreover it increases the overall efficiency of transport. Nowadays many people have found out that using trains or bicycles instead of car have many advantages mainly if they travel to capital in the morning.

Bratislava is an important transport hub but favourable conditions for travelling have not been built here yet. Research of train stations, public transport stops and cycle infrastructure we did a base for discussion of the Bratislava municipality management (Bratislava Tourist Board ?) and the Government how to improve transport services and cycle infrastructure in the capital of Slovakia Bratislava.

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THE GOLDEN RULE FOR CAREER CHOICES: A CONTEMPORARY APPROACH TO APPLIED CAREER COUNSELLING

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Abstract

Career counselling will be analysed in an interdisciplinary and holistic manner focussing on the common denominators between the psychology of work and labour economics. In an attempt to develop valid guidelines for applied career counselling, we will concentrate upon basic critical factors that influence career choices, such as: personality interests, abilities and will, labour market, family and financial data, random events. All the above factors interact with each other under the umbrella of the so-called “golden rule for career choices”, an original approach introduced in this paper. Basic assumption of this notion is that persons with great abilities and strong will have their choice of a wider range of professions that match with their personality type, including professions not comprising other positive factors. Conversely, people with subpar abilities and a weak will would be advised to choose professions that firstly match their personality and secondly, include positive factors mentioned above.

Keywords: Interdisciplinary, golden rule, applied career guidance

Introduction

Throughout the relatively short history of career counselling as a separate scientific field, many theoretical concepts have unfolded. All of them have had the same goal, to explain human behaviour as it relates to career orientation and to assist individuals with moulding their life in the most optimal way. Nevertheless, career theory has been criticised for its tendency to be formed within a complex context and by the accretion of discrete segments (Patton & McMahon, 1999). Super (1992) acknowledged that his theoretical formulation was segmental and represented an effort to bring together concepts from various branches of psychology. Osipow and Fitzgerald (1996) commented that “theory in career psychology has increasingly moved toward a collection of miniature theories, each dealing with circumscribed, explicit segments of vocational behaviour, to be woven into a broad theory after the smaller theories have been shaped by empirical findings” (p.338). Each theory or model offers explanations about differing parts of the process of career development. As Super (1992) has stated, it is not valid to ask which group of theories is the best one, since neither is “sufficient without the other” (p.59).

The Need for an Interdisciplinary, Holistic Contemporary Approach

The need for an interdisciplinary and holistic approach has been emphasised by many scholars. Patton and McMahon (1999) mentioned that the adoption of an integrative framework could provide coherence to the field, by providing a comprehensive conceptualisation of the many existing theories and concepts relevant to understanding career development. The proponents of the recent movement toward convergence have emphasised

the importance of viewing career behaviour and the relationship between all relevant parts to each other and to the whole. This approach requires considering contributions from all theories when exploring an individual's career decision making processes (Patton, McMahon, 1999). However, while the complexity and controversies of various theories reflects the complexity of career behaviour, all writers do not support the need for a corresponding complex grand theory, or group of theories. Vondracek et al. (1986) commented that "the ultimate result of embracing an interdisciplinary, systems theory type view of career development will be a shift from simplicity to complexity" (p.6), with related research and measurement concerns. Nevertheless, it is clear that, we are experiencing the emergence of a paradigm shift from theories based on logical positivism (e.g. trait-factor), to postmodern perspectives emphasising counsellor-client collaboration. It is also clear that, although no single theory is superior to the others, the field is stronger because of the multiple perspectives currently espoused (Niles & Harris-Bowlsbey, 2009). As a general trend, career development theories have been moving toward holistic approaches. Savickas et al (2010) mentioned that, "21st century theories should approach careers as individual scripts" (p.129). Beilin (1955) pointed out the tendency for human behaviour to move from general, dependent, self-oriented, and isolated to specific, independent, social, and integrated. Career development has been construed by many writers as one aspect of this maturing process. However, constructivism itself faces the challenge of being more developed theoretically and philosophically (Reid, 2006). The division between theory and practice has been the topic of considerable debate. Although there has been extensive research on career development, the communication between practitioners and researchers is still insufficient. Savickas (2003) argues that "extensive data pertaining to career development continues to accumulate yet not be used, because career counsellors and vocational psychologists work in separate spheres. Career development researchers have already produced an impressive amount of content. And now may be the time to focus on helping career counsellors use that content in their practices" (p.89). However, according to Van Esbroeck (2007), vocational psychologists and practitioners do not need to choose between post-modern, constructivist approaches on the one hand, and empirical, positivist approaches on the other. They also do not need to choose between theory and practice, qualitative versus quantitative research or a focus on the individual versus the environment. Theory and practice may enrich each other in order to develop valid systems of applied career counselling. Another significant issue that should be taken into account is the impact of the recent global trends on career counselling services during a period of worldwide recession. Szilagy (2010) draws our attention to a strange change in the expressed needs of people. In the past people tried to satisfy the highest level of their needs through their career, according to Maslow's pyramid (e.g. self-actualisation), these days we are witnessing a change of focus: back to the basics. Unprecedented unemployment figures indicate that physiological and safety requirements have become more important than self-development. As a result, career guidance is becoming more important for the weaker and less privileged people than ever. In term of interventions, we notice a move from narrative approaches to trait and factor ones, which understandable within the context described above. Multiple theoretical perspectives indicate the vitality that exists within the career development field. Niles & Harris-Bowlsbey (2009) encourage counsellors not only to become familiar with the theoretical framework but to also engage in the task of constructing their own career development theory. This should be based, we might argue, upon established theories that provide a fruitful ground for valid career guidance guidelines. Undoubtedly, counsellors are obliged to try to create the "bridge" of implementing research results into real life fields. Therefore, the present requirements for careers guidance and counselling practitioners include: incorporating career development theories, becoming familiar with all available methods and new technologies, becoming "knowledge workers"

(Bimrose & Brown, 2010) and acquiring knowledge from different scientific fields. It also may be alleged that the applied aspects of career guidance concern the wider public, and if possible, must avoid contradictory or indistinct opinions and assumptions. The basic need is to provide specific, clear and comprehensive positions and directions regarding the selection of studies, profession and careers. The scientific differentiations or even recriminations regarding issues of this institution can and should only interest the academics and researchers of the field. Similar practices, when applied in the same area, can barely contribute to one's need for clarity and positive results. They create confusion and disorientate instead of orientating counsellors and the wider public to make the right choices when selecting studies and professions. Career guidance can dramatically mark one's life path and influence the development of economy and society in a country as a whole. Career counselling is an instrument of public policy and a socio-political tool, one that should incite the specialists of the field to be involved more actively in legislative and policy projects. Herr (2003) contends that, the demand for career assistance will expand due to rising unemployment rates and an increase in part-time work. Savickas (2003) states that counsellors need to help individuals adapt to dramatic changes in the economy and occupational structure. This is a fact not yet widely comprehended, even today. The need for a clear and specific hypothesis for such an important institution influencing the movements of society as a whole, and including mainly the young (the hope and future of the world) can and should be taken into consideration very seriously.

Considering the above-mentioned issues, our efforts are orientated towards applied methods that incorporate research results from several theoretical approaches, sometimes controversial in concept but from our point of view complementary in essence. The elaboration of the five critical factors in relation to the so-called "golden rule" incorporate elements from trait and factor theories. However, it places the individual into a wider context which unceasingly interacts and acts reciprocally with the individual and from such a perspective adopts the principles of constructivism (Guichard, 2005; Savickas, 2010).

The Five Critical Factors for Career Choices

The holistic approach to career counselling is derived from an interdisciplinary point of view, the combination of different scientific fields, mainly the psychology and the economics of labour. Elements from the fields of pedagogies, the sociology of occupations, human resource management, psychometrics, statistics and computer science, may also be used. In this modern view, we introduce "the golden rule for the proper career choices" and the basic critical factors for such a selection process, which are the following:

- Occupational personality interests and inclinations
- Abilities and will
- Labour market and occupational perspectives
- Family and financial data
- Random events

These five critical factors for career choices, combined with the golden rule to be further analysed here, may be related, to a certain extent, to the dynamic model of career choice development (Van Esbroeck, Tibos, & Zaman, 2005). Career decision requires a series of recurrent mini-cycles going through sensitisation, exploration of the self, environmental exploration, the relationship between the self and the environment, specification and decision-making. Increasing knowledge of the world of work, occupations, and the self would facilitate the process of career decision and transitions by helping people to analyse their strengths, weaknesses, opportunities and threats. (Rossier, Berthoud & Dauwalder, 2003).

Personality Professional Inclinations

A plethora of studies have indicated that the role of personality traits, interests, inclinations and talents is the most decisive and critical variable for career development. Furthermore, the primary consideration when selecting studies, occupations and a career is self-knowledge, for one to know who they are and what they want or can do. (When asked what was most important in life for a man or a woman, Thales of Miletus, one of the seven ancient Greek philosophers, answered, "self-knowledge"). They must learn about their interests, inclinations, preferences and talents. They must know who they really are and not who they believe they are. Numerous studies have proven that when people manage to match their traits and interests with certain jobs, job satisfaction is increased (Holland, 1997, Wong & Wong, 2002). Moreover, when a harmonic "marriage" of personalities and jobs is realised, labour productivity is maximised.

Abilities and Will

Professional inclinations and interests may guide a person to choose a career path, but it is mainly his ability and will power that will influence the hierarchical level he may reach in his career. When a student does very well at school, as a result of abilities and will, it is logical that he will choose to enter a university with high admission requirements such as medical or law schools. This presupposes that the student wants to follow the particular career path and is well prepared for all the difficulties that he/she will encounter in such demanding career. It is usually considered waste of human resources when a student with great abilities and marks ends up choosing studies with low admission requirements. In relation to that, the structure of the existing educational system, its substructure, the prevailing educational directions, the study level, the examination systems, the selection procedure for other and/or higher studies, the influence of teachers in combination to the student performances, play a complementary role to the selection of studies, profession and careers (Roberts, 1981). The performance of a pupil in some lessons and generally at school is a first sign of the kind and particularly the level of studies and professional hierarchy they should be aiming for. Nevertheless, school performances do not constitute the absolute and unique criterion for persons' ability and future professional success. Many great scientists were not very good students at school. With a strong will, persistence and life goals for professional and social evolution, hidden abilities might be radically enhanced. Self-efficacy and outcome expectations for a particular career activity are the major determinants of respective career interest (Lent et al., 1995). Therefore, the power of will remains as a very important factor in career choices, because "when you want something very much, the whole universe conspires in helping you to achieve it". On the whole, abilities, performances, aptitudes, ambition and specifically will, consist critical factors for career choices. When combined with occupational inclinations, interests and talents, they constitute the core of a certain personality construction that matches with certain professions. In our view, other personality features such as emotional intelligence and balance, diligence, perception, creativity, critical thought, logic, stamina, extroversion and introversion, ambitions, life values etc. are of secondary importance, although they should not be ignored. Narrative approaches to career counselling assist clients to formulate their identity in their own jobs and to better understand their own life-themes, vocational personality, and adaptability resources (Savickas, 2005).

Labour Market and Occupational Perspectives

It generally accepted that "labour market information is a crucial feature of careers guidance and counselling" (Bimrose et al., 2006). Used skilfully, it has the potential to enhance the career guidance and counselling process in a multitude of ways. It consists of information on general employment trends, data on the structure of labour market,

information about the way the labour market functions and data focussing on equality and diversity (Bimrose, Brown, 2010). The knowledge of the professions of the future and of the past, which professions have positive perspectives and which appear to be degraded and begin to die out on the local, national and international market are of particular importance (Katsanevas, Livanos, 2011). In general, labour market and occupational perspectives constitute a particularly important criterion for career choices. This is strengthened by present employment uncertainty and rapid post-evolution in technology, economy, employment and the content of professions. It is logical for the majority of persons to choose from a variety of professions that suit them, those with better future prospects, and to avoid those that are considered to be degraded and tend to die out in the labour market. There is simply a much higher possibility for job vacancies in the field of the professions of the future than in the professions of the past. The majority of young people nowadays choose their studies, professions and career based on their future prospects and particularly on the security of guaranteed employment. The anxiety of finding a job in the present bleak labour market is stronger than anything that can be said against this point of view. Nevertheless, regardless of how strong this criterion is, it should not be the only one. It is necessary to quantify it with the other criteria and particularly with occupational personality matching. In this great life decision, if some professions do not suit one's personality type, his/her preferences and inclinations, these should not be selected regardless of how good their prospects are in the labour market or how positive other factors such as family and financial situation are. Working conditions and salaries, the kind of work, its content, the status of each profession, job security as well as hierarchical and career evolution perspectives, are other complementary elements that also need to be explored in the selection process. These particular parameters may be evaluated differently in accordance with working values, personality and interests. They constitute part of gaining enough knowledge of the "world of work" that is required when making the important great decision concerning one's professional future.

Family and Financial data

Depending on the situation, family environment, family tradition, culture and financial data, are also important critical factors for career choices. Blustein (1994) referred to two levels of context: the immediate familial and interpersonal context and the broader societal context represented by such factors as culture, socio-economic background, and other environmental influences. Jobs of the parents or a family business often offer an interesting perspective for young people when considering their professional development. Even though it may be denounced as favouritism, it is a fact that in our extremely competitive world, it would be wrong for one to ignore the advantages offered by family tradition, without permitting this to lead to complacency. Familial influences on career development have been well recognised (e.g., Bradley & Mims, 1992; Johnson, Buboltz, & Nichols, 1999; Hargrove, Inman, & Crane, 2005; Sidiropoulou-Dimakakou et al., 2003). Hannah and Kahn (1989) found that students from higher social classes had higher aspirations than students from lower social classes. The focus is usually on the involvement of parents during the decision making process of career selection while recent research attempts to connect the effect of career interest of the parents on the career interests of young people (Wong, C.S, Wong, P.M., Peng, K.Z., 2011). In south Mediterranean countries in particular, some parents try to impose their desires and inhibitions on their children as regards their studies and professions. Some young people are forced to study a science that is considered to advance social and financial development, such as medicine, engineering, and law or a family business. Nowadays though, such pressure might bring about completely opposite results from those expected. Young people challenge the older generations and particularly parents who are overprotective

and sometimes oppressive. Parents may be right when they insist on the selection of a particular career for their children in certain cases, but will fail due to their persistent and paternalistic behaviour. Furthermore, although it is unpleasant, we should be realistic on how much money each family can afford for the studies of their children. Country of residence or career is also relevant. One should first investigate the proximity of universities and if the local market offers career opportunities. The place where a university or college is based plays a very important role in educational choices, particularly for low-income families. Of course, young boys or girls can choose to study far from their hometown as long as this choice is supported by their personality type, family culture and financial capabilities. Generally, if such choices are feasible financially, they should not be excluded. The perspective of returning home can and should be encouraged. For this reason, when making career decisions, it is necessary to quantify the development of the local market in relation to the national and international one.

Random Events

Random events, unexpected fortunate or unfortunate coincidences and chances one encounters in life can play important role in career and personal development. Individual behaviour has to adapt to rapid changes occurring within the workplace environment, and career planning must become increasingly flexible and adaptable. Super (1992) commented, "We are evidently entering an age of emerging rather than pre-set goals". Such frequent change, as well as the occurrence of chance events, or happenstance, may produce discontinuous change within an individual system (Patton, McMahon, 1999). Krumboltz and his associates (Mitchell, Levin, & Krumboltz, 1999) recognize that career counselling often involves helping clients understand and take advantage of the chance events they encounter in daily living. They note that developing a sense of curiosity, being persistent, being flexible, maintaining a sense of optimism, and being willing to take risks are a skillset that increases one's ability to take advantage of unplanned events. It is important that one be able to see when "opportunity is knocking" so as to make the right choices and be able to "ride the crest of the waves". Other people should not be harmed, however. Random events, although of critical value for career choices, cannot be combined "a priori" with other factors within the context of the golden rule due to their unexpected nature. Good luck is welcomed in one's life, but this does not mean that the effort for constant self-development and for enhancing knowledge and skills, required by the competitive world of current employment reality should be ignored. It is accepted that, all "*goods are obtained with effort*" and that professional and life success is, above all, the reward for everyone's efforts. This should not be negated by the fact that mass media, presenting a false and virtual reality, tends to present success as easy and effortless. The never-ending conquest for knowledge is a source for life and joy, the power of worthiness, success and creativity.

The Golden Rule for Career Choices

The "golden rule for career choices" and the contemporary interdisciplinary and holistic approach introduced here, are a product of a perennial study of career guidance and counselling research and practice, in combination with the development and application of modern automatic career guidance tests (Author, 2008). The theory of the "golden rule" combines the aforementioned evaluations and leads to the following basic assertion: "*people with great abilities and strong will can choose from a wider range of professions that match with their personality type, including professions not comprising other positive factors mentioned above, excluding random events which cannot be calculated. Conversely, people with subpar abilities and weak will would be advised to choose professions that firstly match their personality and secondly, include positive factors mentioned above, excluding random*

events". The greater the abilities, aptitudes, performances and level of will, the greater the "risk" of selecting professions represented by a negative mixture of the so-mentioned critical factors may be. For example, when one is greatly talented in theatre and has strong chooses to become an actor, in the end they will probably succeed and have a satisfying career, even though the specific profession is a very competitive one and has few opportunities for success. If one is sure about their choices and knows what they want and what they can do, they may be able to succeed. In contrast, persons with subpar abilities and not a particularly strong will, whose parents, or even themselves, insist they become a doctor (which is also a very difficult and competitive profession), will most likely end up in professional and personal dead end. It is better if these persons choose professions that match their personality type and have good occupational prospects in the labour market or comprise above positive factors discussed above. Furthermore, and perhaps most importantly, they should avoid professions that do not match their personality even if they have good prospects in the labour market, or include a positive combination of all critical factors. According to the social-cognitive perspective proposed by Lent, Brown, & Hackett (1995, 1996), all things being equal, people with the highest level of ability and the strongest self-efficacy beliefs will perform at the highest level. However, self-efficacy beliefs and outcome expectations continuously evolve as individuals interact with their environment. In the notion of the golden rule, (which we try to interrelate with theories and practice of our field), it should be also added that, nowadays in the globalised and fast moving world, certain persons might be forced to change more than one profession in their career. Given the on-going nature of change, there is a growing recognition that career choice and decision-making is a life long process. The idea of a lifetime job or even a lifetime profession is something that is changing (Amundson, 2006). Krivas (2011) states that the traditional perspective of career is a "normal" ascending route in the occupational hierarchy of one's career is now seriously in doubt. Moreover, there is such a great range of professions that people can choose from that it is not necessary to just think one way or insist on selecting only one profession. In reality, everyone can be matched with more than one profession. If for any reason a person is not able to follow their first choice then they should not give up but move on to their second choice. There is always the possibility that another professional passion can be found if the first choice is unattainable. For example, if we assume that there are 1,000 professions belonging to 17 large occupational groups, then a line must be drawn after the sixth or even the eighth category, excluding everything below it. This has been proven in practice by its application in Greece and Cyprus, since 2005, of more than 20,000 of our own computerised career guidance tests, the Career Gate Test, which is mainly based upon Holland personality type theory and other theoretical assumptions. (The C.G.T. is distributed by the Ministry of Education of Cyprus at all secondary state schools on the island, while the same test is massively distributed via many schools, career canters, local authorities, enterprises, etc. All relative information and a free sample of the test in English, is offered at www.careergatetest.com. What people should avoid (and this is a key point of the golden rule), is choosing professions and careers which are in complete contrast with their personality and interests. All persons should have an open occupational horizon and choose from a catalogue of professions that match their personality. They may eventually end up in professions rating first, second, third, fourth etc, in their list, depending on how compatible they may be with their personality and in relation to a positive mixture of the other positive criteria and factors (Author, 2008). As stated by Oyserman, Bybee, & Terry (2006), future methods of career counselling should take a dynamic approach that encourages imaginative thinking and the exploration of their possible selves. To maximise a client's career choice options, counsellors must encourage their clients to explore new activities, develop new interests, and consider new options based on newly formed interests and capabilities

(Mitchell and Krumboltz, 1996). Self-concept may be differentiated by new experiences and even by observing the behaviour of others. Therefore, self-knowledge is a life-long process as people's interests are constantly evolving and the self is continuously reconstituted (Savickas et al., 2010).

Conclusion

The above assumptions and in particular, the so-called notion of the golden rule, have been developed after intensive research and practice in career counselling and based on the implementation of large numbers of our computerised career guidance tests over the last six years. They represent a specific know-how in applied career guidance that can be used successfully, we believe, in practice. The methodology of the golden rule in relation to the computerised test has been extensively used by scholars and many scientists in Greece and Cyprus in everyday career counselling practices throughout the past few years. Occupational personality matching, abilities and will, the labour market and occupational perspectives, family and financial data and random events under the umbrella of the golden rule, have been and continue to be studied by our research team. These factors, the main critical parameters influencing career choices under the umbrella of the golden rule, are significant in the continuing effort to establish an applied system of valid guidelines for modern career counselling. We are also preparing a mathematical model and will be presenting it in the near future.

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HOW DOES ONLINE TAX DECLARATION OF BUSINESSES - INFLUENCE THE WAY THE TAX OFFICES ARE ADMINISTERED IN SHKODRA

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Abstract

Public services and their management have a great influence in the development of the local economy of a country. During the process of transformation of the community in an intense computing system of information, the offering of these services through information technology, in an effective, fast, transparent and safe manner in accordance with citizens and business needs are very important. Referring to makers of online declaration, this is an important measure that will influence in increasing the effectiveness of tax administration, to minimize the tax evasion in labour market, and to facilitate the exchange between two important institutions: Tax Office and Social Insurance directory. However, this online information exchange between these two institutions, aims in facilitating the data exchange between these two directories, with the purpose of establishing a clear evidence of the data of social insurance payments from that of businesses and citizens. This exchange will help the history creation, for each social insurance payer, thereby helping them in having the necessary profits from these paid contributions.

Keywords: Taxation office, online declaration, manual declaration, budget income

The goals of this study isto

1. Make a clear evidence of the influence of the online payment declarations in tax administration as the new challenge of this directory.
2. Make a description of the advantages and disadvantages of online declarations – compared to manual system.
3. Measure the performance and the reaction of the businesses to online declarations.

Hypothesis: Do the online declaration really increase the effectiveness of administration of tax directory in Shkodra region?

Objectives of the study are

1. Measure the progress of the online service of the taxes in Shkodra.
2. Observe the density of the usage of online services, which are related to tax payments.
3. Identify the problems that are related with this service.
4. The online service helps to avoid time wastage of users; thus, face payments reduces the personal contacts between the businesses and the tax administration.

Methodology

The preparation of this paper is based on the primary and secondary sources of information. In collecting the primary source of data, I have prepared a questionnaire to study the effectiveness of online declarations, from a businesses point of view. During the process

of the study, i spread 150 questionnaires to businesses that operates in Shkodra region. Hence, from the 150 questionnaires spread, i collected 130 responses during the period of May 2013. The questionnaires was spread by email, and so it was not hard to compile from the managers or the authorized persons that reads it.

2. Another method employed in the collection of primary data was through a personal interview with Mrs. Lindita Canaj – ex inspector of tax directory in Shkodra region – (where the taxes were paid manually till April 2009). Thus, this interview took place in May 2013.

3. Scodary data include data collection from books and articles, mainly from directory office and onlinewebsites that addresses this matter of discusion.

Online services that offers the tax administration

Governments all over the world, are making efforts in ensuring a high quality technological system of information and tax declaration – to offer improved services to citizens of the country. Often, they execute ambitious projects to tax administration offices, and on the other hand, offers a wider electronic nature of services to tax payers and their agents. Many of the theoreticians, think that electronic methods for the tax collection are very critical for all the processes of income administration.

The tax online systems that are listed above were implemented during 2007 – 2013. During this time, continous improvements of these systems have been made, according to the need of the directory of tax office and the needs of business.

✓ **Electronic declaration or (e-Filing)** is the portal where all the tax payers enters the system with its credentials (username/password), where it can take information and then navigate to other sub systems for any other operations.

✓ **E-Payment (Electronic payment)**

This subsystem makes all the online payment of all the tax declarations possible through the online system of declaration of the General Tax Office. Thus, the e-payments system allows the tax payer to accomplish electronic payments through two main options:

Direct Payment and E-Banking.

- **Direct Payment:** Through this method, the tax payer chooses directly the bank he has an account with to effect the payment, without entering the bank portal. Therefore, the tax payer has to put the number of the account that he was given by the bank to make electronic payments for the tax office.

- **E-Banking (Electronic banking):** Through this method, the tax payer, after he has logged on with its own data in the bank's system, he can make the online payment. For this payment, the bank responds to the tax payer through a combination of a 4 figures message in his phone – that has to be put in the bank's link, to make possible the identification of the person in order proceed with the online payment in favor of the tax office.

✓ **Electronic book of accounts (e-Ledger)** shows all the transactions that a tax payer has realized during a period of time. It gives a clear description of all the transactions that a tax payer has made during a fiscal period.

✓ **mTax:** This sub system is in the phase of design and development. However, all the data that are collected to the option “My taxes” in this portal can be opened from the mobile phone of the tax payer.

✓ **T-CRM:** Is an electronic system that is used from the General Directory tax office employees (including: inspector for elaboration, tax inspectors, etc). This kind of system information allows the inspectors of General Directory tax office to make inspections and control the duties compiled through the portal e-filing. This system information – was designed to meet the needs of the service department of tax directory for the tax payers.

The General tax office, has increased the focus on electronic service offering, that emphasizes the need that electronic payment, has to encourage the volunteer declaration and implement the tax law more efficiently. In addition, individuals and businesses are still trying to fit into the idea of transferring personal data which are confidential information in an electronic manner.

Legislation that empowers the E- declarations:

The Albanian Government has created the necessary legislation, that makes the subjects obligative to – the online declaration in an electronic way. According to the Decision Of Ministers council No. 55 date 03.02.2010⁵⁸ “ For the obligative declaration of tax declarations and other tax documents through electronic channels” that covers article 100 of the constitution and article 65 of the law no. 9950 date 19.05.2008 “For tax procedures in Albanian Republic”, changed with a proposal of the Finance Ministry, Ministers Council, decided the obligative declaration only through electronic forms of tax declarations, which includes the above listed payment declarations forms:

- Declarations and payments of Value Added Tax
- Declaration and payment of tax on labour forces.
- Declaration and payment of tax on profit for businesses.
- Declaration and payment of the social and health contributions.
- Declaration and payment of tax on income for small businesses.
- Payment list of the social insurance contribution, health insurance and tax on labour income.
- Statement of new employees and to those left to work; hence, the form and contents of the list of payments is determined by the minister of finance.
- Declaration of purchasing books and selling books.

This decision entered immediately at once, and its execution begun from the tax declaration online submissions for the period of March, 2010⁵⁹.

Disadvantages of online declarations

- Cost of internet usage for businesses and simple taxpayers
- Needs some special education on information technology, and not everybody can make a good job on online tax declaration.
- Incapability of the tax payer to make improvements of tax declarations after it is closed for the first time.
- Some businesses are still not having a special file, and this best describes the tax obligations.
- Overflow of electronic declarations income in general directory of tax servers – especially on special declarations date, for example: date 14 of every month – the last date to pay the Value Added Tax dues.
- In many cases, the tax payer – due to system problems – do not get the confirmation message for the procedure online declaration ending.

Advantages of online declarations

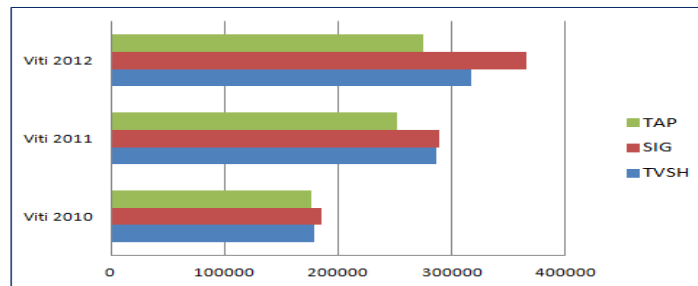
- Prevents fiscal evasion
- Reduces the time in controlling the tax declarations.
- Excludes direct contacts with tax administration –thus, it wastes the time of the tax payer.

⁵⁸ Council of ministers decision no. 55 dt. 03.02.2010 published in official bulletin no. 10 date 17.02.2010

⁵⁹ Notice of general directory of tax with protocol no. 16384 date 20.07.2012, published at www.tatime.gov.al

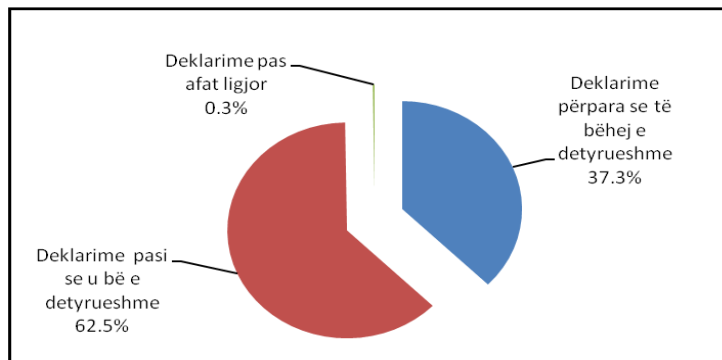
- Reduces time in declaration preparation, because it is prepared from the system itself.
- No time restriction for making the tax declaration – this is very useful to tax payer because they do not have to hurry up to meet up with the bank’s time table.
- Reduces the possible mistakes of the tax payers.
- Creates a database that is accessible at any time from the general directory – and from the tax payers.
- No special locality is needed for the online declaration – this means that the taxpayer must just have a mobile phone, and internet connected to it and can make the payment any time and any place from Albania, that he resides.
- Safety in declaration – because, for example possible mistakes from the bank’s clerk are avoided.

Albanian Impact of online declarations from 2010 to 2012



Source: IRS – 2012

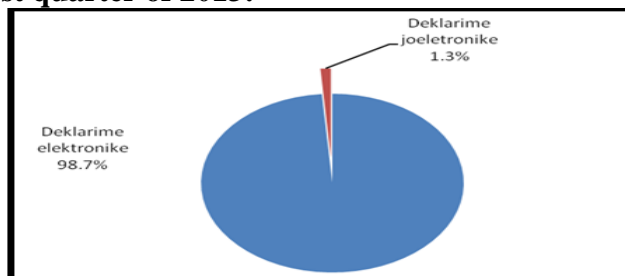
Shkodra region impact of online declarations is:



Source: Region directory of tax in Shkodra

Declarations have increased after the online declaration has become a due to businesses in Shkodra region up to 62.5 %. And the declarations after the terms allowed from the law have reduced to 0.3%.

During the first quarter of 2013:

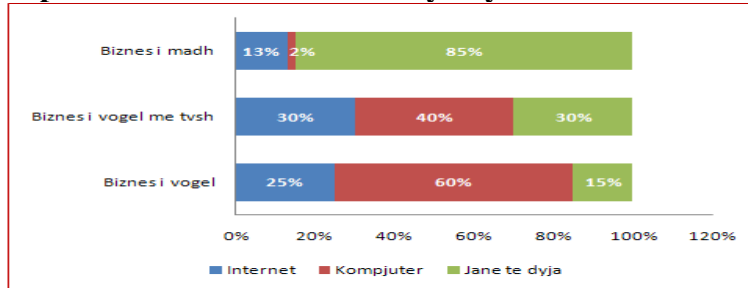


Source: Region directory of tax in Shkodra

Therefore, the chart shows that 98.7 % of declarations are online and only 1.3 % are offline. (Remember that during 2013 – online declaration has become obligative to all businesses)

Questionnaire analysis

Do you have a computer or internet connectivity in your office?

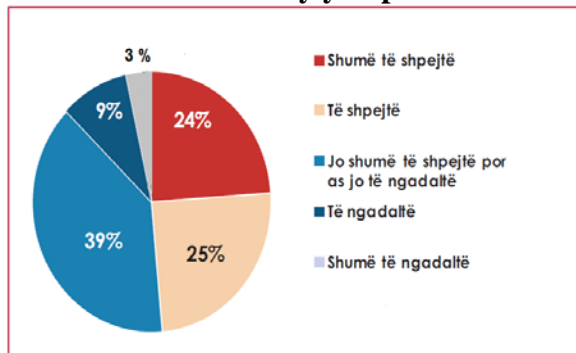


Big businesses answers: 85% - have both internet and computers, 2% - posses only a computer, and 13% - posses only internet

Small businesses with VAT – 30% posses both internet and computers, 40% - posses just a computer, and 30% - posses an internet

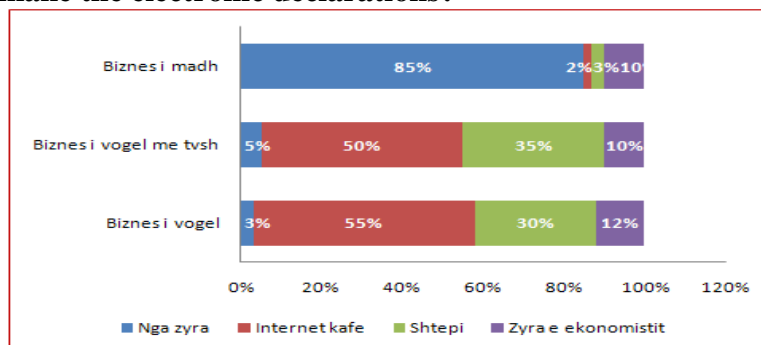
Small businesses – 15% posses both internet and a computer, 60% posses – just a computer and 25% - posses just internet. From th chart, it appears that small businesses have problems with infrastructure –which makes the online process declaration harder than it is.

What is the speed of the internet connectivity you posses?



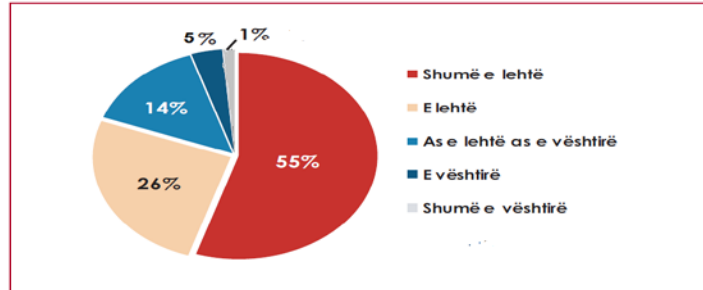
About 24% - answer that they have a fast and effective internet in their possession, but on the other hand, about 39% of the people’s answer shows that they posses a slow internet connectivity– that slows down the online declaration. Hence, this process rescues to make an annoying user.

Where do you make the electronic declarations?



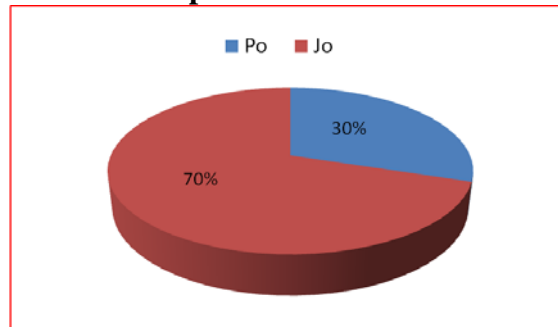
The most part – about 85 % of big businesses make the declaration at office – because they feel more comfortable and safer; but for the medium businesses and small businesses – 5 % and 3% make the declaration at office – these kind of businesses make it the most using an internet coffee at home.

How does the online declaration process appear to you?



55 % - of the businesses asked – answered that they find it very easy to access.

Did you have any problems with the procedure of online declarations?



About 70 % of the answers show that they have had at least one problem with the system of online declaration.

When did you start the online declaration?

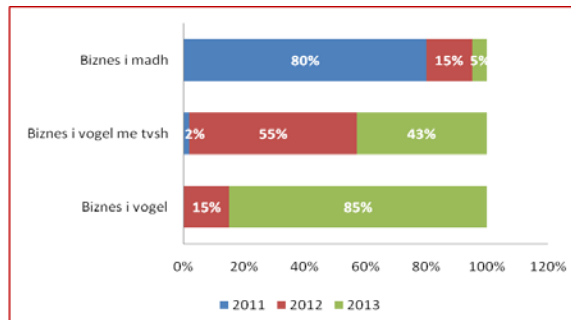


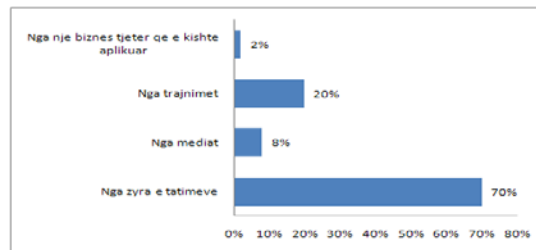
Chart shows that big businesses implemented it during 2012 – about 80 % of them, 55 % of medium businesses implemented it during 2012 and about 85 % of small businesses implemented it in 2013 – because it became obligative from the fiscal law.

What are the reasons, you did not declare the tax online voluntarily before 2013?



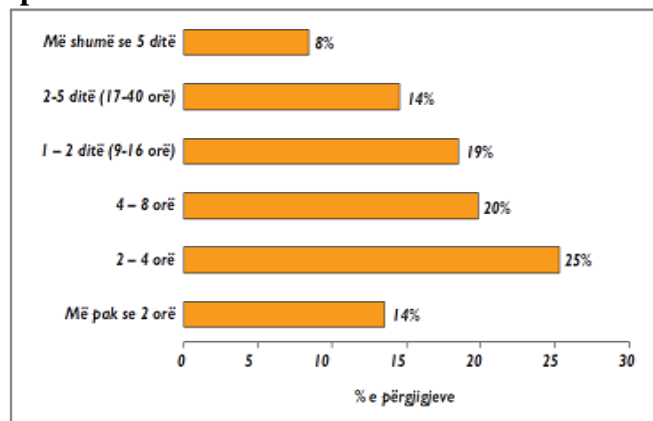
35 % - of the answers show that businesses do not believe mostly in the online declaration. They seem to be very sceptical if they reach the time allowed by the law at the tax office. 12 % - believe that the online declaration is complicated, 13 % - shows the fact that the official website of this directory does not work properly. 30 % of them – show that they are not used to this manner of declaration, and 10% - admit that they didnot have enough information that this service is offered from the regional tax office of Shkodra.

The information taken for the online declarations:



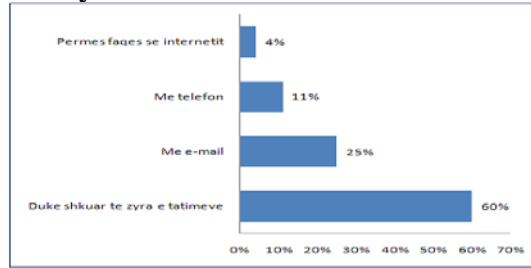
70 % - shows that they have taken the information for the online declaration through the regional tax office, 8 % - from media, 20 % from trainings, and 2 % - have taken this information ocassionally from another business that used it.

What time did you spend to make online declarations?



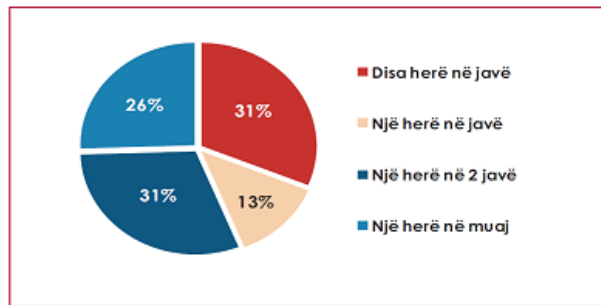
Therefore, most answers shows that about 25 % - use 2 -4 hours of work to make online declarations and 20 % take 4 – 8 hours for this process.

The way the regional directory of tax – communicates to businesses is:



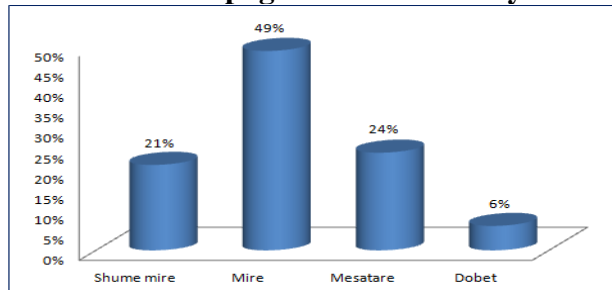
About 60 % - communicate though personal visits to tax office, 25 % via email, 11 % with phone and about 4 % through internet pages.

How often do you use the official site of regional tax office?



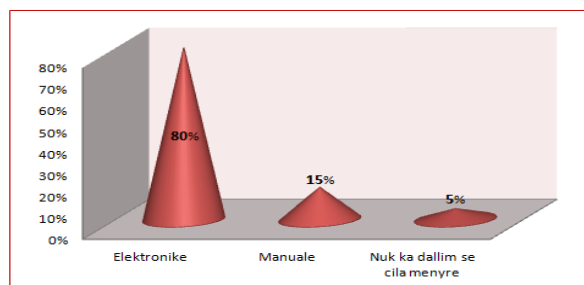
About 31 % - shows that they use it frequently—meanwhile, to meet an official from tax office is very rare and almost impossible.

How do you evaluate the official web page of Tax Directory?



Almost 49 % of the answers – give ok to the tax website and only 6 % give a weak mark to it.

How do you think electronic declaration has improved this process versus manual declarations?



80 % - of the answers remarked that it is better than electronic declarations, 15 % are for the manual declaration and about 5 % think that it doesnot make any difference at this point of view.

Conclusion

- Electronic tax services play an important role in the simplification of the tax administration.
- Data from general tax office and that from regional tax office show that the accessin of electronic tax office and their usage has increased.
- Electronic declarations have many advantages but also has disadvantages.
- The arguments versus electronic declarations are related to the cost and the expertise of the businesses show in using this system.
- In a report for Small and Medium Enterprises from “Doing Business” during 2012,m tax administration is appreciated as a good example for Albania.
- Electronic declaration versus manual declaration has avoided many bureaucratic procedures.
- Most of the small businesses do not have internet and make the electronic declarations in an Internet Coffee or at home –due to the lack of proper infrastructure.
- Most of the businesses in Shkodra think that electronic declaration is too effective for use.
- The success of this system depends on those that apply for an online declaration – and from those who get data from these declarations.

Recommendations

- Small businesses need more training on electronic tax declarations.
- Businesses would have more access at this service if Regional directory of tax in Shkodra - would offer for some time some optional spaces (A room, or a hall) full of computers and good internetconnectivity, to help businesses not suffer the lack of the necessary infrastructure.
- It is necessary that the electronic declarations system has to be appropriate with other search engines in the internet. However, this would facilitate the process the most.
- General directory of tax has to make improvements related to the system of electronic declarations.
- General directory of tax has to improve the program of control for the electronic declarations.
- General directory of tax should give the businesses the possibility to make unification for the date of books declaration – and the date of declaration of payment declarations form and the form of Value Added Tax.
- General directory of tax has to keep specialized employees at IT department –so as to proffer solution to any problem that arises from the system.

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COMPARISON ANALYSIS OF FINANCIAL FREEDOM OF THE REPUBLIC OF KAZAKHSTAN WITH THE ISLAMIC REPUBLIC OF IRAN

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Abstract

In this article we will focus on the financial freedom of Kazakhstan versus Iran, emphasizing the proper reformation and implementation on ongoing reforms of financial and economical activities in Kazakhstan which makes Kazakhstan to be one of the 20 largest score improvements in the 2012 Index and an evidence for other capable Asian countries such as Iran with seriously degraded economic dynamism as a result of its political instability. Comparison analysis of the current data of Financial Freedom published by reputed organization with the country's current financial climate.

Keywords: Financial Freedom, Financial System, Government Control, Central Bank, Financial Services, Economic Freedom, Policy Reforms, FDI, TSE, P/E

Introduction

For the beginning we should know the simple and pure meaning of financial freedom. Financial freedom is a measure of banking security as well as independence from government control. State ownership of banks and other financial institutions such as insurer and capital markets is an inefficient burden, and political favoritism has no place in a free capital market. Financial freedom means a transparent and open financial system ensures fairness in access to financing and promotes entrepreneurship. An open banking environment encourages competition to provide the most efficient financial intermediation between households and firms and between investors and entrepreneurs.

Through a process driven by supply and demand, markets provide real-time information on prices and immediate discipline for those who have made bad decisions. This process depends on transparency in the market and the integrity of the information being made available. An effective regulatory system, through disclosure requirements and independent auditing, ensures both.

Increasingly, the central role played by banks is being complemented by other financial services that offer alternative means for raising capital or diversifying risk. As with the banking system, the useful role for government in regulating these institutions lies in ensuring transparency; promoting disclosure of assets, liabilities, and risks; and ensuring integrity.

Banking and financial regulation by the state that goes beyond the assurance of transparency and honesty in financial markets can impede efficiency, increase the costs of financing entrepreneurial activity, and limit competition.

Crucial Role of Financial Freedom for the Prosperity of Country's Economy

In most countries, banks provide the essential financial services that facilitate economic growth. They lend money to start businesses, purchase homes, and secure credit for

the purchase of durable consumer goods, and they furnish a safe place in which individuals can store their savings. Greater direct control of banks by government is a threat to these functions because government interference can introduce inefficiencies and outright corruption. Heavy bank regulation reduces opportunities and restricts economic freedom; therefore, the more a government restricts its banking sector, the lower its economic freedom score will be.

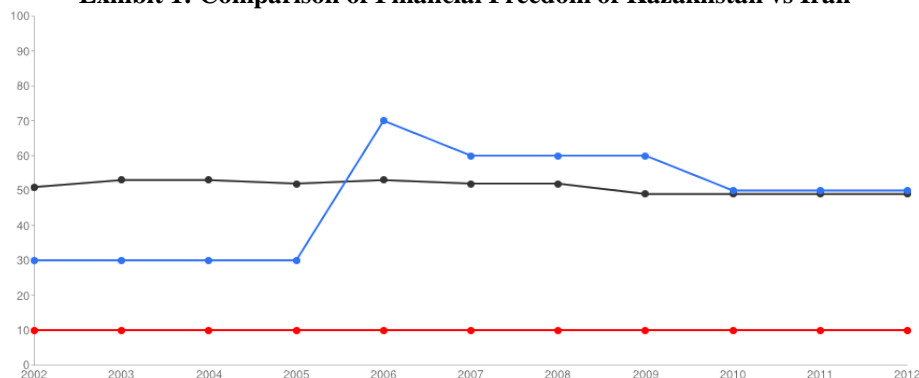
It should be noted that virtually all countries provide some type of prudential supervision of banks and other financial services. This supervision serves two major purposes: ensuring the safety and soundness of the financial system and ensuring that financial services firms meet basic fiduciary responsibilities. Ultimately, this task falls under a government's duty to enforce contracts and protect its citizens against fraud by requiring financial institutions to publish their financial statements and relevant data, verified by independent audit, so that borrowers, depositors, and other financial actors can make informed choices.

In a free banking environment, the marketplace should be the primary source of protection through such institutions as independent auditors and information services. Such oversight is distinguished from burdensome or intrusive government regulation or government ownership of banks, both of which interfere with market provision of financial services to consumers. It is such government intervention in the market, not the market itself, which limits economic freedom and causes a country's grade for this factor to be worse than it might otherwise be.

Increasingly, the central role played by banks is being complemented by other financial services that offer alternative means for raising capital or diversifying risk. As a result, the authors take related non-banking financial services, such as insurance and securities, into consideration when grading this factor. As with the banking system, aside from basic provisions to enforce contractual obligations and prevent fraud, increased government intervention in these areas undermines economic freedom and inhibits the ability of non-banking financial services to contribute to economic growth. If the government intervenes in the stock market, it contravenes the choices of millions of individuals by interfering with the pricing of capital, the most critical function of a market economy. Equity markets measure, on a continual basis, the expected profits and losses in publicly held companies. This measurement is essential in allocating capital resources to their highest-valued uses and thereby satisfying consumers' most urgent requirements. Similarly, government ownership or intervention in the insurance sector undermines the ability of providers to make available those services at prices based on risk and market conditions.

The below exhibit shows the financial freedom in both Kazakhstan and Iran in last Decades:

Exhibit 1: Comparison of Financial Freedom of Kazakhstan vs Iran



■ World Average ■ Kazakhstan ■ Iran

Source: <http://www.heritage.org/index>

As you can see, the above exhibit shows in 2012, the Financial Freedom in Kazakhstan is 50.0 although in Iran Financial Freedom is 10.0.

Please note that financial freedom is one of the main components of Economic Freedom Index. Totally we have 10 Economic Freedom Components. Besides Financial Freedom, there are several other factors as followings:

- 1- **Property Rights** - Property rights is an assessment of the ability of individuals to accumulate private property, secured by clear laws that are fully enforced by the state.
- 2- **Freedom from Corruption** - Freedom from corruption is based on quantitative data that assess the perception of corruption in the business environment, including levels of governmental legal, judicial, and administrative corruption.
- 3- **Government Spending** - Government spending is defined to include all government expenditures, including consumption and transfers. Ideally, the state will provide only true public goods, with an absolute minimum of expenditure.
- 4- **Fiscal Freedom** - Fiscal freedom is a measure of the burden of government from the revenue side. It includes both the tax burden in terms of the top tax rate on income (individual and corporate separately) and the overall amount of tax revenue as a portion of gross domestic product (GDP).
- 5- **Business Freedom** - Business freedom is the ability to create, operate, and close an enterprise quickly and easily. Burdensome, redundant regulatory rules are the most harmful barriers to business freedom.
- 6- **Labor Freedom** - Labor freedom is a composite measure of the ability of workers and businesses to interact without restriction by the state.
- 7- **Monetary Freedom** - Monetary freedom combines a measure of price stability with an assessment of price controls. Both inflation and price controls distort market activity. Price stability without microeconomic intervention is the ideal state for the free market.
- 8- **Trade Freedom** - Trade freedom is a composite measure of the absence of tariff and non-tariff barriers that affect imports and exports of goods and services.
- 9- **Investment Freedom** - Investment freedom is an assessment of the free flow of capital, especially foreign capital.

In the exhibit below you can see the Freest Countries such as Hong Kong, Australia and Singapore who reaches the Top and Cuba, Zimbabwe and North Korea who are repressed and shows the weakest countries with regards to the Economic Freedom Index in 2012.

The total number of countries are 184 countries but because there is not available data for 5 countries including Afghanistan, Iraq, Liechtenstein, Somalia and Sudan. 179 countries were having world rank and since the exhibit is too large we have cutback those which we did not find them necessary as we are focusing and comparing two countries Kazakhstan and Iran.

Exhibit 2: Comparison of Economic Freedom including Financial Freedom of Kazakhstan vs Iran

Name of Country	World Rank	Index year	*Overall Score	Business Freedom	Trade Freedom	Fiscal Freedom	Government Spending	Monetary Freedom	Investment Freedom	Financial Freedom	Property Rights	Freedom From Corruption	Labour Freedom
Hong Kong	1	2012	89.9	98.9	90.0	93.1	91.0	85.8	90.0	90.0	90.0	84.0	86.5
Singapore	2	2012	87.5	97.2	90.0	91.3	91.3	84.8	75.0	70.0	90.0	93.0	92.1
Australia	3	2012	83.1	91.9	86.2	63.4	67.1	84.5	80.0	90.0	90.0	87.0	90.6
...
Poland	64	2012	64.2	61.4	87.1	74.4	40.3	79.1	65.0	60.0	60.0	53.0	61.3
Kazakhstan	65	2012	63.6	72.9	79.6	90.4	83.4	71.8	30.0	50.0	40.0	29.0	88.7
Cape Verde	66	2012	63.5	59.0	66.9	77.3	61.8	80.5	65.0	60.0	65.0	51.0	48.5
...
Equatorial Guinea	170	2012	42.8	44.7	58.8	75.5	28.0	73.1	25.0	40.0	20.0	19.0	43.8
Iran	171	2012	42.3	64.8	45.7	80.6	76.9	62.0	0.0	10.0	10.0	22.0	51.5

Congo	172	2012	41.1	38.7	63.0	72.5	76.1	51.2	20.0	20.0	10.0	20.0	39.0
...
Cuba	177	2012	28.3	10.0	62.7	61.5	0.0	71.3	0.0	10.0	10.0	37.0	20.0
Zimbabwe	178	2012	26.3	34.9	50.4	65.2	38.7	0.0	0.0	10.0	10.0	24.0	29.6
North Korea	179	2012	1.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	5.0	5.0	0.0

* Overall Score:

80 – 100 Free

70 – 79.9 Mostly Free

60 – 69.9 Moderately Free

50 – 59.9 Mostly Unfree

0 – 49.9 Repressed

Source: Compiled by Author from the Heritage Foundation, in partnership with Wall Street Journal

Ranked countries are given a score ranging from 0 to 100 on each of the 10 components of economic freedom, and these scores are then averaged (using equal weights) to get the country's final *Index of Economic Freedom* score. In addition to the scores, the country pages include a brief introduction describing economic strengths and weaknesses and the political and economic background influencing a country's performance, as well as a statistical profile giving the country's main economic indicators. Information about a country's public debt is included this year for the first time. To assure consistency and reliability for each of the 10 components on which the countries are graded, every effort has been made to use the same data source consistently for all countries; when data are unavailable from the primary source, secondary sources are used.

Methodology of Financial Freedom

There is always important to know that what are the related methodology applied and how these figures are measured, thus the below mentioned are the methodology of measurement of Financial Freedom score (0-100).

The financial freedom factor measures the relative openness of each country's banking and financial system. The authors score this factor by determining the extent of government regulation of financial services; the extent of state intervention in banks and other financial services; the difficulty of opening and operating financial services firms (for both domestic and foreign individuals); and government influence on the allocation of credit. The authors use this analysis to develop a description of the country's financial climate and assign it an overall score between 0 percent and 100 percent.

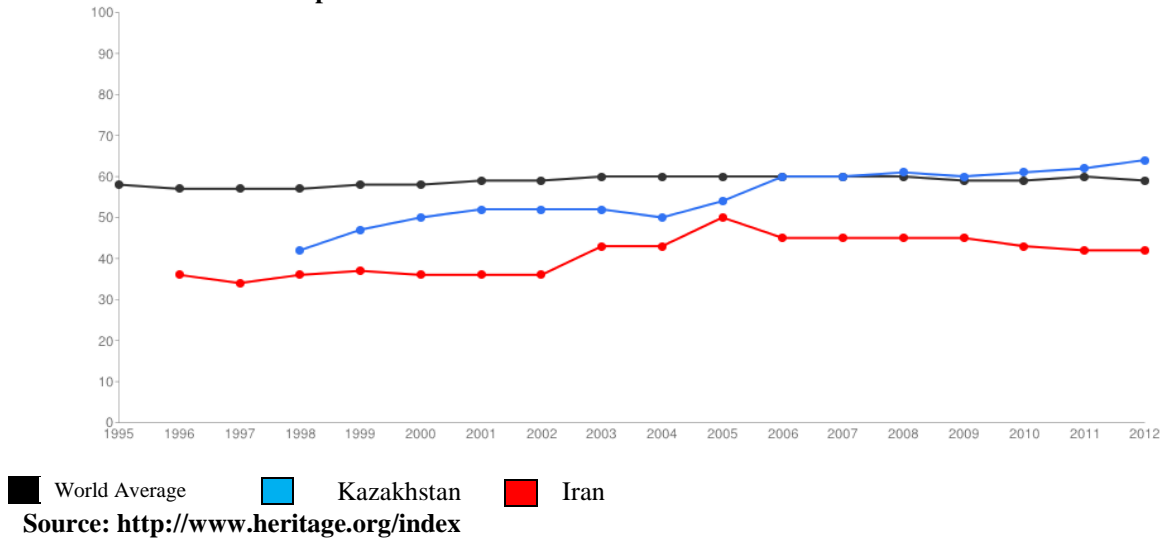
The following criteria are used in determining a country's score for this factor:

- **100%—Negligible government influence.** Independent central bank supervision and regulation of financial institutions are limited to enforcing contractual obligations and preventing fraud. Credit is allocated on market terms. The government does not own financial institutions. Financial institutions may engage in all types of financial services. Banks are free to issue competitive notes, extend credit and accept deposits, and conduct operations in foreign currencies. Foreign financial institutions operate freely and are treated the same as domestic institutions.
- **90%—Minimal government influence.** Same as above with the following exceptions: Independent central bank supervision and regulation of financial institutions are minimal but may extend beyond enforcing contractual obligations and preventing fraud.
- **80%—Nominal government influence.** Same as above with the following exceptions: Independent central bank supervision and regulation are straightforward and transparent but extend beyond enforcing contractual obligations and preventing fraud. Government ownership of financial institutions is a small share of overall sector assets. Financial institutions face almost no restrictions on their ability to offer financial services.

- **70%—Limited government influence.** Same as above with the following exceptions: Credit allocation is slightly influenced by the government, and private allocation of credit faces almost no restrictions. Foreign financial institutions are subject to few restrictions.
- **60%—Significant government influence.** Same as above with the following exceptions: The central bank is not fully independent, its supervision and regulation of financial institutions are somewhat burdensome, and its ability to enforce contracts and prevent fraud is insufficient. The government exercises active ownership and control of financial institutions with a significant share of overall sector assets. The ability of financial institutions to offer financial services is subject to some restrictions.
- **50%—Considerable government influence.** Same as above with the following exceptions: Credit allocation is significantly influenced by the government, and private allocation of credit faces significant barriers. The ability of financial institutions to offer financial services is subject to significant restrictions. Foreign financial institutions are subject to some restrictions.
- **40%—Strong government influence.** Same as above with the following exceptions: The central bank is subject to government influence, its supervision and regulation of financial institutions are heavy, and its ability to enforce contracts and prevent fraud is weak. The government exercises active ownership and control of financial institutions with a large minority share of overall sector assets.
- **30%—Extensive government influence.** Same as above with the following exceptions: Credit allocation is extensively influenced by the government. The government owns or controls a majority of financial institutions or is in a dominant position. Financial institutions are heavily restricted, and bank formation faces significant barriers. Foreign financial institutions are subject to significant restrictions.
- **20%—Heavy government influence.** Same as above with the following exceptions: The central bank is not independent, and its supervision and regulation of financial institutions are repressive. Foreign financial institutions are discouraged or highly constrained.
- **10%—Near repressive.** Same as above with the following exceptions: Credit allocation is controlled by the government. Bank formation is restricted. Foreign financial institutions are prohibited.
- **0%—Repressive.** Same as above with the following exceptions: Supervision and regulation are designed to prevent private financial institutions. Private financial institutions are prohibited.

Sources of Methodology: Unless otherwise noted, the authors used the following sources for data on banking and finance, in order of priority: Economist Intelligence Unit, Country Commerce, Country Profile, and Country Report; official government publications of each country; U.S. Department of Commerce, Country Commercial Guide; Office of the U.S. Trade Representative, National Trade Estimate Report on Foreign Trade Barriers; and World Bank, World Development Indicators.

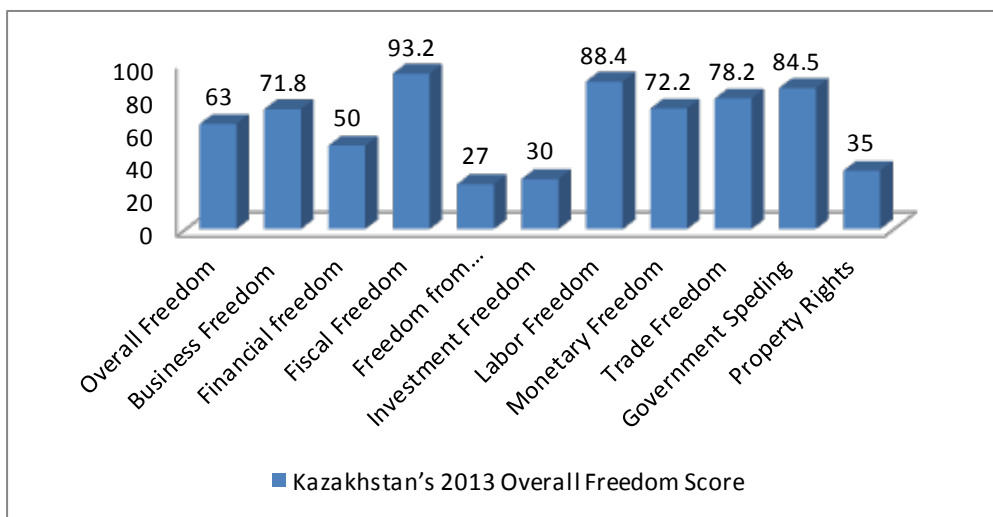
Exhibit 3: Comparison of Overall Score of Economic Freedom of Kazakhstan vs Iran



According to 2012 Index, Iran’s economic freedom score is 42.3 with world rank 171 among 184 countries and regional rank of 16 out of 17 shows very bad down economic situation, Its score has increased by 0.2 point from last year, with a notable decline in business freedom offset by small improvements in five of the 10 economic freedoms. Iran is ranked 16th out of 17 countries in the Middle East/North Africa region, and its overall score is well below the world and regional averages.

Although Kazakhstan’s economic freedom score is 63.6, making its economy the 65th freest in the 2012 Index. Its score is 1.5 points higher than last year, reflecting improvements in six of the 10 freedoms including property rights, freedom from corruption, and the control of public spending. Kazakhstan ranks 11th out of 41 countries in the Asia–Pacific region, and its overall score is above the world and regional averages.

Please note that the country recorded Kazakhstan as one of the 20 largest score improvements in the 2012 Index.



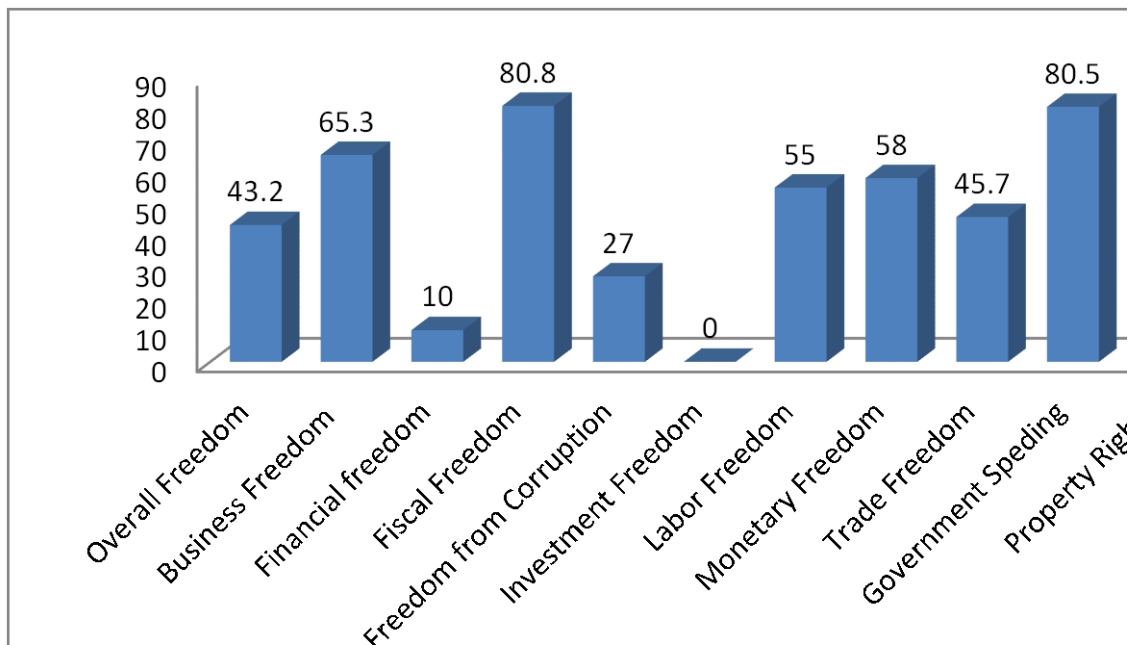
Source: Compiled by Author from <http://index-of-economic-freedom.findthedata.org/1/1011/Kazakhstan>

On one hand the Policy reforms in Kazakhstan was dynamic and helpfull, indeed. Kazakhstan continues its positive trend of advancing economic freedom. The country has become one of the first to return to the path of steady economic expansion since 2009, partly because of ongoing policy reforms that have enhanced regulatory efficiency. Substantial oil revenues enable a high degree of fiscal freedom.

On the other hand because of lack of policy reforms in Iran and continuation of sanctions on the Iran's Economy, heavy state interference undermines economic freedom in every category measured in the Index and seriously degrades economic dynamism. As a result of rampant corruption and deficiencies in the legal framework, the rule of law remains fragile and uneven. The government dictates most production and investment activity and derives most of its revenue from the oil sector.

A rise in world oil prices in 2011 increased Iran's oil export revenue by roughly \$28 billion over 2010, easing some of the financial impact of international sanctions. However, expansionary fiscal and monetary policies, government mismanagement, the sanctions, and a depreciating currency are fueling inflation, and GDP growth remains stagnant. Iran also continues to suffer from double-digit unemployment and underemployment. Underemployment among Iran's educated youth has convinced many to seek jobs overseas, resulting in a significant "brain drain."

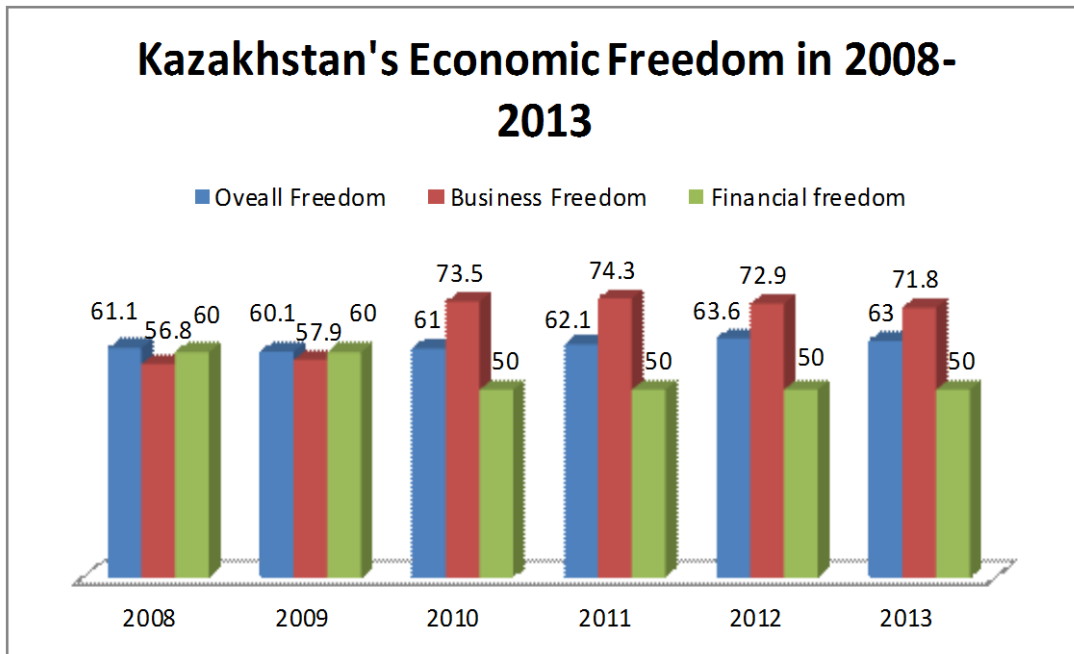
In Kazakhstan, growth progressing, strengthening the foundations of economic freedom has become even more critical to the country's long-term economic prospects. Institutional shortcomings such as a weak judicial system and widespread corruption hold down diversification and modernization.



Source: Compiled by Author from <http://index-of-economic-freedom.findthedata.org/1/1003/Iran>

The Private sector never could play significant role in Iran's Economy just because first of all it was operated by those people who were rulling government previously and now with the name of Private company still following the state policy. On the other hand for those who were independent from the state, never could have a serious progress because of the state restriction over their activities continued and continued not in a right ways.

Even according to Real Clear World, Iran has been listed among the countries with the least economic and financial freedom. The private sector, largely marginalized by the restrictive regulatory environment, is further weighed down by government inefficiency and mismanagement. Efforts to enhance the business climate have been modest, undone on occasion in the interest of maintaining the status quo. A recent move to cut subsidies, which had swollen to a level equal to roughly one-third of economic output, has been implemented erratically, causing substantial uncertainty in the affected sectors.



Source: Compiled by Author from <http://index-of-economic-freedom.findthedata.org/1/1011/Kazakhstan>

Conclusion

Financial freedom of Kazakhstan is at current level of 50, although from 2008 till 2009 it was 60. However, financial freedom of Kazakhstan from 2010 till 2013 drop to 50 and remains stable during last 3 years, Kazakhstani financial freedom of 50 shows that the central bank is not fully independent, its supervision and regulation of financial institutions are somewhat burdensome, and its ability to enforce contracts and prevent fraud is insufficient. The government exercises active ownership and control of financial institutions with a significant share of overall sector assets. Credit allocation is significantly influenced by the government, and private allocation of credit faces significant barriers. The ability of financial institutions to offer financial services is subject to significant restrictions. Foreign financial institutions are subject to some restrictions. The above mentioned info matches with the fact. Now let's consider Financial Freedom score of Iran.

Financial freedom index of Iran is at a current level of 10, and from 2008 till 2013 remains stable (This is a change of 0.00% from 5 years ago); which means the central bank of Iran is not independent, and its supervision and regulation of financial institutions are repressive. Credit allocation is controlled by the government. Bank formation is restricted. Foreign financial institutions are prohibited. But we are disagree with the current rate of Financial freedom index of Iran (10) because in reality foreign financial institutions are not completely prohibited in Iran, since 2001 the Iranian Government has moved toward liberalising the banking sector, although progress has been slow. In 1994 Bank Markazi (the central bank) authorised the creation of private credit institutions, and in 1998 authorised foreign banks (many of whom had already established representative offices in Tehran) to offer full banking services in Iran's free-trade zones.

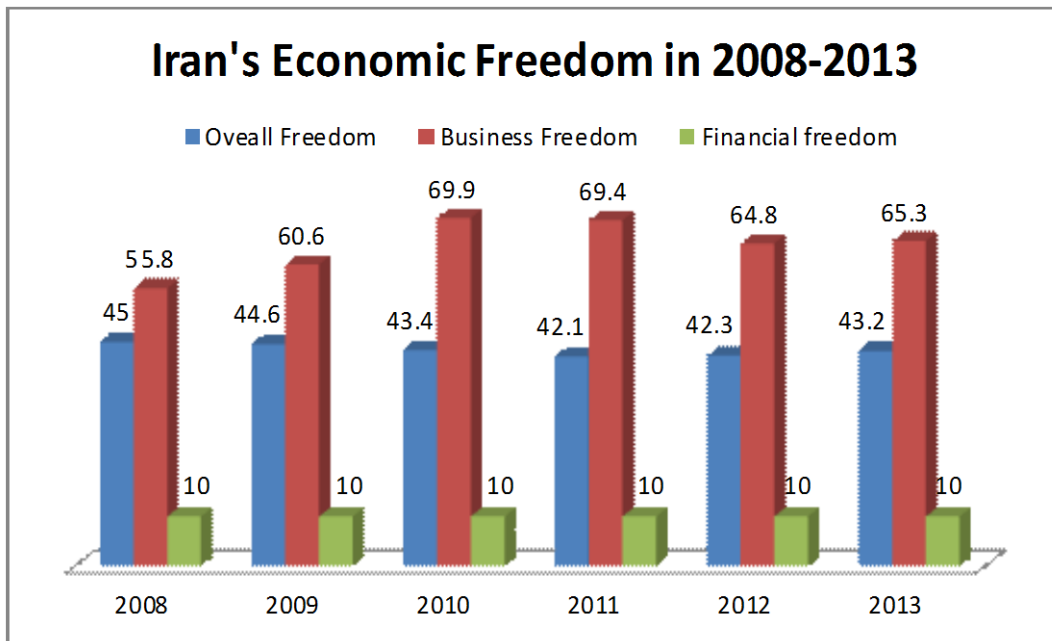
According to CBI, 5 offices of foreign banks (German, Iraqi, Bahrani and British Banks) as of May 2012 operate in Tehran and Kish free trade zone.

They are as follows:

- 1- Commercial Bank of Iran and Europe - eihbank (Europäisch-Iranische Handelsbank AG)

- 2- Islamic Regional Cooperation Bank – (a.k.a. BANK-E TAAWON MANTAGHEEY-E ESLAMI; a.k.a. REGIONAL COOPERATION OF THE ISLAMIC BANK FOR DEVELOPMENT & INVESTMENT) 2 branches in Tehran city and Kish Island
- 3- Bank Al-Mustaqbal (Future) - Futurebank
- 4- Standardchartered Bank

Besides the above mentioned 4 banks, there is also common bank of Iran and Venezuela which is another evidence of existence of foreign branches and participation of foreign financial institutions with direct participation of Iranian Government.



Source: Compiled by Author from <http://index-of-economic-freedom.findthedata.org/1/1003/Iran>

Article 44 (fifth clause) of the Iranian Constitution Law had heretofore placed banking activities exclusively in the hands of government. In tandem with the Law on Usury Free Banking Operations, these two measures effectively blocked foreign banking operations from conducting business in mainland Iran. In 2009 the Constitution was to be amended to allow foreign banks to operate normally in mainland Iran.

"The main provisions of the establishment of foreign banks in Iran via a joint investment by natural or legal persons and through an approval by the Iranian money and credit council, have been approved," Spokesman for the Majlis' economic committee Mohammad-Reza Khabbaz told IRNA. He added that the setup of foreign banks in Iran would be allowed in different forms of commercial companies.

Shares of the banking sector witnessed an average growth of 11.8% in July 2013, continuing its previous positive trend. Analysts believe that there are two main reasons that contributed to this growth. Firstly, there is the market's general optimism towards the improvement of conditions in the banking sector with the coming of the new government. The second factor is related to the foreign currency balance of the banks relating to their banking activities with international currencies. The market expects the banks with a positive foreign currency balance to adjust their profits favorably since the official reference rate of the dollar was increased by about a factor of 2 in the second half of July 2013. Unofficial reports suggest that two banks, Mellat and Tejarat, are in a better position than the others. The Central Bank is however unlikely to authorize this adjustment, especially in the case of semi-governmental banks. In addition, a portion of the banks' positive adjustments come from customers holding dollar denominated loans, debt holders who have made a loss as a

direct result of the appreciation of the official rate of foreign currencies. In their three months corporate earnings reports, the banks averagely covered 23% of their annual projected budget.

In 2009, Iran had the world's largest Islamic banking sector valued at 235.5 billion US dollars. Banking is one of the most profitable sectors of economy in Iran, indeed.

According to IMF Country Report No. 11/242 dated August 2011, Iran's financial system, the largest Islamic financial system in the world, has undergone major transformations. A significant deepening of bank intermediation occurred in the past decade, spurred by the licensing of private banks. Private bank assets have become the largest in the system following the privatization of large public commercial banks in 2008-2009. Iran's equity markets have become viable channels of finance for the real economy. The seven largest private banks are listed on the stock exchange and count among the most actively traded stocks. The performance of banking stocks is underpinned by the public's perception that banks are blue chip companies that pay reliable dividends and benefit from implicit government backing.

According to the electronic newsletter, Iran Investment Monthly, dated July 2013 - Volume 7, No 82; Foreign Direct investment (FDI) in Iran grew by 17.35% in 2012, reaching a historic high of almost USD 5 billion. The FDI volume worldwide decreased to USD 1.35 trillion in 2012, falling by around 18%. FDI flows in Iran's regional group—South Asia—along with neighbouring West Asia and Central Asia also fell by 24, 4, and 6 percentage points respectively. Accordingly, Iran ranked 35th in FDI (inflows) in the world in 2012 up from its position of 49th in 2011, placing the nation behind neighbouring countries such as India, Kazakhstan, Turkey, Saudi Arabia, and the UAE but above the likes of Lebanon, Turkmenistan, Egypt, Iraq, Azerbaijan, Uzbekistan, Bangladesh, and Pakistan. 76.46% of Iran's incoming FDI (USD 3.5 billion) were directed toward the extractive mining, quarrying and petroleum sectors (including the oil, gas, and mining industries).

Following the victory of moderate Hassan Rowhani as Iran's next president, the month of June ended up being an exceptionally good month for the Tehran Stock Exchange (TSE), with a 14% leap in the TSE's main index. The 2013 year to date performance of the TSE stood at 35% at the end of June, representing a higher return compared to other parallel investment classes such as gold, real estate, and foreign currencies.

Meanwhile, the weighted average price to earnings ratio (P/E) of the market increased from 5.8 in the previous month to 6.6 in June, almost 1 above the market's 10-year average P/E of 5.8.

This is obvious that because of political conflicts between two countries of the United States and Iran for more than 3 decades and recently because of Iran's nuclear program, the United States is attempting to isolate Iran from the international financial and commercial system in an effort to promote policy change in Iran. But in our opinion the mass media having some unfair practices against Iran and its Financial and Economical potential anyway.

Based on the above mentioned study and analysis, the Financial Freedom Score of Iran should be 30 instead of 10. Having the current score (10) lower than the fact (30) is another part of the story and must be revised, that's why we strongly advise the respectable Heritage Organization and other related organizations to review the Financial Freedom Index of Iran again and upgrade the score honestly and fairly. Undoubtedly, we will be witness of a considerable increase of Financial Freedom Score of Iran in near future.

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FINANCING OF CULTURE FROM LOCAL GOVERNMENT BUDGETS IN POLAND IN THE YEARS 2000-2010 VERSUS THE PERFORMANCE BUDGETING METHOD

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Abstract

Decentralization of public finance in Poland was an important element of changes in the political system of the country. As a result, some tasks of the state were transferred to the local government level. The Public Finance Act of 2009 introduced new public management methods, such as the performance-based budget and the long-term financial forecast, to the local government finance management. The purpose of this paper was to analyse the budget expenses on cultural tasks incurred by local government units in Poland in the years 2003-2010 and the impact of the attempted application of the performance budgeting method to local government expenses relating to this field of economy.

Keywords: Public finance, culture, local government, performance-based budget

Introduction

Decentralization of public finance in Poland was an important element of changes in the political system of the country. As a result, some tasks of the state were transferred to the local government level. These tasks covered, among others, the field of culture, and were defined as the own tasks of local government units. This in turn forced the local government units to finance these tasks from their own funds. The Public Finance Act of 2009 introduced new public management methods, such as the performance-based budget and the long-term financial forecast, to the local government finance management.

The purpose of this paper was to analyse the budget expenses on cultural tasks incurred by local government units in Poland in the years 2003-2010 and the impact of the attempted application of the performance budgeting method to local government expenses relating to this field of economy. This article outlines the legal frameworks of the local government financial management in Poland and the level of application of the new public management methods. The analysis included expenses incurred by the provinces on culture in the years 2003-2010, taking into account the types of the cultural institutions. Using a model based on the power function, the author falsified a hypothesis, according to which the broadly understood culture might be regarded as a basic, indirect, higher or luxury good, depending on the value of the coefficient of elasticity of the expenses on culture incurred by local government units in relation to the gross regional product.

Legal fundamentals of the functioning of local government budgets in Poland

Development of the Polish local government and of the fundamentals of its financial management took fourteen years. This process was initiated by the Local Government Act of 8 March 1990 and supplemented by a number of detailed acts. Since 1999 communal [Journal of Laws 2001 No. 142, item 1592], as well as district and provincial [Journal of Laws 2001 No. 142, item 1590] government units have been responsible for the organization of cultural activities in Poland. They are obliged to conduct these activities within the

framework of their own tasks. This was reflected in the legal regulations on the local government revenue sources.

The local government revenue sources were defined in the Constitution of the Republic of Poland and in the Local Government Revenue Act of 13 November 2003. According to the provisions contained in these documents, revenue of local government units in Poland is divided into their own income, general and targeted subsidies. All revenue which is neither general or targeted subsidy is classified as the own income. The division of the revenue sources corresponds to the division of public tasks performed by local governments. The local government units' own tasks are financed from their own income, the own tasks guaranteed by the state (e.g. culture) are financed from their own income and from the general subsidies, and the targeted tasks are financed from the targeted subsidies [T. Wrona, 2011, p 5].

The budget resolution, which includes the budget of a given unit and attachments, constitutes a basis for the local government financial management. Budget expenses of a particular local government unit are intended in particular for the implementation of its own tasks, for tasks performed together with other local government units, as well as for the in-kind or financial assistance given to other units. In addition, local government units may receive from the budget, as a form of financial assistance, product or producer subsidies, as well as targeted subsidies [Dz. U. /Journal of Laws/ of 2009 No. 175, item 1240].

The Public Finance Act of 27 August 2009 introduces performance-based budget elements, which are to constitute a basis for the development of the State multi-year financial plan. As of today, these provisions apply only to the government subsector. Local government units, despite a lack of legal regulations, use to a certain extent the performance-based budget, because it covers projects co-financed from the EU budget. In the case of local government units, the performance-based budget is a result-oriented budgeting method, in which the expenses take the form of tasks, for which one develops relevant targets and measures. At the local government level, the performance-based budget is called the Local Government Result Budget (LGRB). It is a budget in which the local government management is based on information about the results obtained from expenses incurred on particular budget tasks. This budget can also be understood as an expenditure planning method, in which each increase has to result in a production growth or improved performance. The budgeting process with the application of the LGRB method is based on attempts to improve the process of meeting the social needs with the help of additional funds won for the implementation of a particular task [T. Lubińska 2011 , pp. 180-181].

The Public Finance Act also introduces elements of the performance-based budget to the local government level in the form of a multi-year financial forecast for local government units, in which it is necessary to define current and material multi-year projects. It is also necessary to determine a purpose of each project, the organizational unit responsible for the project implementation and coordination, the period of the project implementation, together with the total financial expenses, expenditure limits in particular years and limits of obligations.

The provisions of the Public Finance Act do not link directly the long-term financial forecast with the performance-based budget, because not all local government units are eligible to implement on a full scale the solutions used in the performance-based budget. This is due to the diversity of the units in terms of their size and organizational structure. However, in order to ensure the consistency of the budget with the multi-year financial forecast, it is necessary to connect them by rendering the budget the form of tasks.

In a given local government unit, depending on the level of application of the performance-based budget methods, one can distinguish three variants of connecting the multi-year financial forecast with the budget:

- 1) the local government budget is managed with taking into account the performance-based budget principles
- 2) the local government budget is managed with the application of the performance-based budget elements
- 3) the local government budget contains no elements of the performance-based budget⁶⁰.

The first variant is the simplest solution to the problem of linking the long-term financial forecast with the budget of a particular local government unit. The unit, managing its financial matters according to the performance-based budget principles, divides its activities into particular tasks, thanks to which it meets the statutory requirements relating to the inclusion of particular tasks in the long-term forecast. It is only necessary to transform each task into parts suitable for the operating, investment or capital budget.

In the second variant, only certain tasks of a given local government unit are covered by standardization. In most cases these tasks include investments and European projects. By placing some activities outside the project category, the given unit becomes unable to transform in a simple way the planned public tasks into elements of the forecast.

The last variant implies the need to transpose the traditional budget into particular items of the forecast. The main criterion for the division of particular incomes and expenses will be their classification by the budget and by the type of their particular components. This means transformation of the classical budget into budgets present in the long-term financial forecast, based on the requirements of the Public Finance Act, owing to which the financial forecast will not be ordering particular tasks, but will only preserve its formal and legal dimension, resulting from the requirements of the Act [T. Lubińska 2011, p 179].

Analysis of expenses incurred on culture by local government units in the years 2003-2010

The analysis of expenses incurred on culture by local government units covers a period from 2003 to 2010. One compared expenses of provinces in three selected years: 2003, 2006 and 2010.

Table 1 presents expenses incurred by local government units on culture and national heritage protection, according to selected sections of the budget classification in 2003, 2006 and 2010.

Provincial budget expenses on culture and national heritage protection were growing steadily in the analysed period. In 2003 they amounted to PLN 2629 million, in 2006 to PLN 4239 million and in 2010 to PLN 7006 million. The per-capita expenditure also grew from PLN 68.84 in the first analysed year to PLN 183.47 in the last year. The highest amounts in particular provinces were spent on the activities of community centers, day-care rooms and clubs. Over PLN 715 million was spent on that goal in 2003, nearly PLN 1,107 million in 2006 and PLN 2225 million in 2010. These amounts prove importance of these cultural institutions in the cultural policy pursued by local government units. In the analysed period the least money was spent on musical theatres, operas and operettas .

The highest expenses on culture and national heritage protection in the years 2003-2010 were incurred by the Mazowieckie province. In the analysed years they mounted to PLN 374.825 million in 2003, PLN 780.899 million in 2006 and in PLN 1205.208 million in 2010. The least money on culture was spent by the Świętokrzyskie province, despite the fact that the expenses of local government units in the analysed period were growing. The above statistical data show that in 2003 the expenses amounted to PLN 60.744 million in 2006,

⁶⁰ Ibidem, s. 288.

grew to PLN 92.269 million in 2006 and reached the amount of PLN 209.347 million in 2010.

Taking into account the per-capita expenditure on culture, one has to note that the difference in expenses incurred by the Mazowieckie and Świętokrzyskie provinces in the analysed years was changing. In 2003 it amounted to PLN 25.95, in 2006 it increased to the amount of PLN 79.22 and in 2010 it decreased to the amount of PLN 65.27.

The Śląskie province came second in terms of the total expenditure on culture in the analysed period, whereas the Dolnośląskie province ranked second in terms of the per-capita expenditure.

When analyzing the expenses incurred by local government units on museums in the years 2003-2010, one can see a considerable increase. The Mazowieckie and Małopolskie provinces were the highest spenders. In 2003 the least money was spent by the Lubuskie (PLN 7.014 million), Opolskie (PLN 8.414 million) and Podlaskie (PLN 9.487 million) provinces, in 2006 - by the Świętokrzyskie (PLN 12.848 million), Lubuskie (PLN 13.099 million) and Opolskie (PLN 19.592 million) provinces. Similarly, in 2010 local governments in the Lubuskie (PLN 29.095 million), Warmińsko-Mazurskie (PLN 32.220 million) and Podlaskie (PLN 32.420 million) provinces spent the least money, despite an over threefold increase in these expenses compared to 2003.

Table 1 Expenses incurred by local government units on culture and national heritage protection, according to selected sections of the budget and province classification in the years 2003 - 2010

2003 Provinces	Total expenditure of local government units on culture in PLN million	Per-capita expenditure of local government units on culture in PLN	Expenditure on particular sections in PLN million					Number of inhabitants in millions	Gross regional product in current prices in PLN billion
			Museums as well as protection and care of historic monuments	Libraries	Community centres and houses, day-care rooms and clubs	Theatres	Musical theatres, operas and operettas		
Poland	2629.085	68.84	379.085	683.579	715.347	246.188	167.090	38.191	843.156
Dolnośląskie	250.383	86.39	37.773	53.395	61.208	24.845	26.123	2.898	65.552
Kujawsko-pomorskie	126.379	61.11	17.708	31.674	31.412	10.599	12.135	2.068	40.916
Lubelskie	126.189	57.59	19.741	40.387	40.483	6.122	4.444	2.191	34.198
Lubuskie	64.178	63.62	7.014	16.623	27.344	4.114	0.000	1.009	19.254
Łódzkie	194.483	74.88	32.563	42.088	42.452	17.692	30.358	2.597	52.977
Małopolskie	226.661	69.68	31.763	50.042	75.208	20.666	10.947	3.253	61.531
Mazowieckie	374.825	72.98	44.779	107.092	83.930	70.340	21.081	5.136	176.073
Opolskie	64.993	61.57	8.414	17.710	25.715	6.134	0.000	1.056	18.532
Podkarpackie	124.676	59.45	23.637	33.951	44.768	4.115	0.000	2.097	32.780
Podlaskie	71.370	59.22	9.487	17.779	22.690	8.277	0.000	1.205	20.210
Pomorskie	163.075	74.50	29.199	34.281	33.788	9.379	16.172	2.189	47.445
Śląskie	335.255	71.10	43.767	98.176	85.435	20.389	19.864	4.715	113.454
Świętokrzyskie	60.744	47.03	10.051	18.254	16.698	3.346	0.200	1.292	22.289
Warmińsko-mazurskie	85.779	60.03	13.100	25.830	26.778	6.079	0.000	1.429	24.868
Wielkopolskie	247.216	73.58	37.719	64.279	58.083	23.360	21.001	3.360	77.600
Zachodniopomorskie	112.879	66.55	12.370	32.018	39.355	10.731	4.765	1.696	35.477

2007 Provinces	Total expenditure of local government units on culture in PLN million	Per-capita expenditure of local government units on culture in PLN	Expenditure on particular sections in PLN million					Number of inhabitants in millions	Gross regional product in current prices in PLN billion
			Museums as well as protection and care of historic monuments	Libraries	Community centres and houses, day-care rooms and clubs	Theatres	Musical theatres, operas and operettas		
Poland	4239.141	111.17	792.788	881.607	1106.784	614.726	135.564	38.126	1060.031
Dolnośląskie	392.970	136.25	82.076	69.231	106.751	56.756	13.447	2.884	85.774
Kujawsko-pomorskie	241.458	116.85	42.352	41.410	51.647	67.137	8.742	2.066	50.217
Lubelskie	180.756	83.10	36.180	49.401	58.344	15.094	5.417	2.175	40.849
Lubuskie	104.258	103.39	13.039	21.326	44.627	5.578	2.326	1.008	24.942
Łódzkie	228.450	88.84	46.144	46.797	57.522	46.141	8.171	2.572	65.628
Małopolskie	378.994	115.98	84.102	68.003	95.832	59.303	13.074	3.268	78.789
Mazowieckie	780.899	151.20	173.979	156.456	134.896	164.535	2.540	5.165	229.212
Opolskie	120.230	115.12	19.592	24.032	42.548	10.654	9.902	1.044	23.338
Podkarpackie	184.699	88.08	38.571	41.869	66.228	5.401	5.324	2.097	39.894
Podlaskie	120.129	100.31	15.764	22.185	37.108	9.240	5.857	1.198	24.427
Pomorskie	260.068	118.16	65.364	39.344	50.786	28.728	18.732	2.201	60.250
Śląskie	493.897	105.60	72.041	133.667	115.709	60.506	16.043	4.677	137.959
Świętokrzyskie	92.269	71.98	12.846	22.414	32.307	4.922	3.813	1.282	27.084
Warmińsko-mazurskie	138.459	97.02	20.441	31.601	39.716	10.087	4.050	1.427	29.977
Wielkopolskie	325.711	96.52	48.029	74.585	90.456	49.882	11.170	3.375	98.806
Zachodniopomorskie	195.894	115.67	22.266	39.286	82.306	20.761	6.955	1.694	42.887

2010 Provinces	Total expenditure of local government units on culture in PLN million	Per-capita expenditure of local government units on culture in PLN	Expenditure on particular sections in PLN million					Number of inhabitants in millions	Gross regional product in current prices in PLN billion
			Museums as well as protection and care of historic monuments	Libraries	Community centres and houses, day-care rooms and clubs	Theatres	Musical theatres, operas and operettas		
Poland	7006.228	183.47	1216.886	1145.187	2224.730	691.804	288.086	38.187	1415.362
Dolnośląskie	648.662	225.46	108.195	84.013	220.329	58.970	64.246	2.877	116.367
Kujawsko-pomorskie	347.588	167.95	88.684	55.522	102.676	32.778	11.262	2.070	65.029
Lubelskie	319.356	148.20	42.723	70.585	113.121	17.584	8.107	2.155	53.820
Lubuskie	243.035	240.46	29.095	33.113	95.916	6.655	2.895	1.011	31.985
Łódzkie	396.122	156.05	54.791	64.624	100.854	86.728	14.604	2.538	86.257
Małopolskie	619.790	187.57	170.967	84.344	152.262	54.125	18.816	3.304	104.842
Mazowieckie	1205.208	230.33	220.117	206.179	412.665	156.682	15.440	5.233	309.729
Opolskie	216.874	210.58	43.737	32.312	89.257	10.777	9.813	1.030	31.271
Podkarpackie	311.265	148.03	58.251	56.232	123.246	8.272	13.650	2.103	53.400
Podlaskie	239.453	201.36	32.420	31.583	76.967	10.616	7.723	1.189	32.559
Pomorskie	427.837	191.38	68.195	55.611	87.453	59.784	17.833	2.236	80.329
Śląskie	713.775	153.88	120.907	144.151	175.403	62.503	46.314	4.639	184.720
Świętokrzyskie	209.347	165.06	34.833	31.743	65.579	6.791	14.812	1.268	36.609
Warmińsko-mazurskie	247.691	173.50	32.220	40.961	85.785	20.283	13.394	1.428	39.063
Wielkopolskie	538.386	157.69	71.344	100.994	176.437	66.509	17.034	3.414	134.187
Zachodniopomorskie	321.839	190.04	40.408	53.219	146.779	32.747	12.142	1.694	55.197

Source: own study on the basis of data from relevant statistical yearbooks of the Central Statistical Office

Expenses on library activities incurred by local government units in particular provinces were also growing and differed significantly in the analysed period. In the years

2003, 2006 and 2010 the Mazowieckie province (PLN 107.092 million in 2003, PLN 156.456 million in 2006 and PLN 206.179 million in 2010), the Śląskie province (PLN 98.176 in 2003, PLN 133.667 million in 2006 and PLN 144.151 million in 2010) and the Wielkopolskie province (PLN 64.279 million in 2003, PLN 74.585 million in 2006 and PLN 100.994 million in 2010) spent the most money on this goal. In 2003 the least money was spent by the Lubuskie (PLN 16.623 million), Opolskie (PLN 17.710 million) and Podlaskie (PLN 17.779 million) provinces, in 2006 - by the Lubuskie (PLN 21.326 million), Podlaskie (PLN 22.185 million) and Świętokrzyskie (PLN 22.414 million) provinces, and in 2010 by the Podlaskie (PLN 31.583 million), Świętokrzyskie (PLN 31.743 million) and Lubuskie (PLN 33.113 million) provinces.

The presented analysis shows that in the entire analysed period, the local government units of the Lubuskie province responsible for the activities of libraries, spent, compared to other local government units (despite the increased expenses) the least money.

In 2003 the highest expenses on community centres and houses, day-care rooms and clubs were incurred by the Mazowieckie (PLN 83.930 million), Śląskie (PLN 85.435 million) and Małopolskie (PLN 75.208 million) provinces. In 2006 these were the Mazowieckie (PLN 134.896 million), Śląskie (PLN 115.709 million) and Dolnośląskie (PLN 106.751 million) provinces, and in 2010 - the Mazowieckie (PLN 412.665 million), Dolnośląskie (PLN 220.329 million) and Wielkopolskie (PLN 100.994 million) provinces. The least expenses in the analysed period were incurred in 2003 by the Świętokrzyskie (PLN 16.698 million), Podlaskie (PLN 22.690 million) and Opolskie (PLN 25.715 million) provinces. In 2006 these were the Świętokrzyskie (PLN 32.307 million), Podlaskie (PLN 37.108 million) and Warmińsko-Mazurskie (PLN 39.716 million) provinces, and in 2009 - again the Świętokrzyskie (PLN 65.579 million), Warmińsko-Mazurskie (PLN 85.785) and Pomorskie (PLN 87.453 million) provinces.

In the analysed period one also saw increased expenses incurred by particular provinces on theatre. In 2003 the highest expenses for this purpose were incurred by the Mazowieckie (PLN 70.340 million), Dolnośląskie (PLN 24.845 million) and Wielkopolskie (PLN 23.360 million) provinces. In 2006 these were the Mazowieckie (PLN 164.535 million), Kujawsko-Pomorskie (PLN 67.137 million) and Śląskie (PLN 60.506 million) provinces, and in 2010 the Mazowieckie (PLN 156.682 million), Wielkopolskie (PLN 66.509 million) and Łódzkie (PLN 86.728 million) provinces. The least expenses on theatres in the years 2003-2010 were incurred by the Świętokrzyskie, Lubuskie and Podkarpackie provinces.

In the case of expenses incurred by particular provinces on musical theatres, operas and operettas, the biggest growth, when comparing 2003 to 2010, was recorded in the Lubuskie, Opolskie, Podkarpackie, Podlaskie and Warmińsko-Mazurskie provinces. In the first analysed year no expenses for this purpose were recorded for the above-mentioned provinces. In 2010 those expenses amounted to PLN 13.650 million in the Podkarpackie province, PLN 13.394 million in the Warmińsko-Mazurskie province, PLN 9.813 million in the Opolskie province, PLN 7.723 million in the Podlaskie province and PLN 2.895 million in the Lubuskie province. In 2003 the highest expenses for this purpose were incurred by the Dolnośląskie (PLN 26.123 million), Mazowieckie (PLN 21.081 million) and Wielkopolskie (PLN 21.001 million) provinces, in 2006 by the Pomorskie (PLN 18.732 million), Śląskie (PLN 16.043 million) and Dolnośląskie (PLN 13.447 million) provinces, and in 2010 by the Dolnośląskie (PLN 64.246 million), Śląskie (PLN 46.314 million) and Mazowieckie (PLN 18.816 million) provinces.

To examine the overall impact of the changes in the gross regional product on the amount of expenses on culture incurred by local government units in particular provinces, one applied a relevant power model to estimate the coefficients of elasticity, which can be used to assess particular decisions in the field of cultural policy.

In the case of cultural goods and services subject to the classic economic laws of supply and demand, one can assume that both the supply of and demand for these goods is not significantly different from the supply of/demand for other goods or services. What affects the different definition of this function is the special role of the price, which is assumed to be the amount of the costs incurred by the decision-makers.

By analogy to the classical theory of demand, one has assumed that, depending on the value of the coefficient of elasticity of the expenses on culture incurred by local government units in relation to the gross regional product, the broadly understood culture may be regarded as a basic, indirect, higher or luxury good.

As mentioned previously, to estimate the coefficients of elasticity, one used a power equation model. The power function, due to its properties, helps one to match the theoretical model with the non-linear course of empirical data, and allows one to make a direct interpretation of the parameters as coefficients of elasticity of expenses incurred by local government units (average for the sample).

One used for this purpose spatial data covering 16 provinces for the years 2003, 2006 and 2010 (Table 1). The estimation results shown in Table 2 are satisfactory both from the substantive and statistical points of view. In the estimated logarithmic model, the estimation of the parameter at the variable $\ln(\text{GDP in current prices})$ is statistically significantly different from zero, and the high value of the coefficient of determination provides a good explanation for the development of the total expenditure on culture through the changeable value of the gross regional product.

The obtained results indicate that in the analysed years, the values of the coefficients of the total expenditure on culture in relation to the regional (provincial) product were less than unity. This means that the impact of the regional product on the total expenditure on culture was less than proportional. In any case the elasticity of the total expenditure on culture in relation to the gross regional product in 2003, 2006, 2010 (average for the sample) was at the level of 0.894, 0.867 and 0.726 respectively, which means that an increase in the gross regional product by 1 % resulted in an average increase in the total expenditure on culture by approximately 0.89 %, 0.87 % and 0.73 % respectively, and showed a downward trend.

Table 2. Estimation of elasticity of expenses incurred by provinces on culture in relation to the value of the gross regional product in the years 2003-2010.

Year	2003	2006	2010
	Estimate (stat. t-Student)		
absolute term	2.3173 (4.00)	2.6426 (4.56)	4.7683 (11.08)
$\ln(\text{GDG in current prices})$	0.8943 (16.50)	0.8667 (16.70)	0.7255 (18.84)
R_{sk}^2 coefficient of determination	0.9476	0.9488	0.9593

Source: own calculations

In conclusion it should be noted that the total expenditure on culture is inflexible in relation to the gross regional product, i.e. a significant change in the amount of the regional product results only in small changes in the total expenditure on culture, and the local government units in their investment decisions and their cultural policies treat culture as a basic good [D. Begg, 2003, pp. 113-114]

The results of previous analyses indicated the existence of differences in the amounts of expenditure on various cultural activities in particular provinces. In the years 2003-2010 particular local government units also achieved different values of the gross regional product. When analyzing these results, one can make an assumption about the uneven level of expenses incurred by local government units on culture in general and on specific types of

activities. So one can assume that these categories of provincial budget expenditure are influenced by decisions related to the division of the generated gross regional product. To characterize this situation, similarly as in the case of the total expenditure on culture, one estimated for each province for the years 2003-2010 the coefficients of elasticity of expenditure on particular cultural institutions in relation to the total expenditure on culture, using for this purpose the power model (double logarithmic model).

Table 3. Impact of changes in the level of the total expenditure on culture on the expenses incurred by the provinces on particular cultural institutions in the years 2003-2010.

	Estimation of the parameter	Statistics of the t-Student	Estimation of the parameter	Statistics of the t-Student
Total expenses on culture incurred by local government units				
	absolute terms		ln(GDP in current prices)	
Dolnośląskie	-6.06	-3.04	1.67	9.52
Kujawsko-pomorskie	-9.14	-3.81	1.97	8.91
Lubelskie	-9.07	-3.88	1.99	9.08
Lubuskie	-14.31	-6.66	2.56	12.09
Łódzkie	-5.97	-2.57	1.66	7.96
Małopolskie	-9.12	-4.22	1.94	10.18
Mazowieckie	-11.48	-5.17	2.02	11.28
Opolskie	-9.48	-4.61	2.09	10.30
Podkarpackie	-7.38	-3.34	1.84	8.84
Podlaskie	-13.19	-6.09	2.45	11.49
Pomorskie	-8.37	-3.85	1.89	9.59
Śląskie	-5.87	-2.29	1.60	7.42
Świętokrzyskie	-10.99	-5.43	2.20	11.14
Warmińsko-mazurskie	-10.09	-4.27	2.12	9.29
Wielkopolskie	-3.49	-1.56	1.41	7.28
Zachodniopomorskie	-11.85	-4.81	2.24	9.75
R ²	0.9999			
Expenses on museums incurred by local government units				
	absolute terms		ln(GDP in current prices)	
Dolnośląskie	-4.74	-2.20	1.23	7.38
Kujawsko-pomorskie	-8.95	-4.30	1.59	9.38
Lubelskie	-3.32	-1.60	1.13	6.62
Lubuskie	-2.81	-1.98	1.06	8.72
Łódzkie	-2.24	-0.92	1.04	5.37
Małopolskie	-9.11	-4.62	1.58	10.35
Mazowieckie	-4.44	-2.35	1.20	8.65
Opolskie	-7.23	-4.21	1.47	10.00
Podkarpackie	-4.38	-2.02	1.23	6.90
Podlaskie	-1.17	-0.75	0.93	6.99
Pomorskie	0.50	0.24	0.83	5.08
Śląskie	-7.59	-2.75	1.43	6.81
Świętokrzyskie	-1.76	-1.11	1.00	7.28
Warmińsko-mazurskie	-2.79	-1.41	1.08	6.44
Wielkopolskie	-1.14	-0.42	0.94	4.37
Zachodniopomorskie	-4.30	-2.22	1.18	7.37
R ²	0.9999			
	Estimation of the parameter	Statistics of the t-Student	Estimation of the parameter	Statistics of the t-Student
Expenses on libraries incurred by local government units				
	absolute terms		ln(GDP in current prices)	
Dolnośląskie	5,08	6.65	0.47	7.97
Kujawsko-pomorskie	4,54	6.17	0.50	8.31

Lubelskie	4,54	6.18	0.52	8.59
Lubuskie	5,19	10.31	0.42	9.69
Łódzkie	4,39	5.11	0.52	7.50
Małopolskie	4,88	6.99	0.48	8.95
Mazowieckie	4,23	6.34	0.57	11.60
Opolskie	4,21	6.94	0.50	9.68
Podkarpackie	4,42	5.77	0.51	8.18
Podlaskie	4,92	8.95	0.44	9.37
Pomorskie	3,74	5.19	0.56	9.65
Śląskie	4,72	4.83	0.53	7.20
Świętokrzyskie	4,78	8.51	0.46	9.46
Warmińsko-mazurskie	5,44	7.75	0.42	7.10
Wielkopolskie	3,83	3.95	0.59	7.69
Zachodniopomorskie	4,86	7.08	0.47	8.40
R ²	0,9998			
	Expenses on community centres incurred by local government units			
	absolute terms		ln(GDP in current prices)	
Dolnośląskie	-3,75	-2.69	1.19	11.02
Kujawsko-pomorskie	-2,72	-2.02	1.11	10.05
Lubelskie	-1,01	-0.75	0.99	8.91
Lubuskie	0,57	0.62	0.87	11.07
Łódzkie	-2,17	-1.38	1.06	8.39
Małopolskie	3,00	2.35	0.67	6.71
Mazowieckie	-6,31	-5.16	1.35	15.00
Opolskie	-1,25	-1.12	1.02	10.70
Podkarpackie	-2,48	-1.76	1.12	9.74
Podlaskie	-0,14	-0.14	0.91	10.62
Pomorskie	-0,97	-0.74	0.95	8.97
Śląskie	-0,72	-0.40	0.95	6.97
Świętokrzyskie	-2,50	-2.43	1.11	12.51
Warmińsko-mazurskie	-2,13	-1.66	1.08	9.97
Wielkopolskie	-6,05	-3.40	1.37	9.83
Zachodniopomorskie	-3,14	-2.50	1.18	11.39
R ²	0,9997			
	Estimation of the parameter	Statistics of the t-Student	Estimation of the parameter	Statistics of the t-Student
	Expenses on theatres incurred by local government units			
	absolute terms		ln(GDP in current prices)	
Dolnośląskie	-3.95	-1.28	1.13	4.75
Kujawsko-pomorskie	-7.83	-2.63	1.46	6.02
Lubelskie	-6.37	-2.14	1.29	5.29
Lubuskie	2.70	1.32	0.51	2.93
Łódzkie	-17.96	-5.16	2.28	8.21
Małopolskie	-6.13	-2.17	1.31	5.97
Mazowieckie	0.92	0.34	0.80	4.02
Opolskie	3.30	1.34	0.51	2.41
Podkarpackie	1.41	0.45	0.60	2.35
Podlaskie	5.32	2.39	0.33	*1.71
Pomorskie	-15.17	-5.20	2.04	8.71
Śląskie	-14.39	-3.64	1.91	6.35
Świętokrzyskie	1.74	0.77	0.58	2.97
Warmińsko-mazurskie	-1.43	-0.50	0.91	3.78
Wielkopolskie	-11.04	-2.81	1.69	5.50

Zachodniopomorskie	-4.09	-1.47	1.15	5.03
R ²	0.9991			
	Expenses on musical theatres incurred by local government units			
	absolute terms		ln(GDP in current prices)	
Dolnośląskie	3.82	0.37	0.50	*0.62
Kujawsko-pomorskie	14.29	1.42	-0.41	*-0.50
Lubelskie	4.53	0.45	0.35	*0.43
Lubuskie	-25.77	-3.76	2.78	4.73
Łódzkie	17.50	1.49	-0.63	*-0.67
Małopolskie	6.48	0.68	0.25	*0.34
Mazowieckie	17.26	1.90	-0.58	*-0.86
Opolskie	-50.85	-6.14	4.99	7.03
Podkarpackie	-70.09	-6.71	6.35	7.41
Podlaskie	-43.10	-5.75	4.30	6.72
Pomorskie	6.95	0.71	0.22	*0.28
Śląskie	4.28	0.32	0.44	*0.43
Świętokrzyskie	-44.06	-5.76	4.46	6.73
Warmińsko-mazurskie	-63.08	-6.60	5.95	7.37
Wielkopolskie	16.12	1.22	-0.50	*-0.48
Zachodniopomorskie	-3.37	-0.36	1.01	*1.31
R ²	0.9945			

* Statistically insignificant estimations different from zero at the significance level of 0.10

Source: own study on the basis of data from statistical yearbooks for the provinces, Central Statistical Office

The obtained results of the estimation of particular equations are presented in Table 6.14. The estimated coefficients of elasticity of the expenditure on particular types of cultural institutions in the provinces in relation to the total expenditure on culture are statistically significantly different from zero. The exceptions include expenditure on musical theatres, operas and operettas.

The total expenses on culture incurred by local government units in relation to expenses incurred by the budgets of particular provinces are characterized by a relatively high ($E > 1$) values of the coefficients of elasticity. A comparison of the values of these coefficients shows that in the years 2003-2010 a percentage (relative) change in the expenditure in these provinces results in a bigger percentage change in the total expenditure on culture in these provinces. Thus, the total expenditure on culture, as an economic good, indicates that in the analysed period culture was a luxury good for the decision-makers. In seven provinces a 1% increase in the expenditure on culture resulted in an over 2% (from 2.02 % to 2.56%) increase in expenditure on cultural institutions. The highest values were recorded for the Lubuskie (2.56 %) and Podlaskie (2.45 %) provinces, and the lowest one was recorded for the Wielkopolskie province (1.41 %).

This dependence is slightly weaker in the case of expenditure on community centers, day-care rooms and clubs. For those cultural institutions a 1% increase in the expenditure on culture resulted in a proportional increase in the expenditure on these institutions.

In the case of museums, only in three provinces, the values of the estimated coefficients of elasticity were less than unity - in the Wielkopolskie (0.94%), Podlaskie (0.93%) and Pomorskie (0.83%) provinces. The values of the coefficients of elasticity in the remaining provinces were more than unity, which indicates a flexible nature of the expenditure on museums in relation to the total expenses on culture incurred by local government units.

Conclusion

In Poland one can observe a relatively high involvement of local government units in the culture financing process. This results, among others, from the current law, which considers activities of local government units in the field of culture as their own tasks, which in turn means that these units have to use their own funds to finance such activities.

Both the total expenditure on culture and the per-capita expenditure on culture, made from the local government budgets, were increasing steadily in the analysed period. The richest provinces (Mazowieckie, Śląskie and Dolnośląskie) are the leaders in this respect, whereas the Świętokrzyskie province incurred the least expenses on culture.

The total expenditure on culture from the local government budgets in the analysed period is inflexible in terms of the gross regional product. This means that a significant change in the amount of the regional product results only in small changes in the total expenditure on culture, and the local government units in their investment decisions and their cultural policies treat culture as a basic good.

Local government units, despite a lack of legal regulations, use to a certain extent the performance-based budget, because it covers projects co-financed from the EU budget. At the local government level, the performance-based budget is called the Local Government Result Budget (LGRB). The budgeting process with the application of the LGRB method is based on attempts to improve the process of meeting the social needs with the help of additional funds won for the implementation of particular tasks. The Public Finance Act has also introduced the multi-year financial forecast method. Both methods resulted in increased expenditure from the local government budgets on culture during their application.

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TURKISH RETAIL INDUSTRY AND THE RELATIONS WITH ALBANIA

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Abstract

This study showed how the structure of the retail industry has been transformed since 1920s in Turkey by the new retail formats. The Turkish retail industry has been developing since 1980s. It had too many foreign operations and Turkish retailers have begun to enter foreign countries for a long time. Turkish operations in Albania were analysed since Albania has taken too much investments that leading to retail development and Turkey was the third-largest foreign direct investor in Albania. The study analysed secondary data about retail industry in Turkey and Albania. It aimed to explain the history of retail industry in Turkey and show the situation of Albania in retail development. The study was original because of the lack of academic research focused on Turkish retailing and Turkish investments in Albania. Future research may be related to the measuring the incentives and obstacles of Turkish investments in Albania with a field study.

Keywords: Retailing, Turkey, Albania, investment

Introduction

The history of Turkish retail industry has had many developments for a century. Especially the years after 1980s were important for the development of retailing in Turkey. In this study, the stages of Turkish retailing were shown and the characteristics of Turkish retailing were explained. After that, the retail development in Albania and the relationships with Albania were analyzed. In the conclusion part, strengthening the relationships between two countries was advised.

The Period Before 1980

In the Republican Period between 1920 and 1950, modern retailing sector could not be developed since the usage of central food distribution system and lack of relations with foreign countries. Consumption cooperatives were established in Istanbul in 1913 as the first attempts in order to develop modern food retailing sector. However, government was dominant in controlling the prices of consumption goods especially after the law in 1936 which controlled the prices of consumption goods (Bocutoglu and Atasoy, 2001).

During 1950s chain-stores began to operate with the self-service concept to increase welfare level and reduce the effects of inflation. The Encouragement of Foreign Investment Law - No. 6224 was enacted in 1954. With this law, Migros which is the largest retailer in Switzerland was established by Istanbul Municipality in 1954 to improve distribution channel, decrease distribution costs, and increase competition. Migros offered the most favourable price and quality under the control of municipality, increased the convenience of products with the circulation of mobile sales trucks, and offered the modern retail elements such as first hygienic packaging, first label, and shelf life application (Erdogan, 2003). Migros opened its first store in 1957 in Istanbul.

After the establishment of Migros, Gima was established as a national supermarket chain and aimed to supply main food products cheaper as Migros. During these years, private companies have not been developed yet and government was still the dominant factor in the economy. Retail sector did not require high capital, qualified employees, and entry barriers (Erdogan, 2003).

In 1960s, private companies such as Beymen, Vakko, Yeni Karamürsel, and IGS began to rise in the retail sector whereas the biggest retail companies were just consumption cooperatives which developed self-service retailing concept in these years (Bocutoglu and Atasoy, 2001). These activities that contribute to the development of retailing sector initiate the establishment of multi-storey stores and chain stores (Savasci, 2002).

Tansas which was established in 1973 with the goal of providing cheaper meat and coal opened its first store in 1976 in Izmir and improved the supermarket technology in the retail industry. The numbers of food retailers have begun to rise in the industry. Food retailing aims to satisfy consumer needs by offering food and non-food products, and also customer services (Ozkan and Akpınar, 2003). Within the scope of these developments at the end of 70s, there were two main alterations in the sector: food retailers started to offer non-food products such as detergent and oil besides the food products, and traditional mom-and-pop store retailers began to specialize on one product line especially food products instead of specializing on perfumery products, stationery products, and drugs (Erdogan, 2003). The draft law on encouragement of large scale retailers in 1973 was suggested to improve retail industry however; it has failed (Tek and Ozgul, 2005).

The Period after 1980: Privatization and Internationalization

Until 1980s import-substituting policies have been followed in Turkish economy. In the year 1980, these policies were left and the policies related to open to foreign countries with export-led began to be followed. Export activities were encouraged by applications such as subsidies and tax refund, and domestic commodity markets were opened to the world markets. In 1989, with the removal of all the arrangements concerning international capital movements, the convertibility of the national currency was ensured and the economy was opened to foreign countries completely (Kose and Oncu, 2000). Government policies oriented towards deregulation in retailing as well as in the economy generally. Privatisation was one of the major policies of government to liberalise the economy. Migros was privatised in 1975 by Koc Holding, and also Gima was privatised soon after government announced its privatisation plans. To encourage foreign and big domestic investments, the government gave incentives to the retailers. The establishment of shopping centres and large stores, also called big box retailers, were supported through investment incentives starting in 1985 (Ozcan, 2001). The first shopping centre called Galeria was opened in Istanbul in 1988. The retail industry has gone through major changes since the late 80s.

Coskun (2001) claimed that Turkey's stance on foreign investment has become increasingly open and aggressive since the major economic policy shift from import-substituting towards export-led development in 1980. International investors have been taking an increasingly part in the Turkish economy. Reshaped foreign investment regime makes it possible that all fields open to the Turkish private sector are open to foreign investment without any limitation. Consequently, total foreign investment reached from \$97 million in 1980 to over \$8.6 billion in 1998. Foreign investments have been still going on to increase and new laws have been developed. The Encouragement of Foreign Investment Law - No. 6224 in 1954 was enhanced, updated, and turned into the Foreign Direct Investment Law - No. 4875 in 2003 (Ozbilgic, 2012).

Turkish retail structure was fragmented and non-integrated until 1990s; small-scale, capital-weak, independent, and family owned retailers were dominating the retail trade

(Kumcu and Kumcu, 1987; Samli, 1964, 1970; Kaynak, 1982, 1986; Tokatli and Boyaci, 1998). The years 1990s were the beginning of retail era for Turkey, 2000s were the years of modern retailing and internationalisation movements (Tek and Ozgul, 2005). In 1992, the numbers of grocery stores were 124.877 whereas the numbers of supermarkets were 11.373 (Kursunluoglu, 2006). Organized food retailing was developing slowly in these years. During 90s, many retailers have started to operate in Turkey and during 2000s internationalisation movements strengthened the industry. The Germany's largest cash and carry store Metro entered into Turkish market in 1990. Promodes that was founded in 1961 in France as a supermarket opened its operations in Turkey. Another French hypermarket Carrefour began to operate in Turkey in 1993. In 1996, it became CarrefourSA after the joint venture association between Carrefour and Sabanci Holding. Kipa was established in Izmir with the investments of 100 investors in 1992 and opened its first store in 1994 in Izmir. Bim that became the number one in Q Ratio among 250 retailers according to the Deloitte (2013) opened its first store in 1995 as a discount retailer.

Tokatli and Boyaci (1998) showed the foreign retailers in the industry: US companies McDonalds, Kentucky Fried Chicken and Pizza Hut entered into the market in the late 1980s, Subway and Burger King in the 1990s. French Printemps (1987) and British Marks and Spencer (1995) were among the pioneering retailers in the department or variety store category. In the clothing sector many retailers entered into the Turkish market for example Italy's Benetton (1986) and Sisley (1991), the US company Levi's (1989), the British retailer Mothercare (1988), and many others such as Burberry's, Austin Reed, Stefanel, Versace, Ermenegildo Zegna, Naf Naf, and Chanel.

It was also possible to see different retail format in these years with the increasing capacity of foreign investments. Direct selling is a type of non-store retailing and category killer retailers are the types of store retailing (Varinli and Oyman, 2013; Kursunluoglu, 2009). Direct selling has been improved in Turkey in 1990s; the US companies Avon and Amway started their operations in 1993. The US company Toys R Us and the Swedish Ikea entered into the Turkish market in 1996 and 2003 respectively as category killers.

Along with the new retailers' operations in the industry, the retail industry has developed. Modern retailing has been improved and has replaced of traditional retailing activities. Yilmaz and Altunisik (2003) showed that the biggest national groups started to invest in Turkish retail sector and Turkey became a country that has been given priority for entering by the foreign investors. The retail sector has continued to grow up as the numbers of national and international retailers increase.

At the beginning of 2000s, Turkish economy has suffered from the financial crises and before the end of the effects of 2000 crisis, 2001 crisis has arisen (Yeldan, 2001). It was shown that after these crises, most sectors preferred downsizing however; organized retailing sector especially supermarkets continued to grow. In 2005, the numbers of organized retailers have increased but the numbers of grocery stores were still higher than the numbers of organized retailers. The numbers of supermarkets were 968 in 2003; it increased to 1.258 in 2005 (Kursunluoglu, 2006). The profits of organized retailers began to increase thanks to lower price, and higher sales promotions against traditional retailers such as grocery, stationery, and perfumery stores. The competition in the retailing sector has still been in progress not only among organized retailers but also organized and traditional retailers.

Turkey Grocery Stores and Dealers Federation (2000) showed that market shares of hypermarkets and supermarkets in the total retail market were 10 % in 1995, 14 % in 1997 and it was estimated that it would reach 35 % in 2004. Consumers preferred purchasing from organized retailers instead of grocery stores due to supermarkets offered lots of products varieties, faster service, store atmosphere elements such as exhibition and internal design,

wide shopping area, reliable image, lower price, early opening and late closing, different customer services such as parking, café, restaurant, and playground.

Towards the end of 2000s, Turkish retail industry has evolved with domestic and foreign investments. 2000s were the years of modernization work and internationalization. In the year 2003, English supermarket chain Tesco acquired Kipa and moved on the operations as Tesco Kipa. In 2005, Carrefour acquired Gima and Endi which belong to Fiba Holding. American discount store chain Wal-Mart has thought to enter Turkish market through acquiring Migros. Migros opened its first outside store in 1996 in Baku, Azerbaijan under the name of Ramstore. Except these internationalization activities, mergers and acquisitions have continued among Turkish retailers. For example, Migros acquired Tansas in 2005. Thus, Migros became the biggest food retailer with 721 stores in Turkey.

Ozcan (2007) analysed Migros activities and according to Ozcan, Migros made a strategic decision to expand in Russia and central Asia since it was nearly impossible to enter the European market for an emerging Turkish retailer while European competitors such as Tesco focused on the Eastern European market. Migros have become a symbol of modern retailing in Russia and central Asia. In 2006, Migros had three stores in Azerbaijan, ten shopping malls and forty-nine stores in Russia and two shopping malls and five stores in Kazakhstan; it also had stores in Bulgaria and one store and a hypermarket in Macedonia. Baku was selected as a first case of international expansion because of its cultural and physically closest to Turkey. It was followed by the investments in Russia, Kazakhstan, and Balkans (Bulgaria and Macedonia) and these investments made Migros international retailer. Migros entered the Russian market during the economic crisis in 1998 as Ramstore. Ramstores were welcomed by Russian politicians and consumers at a time when Russia was not an attractive market for large Western retailers and there were still food shortages.

Turkey Grocery Stores and Dealers Federation (2000) claimed that consumers preferred hypermarkets and supermarkets instead of grocery stores because of they offered low price. Kursunluoglu (2008) showed that consumers preferred hypermarkets and supermarkets instead of grocery stores thereby some reasons except price such as being a reliable retailer, having broad merchandise assortments, and having an impressive in-store atmosphere.

The law drafts about protecting the competition in retail industry have been prepared for many years. The first law was prepared in 1973 as it was mentioned below, and the second one was prepared in 2008 to protect small sized retailers. According to the law draft, supermarkets and hypermarkets over than 400 m² should establish out of town, have free car park and limited working hours. There are many laws in other countries such as Sherman Antitrust Act of 1890, Clayton Antitrust Act of 1914, Robinson–Patman Act of 1936 in America, Sapin Law in 1993 in France, PPG6 in 1988 in England (Lebhar, 2012; Courser, 2005; OECD, 1998; Tek, 2008; Wood et al., 2006). The urban population is higher in Turkey than other European countries. It has been creating the potential use of both shopping centres and traditional retailers. Yet small-scale retailing has been struggling to compete with organized, large scale retailers and shopping centres, it seems that the competition has continued to favour the latter (Erkip et al., 2013).

Characteristics of Turkish Retailing

Ozcan (1997) showed the five main elements that influence and form the Turkish retailing sector. The first element was the evolution of specialization in Turkish retailing. Within this evolution, store concept and its product line have changed from the stores that sell everything to the stores that specialize on specific product line. The second element was the opening domestic market to the foreign countries thanks to economic growth and liberal politics. It has increased the capacity of foreign investments in retail sector. New

technologies and technics were the third element that affect retail sector in a positive way, thus retail sector has begun to be more organized and modern retailing has developed. The fourth element was that multinational European retailers' interests on Southern European markets have influenced Turkish retail sector. Mergers and acquisitions have provided to enter the advanced methods into the retail industry. The fifth element was the increasing in disposable income and formation of new consumption models. For example, consumer behaviours have changed and consumers have begun to develop different shopping styles such as buying from shopping centres since shopping centres contain every need in specialized stores under one roof.

Retailing sector has been developing for two decades in Turkey. Especially after the year 2000, the industry became the pioneer sector of the economy since its increasing attraction. The attraction of retail sector have been affected by some factors (Cengiz and Ozden, 2002; Tahiroglu, 1999) such as increasing in consumption, increasing the numbers of large sized retailers' stores, attracting investments through deferred payment and cash selling, being profitable investments in the long term for the investors since finding the appropriate location for stores were limited and expensive, increasing the encouragements of foreign investors by domestic investors about entry strategies like mergers, acquisitions, joint ventures.

There were two main factors that European retail chains entered Turkish market. The first one was that per capita consumption rates had reached a stable structure in Western Europe. The second reason was about the restriction of hypermarkets' activities for conserving the competition in the industry. The most important countries in trans-boundary retailing were England, France, and Germany (Erdogan, 2003).

Turkish retailing shares many of the characteristics of other Southern European economies such as the presence of a large number of small and individually operated companies, a modest rate of capital accumulation, and traditional food production and distribution systems which are also typical in Greece, Portugal, and Spain (Ozcan, 2000; Bennison, 1995; Salgueiro, 1995) and also Eastern European countries such as Hungary and Poland where the transformation of retailing has also been recognized as incipient in 1990s (Tokatli and Boyaci, 1998).

Table 1: The most common retail formats in Europe

	Channel 1	Channel 2	Channel 3
France	Hypermarket	Supermarket	Specialty Stores
England	Superstore	Supermarket	Convenience Stores
Germany	Discount Stores	Hypermarket	Specialty Stores
Italy	Supermarket	Hypermarket	Specialty Stores
Spain	Hypermarket	Supermarket	Specialty Stores

Source: Myers, 2003, Orel, 2010.

Myers (2003) showed the most common retail formats in Europe and they were generally food retailers as it can be seen in Table 1. UK food retailers have not been as ambitious as their counterparts in the non-food retail sector; they have been more concerned with the development of the superstore format in the domestic market (Myers and Alexander, 1996). Turkish retailing also has focused on the food retailing in these years. Torlak et al. (2005) shows that the customers of supermarkets and discount stores have different behaviours; for example the supermarket customers perceive physical aspects and store policy dimensions at a higher level whereas the discount store customers give more priority to the interaction with personnel dimension.

Table 2 below shows the top ten retailers worldwide in 2011. Wal-Mart was number one in annual revenue with \$ 446,950 million and its growth share was just 6 % whereas Costco's revenue growth was the highest with 14.1 %.

Table 2: Top 10 Retailers Worldwide, 2011

Rank	Name	Country of origin	Retail revenue (US\$mil)	Retail revenue growth	Numbers of countries in operation	% revenue from foreign operations
1	Wal-Mart	U.S.	446,950	6.0 %	28	28.4 %
2	Carrefour	France	113,197	- 9.8 %	33	56.7 %
3	Tesco	U.K.	101,574	5.8 %	13	34.5 %
4	Metro	Germany	92,905	- 0.8 %	33	61.1 %
5	Kroger	U.S.	90,374	10.0 %	1	0.0 %
6	Costco	U.S.	88,915	14.1 %	9	27.0 %
7	Schwarz	Germany	87,841	5.8 %	26	55.8 %
8	Aldi	Germany	73,375	3.7 %	17	57.1 %
9	Walgreen	U.S.	72,184	7.1 %	2	1.5 %
10	The Home Depot	U.S.	70,395	3.5 %	5	11.4 %

Source: Deloitte, 2013

Carrefour and Metro had the biggest share in the numbers of countries served and they took more than half of their revenues through foreign operations. Also German retailers Aldi and Schwarz took the biggest part of their revenues through their foreign operations however their foreign operations were less than Carrefour and Metro.

According to Deloitte (2013); fast moving consumer good (FMCG) sector was the leading sector in 2011. The share of retail companies by sector: 54 % FMCG (135 companies of 250), 22 % hardlines and leisure (55 companies of 250), 15.6 % fashion (39 companies of 250), 8.4 % diversified (21 companies of 250). The retail market for FMCG consists of various retail channels. The International Standard Industry Classification (ISIC, Revision 3) classifies retail channels into seven categories at the 4-digit level: ISIC 5211 retail sale in non-specialized stores, ISIC 5219 other retail sale in non-specialized stores (department stores, etc), ISIC 5220 retail sale of food, beverages and tobacco in specialized stores, ISIC 5231 retail sale of pharmaceutical and medical goods, cosmetic and toilet articles, ISIC 5251 retail sale via mail order houses, ISIC 5252 retail sale via stalls and markets, and ISIC 5259 other non-store retail sale. There is no firm in categories ISIC 5251 and 5252 in Turkey (Celen et al., 2005). Within the effects of globalization, Turkish retailing concentrate on FMCG sector with its numerous retailers. The growth rate of FMCG in Turkey was 0.8 % in November 2011 whereas it increased to 4.8 % in September 2013 (Retail Turkiye, 2013).

Relations with Albania

The Turkish retail industry has been developing since 1980s. It has too many foreign operations and Turkish retailers have begun to enter foreign countries for a long time. Turkish foreign operations in Albania were analysed since retailing sector in Albania takes too much investments nowadays and one of the strongest investors in Albanian retail industry is Turkey.

Albania was classified as low-medium country in terms of degree of privatization and development of retail sector according to the information about foreign direct investment, governmental efforts, retail sales level, number and type of retailers. Albania seemed to have limited development in the retailing sector, and thus was rated as a low-medium country. In the result of cluster analysis, it was classified as Low to Low-Medium (LLM) developed country (Manrai et al, 2001). Bitzenis and Nito (2005) analyzed the obstacles and problems encountered when doing business in Albania and showed that the most important obstacles were unfair competition, changes in taxation procedures, lack of financial resources, and problems related to public order.

In recent years the transitioning economy, the new class of consumers, and the change in the food retail sector have changed consumer behaviour and consumption preferences in Albania (Chan-Halbrendt et al., 2010). Albanian consumer behaviours and life styles have

changed because of the economic growth, improvement in the standard of living, fast urbanization, and trade liberalization in the country. The transition from a centrally planned socialist economy to a market oriented economy has also given rise to a larger urban middle-income class of consumers. The food demand from the emerging urban middle-income consumers, combined with the gradual consolidation of the retail sector and the recent establishment of the first supermarket chains, has strong implications for the agrifood industry, which in the past has been almost exclusively based on price (Leonetti et al. 2009). Increase in urban middle income consumers along with consolidation of the retail sector has created changes in consumption preferences in Albania.

The GRDI ranks the top 30 developing countries on a 0-to-100-point scale for retail investment based on several macroeconomic and retail-specific variables such as market attractiveness (25%), country risk (25%), market saturation (25%), and time pressure (25%). The countries were classified as “on the radar”-first ten countries, “to consider”- countries in the rank 11-20, and “lower priority”- countries in the rank 21-30. Some countries from the 2013 GRDI were shown in Table 3.

Table 3: 2013 Global Retail Development Index™

Rank 2013	Country	MA*	CR*	MS*	TP*	GRDI	Rank 2012
1	Brazil	100	86.2	43.3	48.3	69.5	-
2	Chile	95.6	100	18.7	54.3	67.1	-
3	Uruguay	92	73.9	63.5	36.5	66.5	+1
4	China	62.1	67.9	34.3	100	66.1	-1
5	United Arab Emirates	95.8	94.6	3	60.8	63.5	+2
6	Turkey	86.8	83.7	28.9	50.9	62.6	+7
7	Mongolia	17.7	37	99	96.5	62.5	+2
8	Georgia	36.6	63.8	83.4	61.9	61.4	-2
9	Kuwait	87.8	87.1	36.4	22.2	58.4	+3
10	Armenia	32.3	63.6	93.5	43.6	58.2	N/A
15	Sri Lanka	16.6	60.5	81.8	58.6	54.4	-
20	Jordan	53.1	65	65.9	19.6	50.9	-2
25	Botswana	38.7	82	31.8	38.5	47.8	-5
30	Albania	30.6	35	73.6	40.9	45.1	-5

* MA = Market attractiveness. 0 = low attractiveness, 100 = high attractiveness; CR = Country risk. 0 = high risk, 100 = low risk; MS = Market saturation. 0 = saturated, 100 = not saturated; TP = Time pressure. 0 = no time pressure, 100 = urgency to enter

Source: A.T. Kearney, 2013

Turkey continues to grow up and it moves seven spots in the GRDI to take 6th place. In Turkey, retail expansion is fuelled by strong consumer demand and high levels of disposable income. The modern retail environment is becoming more diverse in this market, with sectors such as luxury, apparel, and consumer electronics booming and quickly expanding outside of major cities. Albania at 30th rank remains attractive to some international retailers, particularly from neighbouring markets, yet their potential has fallen compared to other developing markets in the GRDI because of their small size and low levels of consumer wealth. Although the economic situation in Greece and Italy has affected consumer spending in Albania, government moves to liberalize the economic framework. Belgian food retailer Delhaize has emerged as a leader in the market after its 2011 acquisition of Delta M Group, with 19 outlets in the country. Carrefour's Marinopoulos franchise acquired the Euromax supermarket chain to strengthen its position in Albania. The market has plenty of room for growth. With small, independent stores dominating the landscape, the top five grocery players represent only 2 percent of the market (A.T. Kearney, 2013).

Kaleshi and Solanki (2010) showed that the EU countries made 77% of all companies operating in Albania, with a total number of 1,000 foreign companies. Italy and Greece are the main investors due to the fact that these countries are bordering Albania. Moreover, these

two countries are the main export countries of Albanian products. When taking into consideration the numbers of foreign companies operating in Albania, 40% of foreign companies were Italian, while 26% of them are Greek. During the years 1998-2007, Albanian Government has signed mainly trade agreements with some countries to stimulate FDI inflows, and one of them was Turkey. The Balkan countries made 13% of the total number of the investing companies, and they were dominated by Turkey, which made 8% of the total number of foreign companies operating in Albania.

Free Trade Agreement between Turkey and Albania was signed in 2006. With this agreement, tariff and non-tariff barriers were eliminated and numerous subjects such as sanitary and phytosanitary measures, technical barriers to trade, intellectual property, rules of origin, internal taxation, anti-dumping and countervailing measures, safeguards, and balance of payments measures were regulated. Trade volume between Turkey and Albania was estimated as 354 million US\$ in 2012 with a contraction of 10 % compared to 2011. In 2012, imports from Albania were 99 million US\$, whereas exports to Albania were 256 million US\$ (Ministry of Economy, 2012).

According to the foreign capital stock of Albania (Kaleshi and Solanki, 2010); the main investor was Greece with 54 % of the total investments. The Greek investments in Albania were spread up in the following sectors: 62 % in the telecommunication, transportation and depot sector; 18 % in the banking sector; 7 % in the industry sector. Turkey was the second investors 12 % of the investments. There has been a privatization of important sectors in the Albanian economy, including land lines of telecommunication through the company ALB Telekom, and this has made Turkey the second country. Italian companies were the third with 11 % of the capital inflows in Albania. Two main sectors were banking and industry sector. The fourth country was Austria with 10 % of the investment in two main sectors as banking and insurance. Germany (3 %), USA (2%) were the other investor countries.

According to Kaleshi and Solanki (2010), foreign enterprises have operated in different sectors in Albania. The first sector was trade/retail shops and trade arbitrage, the second sector was industry, mainly textiles and clothing by Italian companies, and the third was banking sector. On the other hand, the main sector of investment is the transportation, storage, and communication sector. This sector represents 40.5 % of the capital. The second sector was monetary and financial intermediaries with 33 % of total capital, the third sector was processing industry with 11 % of capital and the fourth sector was wholesale and retail trade, automobiles, motorcycles, personal belongings and appliances with 5.9 % of total capital.

The biggest Turkish investor in Albania is Calik Holding. It was one of the main players of the communication sector of Albania by acquiring the largest fixed line and internet provider (Albtelecom) and its GSM license (Eagle Mobile) in 2007. Eagle Mobile was the first operator that offers edge and mobile TV. Mukli et al. (2012) analysed the FDI and entry strategies of foreign mobile operators to Albania market. In this context, Vodafone Albania and Eagle Mobile have been analysed as the biggest operators in Albania. Albtelecom has increased its market efficiency by offering high service quality, powerful technical infrastructure, and special campaigns. Calik Holding acquired 60 percent shares of Banka Kombetare Tregtare (BKT), the second biggest bank of Albania. BKT which was selected the best bank of Albania twice aimed to develop its position in Albanian economy (Calik, 2009).

Mucaj (2013) claimed that Albania is a tax heaven and there is no custom duty for all capital investment from investment companies. In the last 20 years, Turkey has invested approximately US\$1 billion in Albania. Turkey and Albania have over 160 bilateral agreements in almost every area of cooperation. More than Turkey's 50 largest companies

operate currently in the Albania. Total trade volume between two countries reached 43.840 million leke in 2012. Albania import textile products from Turkey (KobiEfor, 2013). There are lots of Turkish brands such as Koton, Lc Waikiki, Little Big, and Collezione in Albanian shopping centres such as QTU and City Park. Pegasus Airlines has continued its investments in Albania as a service retailer.

Conclusion

In a conclusion, there has been lots of trade capacity between two countries especially in retail industry. Two countries have lots of common share in economic perspective. Small and medium sized enterprises have significant role in both economies (Keskin and Senturk, 2010). The investments in retail industry should be developed by the governments' incentives. The future research may focus on analysing the incentives and barriers of Turkish investments in Albania with the technics of survey.

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THE GLOBAL CRISIS AND SMALL- AND MEDIUM-SIZED ENTERPRISES: THREAT OR CHALLENGE?

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Abstract

SMEs play a significant role in all economies and are key drivers of employment, innovation and growth. SMEs have been especially hard hit by the global crisis. Due to their size and limited resources, in particular limited financial, managerial and information resources, they are more vulnerable to external shocks. With the economy facing the recession, companies are closing down and others are competing through spending cuts. Ongoing crisis has posed the significant challenge for small businesses and entrepreneurs. They need to take various measures against the economic shock to survive. This paper examines the possible changes in SMEs strategies that may be used to respond the unstable economic conditions in the world economy. The major attention is drawn especially to strategies based on the establishment of long-term relationships with stakeholders and on the strategies related to the cooperation between SMEs in order to innovate products/services or business processes.

Keywords: Small and medium enterprises, global crisis, adaptation, internationalisation, cooperation

Introduction

During the last decade, the world economy experienced deep recession and severe financial crisis. The policymakers together with managers are struggling to find ways how to manage current accelerating changes and how to answer this difficult situation. The behaviour of subjects has changed during the recession and has affected the economic climate everywhere in the world. Many economic subjects are fighting to avoid going bankrupt. Companies face the threats of declining sales and profits and are searching for new approaches towards their business activities.

The complexity of today's global economic environment has made it more important than ever to recognize and encourage the qualitative as well as the quantitative aspects of growth, integrating such concepts as social and environmental sustainability to provide a fuller picture of what is needed and what works. (Global Competitiveness Report 2012-2013, p. xiii)

The adaptation to new conditions is the prerequisite to survive. Not only companies need to address these circumstances. The crisis has highlighted the lack of confidence in the business and economic activity. Recessions are often periods of destruction in which old technologies, products and ideas meet their end, while new ones emerge. Recession impacts the business, poses major threats to, but also offers significant opportunities for, businesses. In order to survive all entities need to adapt. Destructive forces may not be a source of failure, but the inevitable pressure for necessary corrections of companies' philosophy. Every business in the world, regardless of size and type of business, cannot avoid the evolutionary

process, which is bringing incremental changes as a reaction on external environmental development.

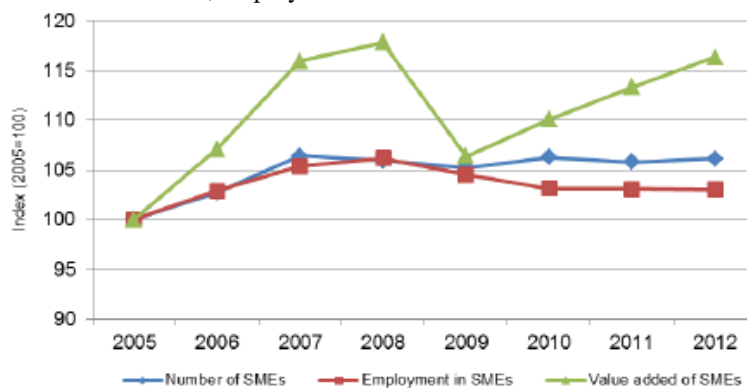
Crisis periods are more difficult especially for small and medium enterprises. SMEs are particularly vulnerable to external shocks, for the reason of limited resources, customers and product lines. Their small size restrains their adaptation strategies as downsizing or diversification of business activities. SMEs lack the resources, in particular financial and information resources, necessary to cope easier with the negative economic conditions in the economic environment. Nevertheless, they form the backbone of the national economy and can be crucial factor in the recovery from the global crisis. SMEs have been considered one of the driving forces of modern economies due to their contribution in terms of technological upgrading, product and process innovations, employment generation, export promotion, etc. (Annual report on SME in the EU, 2011/2012, 14).

This paper contributes to current issues about the business adaptation during recession and links with successful performance of SMEs in the future.

Small and medium enterprises in European Union

SMEs in the European Union are the key to the success of the European further development. SMEs account for 99,8 per cent of non-financial enterprises in 2012, which equates to 20,7 million business (Annual report on SME in the EU, 2011/2012, p. 15). They are significant employers, who contribute to the overall employment rate. Working conditions in SMEs could be characterised as a very favourable environment for employees. SMEs across the EU provided an estimated 67,4 per cent of jobs in the non-financial business economy in 2012 (Annual report on SME in the EU, 2011/2012, p. 15). This makes SMEs primarily responsible for wealth and economic growth in the EU. They also play a significant role in innovation and R&D, which predetermines them to be important carriers of innovation.

Figure 1 Number of SMEs, employment in SMEs and value added of SMEs (2005=100)



Note: 2011 and 2012 figures are estimates

Source: Ecorys Macro & Sector Policies: EU SMEs in 2012: at the crossroad. Annual report on small and medium-sized enterprises in the EU, 2011/2012. Rotterdam : ECORYS Nederland BV, 2012, p. 16.

Figure 1 illustrates the position of SMEs in European economy during the crisis period. SMEs were hit hard by the economic crisis in 2009. In 2010 the decline in the number of SMEs was halted, but employment in SMEs continued to decline. Since 2009 there has been a strong recovery in value added of SMEs. For 2012, an overall increase in value added and fragile development in number of enterprises were expected, while employment in SMEs remained unchanged.

European economy in general shows low levels of business and consumer sentiment and increasing unemployment limiting consumption, which has all led to an insufficient GDP growth. The crucial factors, which might boost competitiveness of the European economy,

are driven by productivity enhancements, in which innovation and new skills are important elements. SMEs have been considered one of the driving forces of economy due to their relative small size and close relationships with stakeholders. These enable them to react promptly to any changes in external environment as they are vulnerable to external shocks. SME's competitiveness depends on their ability to innovate and to promptly address to changes in business environment. SME's innovativeness not only enhances their own competitiveness, but also through their networks with other firms, they improve competitiveness of the entire economy.

SMEs adaptation

SMEs are conducted and managed by their owners or a manager. Their relative small size and favourable working environment facilitate the cooperation between owner and employees that may often lead to mutual agreement on further development of the company. However, owners always have the responsibility regarding the strategies they adopt, although their choice is often affected or constrained by resources and relations with other stakeholders. The nature of SMEs makes them very vulnerable to any changes in environment or in relations with stakeholders. They depend on trustworthiness and loyalty of their business partners, customers, suppliers or employees. Any business and strategic decisions may drain or deploy resources that are crucial for their future survival. There is no guarantee, that particular strategic decision will bring required results. Success or failure of any business activity strongly depends on the important stakeholders such as suppliers or customers as well as small business owner. Product innovation, for example, may increase sales and have positive effects on customers and their loyalty to small business, but there is also a possibility that innovation may have opposite effects and will not produce the intended outcomes. Failure of changed strategy is especially for small and medium enterprises extremely dangerous. Limited resources, in particular financial and information resources, give them not as many chances to adjust the strategy as to their larger counterparts. Small size and limited resources as well as the smaller customers' base and product lines restrict a firm's capacity to cope with competitive pressures that are strengthen during the crisis period.

Impacts of recession on small business may be analysed from two sets of view. These may be termed the *vulnerability* and *resilience* view (KITCHING, 2011, p. 3). Vulnerability is connected to the external shocks in business environment. Difficult conditions and unstable situation affect the ability of small business to address the changes adequately and find appropriate reaction. The lack of resources cause that there are many influences in external environment beyond their control. Thereby, small business performance is highly volatile in short-, medium- and also long-run. Resilience means the ability to quickly return to previous favourable conditions. This is a positive side of their small size. Flexibility of SMEs in adjusting resources, processes or products has made them able to survive during difficult times. Their links with stakeholders enable them to exploit existing market opportunities or to create new or innovative way of business processes. Recession has posed major threats to small businesses, but their flexibility and small size are offering interesting opportunities for them. Thereby, small businesses face to a major dilemma: to cut cost or to invest to innovate.

Two major decisions related to adaptation of small business on external shocks in economic environment are costs cuts or product/process innovation. Cost cuts may produce required outcome in order to maintain survival in short-run. On the other hand, investing in order to invent new products or processes may create opportunities for long-term value creation. Recession has compelled firms to rethink their business strategies. It is difficult to decide whether to cut costs or the converse, to invest financial resources into innovation processes. Reducing staff, for instance, might reduce the firm's capacity to mobilise human resources when necessary, or it might cause the loss of the trust of employees toward the

employer. Likewise, the firm might have not enough human capital to undergo crucial changes during recovery, as well as recession. Investment in the innovation processes might drain firm's resources and might fail to generate sufficient sales to cover costs. Studies of small enterprises demonstrate the importance of both cost-cutting activity and revenue-generation practices (KITCHING, 2011, p. 4). Performance of SMEs is closely linked with the actions taken during the recession period. The particular form of adaptation is contingent upon the circumstances and depends on the individual firm's situation and possibilities. There is no golden rule that will guarantee the success of the adaptation.

Internationalisation and cooperation of SMEs

Cost-cutting activities might only have just short-run effects on firm's performance very often. Revenue-generating practises include various actions that are generating revenue through investment, innovation and diversification. Implementing revenue generating approaches may require far-reaching decisions about resources and their mobilisation and the effects of this strategic reorientation might bring intended performance in the long-run only. Creation of cooperation among SMEs is a possible way how to save time, use synergies and even achieve cost reduction. Cooperation, especially with foreign business partner, provides opportunities to gain extensive experience of new environments. Firms learn how to deal with unpredictable changes in unknown markets and how to adapt to changes. They might also benefit from the learning effects of the cooperation with a foreign partner.

There are many possibilities, how to improve competitive position of European SMEs. Nowadays, the global economy is characterised by the accelerating globalisation processes that are enhancing the need for fast decisions and innovations. Generally, firm gains its strength when it learns from competitors or in cooperation with business partners. As already mentioned, there are two sets of adaptation strategies that might be used during recession period. To cut the cost or to innovate products/business processes. Desired strategy is the implementation of both options according to firm's possibilities and capabilities. Firms involved in the internationalisation might benefit from the learning effects of international expansion. The cooperation with a foreign partner or the necessary adjustment of products or strategies to foreign market environment support the ability of firm to innovate or to react to changing circumstances in a flexible manner. Many studies have confirmed that internationally active firms introduce product or process innovation more often than their non-internationally active counterparts. Innovation is very often an outcome of product development necessary to enter foreign market as well as the consequence of the firm's foreign market activities. Internationally active firms are forced to innovate in order to build competitive advantage in foreign markets and development of new product/service is often a consequence of competition from foreign enterprises on the domestic market.

Ongoing globalisation processes together with the impacts of global crisis are highlighting the need to address changes in international environment promptly and to recognise new opportunities that may improve firm's competitive position. Foreign market activities provide firms with access to knowledge, technologies and especially to experience that are new or different in comparison with domestic information base. This allows the firm to utilise learning effect originated in the export/internationalisation processes and decisions. There is a link between the innovation and internationalisation at least in the sense that firms need to innovate in order to gain and maintain competitive advantage in foreign markets. SMEs also have to deal with foreign competitors effectively not only in foreign markets, but they increasingly face with foreign spill over effects that may take place from foreign competitors in the domestic market.

Internationalisation of SMEs business activities has many benefits not only for their economic performance but it also may help to improve their market position both in national

and foreign market. Foreign market activities may reduce market risk and help to exploit different economic level and economic development of countries in the world. Internationalisation supports innovation of product or processes and reduces dependence on any particular market. Notwithstanding, many SMEs do not even plan to become internationally active, as they are not able to overcome many barriers associated with internationalisation. There are two main types of these barriers. Internal barriers are related to firm's capabilities and external barriers are related to the firm's business environment. SMEs have a tendency to underestimate or converse to overestimate barriers of internationalisation. These differences in firm's perception of foreign market barriers are connected to experience with foreign market activities. Many SMEs give barriers higher importance than it is in reality. Information and experience with international business activities may play a crucial role in starting foreign markets activities. Internal barriers are related to firm's capabilities to operate abroad. Internal barriers result from limited financial, managerial and information resources, and are typically smaller than in case of large firms. Internal barriers in perception of SMEs are related to lower level of efficiency of the firms, high cost of internationalisation or the lack of sufficiently qualified personnel. External barriers are related to the business environment and range from lack of capital necessary for starting foreign operations, lack of adequate information on cultural differences of foreign markets.

According to the study of European Commission on Opportunities for the Internationalisation of European SMEs there are the three most important barriers that may affect SME's business activities in markets beyond the Internal Market: (EC: Opportunities for the Internationalisation of European SME, p.48)

- payment risks,
- difficult paperwork, i.e. bureaucratic procedures,
- lack of finance.

Figure 2 provides more detailed answers of SME's perceived barriers of internationalisation. It shows the list of 15 main barriers perceived by SMEs that may affect their foreign market activities or may prevent SMEs to enter these markets. The list presents both, external and internal barriers of internationalisation. Tariffs or quotas and political risks belong to the less important perceived barriers. The list reveals that the most important perceived barriers are associated with financial limits, lower efficiency regarding the price or quality of product, or insufficient knowledge of internationalisation processes.

Figure 2 Barriers perceived to be most important by internationalised EU SMEs, index of importance of barriers for third markets



Source: European Commission: Opportunities for the internationalisation of European SMEs, Final Report. Brussels: Business Cooperation and Support Network Unit, 2011, p. 48

Entering foreign markets offers new opportunities and challenges for SMEs. Regardless the constraints of international activities, operating abroad provides various learning effects affecting firm's ability to compete in the world market. Competitive

advantage, which is gained from the foreign market business activity, is very unique. It is linked to knowledge, experience of different business environment, and higher potential to innovate. Especially nowadays, when global financial crisis has plunged most of the national economies into a severe recession, internationalisation of business activities might be crucial for further survival of firms. SMEs are more vulnerable to external shocks due to their size and dependency on national market. Foreign markets provide them a chance to adapt to new circumstances. However, the current level of SME’s internationalisation is insufficient. SMEs involved in international activities prefer entry modes with minimal investment and lower degree of foreign market commitment. These modes require no equity investment and thus have a low risk, but also low rate of return and little control. Higher potential for learning effect and related effectiveness of business operations arise from cooperation among SMEs from different countries. Cooperation generally involves the transfer of technology, processes, human skills or knowledge. The benefits of such cooperation are long-lasting and hard to imitate. However, only a small percentage of European SMEs is involved in internationalisation beyond the Internal Market.

Following data demonstrate small international commitment of European SMEs. The two most common modes of internationalisation are exports and imports: (EC: Internationalisation of European SMEs, p.5)

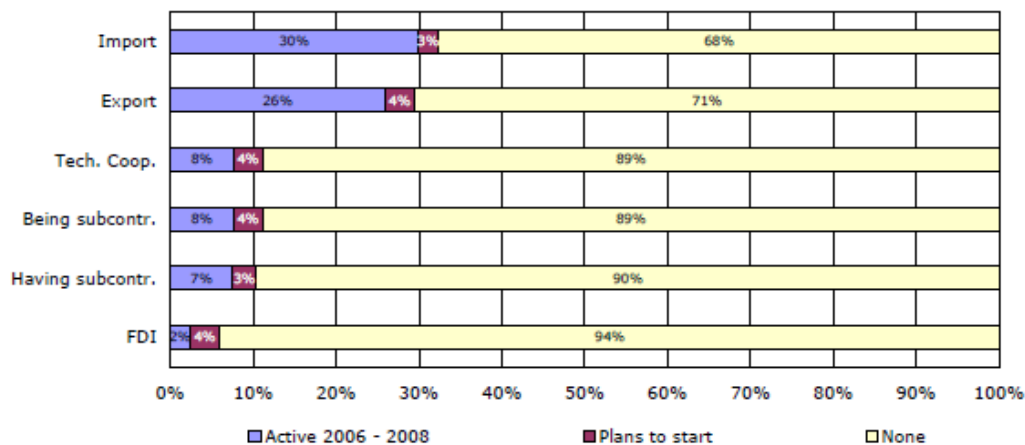
- 25% of SMEs within the EU27 export, of which about 50% also go beyond the Internal Market (13%).
- 29% of SMEs within the EU27 import, again 50% import from countries outside the Internal Market (14%).

In addition:

- 7% of SMEs within the EU27 are involved in technological co-operation with a foreign partner.
- 7% are a subcontractor to a foreign partner.
- 7% have foreign subcontractors
- 2% of SMEs are active in foreign direct investment.

Figure 3 presents an overview of different types of internationalisation according to the foreign market commitment. The highest share of SMEs is engaged in importing (30%). About one quarter of European SMEs are engaged in exporting. The share of FDI is just about 2% of SMEs foreign operations. Relatively sufficient is the share of technical cooperation among firms, 8% of SMEs has already had technical cooperation with foreign partner.

Figure 3 Percentage of European SMEs involved in international business activities, having concrete plans to start such activities or none at all. For various modes of internationalisation



Source: European Commission: Opportunities for the internationalisation of European SMEs, Final Report. Brussels: Business Cooperation and Support Network Unit, 2011. p. 12

Most of the European SMEs are active only within Europe. Emerging markets such as Brazil, Russia, India and China are served only by 7% to 10% of exporting SMEs. Only in transport and communication is this percentage much higher (EC: Internationalisation of European SMEs, p.6). While the European Union countries are facing financial difficulties, increasing unemployment and decreasing demand, emerging countries such as BRIC countries continue to show robust growth rates. The prospects for economic recovery look encouraging with the IMF projecting substantial economic growth by 2014, ranging from nearly 3,8 % in Russia, 4% in Brazil to close to 6,4% in India and 8,5% in China (IMF, World Economic Outlook Update 2013).

Emerging countries provide a range of opportunities for European SMEs. These opportunities arise from the fact that some sectors of their economy are under-developed, but their internal market has significant size with increasing domestic consumption. Consumer's power is increasing and their wealth has created promising opportunities to manufacture consumer goods and to provide consumer services. The need to modernise and upgrade technology base or rapidly growing consumer markets are offering opportunities for SMEs foreign markets commitment. Fragile economic environment in Europe and weak recovery with adverse consequences for sales, investment and financial stability have highlighted the need for searching new markets providing better opportunities and growing potential. Promising emerging markets according to their demographic and economic potential are BRIC countries. However, there are many barriers related to business activities in these markets. The most significant or crucial for SMEs refer to bureaucracy, rigid labour markets, cultural differences or trade barriers. With such unfamiliar legal and cultural barriers, preferred mode of entry is to establish long-term cooperation with local partner. Local partners may provide SME with help in understanding cultural differences and may contribute to lessening political and economic risks. Cooperation with local partners can be attractive especially when it enables SMEs to utilise the specialised skills of local workers, when it allows the firm to gain access to local market, or when the firm lacks the financial resources or personnel capabilities to expand internationally. Cooperation with foreign partner can be successful market entry strategy, particularly for SMEs with limited resources and knowledge of these local markets.

Conclusion

Global crisis has triggered many economies into severe recession. Business climate has changed rapidly since 2009 and European economies are still struggling to find way out to pre-crisis growth levels. Most developed countries are experiencing just modest recovery from crisis which is discouraging business activities of firms. European economy shows insufficient GDP growth which has led to limited production, increasing unemployment and lower consumption. Improvement of productivity levels that will arise from innovation and new skills can enhance European competitiveness. SMEs have been considered one of the driving forces of economic growth due to their important role in job creation and flexibility. However, SMEs are more vulnerable to external shocks and to volatile development. Unstable economic environment forces them to adapt their strategies in order to survive current inauspicious pressures.

Small business adaptation and performance depend similarly as in case of large companies on their owners or managers and also on other stakeholders (customers, suppliers, competitors, government and others). Their ability to implement adaptation strategies is constrained by limited financial, managerial and human resources. From this point of view, the SMEs find it easier to cut the costs than to invest in order to innovate. However, adaptation decisions are contingent upon various factors, particularly upon the type of industry and product features. The possible actions during the recession period are related to

adjustments in product strategies, access to capital or labour market conditions and cost optimisation. Studies have demonstrated that both, cost cutting and revenue-generating strategies, might have positive effects on SME's performance. Gaining and maintaining of competitive advantage during recession shape the future ability of the firm to adapt in post-crisis period. There are many possibilities how to improve competitiveness of the European SMEs. Cooperation among SMEs or cooperation with foreign partners can offer the opportunity to learn how to cope with diversity and changes affecting international business environment and business climate. Cooperation generally involves the transfer of technology, processes, human skills or knowledge. The benefits of such cooperation are long-lasting and hard to imitate.

The current economic situation in Europe has underscored the need to look for new sources of growth. Third country markets, which have favourable conditions and prospects for economic recovery, can provide attractive opportunity for the EU SMEs. Emerging markets provide opportunities that range from underdeveloped sectors to significant size of their internal markets. Notwithstanding, expansion into these markets is associated with various barriers such as bureaucracy or cultural differences, their demographic and economic potential provide invaluable environment, making it possible to formulate and implement advantageous business strategy producing the desired levels of performance in the future.

To conclude, recession represents a threat and an opportunity for firms and their ability to adapt. SMEs are especially vulnerable to external shocks such as recession and are affected by many restraints due to their limited financial, managerial and information resources. One possible way how to cope with the current unstable situation might be to establish new cooperation among the SMEs or with a foreign partner. It is impossible to deal with all the issues in such a short article, but future efforts should focus on a closer examination of internationalisation processes of the SMEs and their impact on SMEs performance and their ability to adapt.

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SMALL AND MEDIUM SIZED ENTREPRISES; GROWTH FACTORS

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Abstract

SMEs occupy an important role in most of economies. In Albania the SMEs represent 99.6% of all registered businesses, the share of the SME sector in GDP is 72.9% of GDP and the number of employees reaches the level of 71.4% of all workers. The SMEs are considered as a key factor for a stable economic environment to make lower the levels of the poverty in the country, to make an equal income distribution and to increase the employment rate. The impact of SMEs is visible in almost every field like finance, human resources management, retail, service industry, manufacturing and the agricultural sector. SMEs often offer specialized services/products in a more efficient manner rather than larger companies.

This paper aims to contribute in finding some determinant factors related to SMEs growth and performance in a transition economy.

Empirical researches argue that firm growth is measured not only from traditional factors of the firm (size and age), but also from specific factors including internal financing, future business plan, factor productivity.

During the last five years the economic situation has been very unclear and uncertain. SMEs have experienced the most challenging crisis. The 2013 is expected to be a positive year regarding the Small and Medium Sized Enterprises in Europe, i.e. turning point. The economists are hopeful, and are expecting an increase in the total employment by 0.3% and 1% increase in the value added.

Considering the importance in all economies for recovery and development, SMEs growth is a crucial issue.

Keywords: SMEs, growth, size, age

Introduction

It is well known that the private sector in Albania is mostly composed by Small & Medium Enterprises. They are mostly concentrated in Tirana, the capital city of Albania, in the central area and the coastal area. More than the half of these SMEs has their headquarters and main location along the high-way Tirana-Durrës, an important axis of trade for the whole country. Other regions are Vlora, Korça and Fier. In the northern region there exists a few numbers of small businesses.

Policymakers and academics have recently been attracted by SMEs. Governments are trying to promote and support SMEs because of their overall contribution to the economic development, because of their impact on the local and regional economies.

The global nature of the policy issues, the role played by the SMEs in the national economy are very important and have to be taken into account. The Small and Medium Enterprises are considered as a local force in a global action. The performance of small and medium enterprises can lead these firms to success or failure. Most of SMEs cannot survive

the second year due to challenges in market or human resources, lack of capital or legal conditions, or non-stabilized institutional regimes⁶¹.

Different authors state that SMEs differ from larger enterprises because they do have different growth possibilities. They find a correlation between growth and business cycle where large firms experience expansion during recessions/recoveries, and SMEs often seems to grow in booms. According to Huynh & Petrunia 2010 firms that operating with growth tends to have higher debt levels than firms that have lower growth. During the '80s SME have acquired a special status by becoming an object for future researches. In economic terms there are some reasons like: the entrepreneurship role, critics regarding scale economies, needs for flexibility and innovation on production systems.

The European definition for SMEs can be found in the Commission Recommendation⁶² regarding the definition of micro, small and medium-sized enterprises and cited as below:

Micro, small & medium-sized enterprises (SMEs) with fewer than 250 employees (the annual turnover⁶³ should now exceed 50 million EUR; the annual balance sheet should not exceed 43 million EUR).

A *small* enterprise is the firm with less than 50 employees (the annual turnover and balance sheet should not exceed 10 million EUR).

A *microenterprise* is the enterprise with fewer than 10 employees (the annual turnover and annual balance sheet in total should not exceed 2 million EUR).

The Albanian definition for Small and Medium sized enterprises can be found in the Law Nr 8957 date 17/10/2002 as the follow:

*Micro*⁶⁴ enterprises are classified those firms with fewer than 5 employees.

Small enterprises are classified those firms with an annual turnover that does not exceed 285.000 EUR⁶⁵ that have 6-20 employees. The subjects that own the capital of the enterprise should be classified under this law as small enterprises.

*Medium*⁶⁶ enterprises are those firms with an annual turnover that does not exceed 570.000 EUR⁶⁷ that have 21-80 employees.

Some Albanian National data:

• Population:	3.162 millions
• Population density:	115.105
• GDP:	13.12 billion
• GDP growth:	0.8 %
• Inflation:	2.0 %
• Labour force:	1.481 millions
• Unemployment rate:	13.8 %

Literature review

During the early 1970s a stream of research was developed around a common research subject: the growth of the company. But at the end of 1970s the research on SMEs took another direction. Several authors⁶⁸ do not consider it any more as a reduced model of big sized companies, but as an enterprise to which we can find particular and specific

⁶¹ Abor & Quartey (2010); Kayanula & Quartey (2000); Mensah (2004)

⁶² Of the 6 May 2003 (notified under document number C(2003) 1422)

⁶³ By annual turnover the European Commission(EC) intends incomes form sales/services without VAT and other indirect taxes

⁶⁴ Including only the staff headcount criteria

⁶⁵ The annual turnover should not exceed 40 million Leke. (1 EUR=140.25ALL)

⁶⁶ 25% of the firms' capital does not belong to an enterprise that is not small and medium

⁶⁷ The annual turnover should not exceed 80 million Leke (1 EUR=140.25ALL)

⁶⁸ Gervais 1978; Dandridge 1979; Marchesnay 1982; Hertz 1982

features: SMEs display a different scale of organization, operation and challenges. I find this very interesting. For this reason SMEs become progressively a research object on their own.

In the United States there are researches⁶⁹ which analyze the impact of firm size and age on firm growth with a result of a negative correlation between size-age & firm growth. In their research Morone & Testa (2008) by analyzing 2600 firms consider that young firms tend more to have a positive growth. Many different authors have examined the correlation of firm's growth and the financial structure of the firm. From the research conducted in the Italian manufacturing industry Becchetti & Trovato 2002 argue the influence of external finance in firm growth. Other authors⁷⁰ found that SMEs growth depends on access to finance. By analyzing Swedish data from Heshmati (2001) we find a positive relation between indebtedness and sales growth.

From different articles we find that SMEs are more dependent to external funds (bank loans) in contrast with large firms. Because of the lack of information, often banks do have a higher risk when finance SMEs. Hyz (2006) states, that the importance of the SME sector in the economies of Central and East European countries is related to the demonopolization of economy, the social stability and creation of new jobs. But of no less importance are the recent conclusions that address different barriers like institutional, internal organisational, resource barriers, external market barriers, financial and social barriers⁷¹. Different kind of barriers tends to prevent SMEs from achieving their full potential⁷².

The performance of a country is closely related to the SME performance sector. SMEs make a contribution to the regional economic development. Two authors Fisher, Reuber & Dyke consider: labour characteristics, the sectors of activity, gender of owner and efficiency as key factors for the small and medium enterprises' role in a developed world.

Recently the literature was not focused on this particular role of the business environment. There has been no systematic analysis in the effects of employment, growth and development to SME. The SME sector in the Western Balkans demonstrated a low performance from the SME business index⁷³.

In Albania the SMEs sector is considered very important and of high priority, because it has adaptability, generates employment and future innovation⁷⁴. The innovation scale that SMEs pursue depends if the industry is emerging or if it is a mature⁷⁵. Another author Moore, 2004 states that innovation can change through different points in the product's life cycle. As Marchesnay (1993) points out, the research about SMEs permits to be notable 'concretely, visible on the observer eye the hidden difficult to catch and to interpret issues that are not for the big companies'. SMEs often are presented as a productive unit where these kinds of phenomenon are more readable.

Empirical researches argues that firm growth is measured not only from traditional factors of the firm (size and age), but also from specific factors including internal financing, future business plan, factor productivity. In the macro level economists analyze the influence of GDP, inflation and income tax rate to SMEs growth in these transitions countries. They analyze as well if SMEs growth is positively correlated to an economy with better economic opportunities.

In 1931 Robert Gibrat formulates *the Law of Proportionate Effect* (the so-called Gibrat Law) stating that firm growth is not dependent on its size.

⁶⁹ Evans, 1987

⁷⁰ Fazzoni et al (1988); Becchetti & Trovato (2002); Wagenvoort (2003); Carpenter et Peterson

⁷¹ Smallbone, (2003); Bartlett & Bukovic, (2001)

⁷² Gruda, Servete., Milo (Lati), Lindita., (2010)

⁷³ OECD; (2007)

⁷⁴ Gruda, Servete., Milo (Lati), Lindita., (2010)

⁷⁵ Nootboom, 1994

The Gibrat Law (which can be used in many mathematical models) can be cited:

$$S(t+\delta)_{ij} = U_{ij}(t; \delta) S(t;ij) \quad (1)$$

$S(t;ij)$ - is the size of the j -firm in the i -industry at the time t

$S(t+\delta;ij)$ - is the size of the firm at the time $t+\delta$

$U_{ij}(t+\delta)$ - is a random variable distributed independently of $S(t;ij)$

From the empirical evidence we notice that not all economists agree on Gibrat findings.

Johnson et al (1999) Lotti et al (2003) Diaz-Hermelo & Vassolo (2007) they totally or in part support the law of Gibrat.

While other e.g Evans (1987), Hart (2000), Davidsson et al (2002) and Yasuda (2005), they all have argued on the negative relationship between size/age and growth. The first economists whom have demonstrated that Gibrat law is not consequent for United States firms are Hall (1987) & Evans (1987).

Another econometric model⁷⁶ regarding the firms' growth factors and variables is presented below:

$$g_rate = f \{age, size, industry\ sector, legal\ form, ownership\ governance, location, international\ activities\} \quad (2)$$

On their research these authors consider on their regression model these variables as very important. The sector in which the firm operates, the age (if it is younger it is supposed to grow faster), the size (if the firm is small tends to have better growth opportunities), if the owner is independent or not, the legal framework are important factors to growth.

On their research⁷⁷ Christina Bannier & Sabrina Zahn had proposed another econometric model to explain growth of the firm. In order to prevent the affection of the econometric model by 'heteroscedasticity'⁷⁸, they agree in using the log differences⁷⁹ and the ($\Delta \log SIZE$) is considered the dependent variable measured in terms of total assets and number of employees.

$$\begin{aligned} \Delta \log SIZE_{it} = & \alpha_1 + \beta_1 L.LogSIZE_{it} + \beta_2 LogAGE_{it} + \beta_3 LogAGE2_{it} \\ & + \gamma_1 Gov_{it} + \gamma_2 ER_{it} + \gamma_3 \log SALES + \gamma_4 PROF_{it} \\ & + \varsigma_1 GDP_t + \varsigma_2 L.GDP_t + \epsilon_{it} \end{aligned} \quad (3)$$

Methodology

The main data used in this paper is collected from the Albanian Institute of Statistics (INSTAT) and World Bank Surveys.

We have used some data from the Small Business Act 2012, and the European Bank for Reconstruction & Development (EBRD). The data presented here shows the big importance of SMEs in the employment of Albania and shows the value added in millions of EUR. The estimations here are based on data from Albania's National Statistical Office⁸⁰.

⁷⁶ Kirchoff et al (2000) 'Empirical analysis of business growth factors using Swedish data' page 8

⁷⁷ SME's growth heterogeneity- Evidence from regional developments(2012) page 12

⁷⁸ The term means "differing variance" and comes from the Greek "hetero" ('different') and "skedasis" ('dispersion'). In statistics a collection of random variables is heteroscedastic if there are sub-populations that have different variabilities from others. Definition from www.wikipedia.org

⁷⁹ Coad & Hölzl 2010

⁸⁰ We exempt from calculation firms in forestry, fishing & services such as education and health as well as firms in agriculture.

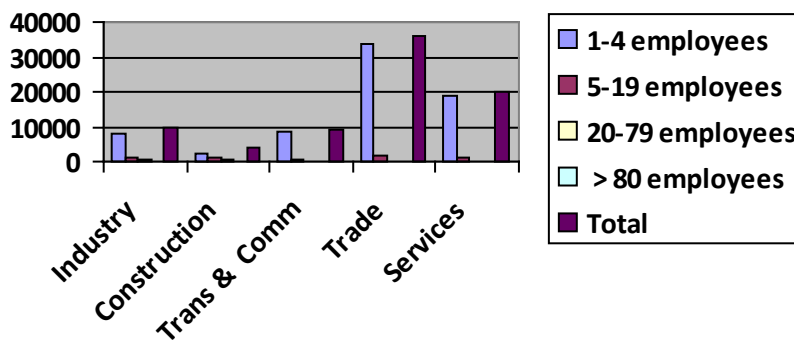
	Number of enterprises			Employment			Value added		
	Alb		EU	Alb		EU	Alb		EU
	No	Share	Share	No	Share	Share	Mln €	Share	Share
Micro	70 637	95.8%	92.1%	117 306	46.5%	29.8%	620	30.7%	21.6%
Small	1 579	2.1%	6.6%	20 719	8.2%	20.4%	190	9.4%	18.9%
Medium sized	1 428	1.9%	1.1%	71 047	28.2%	16.8%	600	29.7%	17.9%
SMEs	73 644	99.9%	99.8%	209 072	82.9%	66.9%	1 410	69.8%	58.4%
Large	58	0.1%	0.2%	43 153	17.1%	33.1%	610	30.2%	41.6%
Total	73 702	100%	100%	252 225	100%	100%	2 020	100%	100%

Table 1 Summary statistics for firms. Source: World Bank (2005) Authors' own calculations

From the data collected on the SBA we can calculate 99.92% of all firms in Albania are SMEs with a number of 209.072 employees and with an added value of \$ 1.410 million.

Analyzing the data from Chart 1 we can state that in Albania the number of employees in the trade industry reaches the high levels by 35.776 persons and the construction industry reaches the lowest level of employees(only by 3736 persons).

Number of Employees in Albania during 2011



Conclusion

The private sector in Albania is mostly composed by Small & Medium Enterprises. They are mostly concentrated in Tirana, the capital city of Albania, in the central area and the coastal area. SMEs are not any more a reduced model of big sized companies, but as an enterprise to which we can find particular and specific features: SMEs display a different scale of organization, operation and challenges.

In Albania the SMEs sector is considered very important and of high priority, because it has adaptability, generates employment and future innovation. From the data collected on the SBA we can calculate 99.92% of all firms in Albania are SMEs with a number of 209.072 employees and with an added value of \$ 1.410 million.

This paper tends to contribute on the debate regarding SMEs' determinants of growth. Growth in all the models we have analyzed is presented as a dependent variable. The age of the firm is mostly used as in independent variable.

The analysis based on panel data analysis of a set of SMEs in a transition economy as Albania seems to be important. Based on different econometric models presented here in this paper, growth in SMEs can be explained by traditional firm characteristics; such age and size.

In some models the sector in which the firm operates is one of the factors influencing growth. Leadership skills and entrepreneurial skills for good firm governance, legal framework also can be considered determinants factors in firm growth.

The growth of the company can be measured in terms of sales, employment or assets and economists state that is a result of exploring opportunities⁸¹.

From the empirical evidence (balance sheet analysis) we can find a negative correlation between the size of the firm and the growth. Regarding the age of the firms as a determinant factor in growth we have some ambiguities.

By analyzing the employment growth (as a measure for firm growth) we find the same negative correlation between size and firm's growth, and the same ambiguity on the age as a growth firm's factor.

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PROCESS MANAGEMENT – NEW WAY OF SELF-GOVERNMENT FUNCTIONING

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Abstract

The article deals with processes, their identification and the key elements of process management, which enable the process approach in self-government. It also compares process and functional approaches from the viewpoint of management.

We present a particular example of a municipal office, demonstrating individual types of processes, and continuing with their analysis and a proposal of process management implementation under particular conditions.

Keywords: Process management, process, functional approach, process approach

Introduction

Self-government represents an inseparable part of any societal system. It concerns each citizen by means of social, political, legislative and economic tools. Self-government in Slovakia is currently facing several key challenges, defined in most of concept documents dealing with the public administration reform. Constant pressure on the increase in effectiveness and professionalism also requires the application of new tools in the sphere of management. Process management is gradually finding its place in the public sector, even though it is originally an approach applied in entrepreneurial environment. The submitted article is dealing with this issue in broader contexts.

Present Conditions of the Functioning of Self-Governmental Units of Municipalities in Slovakia

Financial and economic crisis, lasting already several years, has significantly affected the enforcement of fiscal decentralisation principles. It has confirmed the importance of respecting certain principles, aiming at maintaining the greatest possible economic stability of municipalities. Based on the competencies of municipalities, they can be summarised as follows:

Table 1 Competencies and duties of municipalities

Competence of municipalities	Number 30 th April 2005	Number 1 st January 2011	Increase 2011/2005 in %	Number 1 st January 2012
Civil protection	98	93	-5.1	93
Transportation	84	171	103.6	171
Finance, asset administration	727	1,265	74.0	1,265
Culture	82	105	28.0	105
Defence	20	22	10.0	22
Fire protection	50	60	20.0	60
Business, tourism, consumer protection	104	103	-1.0	103
Agriculture	102	142	39.2	142
Regional development	6	24	300.0	24
Social affairs	151	233	54.3	233
Complaints and monitoring	65	96	47.7	96
Education	116	224	93.1	224
Public procurement	136	315	131.6	315
General internal administration	931	1,142	22.7	1,142
Health service	50	65	30.0	65
Environment	345	454	31.6	454
TOTAL	3,067	4,514	47.2	4,514

Source: own processing

The table shows an increase in the competencies which represent content and performance in the functioning of self-governmental units of municipalities. They include transferred as well as original competencies, i.e. the overall increase is approximately 47 % - 50 %, suggesting a half more performance.

Meanwhile, several significant changes have occurred in the competence of municipalities, which has also reflected in financing of the related competencies, as most of those delegated to municipalities were not financially covered, which affects the functioning of self-governments and their successful fulfilment of tasks and duties. The changes include:

- share of municipalities in the revenues of individual income taxes from business, which were received by municipalities, has decreased from 70.3 % to approximately 65.4 %. This income represented a decisive self-financing source of municipalities;
- income tax increased, which resulted in a decrease in business activities;
- municipal revenue base decreased after imposing the tax from the alienation of property in the amount of 19 %;
- the extent of regulatory measures in the form of exemptions from local taxes has increased;
- decision-making rights of municipalities regarding the usage of their own resources have been restricted;
- the amount of compulsory expenses of municipalities imposed by state (e.g. in the sphere of education, social affairs, etc.) has increased.

These changes in financing conditions cause financial problems to municipalities in the form of decreasing self-financing ability, which further results in the increased inability to draw from the EU funds, as municipalities have no means to pay a certain amount upon their provision. There are further increases in obligations of municipalities resulting from loans, while their paying off and the principals paying off have increased by 47 %. Inconsistent collection of claims has also reduced actual means necessary for the given municipality. Individual approach of municipalities in terms of their ability to eliminate risks of crisis development is adopted in such cases.

All these circumstances encourage us to consider and look for reserves and new solutions. One of the possibilities is process management, aimed at the development and

optimisation of an organisation's operation in order for it to respond to customer – citizen's requirements effectively, efficiently and at the same time economically, and to carry out tasks imposed by state successfully.

The broader context of process management is dealt with in the following part of the article.

Process Management – Definition and Relations

The process approach represents a new orientation, focusing on the process, which is comprehended as a chain of activities, operations and sub-processes. Upon studying related literature, one finds out that a significant factor upon process management development was the process approach towards quality creation, assurance and development. "The process approach is currently particularly present in quality management systems, where it is understood as its inseparable part. Systematic identification and management of processes applied in an organisation, and particularly interaction among such processes, have been called process approach" (Závadský, 2004).

In order for an organisation to function effectively, it needs to identify and manage a number of related activities. Already the process management development itself suggests what its basis is. However, different authors comprehend it with small differences. The key elements of process management are process orientation, horizontal management and knowledge person philosophy. The basis of a process-managed organisation is a change in understanding of performance of work from the performers of activities to the owners of processes. Therefore, besides a simple process resetting, culture change should also occur upon the formation of a process-managed organisation.

Similarly, according to Teplická (2004), the basis of process management is process approach based on the principle of management and mutual impact of all organisational processes so that they fulfil defined goals. It is important that there is no process in an organisation for which no one is responsible. Each process needs to have:

- **inputs** and a supplier of inputs;
- **owner** – an operator of transformation;
- **outputs** and a consumer of outputs;
- **measurable output parameters** (indicators) to evaluate the efficiency of a process;
- **target values** of output parameters.

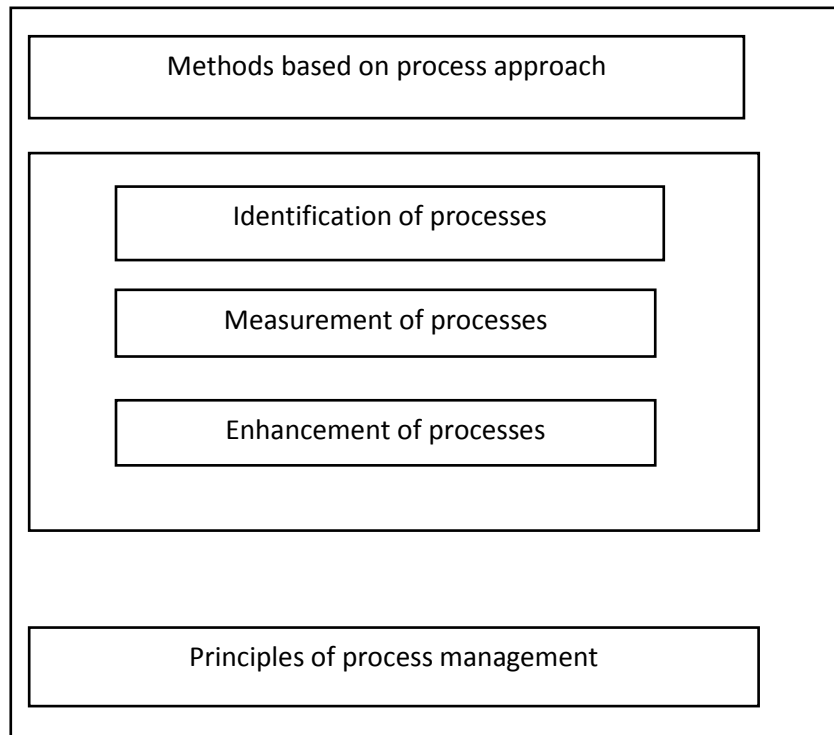
In order to understand better all problems of process management, it is necessary to be familiar with its basic components and principles, since their interconnection is very close.

Different instructions in the form of key principles and management principles have been created in the sphere of process management. Even though their application is individual for each company or organisation, the basis always remains the same.

"Process management is an integrated concept of business processes management, and it is in contrast with functional management system. Process management is a systematic identification, visualisation, measurement, evaluation and constant enhancement of business processes" (Závadský, 2004).

The proposed definition of process management reflects its three key components (see the picture). It means that the management of processes is carried out in the phases incorporating its content, i.e. that the content of process management comprises identification, measurement and enhancement of all processes. The identification and visualisation of processes is meant to ensure the creation of basic structural framework, i.e. a process system. The identification particularly aims at finding out logical relations and mutual interaction of processes. The objective of measurement and evaluation of processes is to monitor their level by means of selected or all characteristics – process attributes, and

performance indicators related to them. Enhancement aims at achieving a change which will increase or decrease a process level, obviously in a positive direction. (Závadský, 2004).



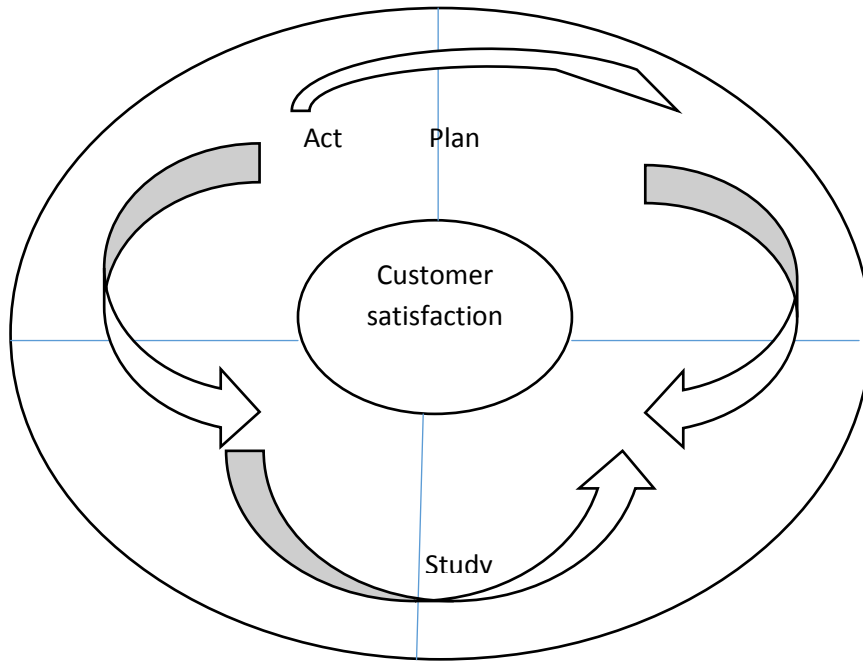
Picture 1 Basic components of process management (Závadský (2004))

Fiala and Ministr (2003) introduce four key principles of process management, which help carry out the development of own business, i.e. a unique approach towards process management. They are:

1. the specification of strategic intention and objectives, which will be thoroughly notified downwards whole company within its organisational structure by means of the specification of particular objectives of individual processes and decisions at the levels of teams and partial organisational units;
2. the definition of processes and their mapping, focusing on the key processes crucial for company's success and survival;
3. the application of the ownership of top management process, aiming at the enhancement of processes by means of personal responsibility, constant engagement, continuous notification of business strategic process objectives and decision-making, corresponding to process thinking;
4. the change of organisational structure of a company based on reductions of the amount of communication links and bureaucracy by means of support of managerial effort, and processes mapping.

It is an open dynamic system with activities as the key component. Similar definition of process management was introduced by Šmída (2007, p. 30), who comprehends it as systems, procedures, methods and tools of continuous ensuring of maximum performance, and particularly of constant enhancement of processes. They result from clearly defined organisational strategy, and they aim at achieving specified strategic objectives.

A common feature of several definitions is constant enhancement of processes. The course of the processes is necessary to understand as a permanently repeated cycle, which can always be improved. This issue was dealt with by Deming, who created a cycle of the enhancement of processes, shown in the following picture.

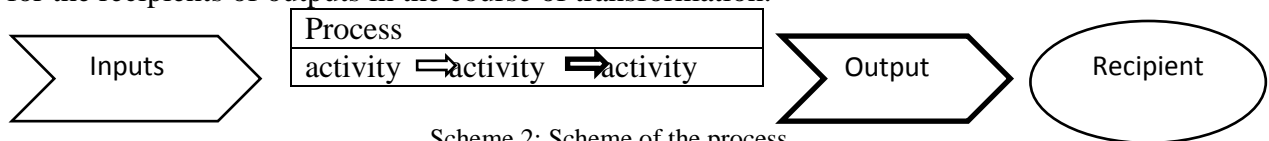


Scheme 1: Deming’s cycle (Evans, Lindsay (2005, p. 636)

Deming’s cycle comprises four phases. The first step is Plan, in which a plan of what should be enhanced is set up. It is followed by Do phase, in which the plan is applied in practice (Grasse, 2008, p. 79). The third phase is Study. Some authors still denote it as Check phase, which was also incorporated into the name of Deming’s cycle (PDCA - plan-do-check-act). This phase includes the verification of pilot study results, determination of whether the given process efficiency has improved, and it also identifies further possibilities which could be applied (Evans, Lindsay, 2005, p. 636 - 639). In the last phase Act, measures meant to ensure whether enhancement or repeated achievement of results are adopted and carried out (Grasse, 2005, p. 80). If the applied measures have not succeeded or have not led to the specified objective, the whole cycle repeats until there is satisfaction with achieved results.

It is necessary in this relation to characterise the process.

The term process is the key word in process management, and literature defines it differently. The simplest way of its definition is related activities, changing inputs to outputs for the recipients of outputs in the course of transformation.



Scheme 2: Scheme of the process

According to Grasse (2008, p. 7), process represents “a set of mutually related or mutually operating activities, which add value to inputs, using sources, and change them to outputs, which have their customers.”

The complex definition of process was introduced by Šmída (2007, p. 29), who defined process as “an organisational set of mutually related activities and/or sub-processes, dealt with by one or several organisational units, or one organisation (company process) or several cooperating organisations (intercompany process), consuming material, human, financial and information inputs. Their outputs are products having a value for external or internal customer – citizen”.

Process is thus a set of mutually related activities, dealt with by one or several organisational units. These activities add value to inputs and change them to outputs of different forms. Input is a defined and financially specified value, while output has a form of goods, product or service (Grasse, 2008, p. 7).

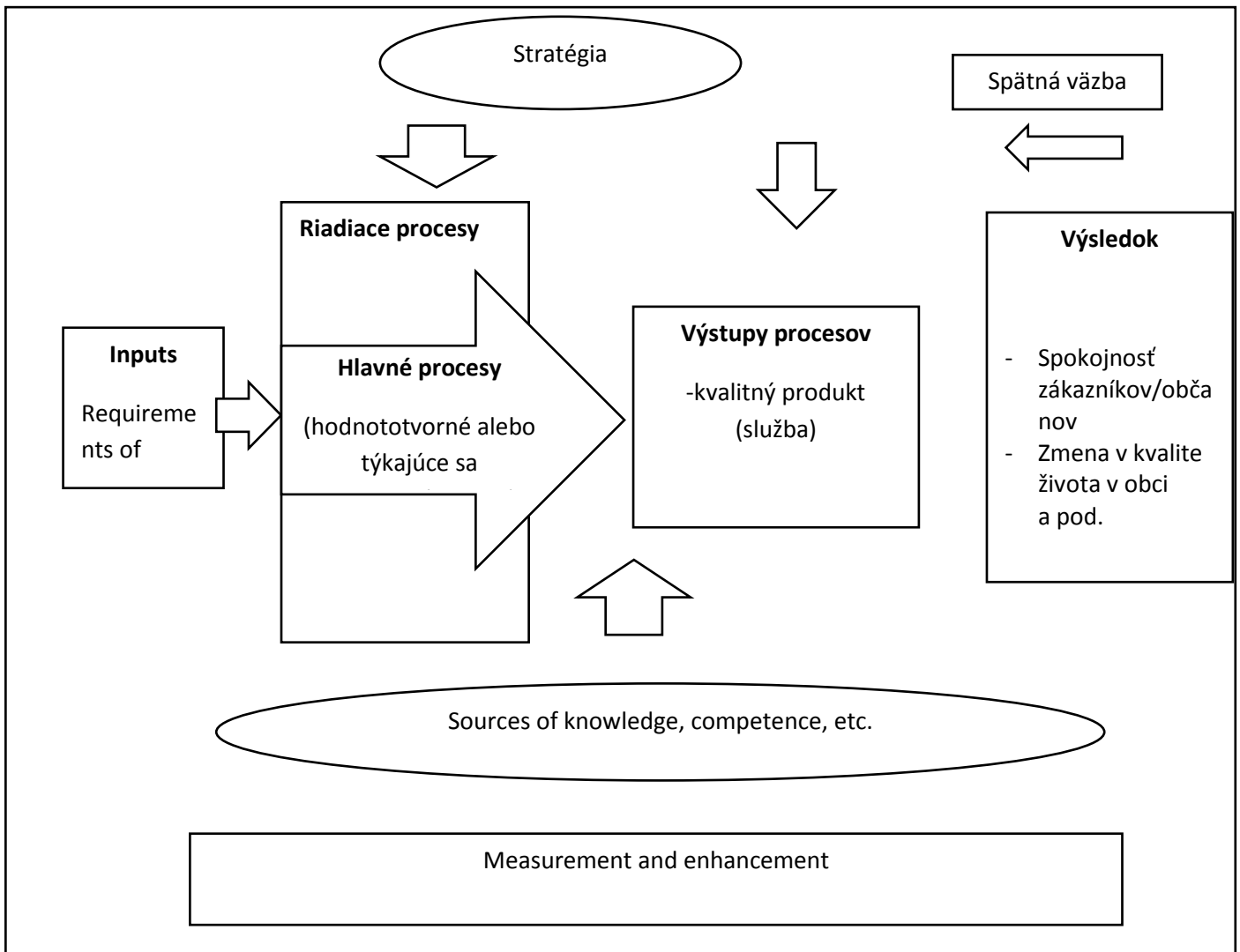
From the material viewpoint, output can be:

- material (lighting, operation of a house of culture, ...);
- administrative (collection of fees for litter collection, calculation of property tax, verification of deeds, population census, ...).

A great extent of these processes led to their division as well as merging from the viewpoint of their importance as well as purpose as follows:

- substantial (key) processes, fulfilling the reason of the existence of the given organisation (office). They result in the given product of different form, i.e. a measurable performance;
- management processes – created by managerial processes, they ensure the management and development of performance in an organisation as well as the functioning of other auxiliary processes;
- auxiliary (operating) processes, which help ensure the substantial processes.

The combination of these processes is shown in Picture 2.



Stratégia – Strategy

Spätná väzba – Feedback

Riadiace procesy – Managing processes

Hlavné procesy (hodnototvorné alebo týkajúce sa zákazníka / občana) – Substantial processes (value-creating or related to customer / citizen)

Výstupy procesov (kvalitný produkt / služba) – Outputs of processes (quality product / service)

Výsledok: spokojnosť zákazníkov / občanov / zmena v kvalite života obce a pod. – Result: satisfaction of customers / citizens / a change of the quality of life in a municipality etc.

Picture 2 Division of processes in the context of transformation process in self-government

Comparison of Process and Functional Managements

Process and functional managements represent two concepts, providing their own views of the possibilities of functioning in an organisation. They should not be comprehended as two opposing concepts, as the process approach follows functional management and regulates it according to its principles.

The key element of functional approach is labour division among the functional units of an organisation. This is reflected in organisational structure, where the given organisation is divided into individual departments on the grounds of expertise. Thus created units carry out partial process activities, while the whole process is complexly followed. If we want to enhance the functioning of an organisation as a whole, we need to enhance the efficiency of each department (Grasse, 2008, p. 40 - 41).

In functional management, one department can perceive a different department of the same organisation as a competitor, which is reflected in negatives regarding the functioning of the whole organisation. A problem is also the loss of time caused by following bureaucratic rules in mutual communication. We should neither forget about information misunderstandings occurred upon the transfer of activities among departments. However, even a greater problem would be if departments did not exchange information at all (Mateides, Závadský, 2005, p. 31).

As emphasis put on knowledge collected into functional units is characteristic of the functional approach, it is necessary to coordinate and check them. Places with many employees not creating any added value thus occur. Organisation is thus arranged in the form of multilevel pyramid controlled from one centre with restricted responsibility and competences. Moreover, employee loyalty inclines to a functional unit, not an organisation as a whole. It results in restricted implementation of changes, as employees protect their functional positions, and prefer their own interests to interests of the whole (Grasse, 2008, p. 40 - 41).

Závadský (2004, p. 21) states that functional management is predominantly oriented on outputs. It is focused on consequences, and does not investigate reasons of the achieved results. Tools of the evaluation of the results of organisation's activities can include financial economic analysis, revealing the places with low productivity or high costs. However, adopted measures focus on individual functional levels of management, aiming at the elimination of revealed insufficiencies.

On the contrary, process management is not only focused on the result of work but also on the way and course of its achievement. Work is not carried out separately within individual organisational units, but it is dealt with and it cooperates with the other units of an organisation.

Table 2 Basic differences between functional and process approaches to management

Functional approach	Process approach
Local orientation of employees	Global orientation by means of processes
Problem of the transformation of strategic objectives to indicators	Interconnection of strategic objectives and process indicators. Process approach is thoroughly characterised by the following: Think globally, act locally
Orientation on external customer. Employees do not know the meaning and interconnection of internal customers and suppliers – minimum interoperation with other activities	Existence of internal and external customers. Employees know what inputs they use to carry out activities and from whom they take them over, and what outputs they provide to whom in order to carry out the related activities – interoperation with other activities
Problematic definition of responsibility for the results of processes and the creation of value for customers	Responsibility and creation of value for customers is specified on the grounds of processes
Communication by means of the “layers” of organisational structure	Communication within the course of the process
Problematic attribution of costs to activities	Direct attribution of costs to activities
Decisions are influenced by the needs of activities (functions)	Decisions are influenced by the needs of processes and customers
Measurement of activities is isolated from the context of other activities	Measurement of activities reflects their required impact and performance within a process as a whole
Information is not regularly shared between activities	Information is a subject of common interest and is standardly shared
Employees are remunerated on the grounds of their contribution to the given activity	Employees are remunerated on the grounds of their contribution to the efficiency of a process, respectively an organisation as a whole
Participation of employees in problem solution is zero, or it is only restricted to activities they carry out	Substantial problems are regularly solved by teams established within process activities from all levels of an organisation

Source: Grasse (2008, p. 47)

Besides the preceding key differences, there are further differences between these two ways of management.

Table 3: Differences between functional and process managements

	Functional management	Process management
Basic principle	Labour division	Grouping of activities
Organisation as a system	Coordination of separate elements	Synergic effect (the resulting effect is created from many parts)
Organisational structure	Steep pyramid	Flat, horizontal organisational structure
Powers and responsibilities	Only for a department, or operation of the given department	For the whole process, everybody equally participates in results
Relationship to subordinates	Orders, directive approach, frequent checks	Coaching, management of people on the basis of own awareness, indirect support
Indicators	Economic analysis	Analysis of processes, each process shows which indicators best evaluate it
Orientation	Consequences	Reasons
Qualification	Less demanding	Demanding (control of the whole process)
Communication	Vertical	Horizontal

Source: Štangová (2009, lecture on Management of Processes in Public Administration)

Process View of the System of Management in Self-Government

Based on our own mapping of processes in several particular municipal offices of municipalities we selected and analysed in the form of face-to-face meetings, we identified 97 processes on average, divided as follows:

- 54 key processes,
- 13 management processes,
- 30 auxiliary processes.

According to individual departments, they are divided as follows:

- the department of economic and operational activities and social affairs:
24 processes
- the department of taxes, fees, cash, culture and sport:
30 processes
- the department of asset management, environment and crisis management:
16 processes
- the department of records, construction activities, registry:
27 processes

The summary characteristics implies that most processes are carried out at the department of taxes and fees – up to 31 % of the given amount of 97 processes, and the least number of processes is carried out at the department of asset management – 16 %. The analysis also showed the share of the aforementioned types of processes according to departments. This evaluation of processes was carried out from the viewpoint of logical sorting of performances according to organisational division of the office, not from the viewpoint of significance or workload. This view is crucial for the creation of standards and departmental job content.

While the functional model is based on strictly defined organisational structure, process model is based on quite flat organisational structure, enabling operational defining of process spheres as well as own processes in a structure.

Condition of Process Management in Slovak Self-Government

Studied materials, available information as well as the own analysis of this issue within our research offer the following conclusions:

1. There is no systematic monitoring of process management implementation in the organisations of self-government, although several municipalities in Slovakia have implemented process management in their functioning.
2. Process management presupposes certain organisational arrangement, for which self-governments are often neither financially nor professionally prepared. The research showed generally little knowledge of employees of the respective organisations, institutions of self-government, on process management.
3. There is no clear identification and inclusion of activities creating organisations' performance.
4. There are no clear methods to evaluate individual processes. Several concepts interrelate or condition, a strictly single concept thus cannot be considered. Basically, all modern management concepts are summarised under the name: NEW PUBLIC MANAGEMENT.
5. Information comprehension of process management prevails over technological features.

Expectations and Future – Open Issues of Process Management

The need to implement process management results from the financial situation of public finance, and it is a basis of the achievement of the necessary quality of self-government's performance, which presupposes the following steps:

- the facilitation of decision-making processes;
- the change of working procedures and their precise specification;
- precise identification of processes in their structures;
- precise financial remuneration of employees at respective offices;
- the change of work arrangement according to the organisational structure of offices;
- and others.

What is expected from the implementation of process management in self-government?

- performance professionalization in self-government;
- greater creativity upon ensuring the development of the needs of citizens;
- transparency and better information on the system of handling public financial means as well as inputs – material and others;
- the guarantee of standard outputs from the viewpoint of quality and costs;
- the summarisation of activities and the specification of responsibilities for results;
- the standardisation of services;
- the measurement of processes from the viewpoint of economy and effectiveness;
- adaptability to changes caused by the needs of current functioning of public administration and self-government;
- but particularly the reduction of costs of individual programmes in their structure.

Conclusion

The process management is an efficient way of management, previously verified in the business sphere, where it resulted in significant savings of financial means.

The present situation of permanent lack of public finance results in still greater pressure on looking for reserves as well as streamlining of activities, which can be helped by the discussed process management.

We realise that there is currently no systematic monitoring of the implementation of this avant-garde method in self-government, and legislation does not create pressure on its implementation. Process management can therefore be a challenge for the solution of several problems, which common practice of self-government functioning encounters on a daily basis.

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RELATIONSHIP BETWEEN FINANCIAL AND COMPLIANCE AUDIT AND ACCOUNTING INFORMATION QUALITY: A BIBLIOMETRIC STUDY FROM 1990 TO 2012

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Abstract

This paper identifies the relationship between the Financial and Compliance Audit (FCA) and the accounting information quality described in national and international literature. For that we carried out a bibliometric study in national and international journals on accounting area. We analyzed the papers published from 1990 to 2012. The results indicate that there is a link between the level of FTC and earnings informational quality. However, there is disagreement among the authors, because 23.08% of the studies indicate that the highest level of FTC improves the quality of accounting information by reducing opportunistic practices of managers. On the other hand, 76.92% of searches found the lowest level of FTC results in greater disclosure and consequent improvement in the quality of accounting numbers. This research contributes to the accounting literature by showing the effect of linking the accounting practice to tax rules standards in the studied period concerning to the quality of accounting statements reported to external users, which in turn can influence decision-making process in economic agents.

Keywords: Financial and compliance audit, taxable income, accounting profit, accounting statements quality

Introduction

International authors have investigated the accounting relevance to capital market development as well the role of accounting rules on disclosed Accounting Statements Quality (Santos, Lima, Freitas & Lima, 2011). Trying to understand the factors which affect the information content of financial statements disclosed to the users in and different scenarios, several studies were carried out searching the quality-affecting variables such as: the country's legal system, capital structure, property types, tax legislation, result management, discretionary accruals, corporate governance developing mechanisms, accounting conservatism and differences between accounting result and taxable (Basu, 1997; Desai, 2003; La Porta, De-Silanes & Shleifer, 2008; Hanlon & Slemrod, 2009; Ayers, Laplante & Mcguire, 2010; Armstrong, Blouin & Larcker, 2012; Moore, 2012).

Hanlon (2005) contributes to this discussion by arguing that the quality of reported earnings can be analyzed by means of the differences between accounting and taxable income results.

Radcliffe (1993 *apud* Lamb, Nobes & Roberts, 1998) distinguishes the approach or withdrawal of the two ways of calculating the result as follows: when the result for tax purposes is calculated based on generally accepted accounting principles (GAAP) has to tax

compliance. According to the authors, when financial reports are prepared in accordance with tax purposes the financial compliance occurs. As said by Chan, Lin and Mo (2010), the higher the level of financial and tax compliance (FTC) closest accounting practices are tax determinations to calculate the result. This increase in FTC is part listed by some authors as a major reason for deteriorating the earnings informational quality. (Ball & Shivakumar, 2005; Goncharov & Zimmermann, 2006; Hanlon, Maydew & Shevlin, 2008; Yoon, 2008; Hanlon & Slemrod, 2009; Chluddek, 2011; Costa, 2012).

Costa (2012, p. 99) affirms that “the difference between accounting profit reported in the income statement published by a company, and the taxable income declared to the tax authorities is due to a misalignment between accounting standards and tax regulations”. This divergence between the rules results in the difference between accounting income and taxable income (TI). The relationship between FTC and TI is analyzed by Chan, Lin and Mo (2010), who suggested that the higher the level of FTC, the lower the TI, and the lower the level of FTC, the greater the TIs

In this context, the usefulness of financial statements (FS) to external users has been questioned, mainly in countries where the accounting system is based on tax rules. This is the case of countries with legal system named as code law one, in which the influence of tax rules is determinant to elaborate and disclose accounting statements (La Porta, De-Silanes & Shleifer, 2008; Shaviro, 2008; Alali & Cao, 2010; Chan, Lin & Mo, 2010; Rezaee, Smith & Szendi, 2010; Santos, Lima, Freitas & Lima, 2011). Iatridis (2011) indicates that we can consider the accounting statements as relevant when if it can help decision makers efficiently and timely, So that, we can consider that the accounting users of code law system need information for decision-making purposes. According to Rezende and Nakão (2012), tax accounting provides information for tax collection purposes, not meeting the shareholder needs.

According to Sunder (1997 *apud* Formigoni, Antunes & Paulo, 2009), tax regulation affects corporate accounting, as it is the tool to calculate the amount of taxes to be raised for the public coffers. The tax law provides guidelines for calculating income tax, while the accounting regulation agencies establish the principles for the preparation of financial statements for dissemination to external users (Formigoni, Antunes & Paulo, 2009).

This dual demand leads to two ways of calculating the result. Hanlon and Heitzman (2010) affirm that this to the fact of accounting having two users with different economic interests: shareholders and government. Shareholders require information about the economic performance of the company, since the IRS requires information for purposes of tax collection (Rezende & Nakão, 2012). These different requirements cause differences in the information content transmitted to the tax authorities and shareholders (Comprix, Graham & Moore, 2011). Desai (2005) observed that the fact of having two ways to report results contributes for having less meaningful information on the capital market as well as a reduction in tax revenue earned by governments.

Given the presented context, the search problem was formulated as follows: which is the nationally and internationally identified relationship between FTC and accounting statements quality? Thus, the main objective of this paper is to analyze the identified relationship between the level of FTC and the quality of accounting information identified in national and international literature. The methodology involves a bibliometric study carried out by collecting national and international papers published journals available on QUALIS / CAPES on Administration, Accounting and Tourism areas from 1990 to 2012.

This study is justified for presenting a summary of the searches on FTC and identifying in which stage the investigations on this subject are. Moreover, the results of this research can help future searchers to identify the main studies on this theme and the proxies to quality of accounting statements. The results of this search can be useful to accounting and

market regulator agencies and for other external users, because it will give the results of searches on the impact of tax rules on accounting practices and on the quality of the information disclosed to users. The results can be also useful to countries' legislature when they consider approving tax rules, because the changes in tax laws can influence economic decisions of market participants.

This paper has four sections besides this introduction. The next one presents literature review; the third one describes the search methodology; afterwards we present data analysis with the pertinent discussion and the conclusions

Theoretical frame

Financial and Tax Compliance (FTC)

Financial and Tax compliance refers to the unification of the process of calculating profit that is presented to people who make use of accounting information process. Along the lines of FTC, there would be no separation between the profit that serves the purposes of government revenues, and that one reported on corporate to other stakeholders mainly those in capital market (Atwood, Drake & Myers, 2010). For tax purposes, tax compliance would occur when the base used for calculating taxes followed the generally accepted accounting principles (GAAP). However, when the income reported in the financial statements occurred according to tax purposes, there would be financial compliance (Radcliffe, 1993 apud Lamb, Nobes & Roberts, 1998).

James (2009) points out that occurs greater FTG levels in a system that calculates variables such as revenues, expenses and profits in the same way both for accounting purposes and for tax intentions. This results in lower difference between accounting income and taxable income (TI). On the other hand, this author states that the reason of segregating accounting and taxable incomes is just because accounting aims to serve users with different purposes and for this the rules and practices in accounting statements cannot always be used to determine the tax liability.

Hanlon, Maydew and Shevlin (2008) assert that when FTC level is low, that is, there is higher segregation on determining accounting and tax profits, the managers tend to present lower earnings to the tax authorities and disclose greater profits to their shareholders. Nevertheless, these authors also found that the earning informativeness is reduced when there is an increase in the FTC level, which is the systematic difference reduction in calculating profits, suggesting that managers tend to minimize tax effects instead of disclosing earnings.

Another form of analyzing TI is by means of temporary and permanent differences which can be generated on calculating accounting and tax incomes (Costa, 2012). Regarding temporary difference, the Technical Pronouncement CPC82 32 – Taxes on Income issued by Accounting Pronouncements Committee (ATP) as equivalent to the International Accounting Standards (IAS) 12 defines that “Temporary difference is that between asset or liability accounting values in the balance sheet and its tax base” (CPC 32, 2009, p. 5). Regarding the permanent differences, they are incurred in determining accounting and taxable profits and they correspond to a unique register in financial or tax system and do not allow the creation of deferred taxes as those derived from temporary differences (Weber, 2006).

Phillips, Pincus and Rego (2003, p. 496) comment that deferred tax is “[...] an empirical proxy for differences between accounting and tax income, because it reflects taxable temporary differences associated to the income statement”. These authors highlighted that deferred tax can be used as a way to analyze whether companies are managing their results. However Chludek (2011) demonstrated that investors have not considered the deferred tax information as a determinant on evaluating companies.

⁸² In Portuguese: CPC - Comitê de Pronunciamentos Contábeis: ATP – Accounting Technical Pronouncements

Concerning to searches on differences between accounting and tax incomes, their growth occurred from the 1990s (Mills; Newberry & Trautman, 2002; Hanlon, Maydew & Shevlin, 2008). However, although this growth, there is not a consensus among the scientific production concerning to profit unification, but we can observe that the studies have demonstrated a link between FTC level and accounting information quality.

Accounting statements quality

Studies on DTC have as main objective to explain whether accounting information quality is improved when there is greater or lower when there is greater or lesser level of integration between the accounting and tax profits. We can observe in scientific literature that the studies are directed to the relationship between FTC and variables which affect the statement quality, such as reduction on result management, greater timeliness of results, more relevance of accounting statements and reduction in FTC level. (Daske, Hail, Leuz & Verdi, 2007; Liu & Liu, 2007; Atwood, Drake & Myers, 2010; Rezaee, Smith & Szendi, 2010; Aubert & GrudnitskiI, 2011; Dimitropoulos, Asteriou, Kousenidis & Leventis, 2013).

According to Frank, Lynch and Rego (2009), accounting information quality is impaired when the TFC level is lower, because the mentioned profit may oscillate in the financial and tax system in the same period. Moreover, the differences between accounting and tax income are associated to the reduction in tax collection and less favorable ratings in credit lending (Goncharov & Zimmermann, 2006; Ayers, Laplante & McguireE, 2010).

Wilson (2009) suggests that Market and academic community can use the differences between accounting and tax profits as an indicator of tax evasion. Nevertheless, Lev and Nissim (2004) state that the investors take into account only the differences between accounting and taxable income to assess the quality of information, but these users do not realize the information considered in calculating tax income in companies with greater profit quality, that is, lower difference between the reported profits.

Chan, Lin and Mo (2010) comment that higher level of conformity between accounting and taxable incomes in the United States would help in reducing the opportunities and incentives for fiscal failure. Badertscher, Phillips and Pincus (2009) also showed to be favorable to a higher FTC, level. They showed as a result in their study that lower FTC levels favor the profit result management.

By contrast, it was observed that higher FTC level implies smaller representation of financial information reported by financial statements, apart from delay in disclosure of profits, since firms compile their results with reference to the tax collection (Guenther, Maydew & Nutter, 1997; Hanlon, Maydew & Shevlin, 2008).

Studies carried out by authors such as Lev and Nissim (2004), Buijink and Grambovas (2006), Yoon (2008), Atwood, Drake and Myers (2010), Chludek (2011), Blaylock, Shevlin and Wilson (2012) corroborate the idea of segregation benefits in calculating profits, because a higher FTC level would result in potential loss of accounting statements.

Concerning to variables which affects the accounting information quality in studies on FTC we can observe that apart from differences between the accounting and tax profits, we highlight the information timeliness, which corresponds to the speed which economic events are disclosed in the financial statements with; tax management, which refers to earnings management in order to reduce tax payment; and the earnings management, which deals with the reformulation of profits by companies from TI (Phillips, Pincus & Rego, 2003; Ball & Shivakumar, 2005; Goncharov & Zimmermann, 2006; Hanlon & Krishnan, 2006; Noor & Mastuki, 2009; Ayers, Laplante & Mcguire, 2010)

Other studies such as La Porta, De-Silanes, Shleifer and Vishny (1998) suggest that the countries' legal system influence the quality of the information reported to their users. According to these authors, in common law system the accounting statements preparers tend

to present information in a transparent manner and there is greater disclosure of facts. In the contrary, countries which operate in code law system disclose only what is required by the law, with higher level of conformity between financial and tax accounting

Regarding the adoption of accounting international standards (AIS)⁸³ versus accounting statements quality the results of the study carried out by Barth, Landsman and Lang(2008) suggest that the companies which converged their systems to international standards showed better statements comparing to those which maintained their traditional systems. This contradicts the results found by Ball, Robin and Wu (2003), who inferred that changes in the incentives of managers and auditors are more important to the quality of information reported in the financial statements, than the adoption of accounting standards from other countries.

Methodology

This search used bibliometric study as proceeding to data collect and analysis, because this type of study is characterized as a tool to observe science and technology state using statistic and mathematic techniques to study the literature characteristics (Okubo, 1997; Araújo, 2006).

We analyzed national and international journals. For the national ones, we considered the list journals available in QUALIS/CAPES in Administration, Accounting and Tourism areas with B2 minimal qualification. For international journals, we picked up those who, besides being mentioned in the above list QUALIS / CAPES, with that minimum qualification also submit a minimum impact factor equal to 0.95. This search sample of this consists of 39 papers, being 34 international and 5 national ones.

To select the analyzed papers, we used the following keywords for national and international journals: book-tax differences, book-tax conformity, accounting information quality. Based on this study objective, the authors exploited the conclusions of several searchers on the relationship between FTC and accounting statements quality from 1990 to 2012. This period was chosen due to TI have grown significantly from 1990 (Desai, 2003; Hanlon, Maydew & Shevlin, 2008).

To collect and analyze the papers, we used an instrument consisting of a structured database script in spreadsheet. The used data were the following: paper's author, journal, year, paper characteristics (page and reference numbers, conclusions, approach, objectives, variables which affect accounting statements quality and proxies for measuring them.

Results and discussion

We found 39 papers on the theme published in 20 different journals (Table 1). The greater number of publications on FTC theme was found in the Journal of Accounting and Economics (20.51%) and The Accounting Review (17.95%). They have together published 15 papers (near to 38.46% of the 39 found papers). Then, The Journal of the American Taxation Association with four papers (10.26%) and the Contemporary Accounting Research with three papers (7.69%). In Brazil, Universo Contábil Review published two studies.

Even with the strong influence of tax system on accounting rules (Carvalho & Salotti, 2013) Brazil is responsible for only 05 of the 39 searches on FTC (Table 1), which represents 12.83% of the studied amount. This indicates the need of further studies on this theme.

Table 1 – Number of papers per journal

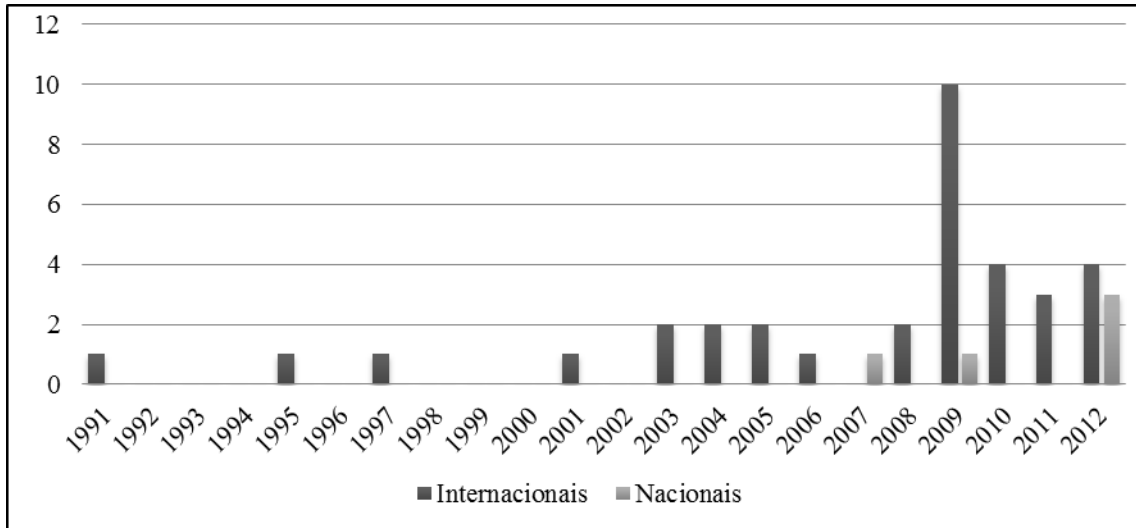
⁸³ In Portuguese: Normas Internacionais de Contabilidade (NIC)

Journals	Number of papers	Relative Frequency.
1) International papers		
<i>Accounting in Europe</i>	1	2.56%
<i>Advances in Accounting</i>	1	2.56%
<i>Contemporary Accounting Research</i>	3	7.69%
<i>Journal of Accounting and Economics</i>	8	20.51%
<i>Journal of Accounting Research</i>	1	2.56%
<i>Journal of Accounting, Auditing and Finance</i>	1	2.56%
<i>Journal of Financial Reporting & Accounting</i>	1	2.56%
<i>Journal of International Accounting Research</i>	1	2.56%
<i>Journal of International Business Research</i>	1	2.56%
<i>Journal of Public Economics</i>	1	2.56%
<i>National Tax Journal</i>	1	2.56%
<i>Tax Policy and the Economy</i>	1	2.56%
<i>The Accounting Review</i>	7	17.95%
<i>The International Journal of Accounting</i>	1	2.56%
<i>The Journal of the American Tax. Association</i>	4	10.26%
<i>The National Bureau of Economic Research</i>	1	2.56%
Amount of international publications	34	87.17%
2) National papers		
BBR-Brazilian Business Review	1	2.56%
RAE - Revista de Admin. de Empresas	1	2.56%
Revista Contabilidade & Finanças	1	2.56%
Revista Universo Contábil	2	5.13%
Amount of national publications	5	12.83%
Total - 1 + 2	39	100%

Source: Elaborated by the searchers

Graphic 1 presents the volume of searches on FTC per year. We verified that the accounting studies on financial and tax compliance (FTC) had little significance: 14 articles published between 1990-2008. From then on, it began to arouse much attention from researchers, reaching its height in 2009, with 11 papers (a Brazilian article among them). In Brazil, the papers on FTC only began in 2007 with one paper, achieving higher production in 2012 with 03 publications. These findings corroborate the studies carried out by Hanlon and Heitzman (2010), in which the authors argued the FTC is a relatively new research field which has grown significantly since the beginning of the XXI century. Moreover, these authors emphasized that the growth of research benefits the tests on differences in accounting and taxable income, and its impact on financial statement analysis.

We highlight that the search increase on FTC can be considered a basis to assist the carrying motion seeking improvements in accounting information



Graphic 1 – Annual publishing of scientific papers on FTC
Source: Elaborated by the searchers

Table 2 shows the characteristics of page distribution, references and analyzed author quantity using average, median and standard deviations. The qualitative studies were published only internationally and they present higher average on page volume (36) and references (46.33), but it is the group that presents higher pattern deviation from 10 to 8.45, demonstrating a lack of pattern in page number and references. Concerning to the quantitative researches we verified that there are differences between national and international papers: the national ones present lower average on page number and references. National researches allowed us to infer that there is a pattern of page numbers for publishing, because the pattern deviation was only 1.76.

Table 2– Page Distribution, references and authors amount in the studies.

Item	Approach	National			Internacional		
		Average	Median	Average standard deviation	Average	Median	Average standard deviation
Page nr.	Quantitative	14.8	14	1.76	28.42	27	8.11
	Qualitative	-	-	-	36	33	10
Reference nr	Quantitative	29.8	26	9.36	44.48	44	13.49
	Qualitative	-	-	-	46.33	43	8.45
Author nr.	Quantitative	2.4	2	0.88	2.22	2	0.75
	Qualitative	-	-	-	2	2	0

Elaborated by the searchers

Concerning to the author number per paper on qualitative approach it was demonstrated that all the searches analyzed in this study were performed by two authors (Table 2). Quantitative studies have greater author number per paper (2.22 in international and 2.4 in national studies). In Brazil, when compared with international research, we find a greater number of authors involved in a single search, because it has a higher average on author’s number per paper.

Table 3 shows the countries which compound the sample and the law system adopted in their jurisdictions. Among the analyzed countries, The United States, who uses common law system was the most exploited environment, with 51.28% of the researches on FTC. These data may be related to the fact that the country be the precursor of the capital market, and has advanced policies regarding accounting standards and regulatory bodies prominent, as Financial Accounting Standards Board (FASB). In second place we have Brazil, adopting code law system, which was the focus of 12.82% of the researches. Researches that studied

the Brazilian environment are all national. The other surveyed countries were China, Malaysia, UK and Russia, who did not receive high attention from researchers.

Table 3 – Analyzed countries

Country	Legal System	Absolute frequency	Relative Frequency
THE UNITED STATES	<i>Common law</i>	20	51.28%
Not specified	<i>Code /Common Law</i>	9	23.08%
Brasil	<i>Code law</i>	5	12.82%
Rússia	<i>Code law</i>	2	5.13%
UK	<i>Common law</i>	1	2.56%
China	<i>Code law</i>	1	2.56%
Malaysia	<i>Common law</i>	1	2.56%
Amount		39	100%

Elaborated by the searchers

Concerning to scientific search per legal system, we observe in Table 3 that this production has excelled in common law countries. This phenomenon can be explained by the adoption of international accounting rules has contributed to the improvement of accounting statements quality (Barth, Landsman & Lang, 2008). International Accounting standards have common law as system rules, so that it is coherent the tendency to FTC searches in environments which allow identifying whether information quality is impaired under discretionary rules.

Table 4 shows the analysis of the relationship between FTC level and accounting statements quality, according to legal environment

Table 4 – Authors' conclusions on the relationship between higher FTC level and quality

Legal system	<i>Common Law</i>	<i>Code Law</i>	<i>Not specified</i>	Amount
				Nr. of papers
Improve quality	66.66%	22.22%	11.11%	9
Do not improve quality	53.33%	20%	26.67%	30
Nr. of papers	22	8	9	39

Elaborated by the searchers

Among the 39 analyzed papers 23.08% have as a result that higher FCT level improve information quality of accounting numbers. Among these higher FTC favorable researches, 66.66% occurred in Common Law countries. This contradicts La Porta, De-Silanes and Shleifer (2008), whose theory determines the existence of lower FTC in countries with this legal system, who do not calculate accounting profits according to tax legislation. These results can be justified by accounting scandals and tax evasion experimented in The United States in the last years. This corroborates the search carried out by Chan, Lin and Mo (2010), who pointed out that greater compliance of accounting and tax income would reduce the opportunities and incentives for tax noncompliance in the United States.

On the other hand, authors who found that higher FCT deteriorates accounting statements quality represented 76.92% of the analyzed papers. Most of these researches (53.33%) were carried out in common law countries, which corroborates La Porta, De-Silanes and Shleifer (2008), who define the accounting practices that seek transparency and reliability, where the tax law does not influence accounting. Compared to code law countries, we noted that 20% of searches found quality loss in accounting numbers when there is alignment of the accounting rules to tax legislation.

Among the conclusions issued from Table 4 on the relationship between higher FCT level and accounting statements quality, five are from national authors. The result of one of these studies demonstrated that higher FTC level improves accounting statements quality and four showed that it damages informational quality of accounting numbers.

Table 5 presents the proxies for accounting statements quality found in the published papers. In the first line are the proxies related only to common law countries. In the second line are

those used only in code law countries and in the third line those used both in common law and in code law countries.

We could observe in Table 5 that when establishing the relationship between the proxies and the legal system, the authors have settled greater number of proxies under common law ambience than in code law, which corroborates the number of searches carried out under this system, presented in Table 3. From the analysis of these papers we found that the proxies mostly used to test profit informational quality are the differences between accounting and tax incomes as well result management. These results are consistent with studies carried out by Hanlon and Krishnan (2006)

Table 5 - Quality Proxies

Common law	Difference on financial indexes between cash basis and competence systems; repatriations of companies foreign profits; tax income; deferred tax; nondeductible provisions before taxes; accounting audit enforcement; fraud involvement; companies characteristics; permanent differences; temporary differences; capital cost; timing differences between the accounting and tax profit; timely recognition of gains and losses, cash flow from operations.
Code law	financial performance; accounting system ability in measuring performance; desempenho financeiro; habilidade do sistema contábil em mensurar o desempenho; audit adjustments on taxable income.
Both systmes	Earnings persistence, type of property, corporate governance; difference between accounting and taxable income (DBTI); audit committee; forecast error DBTI; earnings management, risk exposure, tax planning, managerial incentives, operational risk and Return on assets (ROA), financial and tax compliance, tax burden, size of company, net operating assets, financial assets and abnormal operating earnings, net operating assets before deferred taxes, deferred tax assets, deferred tax liabilities.

Elaborated by the searchers

Despite these differences of opinion as to the FTC level, researchers agree that a greater or lesser degree of conformity between accounting and taxable income positively or negatively affects the quality of accounting information. Table 5 presents the 24 variables that affect the quality of accounting information, according to the analyzed studies. We highlight that some variables such as deferred tax, TI, result management) are used by the authors as proxies to measure quality as quality variables, but they perform different roles. When they are used as proxies, they aid to calculate informational quality and when considered as quality variables they represent indicators.

Among the variables in Table 5, TI was cited in 33.33% of the researches. The difference between accounting and taxable income was the most used variable to represent accounting statements quality. This result agrees to the statements of de Yoon (2008), Buijink and Grambovas (2006), who defend that accounting statements quality is reduced when there is higher FTC level.

Table 5 – Frequency of variables which affects quality

Variable	Nr. of searches	%
Accruals	4	10.26%
Conservatism	2	5.13%
Detection costs	1	2.56%
Dispersion of analysts' forecasts	1	2.56%
TI	13	33.33%
Lower gains	1	2.56%
Result management	10	25.64%
Fiscal management	12	30.77%
Corporative governance	1	2.56%
Deferred taxes	1	2.56%
Tax breaks	2	5.13%
Tax legislation	1	2.56%
Accounting profit	2	5.13%

Weighted accounting profit	2	5.13%
Taxable income	6	15.38%
Sizable taxable income	2	5.13%
Debt level	2	5.13%
Institutional ownership	1	2.56%
Stock returns	2	5.13%
Accounting system	1	2.56%
Enterprise Value	1	2.56%
Stock return variance	1	2.56%
Share Trading volume	1	2.56%
Business volume	1	2.56%
Amount	39	100%

Elaborated by the searchers

We observe that fiscal management variable appears as a variable that affects quality, relative frequency 30.77% (Table 5). This variable use can be understood by Desai's study (2005), who observed that the double form of calculating profits contributes to the reduction of tax revenue earned by governments and less relevant information to the capital market. Afterwards, results management showed 25,64% frequency, indicating that it is another relevant measure on accounting statements quality (Table 5). According to Jackson (2009) the authors who defend FCT associate the existence of accounting and taxable profit to opportunistic behaviors. The other variables had representativeness of 15.38% down, as can be seen in Table 5.

Conclusion

This study aimed to analyze the relationship identified in national and international literature on FTC level and accounting statements quality. To achieve this objective, we carried out a bibliometric study in national and international journals, using search keywords book-tax differences, book-tax conformity, accounting information quality. It was possible to output growth, although shy, during the period from 1990 to 2008, and a significant increase in production in 2009.

Among the most representative journals for future searches we stand out Journal of Accounting and Economics; The Accounting Review and The Journal of the American Taxation Association. We observed that the studies had focused common law countries and we can infer that this fact is related to CFT theme pertinence and the system discretion. However, the United States presented most of the searches on FTC; the rules are common law based and they have representative regulation agencies on accounting area such as FASB.

With respect to proxies for measuring and quality which have been used in the studies, the ones most frequently were: differences between accounting and taxable income, tax and earnings management, aimed both at common law system, as in code law.

Overall, we found that the results presented by the analyzed articles found that there is a link between the FTC level and earning informational quality. However there is disagreement among the authors, because 23.08% of the studies indicate that the highest level of CFF improves the quality of accounting information to reduce opportunistic practices of managers. On the other hand, 76.92% of searches found that the lowest FTC level results in greater disclosure and consequent improvement in accounting numbers quality.

This research contributes to the accounting theory, since it brings the main discussions on FTC and accounting information quality, relating the variables that affect the quality of accounting numbers and the main proxies for its measurement and increasing knowledge basis for future studies on FTC. The results can also contribute to the practice of accounting regulators and market, and to the legislative agencies. The search showed the effect of binding tax accounting practices and standards to the quality of accounting information

reported to external users, which in turn can influence the process of decision-making of economic agents.

It should be noted that the results of this study were restricted to journals which did not approach the ongoing discussions by the universities, which are not yet available in the database of the listed journals. Considering the controversy found between the authors and the small number of publications on the subject, there is motivation for future research involving the FTC level and its impact on the quality of accounting information. For the development of future studies, we suggest adding the analysis ongoing studies by leading national and international universities.

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HYPER-CORRUPTION THEORY (MICROECONOMIC ANALYSIS WITH THE USE OF GAME THEORY)

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Abstract

This paper discusses the corruption resistance (hyper-corruption). We use the exact models (in our case from the area of the game theory, the analysis of the game such as the Tragedy of the Commons) in decoding the social reality with regard to uncovering the phenomenon of structures based on mutual covering of violations of the generally accepted principles, its significance, description of its anatomy, evolution and operational mechanisms.

Keywords: Corruption, gametheory, prisoner's dilemma, contextual games, tragedy of the commons

Introduction

When we talk about corruption, we are usually referring to the battle against bribery. From the legal perspective, the new bribery regulations are contained in § 331 to § 334 of the Czech Criminal Code. Experience up until now has shown that even though the CR occupies one of the leading positions as far as the dispersion and deep roots of this unfortunate phenomenon are concerned, and even though all sides (in the political as well as non-political sense) commit to fight it, the results of this battle are more than dismal. This contribution presents the answer to the question of why this is the case. The real problem is not corruption, which can be uncovered and punished relatively easily, but rather that which we call hyper-corruption. In the first approximation, one can say that this concerns the formation of relationships based on the "corrupting of the corrupt", respectively the forced corruption behavior of those that have engaged in corruption or similar forms of behavior.

The identification, definition, description and analysis of hyper-corruption assume a developed theoretical apparatus that falls into the area of micro-economics and uses game theory. We ran into this phenomenon while elaborating on several different theoretical questions, while engaged in several different research directions that met and supplemented each other in connection with the phenomenon's discovery and subsequent "bringing into the light". Specifically this concerned the resolution of the following theoretical questions, respectively problems:

1. Explanation of apparent discrepancies between theory and experiments performed on the basis of the prisoner's dilemma model by adding the role of credibility capital (reputation).

2. Description of assumptions under which credibility capital can be formed and can act, revealing of structures based on the mutual covering-up of the breaching of rules and generally accepted principles (hereinafter structures based on mutual covering-up) as those forms of behavior that are connected with the surpassing of conditions under which credibility capital is formed and acts.

3. Creation of a model of structures based on the mutual covering-up on the basis of the revealing of (incomplete) symmetry between integrating a player into a structure and the exit or departure of a player from a given structure.

4. Revealing of the complementarity of models based on the redistribution systems theory (that capture that about which the players in a given system are completely informed) and models based on the delimiting of structures based on mutual covering-up (that capture that which can work only thanks to the different levels of informedness of players in a system).

5. Combining the model of parallel redistribution games with a model of structures based on the mutual covering-up (respectively interpreting the model of parallel redistribution games via structures based on mutual covering-up).

We have listed the questions the solution of which opened the way to revealing what hyper-corruption is in the order that corresponds to the logical sequence. The actual discovery approach in a time horizon of approximately two years was somewhat different and it makes sense to describe it briefly. The very first thing created was a mathematical model of a redistribution system, and two equilibrium types (discriminating, which is the same as the discrete internal and external stable set, and the jointly acceptable, which has values different from the equilibrium types known until now) were revealed. In contrast with the redistribution system model, real systems (in which there are deviations in the payout to players from their performance, in which there are negotiations and where coalitions form) are exposed to various external influences. The impacts of these external influences were modeled via parallel redistribution games. They differ from the basic game by the fact that not all players are informed in them. But with the exception of a very general description in the form of modified redistribution equations, there was no more specific interpretation of that which corresponds to these parallel redistribution games in reality, i.e., their interpretation was missing. A little bit later, and independently of this, the team dealing with the redistribution systems theory discussed the question of to what extent models of players based on the assumption of their rationality are relevant and where their limits are. In connection with this, the results of experiments performed on the motives of the prisoner's dilemma type game model were mentioned. It was shown that the apparent discrepancies between what theory says and the real behavior of players can be resolved by expanding the payout matrix to include the influence of credibility capital, respectively reputation, which the players either gain or lose. Following this significant leap forward, the following question was asked: under which conditions can the influence of credibility capital contribute to the keeping of agreements or generally accepted principles. An example of behavior was provided where a player uses a different strategy, respectively a strategy that is outside of the scope of the evaluation of the given due to the acquisition or loss of credibility capital. This was a case where a player takes advantage of, respectively abuses, the fact that he and only he knows about the fact that another player has breached the generally accepted principles and blackmails this player. Specifying the description of this situation in the form of a model of relevant dilemmas (announce the breaching of the rules or blackmail the player breaching the rules in the case of a player that discovered the breaching of the rules, succumb to the blackmailing or not in the case of the player that breached the rules) showed that on this basis can be formed relatively complicated structures that are based on the mutual covering-up of the breaching of rules or generally accepted principles. It was apparent from the beginning that these structures can be related to parallel redistribution games, respectively that they can be interpretations of them. But no sufficiently functional model of structures based on the mutual covering-up existed. Its foundations were put into place by revealing the significance of the symmetry between incorporating a player into the structure and the exit or departure of a player from the given structure. This made it possible to "bring into the light" the structures based on the mutual covering-up, as well as parallel games, respectively to demonstrate the link between the one and the other. At the same time was revealed the complementarity of models based on the redistribution systems theory, which describe the "visible" part of

reality, and models based on the specification of structures based on mutual covering-up that capture that which is “invisible” (remains hidden or is hiding). This enabled the identification and naming of the problem of hyper-corruption, where the issue is not the fact that a person attempts to bribe another person, but rather the fact that another player (this player can also be a structure based on the mutual covering-up that is already being created) takes advantage of having information about corrupt behavior and a structure based on the mutual covering-up is either formed or strengthened.

We are aware that we are using terms that require precise definitions and uncovering of contents via relevant models. The issue is not only the definition, but a condition of the functioning of a term as an element of theory building is its link to a model that is correct, consistent and has sufficient explanatory power. The difficulty connected with the theoretical grasp of the phenomenon that we have called hyper-corruption is given by the fact that it was insufficient to move the theory forward in only one direction and in the form of only one step. Instead, several steps in several directions had to be taken and these then had to be linked, which was not anticipated within the scope of the original research program. The fact that this occurred at this time and in this place is probably also connected with how urgently and generally the problem of corruption and the unsuccessful battle with it is felt in the CR. This probably confirms what commonly occurs in history: every serious problem finds its theoretical reflection in the place where it is felt the most.

The goal of this contribution is -- from the above stated perspective and within the above stated context -- to present an overview of tools that make it possible to identify, define, describe and analyze the term “hyper-corruption” as a subject of micro-economic research performed with the use of game theory. In the conclusion we will then outline some practical recommendations ensuing from the theoretical investigation.

Explanation of apparent discrepancies between theory and experiments performed on the basis of the prisoner’s dilemma model by adding the role of credibility capital (reputation).

In 2009, work was begun on the CR Grant Agency’s Redistribution Systems Theory project. The project conception was based on the Game Theory and Redistribution Systems monography (Valenčík 2008). This is an original and promising direction of the development and application of game theory, which will be discussed later on. The research team set (and still sets) an ambitious goal: using models based on game theory, reveal undiscovered laws of human behavior, i.e., to put it clearly, answer the question of why people behave the way they do in a certain type of system. A question arose during the testing and perfecting of the mathematical model of a redistribution system: to what extent is it possible to proceed from the assumption of player rationality. Several experiments were discussed that according to certain interpretations demonstrate the fact that the irrational side of humans is significant to the extent that models based on the assumption of rationality necessarily fail.

Already in the interpretation of a case with the distribution of a certain amount of money -- where the players divide the amount according to the first player’s proposal, but they actually only get these amounts if the second player agrees with this -- it became clear that the apparent irrationality of players can be explained using contextual games, i.e., games that are related to each other in a certain way (Valenčík – Budínský 2010). Therefore also in the clarification of experiments examining the behavior of people in situations of the prisoner’s dilemma type, where there was a significant (although -- as we will demonstrate -- only an apparent) discrepancy between what theory says and how people actually behave, an attempt was undertaken to explain the situation using a relevant contextual game.

Let’s keep in mind that both players have two options in a prisoner’s dilemma type: cooperate or betray. The selfish choice to betray leads to greater benefits than cooperation if

the second player cooperates, but to lesser benefits if the second player also betrays. The rational behavior of both accused persons is to testify against the other person, even though the optimal solution for both of them together is for both to remain silent.

That which in the case of the prisoners is called a strategy of silence or testifying against the other person, respectively cooperation or betrayal, can also be interpreted in regular life as the strategy of complying with an agreement or generally accepted principles, or conversely the breaching of an agreement or generally accepted principles. We will present a table of the most well-known results published in the given area:

Table 1. Comparison of experiments in the Prisoner's Dilemma model

	deflection	cooperation	unknown decision
Shafir, Tversky [1992])	97	84	63
Li, Taplan [2002]	83	66	60
Busemeyer [2006]	91	84	66

Source: own study.

The names and year show who performed the corresponding experiments and when. The numbers in the columns express the percentage representation of “betrayals”, i.e., cases when the corresponding player who had guaranteed information that the other player betrayed him (first column) or did not betray him (second column), or was not informed about the second player’s decision (third column), opted for the strategy of non-cooperation. Other experiments showed that the willingness to betray or cooperate is influenced to a large degree by the size of the reward (punishment). Let us now take a closer look at where is the difference between how players (i.e., specific people) should behave in theory versus how they actually behave. If we do not know how the other player decided, we should betray (and not only in 60-66 % of cases), and if we do know that the other player betrayed us, all the more so (and not only in 83-97 % of cases). If we know that the other player is cooperating, why betray him (and why in 66-84 % of cases, i.e., in even in a greater number of cases than when we don’t know how the other player behaved)? How can the “irrational” behavior be explained (if, however, it really is irrational behavior)?

We have to proceed from the contextual character of games, because in reality a situation where a prisoner’s dilemma type game is played without repetition and is completely isolated from other games occurs very rarely. Most of the time during the course of a game, other people (who we can consider to be players in other games) are observing how individual players decide, and based on this they also create a relationship to the participants of the given game. We can therefore understand each game that we are actually playing as a contextual game, i.e., a game that we are playing in the context of other games. For the sake of completeness, let us add that we are introducing the term “contextual games” as an original term. In theoretical literature we will find only the designation of some starting points with which we are working, such as Meliers – Birnabou (1981). But this is only a partial view without an apparatus that would make it possible to analyze the contextual games phenomenon.

Our decision-making in real games depends significantly on how we reflect contextual games. The reflection itself of contextual games depends considerably on our experience and the transformation of this experience into the “on-line” mechanisms of our (human) decision-making in which important roles are played by imagination, emotions and other attributes of the psyche, i.e., mechanisms that we usually classify as outside of the scope of human rationality. Nevertheless, the model based on the assumption of partial rationality -- to which other mechanisms of the human psyche also contribute -- has sufficient explanatory power from the perspective of the goals that we have set. Rather than

irrationality, once can speak more about limited informedness and limited possibilities of processing information in real time. This restriction is given already by the diversity of the reality in which we live. Knowledge of contextual games helps us in assessing situations, but this knowledge is always only incomplete.

Let us demonstrate how a game of the prisoner’s dilemma type changes if we consider it to be a game played in the context of some other games. The partial results, based on which we are proceeding, were first published in December 2010 (Heissler – Valenčík 2010). The tables are taken from the original text, and the text is refined and expanded.

Table. 2. Comparison of experiments in the Prisoner's Dilemma model

		B	
		cooperation	non-cooperation
A	cooperation	6; 6	0; 8
	non-cooperation	8; 0	3; 3

Source: own study.

A, B are players that have two strategies: comply with an agreement or breach an agreement (breach agreed upon or acknowledged rules). Their payouts are in the matrix. Let us now assume that from the perspective of one of the players (e.g., A) the game has a certain context, respectively is played as a contextual game in the sense that the community in which the player is active may be (but also does not have to be) informed about the outcome. If he complies with the agreement and the other players in the given community see this, this will contribute to the increasing of his credibility capital (reputation). If, however, he does not comply with the agreement, and the other players in the community find out about this, his credibility capital (reputation) decreases. Let us also assume that the credibility capital (reputation) can (at least approximately) be valued in units in which the payouts from the prisoner’s dilemma type games are made, and the corresponding player values the loss or acquisition of the credibility capital in this way. For example, the player values the loss in the event of non-compliance with an agreement with -6 points, and the increase in the event of compliance with the agreement with +2 points (trust is lost faster than it is gained). It is necessary to emphasize that this valuation is based on the assumption that there is only a certain probability of the community being informed about how the players decided. Each player guesses the level of this probability and its value is directly linked to the bonuses and penalties given by the acquisition or loss of credibility capital. The following table shows how the situation changes.

Table. 3. Payout matrix of a game of the prisoner’s dilemma type with the taking into account of credibility capital (reputation)

		B	
		cooperation	non-cooperation
A	cooperation	6+2; 6+2	0+2; 8-6
	non-cooperation	8-6; 0+2	3-6; 3-6

Source: own study, first presented by Šnajdar-Valenčík [2010]

We see that the situation changes dramatically. It is worthwhile for both players to cooperate. But only if the original payouts and payouts connected with the acquisition or loss of credibility capital (reputation) have certain values. The situation can be different if the values are different. We will demonstrate one of the possible cases. Let us note that in both cases we are working with a certain simplification where both players value the loss as well as acquisition of credibility capital equally (which generally does not have to be the case),

even in cases where the second player complies with the agreement, as well as in cases where the second player does not comply with the agreement (this generally also does not have to be the case).

Table. 4. Payout matrix of a game of the prisoner's dilemma type with the taking into account of credibility capital (reputation), values are different

		B	
		cooperation	non-cooperation
A	cooperation	6+2; 6+2	0+2; 20-6
	non-cooperation	20-6; 0+2	3-6; 3-6

Source: own study, first presented by Šnajdar-Valenčík [2010]

In the case of the values that are listed in table 3, the following two interesting phenomena occur. If player A has information that player B complied with the agreement, he is better off not complying with the agreement, which explains the apparent paradox in the experiments cited above. If player A has information that player B did not comply with the agreement, he is better off complying with the agreement, which also explains the apparent paradox in the experiments cited above.

If only credibility capital (reputation) entered into the games, this would strengthen the tendency to comply with agreements, respectively to behavior based on compliance with acknowledged rules or principles. But additional influences can also be in play. It would be possible to reveal these influences by empirical testing of the supplemented model, with players valuing the value of credibility capital and independently making the choice whether to comply with the agreement or not.

Assumptions of the formation and functioning of credibility capital, structures based on mutual covering-up

A model based on the assumption of the contextual nature of a prisoner's dilemma type game and its expansion by the element of the acquisition or loss of credibility capital offers the way to resolving the question of why and when does it pay off to comply with rules or generally accepted principles. Additionally, however, this model can contribute to clarifying the issue of the formation of institutions. But it is important to precisely define the conditions under which credibility capital can be created and can function. They include the following, among others:

- The possibility that a player that is a part of the system in which we are considering the contextual game (e.g., player C) discovers that another player (e.g., B from the two players considered so far) has breached, or conversely not breached, a certain generally accepted principle. We can also view the breaching of an agreement as the breaching of one generally accepted principle in a certain system (e.g., community, etc.).

- The fact that it pays off for player C
 - who discovered the breaching or not breaching of generally accepted principles
 - to inform the other players about the breaching or not breaching of generally accepted principles by player B. This condition also includes the fact that he has the possibility of informing the other players (otherwise it would not pay off for him to do so).

- The fact that the informedness of the community means bonuses or penalties (as a result of sanctions, or conversely the increase of authority, etc.) for the player breaching or not breaching agreements.

Let us note the second condition in more detail, i.e., that it pays off for the second player to spread the relevant information (e.g., in the form of reporting the player breaching

generally accepted principles). In the general case it holds that it can pay off for him sometimes, yet under different conditions it may not pay off for him. Player C can then decide among various alternatives:

- Spread the information, i.e., report player A.
- Ignore player A's actions, i.e., no reaction.
- Abuse the information, i.e., blackmail player A.

Player C's decision-making can be expressed via the following illustration:

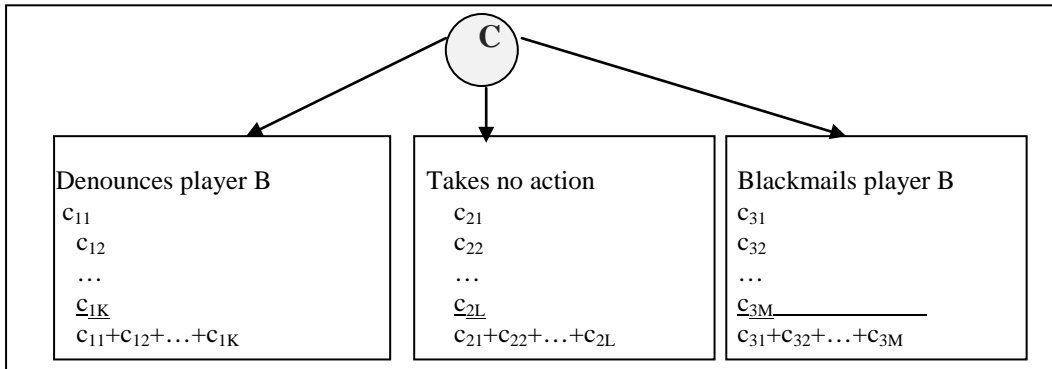


Figure 1. Diagram describing the decision-making of a player who discovered a breach of generally accepted principles
Source: own study.

Here c_{1i} (and similarly in other cases c_{2i} or c_{3i}) is the valuation of various consequences of player C deciding for one of the alternatives. The values of these parameters can either be positive or negative. The following are possible examples:

- Protection of the community and a share of its results.
- Risk of revenge by the player that is reported.
- Reward by the community for protecting it.

If he blackmails the player, it can then be, for example, the possibility of increasing his own payouts in the form of breaching generally accepted principles about which the other players will not find out as a result of the role of the blackmailed player. It can also be, however, the valuation of the risk consisting of the revelation of the fact that he himself is breaching generally accepted principles with the blackmailing.

Objective analysis, which can be based on the mapping of generally occurring payouts in individual cases, is necessary here in every specific case. The mapping of various components of payouts (presented by the parameters c_{1i} , c_{2i} , c_{3i}) based on the listed alternatives is significant (and also very interesting for those dealing with this), nevertheless it exceeds the focus of our paper.

Player C then decides according to which alternative brings him the greatest payout.

The blackmailed player then faces the following dilemma:

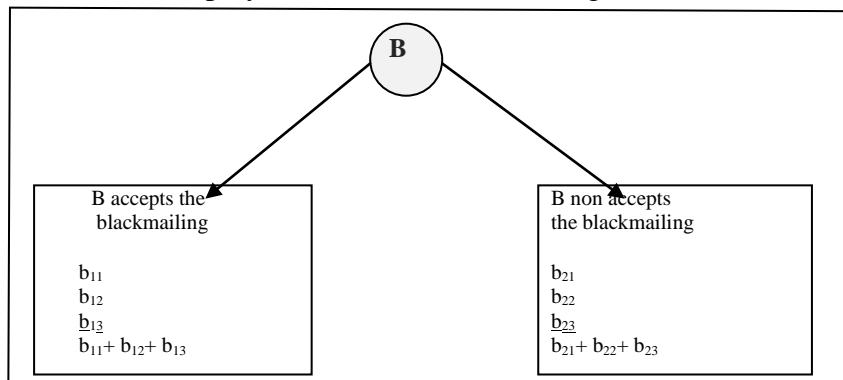


Figure 2. Diagram describing the decision-making of a player who contemplates, if he accept the blackmailing
Source: own study.

Here:

b_{11} is the valuation of the sanction via which the blackmailed player will be penalized if he accepts the blackmailing player's offer (in the given case one can assume that it will be zero)

b_{21} is the valuation of the sanction via which the blackmailed player will be penalized if he does not accept the blackmailing player's offer (in the given case one can assume that it will be quite severe)

b_{12} is the valuation of the advantage that the blackmailed player will have if he accepts the blackmailing player's offer (in the given case one can assume that it will have a certain value)

b_{22} is the valuation of the advantage that the blackmailed player will have if he does not accept the blackmailing player's offer (in the given case one can assume that it will be zero)

b_{13} is the valuation of the risks and negative consequences that the blackmailed player assigns to the fact that he allows himself to be blackmailed and starts to cooperate (in the given case this is a negative variable and in most cases a big one)

b_{23} is the valuation of the risks and negative consequences that the blackmailed player assigns to the fact that he does not allow himself to be blackmailed and does not start to cooperate (in the given case this variable is zero)

$b_{11} + b_{12} + b_{13}$ is the sum of all of the blackmailed player's payouts if he accepts the cooperation offer

$b_{21} + b_{22} + b_{23}$ is the sum of all of the blackmailed player's payouts if he does not accept the cooperation offer

Some notes to this:

1. The payout of the blackmailed player, no matter how he decides, consists of several components. As we have seen, this also holds in similar cases, i.e., not only when he faces the dilemma whether to allow himself to be blackmailed or not. When illustrating this in a corresponding schema, it is good to list the individual components under each other, so that also in the schema a brief characteristic can be assigned to them at least in one word (we did not do this in the case where player C was deciding; we only do so now). This makes the schema clearer. Anyone studying it will have a better idea of what is going on. The total sum of the payouts is then stated under the line.

2. In the model, the following applies in the logic of the matter:

- if $b_{11} + b_{12} + b_{13} > b_{21} + b_{22} + b_{23}$, the player accepts the offer and allows himself to be blackmailed;

- if $b_{11} + b_{12} + b_{13} < b_{21} + b_{22} + b_{23}$, the player does not accept the offer and does not allow himself to be blackmailed.

3. For the sake of completeness, we also include in the schema the values of those variables that are equal to zero in the given case, as they can have non-zero values in the schematic expression of similar situations.

4. A player can be mistaken when handling the said dilemma. The origin of the error can be in one or more of the following mistakes:

- The player is not aware of and does not consider ("does not include") an influence or consequence that plays a significant role in reality (in our case we stated three, there can be more in real situations).

- The valuation of an influence is inadequate (in the given case, consequences that will be faced by the blackmailed player if he accepts the cooperation offer and allows himself to be blackmailed usually tend to be significantly undervalued). This is usually the case because the player is unable to imagine how the game will continue to develop (we will deal with this later on).

5. One of the benefits of the presented schema is, among other things, that it makes it possible to identify, differentiate and describe individual cases of errors. In more complicated situations, where it is necessary to also take the other player's (the one who is doing the blackmailing) reaction into account, the cause of errors can also be the incorrect estimate of parameters according to which the other player is making his decisions. This is a considerably more complex case, which we will also discuss later on.

A situation where one player can blackmail a second player based on the above stated occurs in two ways. Either, as we have already discussed, i.e., that one player (in our case player B) does something and the second player begins to blackmail him and force him to take a certain type of action. But it can also occur in a different way. The player that we have designated as "C" can be engaged in an activity that is contrary to the generally acknowledged principles in a given community. He usually also performs this activity with other players. Player B discovers this, while at the same time player C knows that player B has discovered this fact. If player C also has the chance to discover some sort of breach of generally accepted principles committed by player B, he can begin blackmailing him, in this case only ex post. From this perspective, the first case is then ex ante blackmailing.

In real situations the relations between the player doing the blackmailing and the one that is being blackmailed tend to be asymmetrical. A player with other players who together are performing activities breaching generally acknowledged principles -- we can label them, for example, players C_1, C_2, \dots, C_M -- search for information about other players in the system so that they can blackmail them, respectively to force them to perform an activity that makes it possible for that which players C_1, C_2, \dots, C_M are doing to be covered, to be disguised.

Whether the abuse of the fact that one player or multiple players knows or know about another player that he has breached principles generally acknowledged in a certain community or system, either ex post or ex ante, is formed based on that which we have stated, structures that we have called structures based on the mutual covering-up of the breaching of rules or generally accepted principles. In simple cases linked to games of the prisoner's dilemma type, one can speak only of the breaching of agreements, which itself tends to be one of the cases of the breaching of generally accepted principles. Our next task will be to find a suitable key for describing structures based on mutual covering-up.

Model of structures based on the mutual covering-up and symmetry between integrating a player into a structure and the exit of a player from a given structure

Describing structures based on mutual covering-up is a theoretically demanding problem for several reasons, which we will list before we start resolving it:

1. Structures based on mutual covering-up can be very multifaceted; they can differ in a number of their parameters.
2. The relationships inside structures based on mutual covering-up tend to be quite branched.
3. It generally holds that it is not simple to describe that which is hiding and always remains more or less hidden and only becomes visible through certain types of consequences.

A good key to describing the significant aspects of the behavior of structures based on mutual covering-up proved to be the revealing (or more precisely the understanding of the significance) of the symmetry between incorporating a player into a structure and the exit or departure of a player from the given structure. This symmetry is incomplete for the following reasons:

- The player dealing with the dilemma whether to allow himself to be drawn into a structure or not is usually less informed and does not have a sufficient idea about all possible consequences.

- Sanctions ensuing from exiting the structure can be much more severe than sanctions from refusing to enter a structure that is based on mutual covering-up.
- A player exiting a structure, respectively attempting to depart from a structure, has multiple possibilities of how to proceed.

We can consider several possibilities available to a player that was incorporated into a structure in the form of blackmail or bribery (based on the previous, we will designate him as “B”):

- Player B remains in the structure after considering all alternatives.
- Player B departs from the structure but keeps everything he knows to himself.
- Player B departs from the structure and starts to report what he knows to those players from a relevant system (e.g., community) to which he can report this.

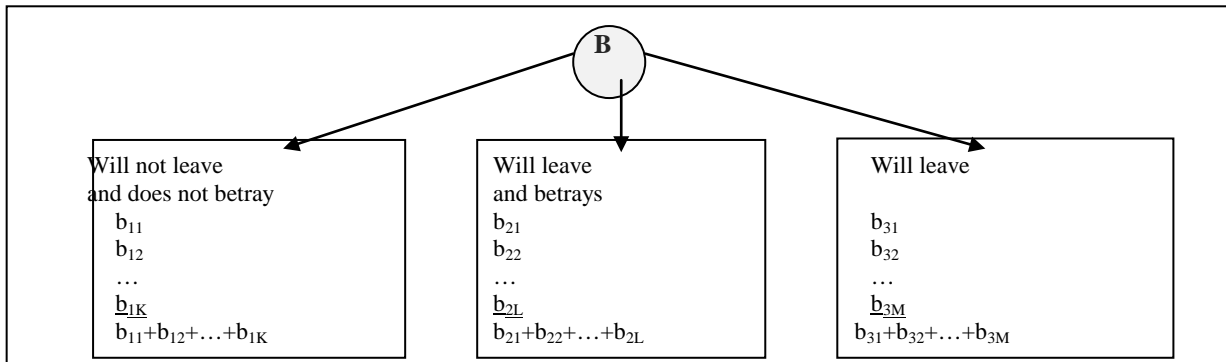


Figure 3. Diagram describing the decision-making of a player who contemplates leaving the structure
Source: own study.

Here b_{1i} , b_{2Ni} , b_{3Vi} are various types of consequences that the player considers and that he believes could occur. One of the interesting and important directions of the theory development is composing a typology of consequences that correspond to various alternatives of behavior for which a given subject can decide.

A structure (usually represented by a core of players who decide how the structure will behave) reacts to the decision of a subject to exit or depart from a structure. This launches an entire chain of contextual games, which -- as we will show later on -- we can model by expressing the basic schema of contextual games as a game in an explicit form with the addition of other inserted games that start to be played. We can consider the following development, for example:

1. Player B (we will use the designation that we have already used earlier in the given context for the corresponding player) decides to leave the structure, but to not report (to not inform other players in the system in which he is active about what he knows). By doing this, he attempts to attain that the structure does not react.

2. The structure deals with the problem whether to react to the player’s effort to leave the structure. On one hand it is a precedent, as other players could also follow player B. On the other hand, player B is not reporting, which could change if the structure takes a harsh stance and begins punishing the player. But the structure can decide to silence the player definitively.

2.1. When speaking of a structure, in accordance with the previous we mean its core, which is formed by some players. Because here we are considering the entire structure to be a certain player, who in accordance with the previous we are labeling as C, we will label the players that form the structure’s core, i.e., the players whose decision-making influences the structure’s behavior (and to keep things simple we will assume that there are only three), as C_1 , C_2 , C_3 . They will play a certain game among themselves, the outcome of which will be how to proceed against player B, i.e., a decision about the strategy that they will use against

him. This is an inserted contextual game, which was initiated by the original decision of player B to leave the structure. This game can be analyzed by various means, among others also as a (stated later on) redistribution system of a certain type (see for example Budinský – Valenčík 2011). The following alternatives can be the outcomes of the game played by the core players:

- The structure does not react.
- The structure punishes the player.
- The structure silences the player definitively.

We can assume that if the structure does not react or, conversely, definitively silences the player, the game ends. But other games could also be triggered, such as:

- If the structure does not react, other players will start considering exiting or departing from the structure.
- If the player is definitively silenced, other players that are in a similar situation to that of player B can react to this in some way.

3. If player B is punished, he faces the dilemma of whether to start informing on the other players as revenge (report what he knows, inform other players in the system in which he is active, etc.), or to remain silent in order to avoid a more severe penalty or definitive silencing.

4. The next move is once again up to the structure, which -- similarly to before -- ponders the dilemma whether to continue not reacting, punish the player more severely or whether to even definitively silence him.

4.1. This, like in the previous case, triggers a game inside the structure among the core players.

is one only possible game scenario. Worth mentioning is also the possibility of expanding the conflict outside of the given structure that is based on mutual covering-up, as this structure is weakened by the conflict, which other structures that compete with it in the given social space could take advantage of and weaken its position or even eliminate it. On the other hand, by doing this they could also create a precedent for their own players who are pondering the idea of departing the structure. That is why the decision-making of the structure's core does not have to be unanimous. We attempted to simulate the course of the game based on the presented concept in a student environment. The simulations were performed only for the purpose of preparing representative research. Even so, they brought relatively interesting results, which can be briefly characterized as follows:

- A player entering the structure is absolutely not able to imagine the future development, underestimates the risks and possible consequences.
- Very quickly after entering the structure, already after the first experiences, the player assesses the future development much more precisely.
- In the decision-making of the structure's core players, there is a clear shift towards orthodoxy, i.e., adopting severe measures.
- When considering the behavior of structures that compete with the original one, their core players have the tendency to support the competing structure and not the rebelling player in the competing structure.

Specification of the term “hyper-corruption” and notions about it

As we have stated, in the first approximation one can say that hyper-corruption is the formation of relations based on the “corrupting of the corrupt”, respectively forced corrupt behavior of those that have committed corruption or similar forms of behavior. It starts where the person who caught someone in the act of corruption does not face this form of the breaching of generally accepted principles by expanding the informedness of others about what occurred, but on the contrary forces the person that was caught into behavior that also,

and usually even more severely, breaches generally accepted principles. But this is only the first step in the formation of hyper-corruption. Relations based on mutual covering-up have the tendency to expand quickly and grow through the corresponding system, penetrate the formation of its representation and institutional components, including and especially those institutional components that are supposed to prevent corruption and other forms of the breaching of generally accepted principles.

The legal regulations governing bribery contained in § 331 to § 334 of the Criminal Code are based only on the fact that only persons who accept a bribe or the promise of a bribe or, conversely, only persons who give or promise a bribe, are committing the corresponding criminal act. The legal regulations governing blackmail contained in § 235 speak of the fact that the corresponding criminal act is committed by the person who forces another person with violence, the threat of violence or the threat of other severe damage to do something. It is clear from the above stated that in the area of legal regulations there are considerable reserves, as far as disciplinary action against structures based on mutual covering-up and the forms of blackmail that exist in the given case are concerned. It is also clear that hyper-corruption is only affected minimally by the existing methods of the battle against corruption. The existing forms of the battle against corruption practically cannot weaken the structures based on mutual covering-up that are linked to corruption and blackmail. It is no wonder that education in the given area is also ineffective, because it is quite remote from that which is actually taking place in reality.

The original schema based on expanding the prisoner's dilemma type model with the effects of credibility capital assumes that the blackmailing of a player that has committed an act of behavior breaching generally accepted principles is effective only if sufficient influence of this type of capital exists in the corresponding community. In other words, if the influence of credibility capital faded, the decreasing of the effectiveness of blackmailing on the basis of its loss would occur, along with weakening of the structures based on mutual covering up. These situations can occur in various periods and their existence is provable. Usually, however, the development is different, especially in places where the institutional system is significantly penetrated with structures based on mutual covering-up. Here the structures based on mutual covering-up usually preserve their influence by increasing the penalties for minor breaches of generally accepted principles, and blackmailing itself is then based on utilization of a double standard in the judging of the behavior of someone who in accordance with the process of the structure's genesis needs to be pulled into the structure, or -- conversely -- of someone who could come across one of the cases of the breaching of generally accepted principles by the structure or one of its players and would want to inform the other players in the system. From the above stated ensues, among other things, that the model that we have provided makes it possible to formulate and operationalize a number of indirect indicators of the degree of the influence of structures that are based on mutual covering-up.

Structures based on mutual covering-up usually function in complex communities that have the form of hierarchical social systems. In these systems, in which some redistribution systems have a specific function, payouts can be acquired not only from the redistribution system itself, but also from its environment, respectively other redistribution systems. (Because the "it's easy to spend other people's money" principle applies here, the conditions for the formation of structures based on mutual covering-up are very favorable in this area and it is here that they frequently start to flourish.) Structures based on mutual covering-up can also be formed "cross-wise" among various redistribution systems, resulting in cross-coalitions or even entire social networks growing through the entire hierarchical system. The existence of cross-coalitions and the from them evolving social networks growing through hierarchical systems manifests itself by the fact that the predetermining of the formation of

coalitions occurs the same way in more cases. According to how and where the predetermined coalitions form, it is then possible to map the contours of structures that are based on mutual covering-up. Analysis of the negotiations process in a “clean” redistribution system makes it possible to reveal and describe various strategies that people (as players) would use if no external influences acted on the system. The better we are able to describe this process of the use of strategies and the learning of strategies by individual players, the more clearly it will be possible to identify when and how a player is pulled into the formation of structures that are based on mutual covering-up. A player usually tends to be pulled into the formation of structures that are based on mutual covering-up by being told “in public interest” during negotiations that “some information is only for some people” and that certain breaching of rules is “completely normal” because “everyone does it”, including persons whom he trusts. A player drawn this way into the formation of structures that are based on mutual covering-up gradually comes to terms with that about which he would have said earlier that he would never come to terms with; he begins playing the game “for the better persons” and those that have the right “to a different truth” than the one that is “for the majority” because “the majority does not deserve the real truth”. This also concerns demonstrations of how that which is “invisible” allows itself to be seen in various ways. One just has to learn how to read it all. And a good theory is necessary for this.

Conclusion

It is not difficult to imagine a number of directions in which it is possible to continue with further examination of the phenomenon that we have called hyper-corruption. That which was revealed as the result of the development of the theory in several directions, which met in a certain area, at the same time opens the path of the further development of the theory in various directions. This concerns especially the following areas:

- Adding more elements to the payout matrices that describe the consequences of the consideration of various alternatives by both the subjects that are being blackmailed as well as by those that are doing the blackmailing in the formation of structures based on mutual covering-up. The goal is to make the list of all consequences of this or that decision as complete as possible and also well-structured.
- It is also possible to identify more alternatives that are possible for players in various situations, from the perspective of the expression of their behavior within the structures that are based on mutual covering-up as games in an explicit form.
- A more difficult task is reflecting the course of the game (moves that are made later) into the establishing of the value of the specific consequences of this or that decision in the early moves.
- Find suitable symbolism that has considerable importance during the subsequent formalization and mathematization; it is still possible to improve much on the symbols and symbolism that we use.
- The most difficult tasks are then in the area of mathematization and possibly also the axiomatization of sub-models and their interconnection; among other things, also the interconnection of the model of structures that are based on mutual covering-up and the model of parallel redistribution games is concerned here.

The greater the progress made in the resolution of these questions, the greater the applicability of the theory for dealing with the given issues in practice. Practical application can be expected in the following areas:

- Education of the public (where combining theory and practice usually begins), so that everyone is able to properly evaluate that which he or she comes across so that he or she does not become a victim and instrument of hyper-corruption and is able to react to its manifestations in a qualified manner.

- Legal regulations, so that the Criminal Code punishes actions that have the greatest social danger, instead of contributing to the creation of an environment in which anyone can become blackmailable.

- Politological reflection, which would comment in a qualified manner that which is taking place in connection with the declared battle against corruption.

We also consider elaboration of the theory of hyper-corruption within the scope of institutional economics and theory of institutions as an independent dimension from both a theoretical as well as practical perspective. We came across the need to deal with this dimension several times during our discussion, but due to the focus of our paper we were not able to give it sufficient attention.

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IMPROVING AML/CFT RISK-BASED APPROACH IN SERBIAN BANKS: EVIDENCE FROM A SURVEY

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Abstract

The aim of this paper is to give a contribute in searching solutions to improve the anti-money laundering (AML)/Combating financing of terrorism (CFT) risk-based approach in banks. To achieve this goal, we decided to directly involve the banks, calling them for a kind of self-assessment about some factors associated with the performace of their AML/CFT risk-based approach. For this purpose, we carried out a survey, in the period between September 2013 and October 2013, addressed to a sample of banks in the Republic of Serbia. The answers provided have identified some factors that banks consider strategic to improve the internal AML/CFT risk-based approach and, at the same time, highlighted some deficiencies charged to regulators and supervisors.

Keywords: AML/CFT risk-based approach, Client Risk Assessment, Serbian Banks

Introduction

The commitment to improve the anti-money laundering (AML)/combating the financing of terrorism (CFT) risk-based approach involves an increasing number of countries all around the world (FATF, 2013); among them, also those currently engaged in the EU accession process. Serbia, officially Candidate Countries from March 2012, carries on the fight against money laundering and terrorism financing by adopting appropriate measures to prevent and punish these crimes. Serbia relies on a specific national legislation and on other official documentation (Law on the National Bank of Serbia, 2004; Law on the Prevention of Money Laundering and the Financing of Terrorism, 2009; Decision on the Guidelines for assessing the risk of money laundering and terrorism financing, 2009; Decision on minimal content of the "Know Your Client" Procedure, 2009), as a member of the Committee of experts on the evaluation of anti-money laundering and the financing of terrorism Measures (MONEYVAL, 2012). With this paper, we want to contribute in searching solutions for the implementation of AML/CFT risk-based approach in bank. Paying particular attention to client risk - in our opinion, a profile of central importance - we structured a survey that allows to obtain, directly from a sample of Serbian banks, an evaluation of those that we consider key factors for an effective AML/CFT client risk assessment, ie: the AML/CFT staff training organization; the national AML/CFT regulation; and the role of National Competent Bodies and Institution.

We think that this work, although for the most part is an exploratory study, may contribute to research in the field of anti-money laundering because it try to fill the gap, which could occur, between a set of international measures - however necessarily standardized - and case-sensitive contextual specificities. We used direct method by calling

the banks to identify those elements which they consider crucial for an effective AML/CFT risk-based approach.

With respect to these considerations, the remainder of this paper is organized as follow.

i) review of some literature contributions; ii) survey's questionnaire and sample description; iii) discussion of survey's results; iv) conclusions and future proposals.

Some contributions from the literature

Despite a long period that the scientific community has addressed the anti-money laundering issue, by trying to make its own contribution with studies focusing on different aspects of the problem, there are still many questions that require the continuous attention of researchers. With particular reference to the AML/CFT risk-based approach, we tried to organize the literature – able to detect - in two main lines of research. In the first, we included studies that analyze this topic by proposing directly improvement solutions (application of theories and quantitative models, adaptation of tools usually used in other areas, etc.). In the second line of research, always remaining the underlying aim to advance enhancement suggestions, we considered the contributions which start from critics, often negative, on the AML/CFT risk-based approach so as it defined by international standards.

Among the contributions of the first research strand, there are some suggesting to strengthen the AML/CFT risk-based approach by applying a mixed method of the type “rule based but risk-oriented”, designed for the particular situation in China (Ai, L., Broome, J., & Yan, H., 2010); others, considering the possibility to improve it expanding the extent of money laundering (ML) risk, making it fit into the broader category of the integrity risk (Simonova, A., 2011); or further studies based on the application of a risk matrix to define the client profile, with the belief that the imperative “Know Your Customer” should be considered as the core of the entire AML/CFT system (Albanese, D. E., 2012); or others thinking to an effective AML/CFT system as a driver for financial sector stability not underestimating, at the same time, the need for more technical assistance in the prevention of such crimes, especially for developing countries or where is the financial inclusion to be considered as key element for the improvement (Shehu, A. Y., 2010 and 2012). Among these researches, also contributions focused on problems arising from the hierarchical relationship among competent public authorities, financial institutions, and supervisors (Dalla Pellegrina, L., Masciandaro, D., 2009); and others which argue on the cost/benefits of the AML/CFT improvement (Johnston, R. B., Carrington, I., 2006).

As anticipated just above, we decided to include, in the second line of research, works which propose improvement solutions for AML/CFT risk-based approach, starting from a constructive critics. Among these, studies that identify an alleged gap in the current AML framework, attributed to the excessive consideration given to high-risk situations at the expense of the low-risk products (De Koker, L., 2009 and 2011). Follow this line of critical profile also the researches which detect paradoxes behind the classifications of risks, denouncing observed an oversimplification (Demetis, D. S., & Angell, I. O., 2007).; and others that attribute the slowdown in improving AMLCFT risk-based approach to the excessive bureaucratization of some control systems, which makes it more difficult to detect situations of real risk (Killick, M., & Parody, D., 2007); and others that highlights a mixture of criticality which may affect the AML/CFT risk-based approach effectiveness, as the not compulsory nature and the incompleteness of the indications contained in EU and international standards, which may lead to the adoption of discretionary behaviors, often cause of prevention measures failure (Costanzo, P., 2013); or still other studies that have identified the lack of flexibility in the procedures to comply with the imperative “Know Your Customer” (Gill, M., & Taylor, G., 2004).

In addition to the described strands of research, it is also possible to identify a series of studies specifically related to the experience of Serbia in the fight against ML/FT risks. Among them, we decided to highlight particularly those focused on the banking sector: thus, empirical studies that have contributed to the knowledge of the level of harmonization of the AML system in Serbia with the FATF's Recommendations and the Third European Directive on anti money laundering (Fijat, L., 2013a; Fijat, L., Božić, D., & Tomašević, S., 2013; Muminović, S., & Ljubić, M., 2013); or others that have investigated the role of Institutions and Bodies competent and specific legislation in support of Serbian banks in the prevention and combating of ML/FT (Fijat, L., 2008, 2013b; Fijat, L., & Živković, A., 2010; Lukić, T., 2010). The paper we propose ranks among the researches belonging to the first line of those described just above and, at the same time, among those specifically referred to the situation in Serbia. The additional contribution we would like to give is to boost the number of studies that aim to emphasize the importance of an accurate definition of client risk and the factors that affecting on it, seeking ways of implementing the AML risk-based approach with proposals that directly involve who in fist person have to manage, even if from opposite positions (Bosworth-Davies, R., 1998; Holder, W. E., 2003; Ross, S., & Hannan, M., 2007; De Wit, J., 2007; Johnson, J., 2008; Geary, J. M., 2009; Tsingou, E., 2010; Van den Broek, M., 2011).

Explanation of the survey and sample description

The survey proposed in this paper has been conducted administering a questionnaire to a sample of Serbian banks, in the period between September 2013 and October 2013. For a better understanding of the research project and its aims, questionnaire was previously explained via telephone to the employee of the anti-money laundering department and then sent via mail for answers. The questionnaire consists of three sections, each corresponding to an aspect of the analysis. The first section introduces some preliminary aspects of the research; the questions that compose it have the purpose to obtain information on the overall exposure level to ML/FT risks. Therefore, banks in the sample have responded about the numerosity of ascertained danger situations; about which risk profile they consider more difficult to manage; and about which, among the internal and external principals, they consider most effective.

By the second section of the questionnaire, the survey starts focusing on the client risk assessment. The first element considered is the AML staff training. To evaluate the contribution of this element to the risk-based approach improving, banks have responded to questions about many important aspects of AML training paths, from technical and formal organization, to the assessment of contents, participants and trainers.

In the third and final section of the questionnaire, the sample banks proceed to the evaluation of the role played by domestic legislation and National Competent Bodies and Institutions, assessing the contribute given by the provisions contained in national AML Law and in other official documents and by national institutions with role of regulators and supervisors.

Of the 31 banks operating, in 2013, in the Republic of Serbia, 11 agreed to participate in the survey, representing around the 35% of the total sample. The 14% of the sample responded that they will not be part of our survey. Explanation of one bank was that requested information are confidential and that they can give information about this area just to the National Bank of Serbia, Administration for the prevention of money laundering or the Securities Commission of Serbia. Other banks explained that answering on the topic such as money laundering is forbidden by the bank own policy.

The assessment of client risk in Serbian banks: results of the survey

Section 1 - Deals with preliminary information about the risk assessment

At the beginning of the questionnaire is a multiple-choice question concerning the main causes of the bank's exposure to the risk of money laundering. The reason most indicated by the survey respondents concerns the economic and political situation of the Nation (40%). This answer is followed by four others: the lack of support from the competent Bodies (33%), the inadequacy of the legislation (13%), the inadequate training of staff (7%), and in particular the poor training of the staff to identify and manage risk situations (once again 7%).

Moreover, some banks add interesting comments. For example, a bank underlines that in reality the combination of all the causes indicated in the questionnaire influences bank's exposure to the risk of money laundering: none of the factors by itself can be considered as dominant. Similarly, another bank specifies that all the factors are relevant.

The second question asks how many situations of ascertained risk have been found during the last five years. Most of the banks (73%) note the option "more than 10", reflecting a high exposure to the risk. The exposure derives primarily from the number of clients assessed as risky subjects and the number of suspicious transactions.

However, banks claim they have suffered very few penalties for failure to comply with the provisions of the money laundering regulations: even 91% have never been sanctioned; the remaining percentage of banks was sanctioned from 1 to 5 times.

Among the causes for which have been applied penal provisions as per Articles 88-91 (Economic offences, Minor offences, and Minor offences for which a lawyer may be held liable) of the Law on the Prevention of Money Laundering and the Financing of Terrorism, only one bank indicates the reason: lack of documents relevant for conducting "Know Your Customers" procedure. Some institutions underline in the space reserved for comments the absence of penal provisions, giving answers such as the following: "The control of Serbian National Bank did not find any omission in relation to money laundering and terrorist financing" and "There was no sanction against the bank".

Based on the Guidelines for Assessing Money Laundering and the Risk of Terrorism Financing, the profiles that the banks feel more critical to manage are the transaction risk and the product risk (31% in both cases). Geographic risk and the client risk show lower percentages of answers, although one bank emphasizes the critical issues implied by the client risk: experience has shown that, for example, two clients characterized by the same profile (business operations, business volume, residency, etc.), classified in the same category of risk, can carry different risks in doing business with the bank. One bank differs from the others: it states that its employees are well-trained and ready to face any risk situation resulting from the recycling, with no particular distinction between the different types of risk.

Finally, with specific reference to defining client risk, the tool considered to be the most useful is staff training (56%). The other options included in the questionnaire show similar rates of response: the direct relationship with the customer (18%), the provisions of the money laundering legislation and other official documents (13%), and the role of competent Bodies (again 13%).

Section 2 - Client Risk assessment: the role of training activity

The role of the anti-laundering money training activity has been investigated from different perspectives: the used teaching approaches and teaching materials, the frequency of the activities, the origin of trainers (in-house or external), the adopted evaluation mechanisms and the effectiveness of the training activities in terms of determination of the Client Risk. Concerning the teaching approach adopted in the training courses, almost all the banks indicate "lectures with the use of slides". The main reason of such widespread choice is the possibility of facilitating interactivity: thanks to examples and illustrations of various

problems, questions and answers it is in fact possible to discuss the different issues about money laundering and terrorism financing in greater depth and to understand how to resolve ambiguities in the treatment. Only a few banks use also or uniquely an e-learning method, by means of a corporate network.

Training programs are always supported by supplementary materials.

Training activities are mainly proposed once a year; for a very little number of the banks of the sample, the frequency occurs every six months. Some banks add that training could occur also in different times, on the basis of specific needs: for example, a bank underlines the opportunity to organize training activity if there is a relevant change in regulations, in order to support all the employees who work closely with clients.

The majority of banks state they use in-house trainers. Sometimes the training activities are arranged by specific organizational functions, such as the "Service of monitoring of compliance and anti-money laundering" or, more in general, by an authorized person. In the case of external training, the most common reference is to the participation of the employees to seminars.

All the banks of the sample verify the levels of learning of the personnel and use assessment techniques of the trainers at the end of the courses.

The opinion banks express on the utility of the training activity for the determination of the client risk is quite good: no bank gives a score less than six; this result seems to suggest that most banks recognize a great effectiveness to the personnel training for the assessment of the client risk.

Section 3 - Client Risk assessment: the role of National Regulations and Competent Bodies

The initial questions of this third and final section allow us to obtain an assessment, by the sample banks, on the contribution that the national AML regulation and the competent Bodies and Institutions provide determining the client risk profile. According to a 6 levels rating scale - from "essential" to "not enough" - the banks gave the following answers. The rating on the provisions of national *Law on the Prevention of Money Laundering and the Financing of Terrorism* is generally positive: 28% essential; 36% very helpful; 36% useful. Situation almost identical, but with slightly less positive results, with reference to the banks' utility judgment about another official document made available for the prevention of money laundering, ie the *Guidelines for assessing the risk of money laundering and terrorism financing* (not to be underestimated, however, a 9% of the sample giving a rating of nearly no sufficiency). Things change about the evaluation of the National Competent Bodies and Institutions. In this case, the ratings appear to be distributed among: 18% essential; 18% very helpful; 36% useful; 10% not very useful; 18% not sufficient, denouncing this result some deficiencies of these subjects or, at least, of some of them, and confirmed in the answers to the subsequent question, under which banks are required to disclose those most active in supporting the assessment of Client Risk (from a list that includes: Administration for the prevention of money laundering (APML); National Bank of Serbia; Securities Commission; Tax Administration; Ministry competent for supervisory inspection in the area of trade; Foreign Currency Inspectorate; Administration for Games of Chance; Ministry competent for finance; Ministry competent for postal communication; Bar Association and Chamber of Licensed Auditors, nearly all of the sample indicated the APML (92%). Third section concludes with a set of questions that require, to the sample banks, the expression of an overall usefulness opinion in relation to the support role, in the client risk assessment implementation, respectively played by domestic regulation, by National Competent Bodies and Institutions and by direct relationship with customers. Attributing a score, in a scale from 1 to 10, the results showed a predominance of high ratings only in the case of direct relationship with the customer (18% score 9; 55% score 10), consequently considered essential for an efficient AML risk-based approach.

Conclusion

The main purpose of this paper is to contribute in finding solutions to enhance the AML risk-based approach efficiency. The approach chosen to achieve this goal directly involves the banks engaged in combating money laundering and terrorist financing, collecting information about who and what banks believe could help win that fight. In order to better focus the scope of this investigation, we restricted the analysis on client risk, considering the “Know Your Customer” (KYC) imperative crucial to maintain a satisfactory efficiency level of the entire bank’s AML/CFT risk-based approach.

The results seem interesting, as allow knowing what could be key factors in improving and implementing the AML risk-based approach in Serbian banks. Answers provided give an unequivocal importance to personnel training and to direct relationship with customers, valued as fundamental principals to ML/FT risks. Things change when to be evaluated is the role of national Competent Bodies and Institutions. Banks, in this case, point out the lack of a full participation of them, indicating just one as more involved in supporting role. A situation like this suggests that banks in Serbia consider the AML risk-based approach improvement essentially as an internal matter, when instead it should be the result of a constant commitment to share, even if from different roles and responsibilities, with subjects active in the role of regulator and supervisor.

In this regard, it might be useful to look for improving solutions starting right from the needs directly expressed by those actively involved in the process hoping, on the one hand, that regulated provide objective and consistent data and, on the other, that regulators use these information to make measures proposed more effective and enforceable.

We consider that increasing number of future researches should be in this direction and that competent institutions activate a systematic collection of data and opinions coming from the regulated, in order to effectively support the necessary harmonization process between AML/CFT international measures and the specific, often problematic, national contexts.

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INNOVATION STRATEGIES: THE PATTERNS ACROSS COUNTRIES, INDUSTRIES AND FIRM COMPETITIVENESS

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Abstract

The paper is aimed at the identification of firm-level innovation strategies and their competitiveness across sectors and countries. The types of innovation strategies are identified based on exploratory techniques that are applied to CIS6 microdata. The data includes 60 innovation variables from 16 European countries, 12 core and 19 additional industrial sectors. The total sample size equals 127,674 firms. The dispersion of the emerged innovation strategies across the sample countries and sectors is presented as well. Firm competitiveness pattern typical of the innovation strategies is also assessed. The suitability of the established innovation strategies for other than CIS6 economies is defined, thus allowing for the generalization of the results at the global level. For this purpose, the data of the Institutional Profiles Database III from 123 countries are employed.

Both the identification of the competitiveness pattern along the emerged innovation strategies and the possibility to generalize the results at the global level are novel for this strand of work. From the practical perspective, the findings enable firms to better evaluate the appropriateness of the relevant economies to their innovation strategies. Thus, for instance, institutional contexts of some economies can be considered to be suitable for the most competitive innovation strategies, but firms in these economies do not fully utilize this potential. Hence, the findings could be used by them as the guidelines for further innovation development.

Keywords: Firm competitiveness, innovation strategy, institutional context, sectoral coverage

Introduction

The paper is aimed at the identification of firm-level innovation strategies and their competitiveness across sectors and countries. The paper is consistent with the recently emerging multiplex approach towards innovation that is typical of this strand of work. Hence, as long as the “innovation-oriented activities carried out together to create and market a new good or service, or improve on production, delivery and business processes” (Frenz, Lambert 2010, 2012) are implemented purposefully and in a systemic way, the bundle of these activities can be referred to as an innovation strategy. For the identification of the typology of innovation strategies, Community Innovation Survey (CIS6) microdata from 16 European countries, collected by Eurostat⁸⁴, were used. At the point of data collection in 2012, the CIS6 microdata were the newest available source of the required data.

Several studies were done in accordance with the similar logic. Nonetheless, they invoked the previous CIS editions (CIS3: Shrolec, Verspagen 2008) or limited numbers of variables, sectors and/or countries (CIS2 for Denmark and Finland: Leiponen, Drejer 2007). For example, the most recent study of this type (Frenz, Lambert 2010, 2012) involved 20

⁸⁴ European Commission, Eurostat, 2008 Community Innovation Survey microdata. Eurostat takes no responsibility for the results and conclusions, which are those of the author of the thesis.

innovation-related variables and three industrial sectors. Meanwhile, this paper presents the findings based on 60 innovation variables, 12 core and 19 additional sectors. *As a result, a more comprehensive picture of the variety of firm-level innovation strategies and their industrial environment is observed; moreover, a greater number of variables let us to present each emerged innovation strategy in a more detailed way.*

Nonetheless, two more aspects make this paper distinctive. First, the suitability of the established innovation strategies for other than CIS6 countries is defined, *thus allowing for the generalization of the results at the global level.* This is based on the assumption that similar innovation strategies tend to emerge and function in a similar way in similar institutional contexts. Yes, it is true that countries can have similar innovation profiles independent of their overall performance (Belitz *et al.* 2011), but typically, the opposite is observed more often (Eapen 2012; Paus 2012; Dau 2013). Hence, for the purpose of the comparison of the countries' institutional profiles, Institutional Profiles Database (IPD) III data from 123 countries, built by researchers from the French Ministry for the Economy, Industry and Employment, the French Development Agency and the University of Maastricht, were analyzed.

And second, not only the variety of innovation strategies is presented, but their *competitiveness is assessed as well.* More often than not, it is stated that there is no consistent cross-industry and cross-country (in particular) competitiveness pattern typical of certain innovation strategies (Frenz, Lambert 2012). Nonetheless, recent findings (Frenz, Ietto-Gillies 2009; Battisti, Stoneman 2010; Hollen, Van Den Bosch, Volberda 2013) suggest that the synergy of technological and non-technological innovation activities is concomitant with firm performance and that firms that introduce complex innovation strategies show better economic performance (Filippetti 2011). Likewise, some differences in firm competitiveness along the emerged innovation strategies were revealed in this paper as well.

With this, let us turn to the description of the methodology and, most importantly, findings and conclusion. The literature review is based on the most recent scholarly findings and, due to the paper volume limitation, is incorporated into the discussion of our results.

Methodology

Dataset and variables

The CIS is the main data source for measuring innovation in Europe. It covers the basic information of an enterprise, product and process innovation, innovation activity and expenditure, effects of innovation, innovation cooperation, public funding of innovation and sources of information for innovation. The total number of variables included in the analysis of innovation strategies was 60.

In addition, two more variables were included in the analysis in order to rank innovation strategies in accordance with firms' competitiveness: the total turnover and expenditure on innovation. Regrettably, the dataset provides little information on firms' competitiveness, while turnover and expenditure on innovation are the only variables that help identify the most and least competitive firms. Nonetheless, both indicators are positively connected with market share, and recent findings (Lee, Kim 2013) show that innovation potential helps predict future market share. In addition, expenditure on innovation is also associated with firm productivity and, consequently, competitiveness (Hall, Lotti, Mairesse 2009; Ortiz *et al.* 2013).

Ultimately, the variable representing the sectoral embeddedness of the surveyed firms was also used in order to estimate the industries that are most covered by the emerged innovation strategies. The survey was carried out in 16 EEA countries: Bulgaria (BG), Cyprus (CY), the Czech Republic (CZ), Germany (DE), Estonia (EE), Spain (ES), Hungary (HU), Ireland (IE), Italy (IT), Lithuania (LT), Latvia (LV), Norway (NO), Portugal (PT), Romania (RO), Slovenia (SI) and Slovakia (SK). Thus, the present research is not restricted in terms of

either industry or institutional setting at the national level. The total sample size equals 127,674 firms.

Data analysis

The variables that represent the structural characteristics of an innovation strategy were subject to EFA. First, these factor analyses were carried out individually at the country level. A projection of the scores of the original variables on the factor leads to the emergence of two results: factor scores and factor loadings. Factor scores are the scores of an innovation variable on a factor (i.e. innovation strategy), while factor loadings are especially useful in determining the importance of a particular variable to a factor. In this way, the average factor loading of a variable represented how important the variable was for the whole taxonomy of innovation strategies in a country.

Thus, a new sample consisting of 60 variables and 16 subjects (countries) was obtained. Again, EFA was performed, and principal component analysis was used as an extraction method. However, because the number of variables exceeded the number of cases, a reliable solution could not be reached. In the principal component analysis, the variables of the first component became subject to one more factor analysis. In this case, a reliable solution could be reached, as the number of variables was reduced to the number within the first factor. In this way, the first innovation strategy emerged. Later, the variables of the second factor and remaining variables of the first factor became subject to factor analysis as well. Then, the variables of the third factor and dismissed variables of the second one constituted the basis for the third factor analysis, until no reliable solution could be reached. In the next stage of analysis, the factor scores of the obtained components were correlated (linearly) in order to assure the sufficient inter-independence of the obtained components. If a correlation between two factors was statistically significant, their inherent variables were merged in order to obtain new factor solutions. At the very end of the process, six innovation strategies were estimated. In addition, linear correlations between the obtained strategies' factor scores and all the innovation variables were measured to identify supplementary characteristics of the innovation strategies.

During the whole process, missing values were replaced by means in order not to exclude from the analysis countries with at least one missing value. Finally, the obtained solutions were also verified for the absence of outliers and if their elimination from the sample did not alter the composition of emerged innovation strategies.

In order to better assess the competitiveness of firms embarking on an innovation strategy, the correlations of total turnover and expenditure on innovation with factor scores on the innovation strategy were then computed. Both Pearson product-moment and Spearman rank correlations were of interest. In each case, the correlations were computed at the level of a country with the highest factor scores on an innovation strategy.

In addition, the most typical sectoral representations of the innovation strategies were identified. The organizations with the positive scores on the emerged innovation strategies were sorted out and then grouped by industry, thus allowing for the identification of the sectors that are most typical of the identified innovation strategies.

In order to illustrate the extent to which innovation strategies were present within the sample countries and group the countries according to the compositions of their strategies, hierarchical cluster analysis was carried out. Factor scores were used as variables for this analysis, based on Ward's minimum variance method and the squared Euclidean distance between clusters.

In addition, to make the findings applicable to a greater number of economies than the CIS6 ones, 123 countries of the IPD 2009 were subject to hierarchical cluster analysis as well (Ward's minimum variance method, squared Euclidean distance). All the 3-digit scale variables

(i.e. indicators of the qualities of institutions, N = 133) were included in the analysis. Thus, under the assumption that similar institutional environments condition the emergence and functioning of innovation strategies in a similar way, the findings can be widely generalized.

Findings

The analysis of the CIS6 data estimated six types of innovation strategies as shown in fig. 1.

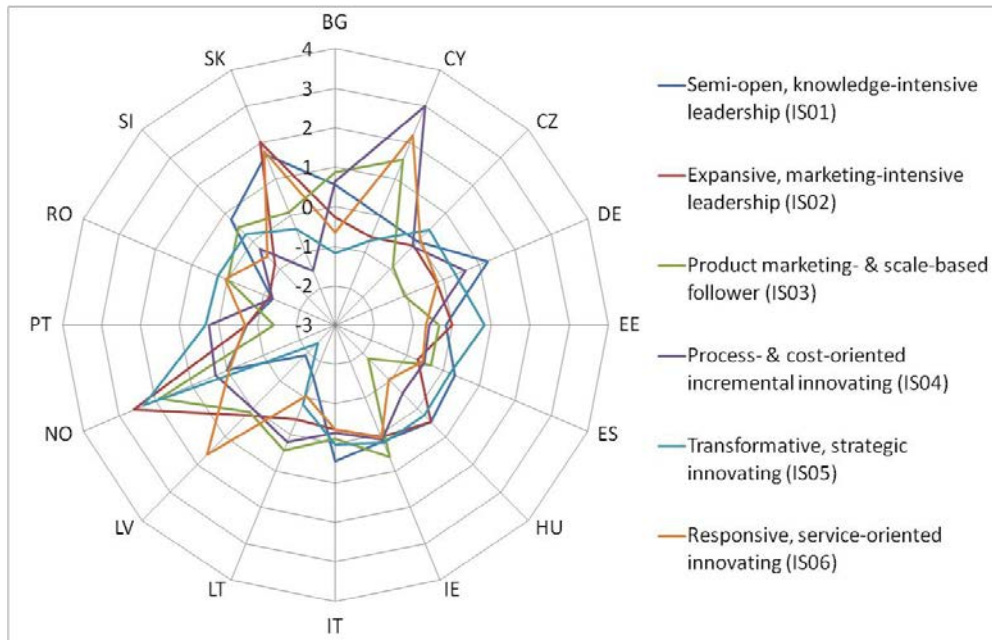


Fig. 1. The emerged innovation strategies of sample firms across CIS6 countries

Let us explore the first innovation strategy that is referred to as *semi-open, knowledge-intensive leadership innovation strategy (IS01)* (table 1). Firms that embark onto IS01 are continuously engaged in intramural R&D. Yet, radical innovations can take place at the organizational level in order to adjust to the network and improve information sharing. Further, although the CIS6 questionnaire does not include questions on patents, design rights or copyright, all these are typical of collaboration under the Framework Programs (Breschi, Malerba 2011). Moreover, Spithoven (2013) finds that registering patents (as opposed to out-licensing) depends strongly on R&D staff having a doctoral degree. Thus, one can conclude that by means of collaboration with universities or other higher education institutions, firms engaged into IS01 are not in severe shortage of well educated and skilled workers. Besides, university-industry-competitor collaboration and are popular topics, especially in emerging countries (e.g. Brazil in Medeiros Rocha’s *et al.* 2012 study or Turkey in Temel’s *et al.* 2013 study) and SMEs (Hemert, Nijkamp, Masurel 2013).

Table 1. Semi-open, knowledge-intensive leadership innovation strategy (IS01)

Core Characteristics	Factor loading, L	Corrected item-total correlation	Supplementary characteristics	Correlation, r (p < 0.05)
Component characteristics: % of Variance = 67.358 KMO MSA = 0.822 Bartlett’s test of sphericity p = 0.005 Cronbach’s α = 0.851				
Continuous engagement in intramural R&D	0.881	0.805	Sources from competitors and other enterprises in the same	0.559

			industry	
Funding from the EU's sixth or seventh Framework Program (FP6 and FP7 hereafter) for Research and Technical Development (RTD)	0.855	0.758	Reduce labor costs per unit output is an important objective of product or process innovation	0.522
Sources from universities or other higher education institutions	0.810	0.712		
Improved communication or information sharing is an important objective of organizational innovation	0.791	0.709		
Sources from government or public research institutes	0.761	0.641		

Interestingly, on the semi-open, knowledge-intensive leadership innovation strategy (IS01), Germany scores highest (fig. 1). In addition, Germany is ranked first among all participating countries for FP6. European Commission statistics show as many as 7449 German participations in 3027 contracts. Overall, German researchers participated in 82% of the Program's projects in the thematic priorities and received nearly 19% of the overall Program's budget (Uckel 2007).

Concerning the sectoral representation covered by IS01, it scores highest in the following industries: manufacture of computers, electronic and optical products, electrical equipment, machinery and equipment, motor vehicles, trailers and semi-trailers and other transport equipment (C26–30 in NACE Rev. 2 classification). Another sample industry includes professional, scientific and technical activities (M71–73): architectural and engineering activities, technical testing and analysis, scientific R&D and advertising and market research. Hence, the sectoral representation agrees with the content of the given innovation strategy that involves industry–science collaboration.

With this in mind, let us explore the next assessed innovation strategy – *expansive, marketing-intensive leadership innovation strategy IS02* (table 2).

Table 2. Expansive, marketing-intensive leadership innovation strategy (IS02)

Core Characteristics	Factor loading, L	Corrected item-total correlation	Supplementary characteristics	Correlation, r (p < 0.05)
Component characteristics: % of Variance = 79.100 KMO MSA = 0.814 Bartlett's test of sphericity p = 0.000 Cronbach's α = 0.905				
New methods of pricing goods or services	0.904	0.826	New methods of organizing external relations	0.646
New methods for product placement or sales channels	0.899	0.809	Sources from government of public research institutes	0.563
Enter new markets is an important objective of product or process innovation	0.887	0.792	Increase capacity for producing goods or services is an important objective of product or process innovation	0.506
New methods of workplace organization	0.868	0.767		

In case of IS02, innovations developed by firms that invoke marketing innovations. Interestingly, Drechsler, Natter and Leeftang (2013) demonstrate “that the relationship between marketing capabilities and innovation performance is generally mediated by the decision influence of marketing on NPD [new product development]. In particular, both marketing research quality and the ability to translate customer needs into product characteristics serve to increase marketing’s influence on NPD. This increased influence, in turn, positively contributes to overall firm innovation performance.” (p. 298). Hence, marketing capabilities may influence innovation and firm performance to a similar extent to that of other areas of innovation activity, such as R&D, and the marketing influence is observed in the structure of IS02 strategy.

Furthermore, marketing innovation is coupled with organizational innovation: firms introduce new methods of organizing work responsibilities and decision making, such as the first use of a new system of employee responsibilities, teamwork, decentralization, the integration or de-integration of departments and education/training systems. In addition, they introduce new methods of organizing external relations with other firms or public institutions, and this helps them enter new markets. IS02 points to a reliance on government or public research institutes to provide information for innovation activities.

Concerning the sectoral representation best covered by IS02 innovation strategy, ICT organizations are most numerous. This includes publishing activities, motion picture, video and television program production, sound recording and music publishing activities and programming and broadcasting activities (J58–60) as well as telecommunications, computer programming, consultancy and related activities and information service activities (J61–63). Wholesale and retail trade is also typical of IS02 innovation strategy followed by different types of manufacturing.

Another marketing-related innovation strategy that emerged is *product marketing- & scale-based follower innovation strategy IS03* (table 3).

Table 3. Product marketing- & scale-based follower innovation strategy (IS03)

Core Characteristics	Factor loading, L	Corrected item-total correlation	Supplementary characteristics	Correlation, r (significant at the 0.05 level)
Component characteristics: % of Variance = 69.614 KMO MSA = 0.816 Bartlett’s test of sphericity p = 0.000 Cronbach’s α = 0.908				
Replace outdated products or processes is an important objective of product or process innovation	0.915	0.866	Introduce products to new customer groups is an important objective of marketing innovation	0.665
Improve the quality of goods or services is an important objective of product innovation	0.863	0.797	Engagement in training for innovative activities	0.661
New media or techniques for product promotion	0.858	0.789	Processes developed in cooperation with other enterprises or institutions	0.610
New methods of organizing external relations	0.829	0.731	Sources from suppliers of equipment, materials, etc.	0.606
Increased range of goods or services is an important objective of product innovation	0.770	0.680	Sources from professional conferences, trade fairs, meetings	0.578

The results illustrate also that innovations in case of IS03 are more new-to-firm ($r = 0.443$, $p = 0.085$) than new-to-market ($r = 0.253$, $p = 0.345$). Firms look for leftover markets and customer groups in order to realize their production, because the major target markets and customer groups are lead by other firms. The major obstacles to organizations in becoming leaders in existing markets is that they lack a wider range and better quality of goods or services and do not always replace outdated products or processes in a timely manner. An explanation for that is suggested by Paananen (2012), who argues that firms constrained by finance tend to search for innovation knowledge both internally (e.g. training) and externally (e.g. professional conferences, trade fairs), which actually implies that firms implementing IS03 are constrained financially.

Concerning sectoral representation, IS03-type innovation strategies are most active in wholesale and retail trade (G45–47). The manufacture of food products, beverages and tobacco products follows (C10–12), similar to the ICT industry (i.e. J61–63: telecommunications; computer programming, consultancy and related activities; and information service activities). One more innovation strategy to discuss is *process- & cost-oriented incremental innovation strategy (IS04)* (table 4).

Table 4. Process- & cost-oriented incremental innovation strategy (IS04)

Core Characteristics	Factor loading, L	Corrected item-total correlation	Supplementary characteristics	Correlation, r (significant at the 0.05 level)
Component characteristics: % of Variance = 68.635 KMO MSA = 0.860 Bartlett's test of sphericity $p = 0.025$ Cronbach's $\alpha = 0.891$				
Engagement in the acquisition of external knowledge	0.906	0.811	Public funding from the EU	0.754
Sources from clients or customers	0.858	0.769	No public funding from local or regional authorities	0.623
Product developed originally by other enterprises or institutions	0.795	0.795	New-to-firm product or process	0.601
Sources from suppliers of equipment, materials, etc.	0.791	0.803	Improve ability to develop new products or processes is important for the enterprise's organizational innovations	0.528
Engagement in the acquisition of machinery, equipment and software	0.786	0.870	Introduced onto the market a new or significantly improved logistics, delivery or distribution system	0.523

Interestingly, Guisado-González, Guisado-Tato and Sandoval-Pérez (2013) find that the acquisition of machinery has a statistically significant negative impact on innovation performance. Hence, when firms lack the ability to develop new products or processes, they engage in the acquisition of external knowledge, such as the purchase or licensing of patents and non-patented inventions, know-how and other types of knowledge from other enterprises or organizations. The present findings demonstrate that market sources, such as those from customers or suppliers, provide more information for new innovation projects or better contribute to the completion of existing ones in the case of IS04. In other words, local sources of information and direct ties prevail. However, these sources have negligible effect for firm performance and are not strong predictors of innovative performance (Kafouros, Forsans 2012; Kesidou, Snijders 2012). Hence, because firms are largely unable to develop new-to-market

products, some engage in process innovations or, to be more accurate, introduce onto the market new or significantly improved logistics, delivery or distribution systems. Production processes are also renewed through the acquisition of machinery, equipment and software and firms tend to rely on public funding from the EU (not FP6 or FP7) for their innovation activities, because funding from local or regional authorities is largely inaccessible.

Interestingly, firms that score highest on IS04 are mostly those engaged in financial and insurance activities (i.e. K64–66). This finding is not in line with the traditional understanding of a process innovation. However, traditional process innovation is also typical in Cyprus. IS04 is actively implemented by firms representing C19–23 industries: manufacture of coke and refined petroleum products, chemicals and chemical products, basic pharmaceutical products and pharmaceutical preparations, rubber and plastic products, other non-metallic mineral products. In addition, manufacturers of food products, beverages and tobacco products embark on IS04 as well.

Another estimated finding to discuss is *transformative, strategic innovating (IS05)* (table 5) that is mostly oriented towards organizational innovation.

Table 5. Transformative, strategic innovating (IS05)

Core Characteristics	Factor loading, L	Corrected item-total correlation	Supplementary characteristics	Correlation, r (significant at the 0.05 level)
Component characteristics: % of Variance = 62.719 KMO MSA = 0.777 Bartlett's test of sphericity p = 0.000 Cronbach's α = 0.887				
Reducing labor costs per unit output is an important objective of product or process innovation	0.868	0.742	Increasing capacity for producing goods and services is an important objective of product or process innovation	0.710
New business practices for organizing work or procedures	0.847	0.816	Improving communication or information sharing is an important objective of organizational innovation	0.628
Increasing market share is an important objective of product or process innovation	0.815	0.847	Improving the quality of goods or services is an important objective of product/process innovation	0.588
Improving flexibility for producing goods or services is an important objective of innovation	0.770	0.712	Entering new markets is an important objective of product or process innovation	0.550

Interestingly, incentives implemented by many firms in order to embark on other innovation strategies can be associated with IS05. This insight is also supported by the recent findings of Trigo (2013). Based on the analysis of 10 innovation types and five innovation activities, a taxonomy composed of two R&D-intensive and two non-R&D-intensive clusters is proposed. The findings indicate that organizational innovations count for three of the four proposed clusters, with “the new management techniques being the most common organisational innovation in all clusters” (Trigo 2013, p. 46). This result is also consistent with previous findings that show that a synergy of organizational and non-organizational innovations results in better economic performance (Battisti, Stoneman 2010; Filippetti 2011).

In terms of sectoral coverage, IS05 is typical of companies engaged in wholesale and retail trade (G45–47) as well as different types of manufacturing. The most commonplace manufacturing includes manufacture of wood and of products of wood and cork, except furniture; manufacture of articles of straw and plaiting materials, paper and paper products,

printing and reproduction of recorded media, computer, electronic and optical products, electrical equipment, machinery and equipment.

Finally, the empirical findings point to the existence of one more innovation strategy, i.e. *responsive, service-oriented innovation strategy (IS06)* (table 6).

Table 6. Responsive, service-oriented innovation strategy (IS06)

Core Characteristics	Factor loading, L	Corrected item-total correlation	Supplementary characteristics	Correlation, r (significant at the 0.05 level)
Component characteristics: % of Variance = 62.070 KMO MSA = 0.715 Bartlett's test of sphericity p = 0.001 Cronbach's α = 0.882				
Sources from consultants, commercial labs or private R&D institutes	0.920	0.863	No funding from local or regional authorities	0.620
Reducing time to respond to customer or supplier needs is an important objective of organizational innovation	0.790	0.698	Acquisition of machinery, equipment and software	0.582
No significant changes to the aesthetic design or packaging	0.789	0.822		
Feasibility studies, testing, routine software development, tooling up, industrial engineering, etc.	0.789	0.760		
Processes originally developed by other enterprises or institutions	0.768	0.744		
Introduced onto the market a new or significantly improved service	0.646	0.646		

As the findings indicate, the major concern of IS06 is reducing time in order to better respond to customer or supplier needs. Bettencourt and Brown (2013), who investigated the service innovations of product-dominant companies, also concluded the following: "As such, the primary goal of a product-dominant company seeking service innovation should not be to innovate service. Rather, it should be to help customers get a specific job done better or to help them get more jobs done" (p. 277). It is also interesting that IS06 relies on either internal or globally distributed sources of information, with some recent findings (Doran, Jordan, O'Leary 2012) showing this pattern to be effective.

Concerning sectoral coverage, a substantial number of the most explicit service providers are engaged in financial and service activities (K64–66). Yet, the ICT sector is also typical of IS06 innovation strategy, i.e. J61–63: telecommunications; computer programming, consultancy and related activities; and information service activities.

In terms of *firm competitiveness*, the strongest positive correlations between the extent of the strategy with expenditure on innovation and total turnover are observed in case of IS01. Hence, it can be qualified as the most competitive innovation strategy. It is followed by IS02 innovation strategy, where the correlations are also positive, but weak. Then, IS05 is implemented mostly by those with medium or low turnover, ensuring the purposeful expenditure on innovation, whereas IS04 might help increase turnover considerably despite little expenditure on innovation. The relationship with turnover and expenditure on innovation is largely absent when IS06 and especially IS03 are concerned; therefore they can be qualified as the least competitive innovation strategies.

In order to make the findings applicable to more economies than the CIS6 ones, the institutional contexts of 123 IPD3 economies, including the CIS6 ones, were clustered. In total,

seven groups of countries emerged, but only three of them included the sample countries. The three clusters are presented in table 7.

Table 7. Groups of institutionally similar economies and innovation strategies typical of them

Cluster No.	Groups of economies				
	1		2	3	
Innovation strategies	IS01 (semi-open, knowledge-intensive leadership)	IS02 (expansive, marketing-intensive leadership)	Varied innovation strategies with leaning towards IS05 (transformative, strategic innovating)	IS03 (product marketing- & scale-based follower)	IS04 (process-oriented incremental innovating)
Economies on which based	Germany, Hungary, Spain	Norway, Slovakia	Estonia, Italy, Portugal, Slovenia	Bulgaria, Latvia, Lithuania, Romania	Bulgaria, Latvia, Lithuania, Romania
African economies	-		-	Ghana, Mauritius, South African Republic	
Asian economies	Hong Kong		Japan, Singapore, South Korea, Taiwan	Indonesia, India, Philippines, Sri Lanka, Thailand	
Australian/Pacific economies	Australia, New Zealand		-	-	
European economies	Austria, Belgium, Czech Republic, Denmark, France, Finland, Germany, Hungary, Ireland, Israel, Netherlands, Norway, Slovakia, Sweden, Switzerland, Spain, United Kingdom		Cyprus, Estonia, Greece, Italy, Malta, Poland, Portugal, Slovenia	Bulgaria, Latvia, Lithuania, Romania, Russia, Serbia	
Latin American economies	-		Uruguay	Brazil, Chile, Colombia, Mexico, Panama	
North American economies	Canada, USA		-	-	

Hence, because Germany, Hungary and Spain score highest on IS01 (see fig. 1), it is likely that the other economies listed in the same column in table 7 also induce the emergence and successful implementation of IS01. Interestingly, Slovenia scores highest on IS01 as well, but its institutional context does not let us to assimilate Slovenia with cluster No. 1. This implies that the statement that firms can implement different innovation strategies regardless of their institutional embeddedness could be confirmed in Slovenia's case.

The same can also be applied to the Czech Republic, but in an opposite manner: even though the economy's institutional context is suitable for IS01, the country scores slightly negative on this competitive innovation strategy (fig. 1). This could serve as an important finding for the Czech firms in order to realize and utilize the potential that the country's institutional environment proposes.

Nonetheless, two other countries included in the same cluster score highest on IS02, i.e., Norway and Slovakia. This implies that the institutional environments of other economies listed in the same column are suitable for IS02 as well. Again, the Czech Republic scores negative on IS02, even though its institutional context could be considered to be suitable for this innovation strategy. Besides, Spain and Ireland score on IS02 lowest in comparison to the other innovation strategies, thus joining the Czech Republic in not fully utilizing the institutional potential of their economies. However, both Spain and Ireland score positive on IS01.

CIS6 countries that appear in the second cluster are Cyprus, Estonia, Italy, Portugal and Slovenia. All the countries, except Cyprus, score positive on IS05 (fig. 1). So, it can be concluded that the institutional environments of the given cluster allow for the implementation of different innovation strategies, but the leaning towards IS05 can clearly be observed.

The third cluster includes Bulgaria, Latvia, Lithuania and Romania. These countries score moderately positive on IS03 and IS04. Hence, the institutional profiles of the countries listed in the third column of table 7 could be considered to be supportive of IS03 and IS04 innovation strategies.

Interestingly, IS06 could be viewed as typical of all the economies in table 7. This is because Cyprus, Slovakia and Latvia score high on this innovation strategy, but the three countries adhere to the three different clusters.

Conclusion

Six firm-level innovation strategies were identified. Generally, the findings do not demonstrate the strong industrial or country convergence of the innovation strategies, but some patterns could be observed. Hence, the most competitive strategy, i.e. semi-open, knowledge-intensive leadership, includes the collaboration between private and public sectors, between industry and science, and with competitors, thus reconfirming the significance of open innovating. However, typically, the extent of the semi-open, knowledge intensive leadership is lesser in less advanced economies, if to rely on the terminology of the varieties of capitalism. Therefore, one might question whether this innovation strategy can remain sustainable in these countries without the external funding from the EU Framework Programs.

The distinction between expansive, marketing-intensive leadership innovation strategy and product marketing- & scale-based follower innovation strategy is worth mentioning. Both strategies are characterized by similar sectoral embeddedness. Nevertheless, the former strategy is more oriented towards professional and highly competent marketing and is thus competitive, whereas the latter strategy is employed predominantly by manufacturers that see marketing as an augmentation of production. This results in the considerably lesser competitiveness of the product marketing- & scale-based followers. Typically, they are also rather constrained financially to alter the current stance. However, expansive, marketing-intensive leadership innovation strategy is rather uncommon in the investigated economies and could be seen as highly dependent on internal sources and especially marketing competence rather than on institutional and sectoral environment.

Process- & cost-oriented incremental innovation strategy, just as that of product marketing- & scale-based followers, is widely implemented in less institutionally-advanced economies, but is not extraneous to other countries. Thus, process- & cost-oriented incremental strategy is embedded in sectors more than in countries. It is typical of manufacturers of coke, refined petroleum products, chemicals, pharmaceutical products, rubber and plastic products, as well as food products, beverages and tobacco products. The strategy is aimed at the reduction of costs and the maintenance of existing positions more than innovating, and admittedly, this innovation strategy is medium competitive. It is mostly utilized by mature firms with large turnovers.

Transformative innovating that includes new business practices is not a fully-fledged innovation strategy. It is medium competitive because, more often than not, its competitiveness depends on what other innovation activities it is combined with. It is typical of different types of manufacturing, as well as wholesale and retail trade. The strategy is implemented to a greater extent in medium and highly-advanced economies. Hence, the previous finding that firms that introduce organizational *and* other innovations show better economic performance seems to be reasonable.

Ultimately, responsive, service-oriented innovation strategy is, admittedly, typical of services industries (finance and insurance, IT, telecommunications, etc.). At the same time, it seems to be less constrained by institutions and is not much country-specific. This insight could also be seen as one of the reasons for why service-oriented industries develop and expand so rapidly. However, the strategy is less competitive.

To conclude, firm-level innovation strategies demonstrate varying patterns across countries, sectors and firm-competitiveness. Nonetheless, the established patterns are mostly coherent with the structural compositions of the strategies, even though few exceptions could also be observed.

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THE LEVEL OF SATISFACTION WITH AN ERP SYSTEM IN RELATION TO THE DECISION MAKING PROCESS

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Abstract

This paper investigates in the buying behavior of small and mid-size companies in Germany with a special focus on the decision making process, the buying process, in cases of purchasing information technology / ERP (Enterprise Resource Planning) systems.

Furthermore it will outline the connection of the decision making and buying process and the success of the implementation, reviewing critical success factors for the implementation of the ERP system. Especially for small and mid-size companies (SME) the decision to buy a specific software package will have significant consequences for all parts of the business in terms of business processes and costs. The paper will support hypotheses about the acquisition of an ERP system at SME companies. Success factors will be identified, prioritized and evaluated specifically for the requirements of the small and medium size companies.

Findings are that during the acquisition phase the entire company is expected to support the definition of requirements of the new system, the purchasing department has to be supported strongly by strategic guidelines of the top management, a business case needs to be prepared in the very beginning and the long term vision needs to be challenged with the capabilities of the new system. After a long implementation process and after go live none of the requirements are reviewed again nor measured to ensure this strategic investment was executed according to the defined expectations.

Keywords: Enterprise resource planning (ERP), critical success factors (CSF), small and mid-size entities (SME), decision making, acquisition

Introduction

The selection, implementation and maintenance of standard ERP software like the high-end enterprise packages of e.g. SAP, Oracle and Microsoft constitute the commodity part of the business for big enterprises.

The area around the smaller and mid-size businesses is significantly different. A lot of small, mainly local IT companies are implementing a large number of different ERP solutions according to a similar number of different methods.

During the past years the number of larger entities buying and implementing new ERP systems has reached saturation points. They are currently rather consolidating existing systems and upgrading new releases. ERP developers are seeking for new potential markets among small and medium size companies (SME) (cf. Deep et al., 2008, p. 430). With the opening up of all economy SME companies are forced to adopt their business model and approach according to practices and software adopted by big companies (cf. Shehab et al., 2004 p. 359)

The business requirements for medium size companies are changing rapidly. Hence their need for a professional IT and ERP system support is higher than ever. A study (2005) of 550 companies showed that over 57%-70% of large companies are currently using ERP

systems but only 27% of SME companies (cf. Caruso, 2005). There is a significantly rising demand for ERP systems at mid-size companies. There was an additional feedback in the same study, claiming that 50% of the companies are planning to select a new or to modify the existing ERP system within the next 12-18 months. This study obtains more and more relevance in the current turbulent economic markets.

Literature Research Decision Making

A review in literature shows that the subject “decision making” is exhaustive and especially “strategic decision making” is getting more and more popular in recent years. One aspect of decision making should be taken into further consideration - rational decision making addresses how a decision should be made rather than how decisions are made (Glenn and Simon, 1978), which is a very valuable aspect for the subject ERP selection. Given the study of strategic decision making is a conglomerate of all intellectual disciplines, this paper and its research focuses on managerial decision making where Barnard and later theorists like James March, Herbert Simon and Henry Mintzberg laid the foundation for. To make good choices companies must be able to calculate and manage the risks (cf. Buchanan, 2006). Decision making is seen as a functional view driven by rational behaviour (cf. Melé, 2010).

Reviewing literature for the specific subject of IT / ERP decision making shows that IT /ERP selection (and implementation) is getting more and more popular in the recent years. Multiple cases have been analysed (cf. Verville et al. 2002) and many different approaches reviewed (cf. Verville et al. 2003, 2005).

The structure of a purchasing department or a structured process for acquisition, which are the specific needs for a mid-size buying organization and which information are required for long sustainable decision process in purchasing are not covered by scientists in much detail. The IT acquisition strategy should follow the company’s overall business strategy, so core competencies, critical success factors, feasibility studies and further specific information should be aligned by lead managers and related acquisition and implementation methods understood (cf. Rahardjo, 2006).

The strategy and method are more related to the approach taken, the selection process itself usually follows a similar structure. The main difference between the execution of the process and its intensity depends mostly on the size of the company. According to the findings of a research study conducted by Infinedo (2007) organisational size is positively related to ERP success, due to some findings with respect to IT budget size, staff and department size.

To summarize it is important to point out that there are a lot of similarities for the execution of the acquisition process itself. For the purpose of this paper the process is taken as a multi stage process with reference to all mentioned authors. The 4, 5 and 6 stage processes usually cover the same activities just describing a different level of detail.

Success factors for a high degree of satisfaction

According to many researchers, more important than the process itself are the characteristics chosen to evaluate the ERP system. The best fit of these characteristics, its evaluation and impact on selection is the key to a measurable, successful implementation. The biggest challenge for the selection of information technology is the definition of all requirements for the expected solution. (cf. Schmitz et al., 2007, p.260).

Verville and Hallington (2002) determined three distinct types of criteria for evaluation: vendor, functionality and technical. Vendor evaluation criteria included size, financial stability, and reputation of vendor etc., functional criteria dealt with the software features and included functionalities specific to front-end interfaces, user friendliness and so

on. Technical criteria dealt with the specifics of the system architecture, integration, performance, and security etc. (cf. Baki et al., 2005). Percin (2008) differentiates mainly criteria by system factors and vendor factors using the very specific ANP approach as the decision making process, stressing a pairwise comparison of the criteria. Shiau et al., (2009) are focussing on six specific criteria to analyse the decision behaviour and influence of CEO's. Six constructs are: investment decisions cost and benefit analysis, choice of appropriate technology, choice of vendor or brand and suitable innovation for the firm.

There are multiple studies containing literature comparison of the influencing characteristics for the ERP selection. Each list has a slightly different research background as well as complete different hypothesis as a basis. Shiau (Shiau et al. 2009) focuses with his list on measurable critical success factors to validate the characteristics of the ERP acquisition. Shehab (cf. Shehab et al. 2004) lists various papers to provide an overview of the characteristics used for SME and large companies. Rahardjo created a list of success factors and factors for failure (cf. Rahardjo, 2006). All his criteria for failure have been used but in a positive way as success factors, e.g. "lack of management capability" used as a success criteria "high management capability".

To sum it up, so far, research papers, cases and empirical studies covering the same detailed aspect have not been found but the topic seems highly relevant in the rising ERP/IT business environment. Hence, the current state of research for this topic is very young and there is potential to continue in various aligned areas.

Hypothesis and Research Method and Design

Main Hypothesis and Overall Research Question

Researchers have analyzed considerably extensive the implementation of ERP systems, the optimization of ERP systems, management of ERP issues and details of ERP functionality (cf. Schlichter et al., 2010 p. 496). Very few analyzed the failure of ERP implementations and the models how to ensure a successful implementation (cf. Sternard et al., 2011, p. 1513).

Based on relevant literature the author identified the most important critical success factors that are the key driving forces behind successful ERP implementation. Analyzing them individually before each system selection is part of a suggested method driving this research. Given that very specifically for the selection and decision making part of an ERP system there is still very little research work done in this area the dissertation paper focus on it with its main hypothesis.

H0: *The execution of the decision making process has an impact on the level of satisfaction with an ERP system.*

This means in detail for this research work:

A SME company has a need to implement an ERP system. Whether the selected system is the right one and if it is implemented according to the companies requirements, is founded in the very beginning in the decision making process. Following a very structured high quality decision making process improve the possibility that the right / or one of the best fitting systems will be selected. The satisfaction and the decision making are very strongly related.

The overall research question is defined according to the hypothesis H0:

Is there a relationship between the selection / decision making process of an ERP system and the satisfaction with the system?

Development of a generic process

The research question and hypothesis cover a wider range of the ERP life-cycle process. It connects the beginning with the end of the life-cycle and points out the

interrelations of it. Shaul (cf. Shaul et al., 2012, p362) defined the EPR life-cycle process in four fundamental phases: planning, implementation, stabilization of the ERP system into normal operation, and enhancement. Other cycles described in literature vary very little from this definition mainly in terminology and wording.

This connection of phases is a differentiation factor to all other research studies which usually focus on one phase mainly the implementation phase. Just recently the selection part (acquisition) gets more popular mainly covered by Verville, Palanisamy and Bernadas (cf. Verville et al., 2010, p.36). The selection / acquisition is part of the planning phase. Shaul mentioned as well in a very recent publication that problems occurring with the ERP systems should be based on so called critical success factors and should be traced back to earlier phase requirements and decisions (cf. Shaul et al., 2012, p.371). Markus et al. argued as well that the planning phase is usually underestimated and preventing and resolving future problems start before implementing. He points out that analyzing the planning phase can prevent future failures (cf. Markus et al, 2000, p.255). So, all of the publications support the actuality and relevance of the research question and the model development.

There is additional detail needed to support or falsify the main hypothesis. The main variables are identified according to the following figure (see Figure 1). The independent variables are tight to the selection part of the model. The dependent variables specify the result at the satisfaction part of it.

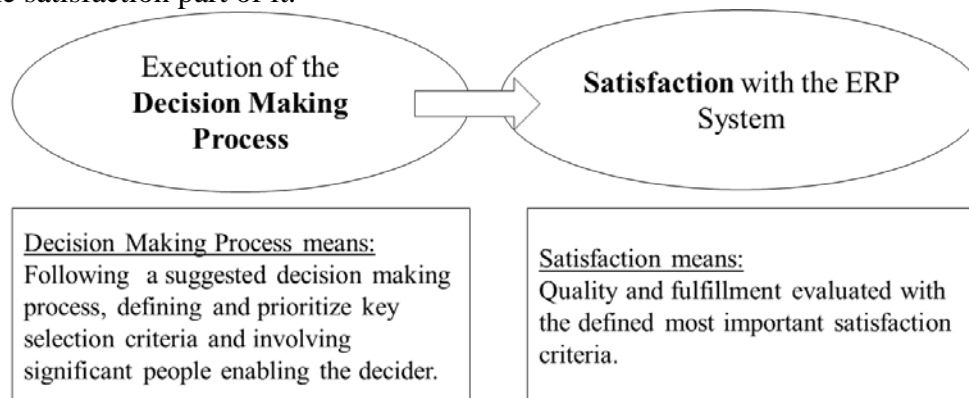


Figure 1: Relation of Variables, created by author 2012

The relation of the variables can be summarized in the following declaration: "The higher the performance of the execution of the decision making process the higher is the satisfaction with the decision and the more efficient is the ERP system noted."

This statement will be broken down and analysed in more detail in the following paragraph. Meaning the closer the selection is executed according to the developed decision making process the better for the overall efficiency. The dependent part is the challenge how to analyse the efficiency meaning to measure satisfaction in this dependency.

Given it is a mainly unique decision for a company which is not done frequently it is fair to stress that this decision is a purely strategic decision. Strategic decisions of that quality and volume can be categorized as normative decisions where the decision makers mainly should follow a rather rational approach, based on that assumption a model was developed. Considering the theory of decision making and the underlying approach was one input for the development of the process. Rational decisions these days are very often influenced by irrational factors. In this case the process provides the starting point for the selection, it enables the decider to make the first decisions on a pure rational basis and avoid spending a lot of time on gaining this rational experience themselves. In addition for a decision like the ERP selection there are always irrational factors which might have to be considered. The

relation of the pure theoretical approach and the decision itself as a practical result has to be explained in more detail.

As an example a SME company with no experience will select an ERP system. They could start reviewing one ERP software package according to their needs, might add people and requirements to that process over time, review another ERP system add more needs and so on. In this process, they might mix rational and irrational requirements. They end up after an exhausting, lengthy process to decide for an ERP system. The selection itself and possibly the implementation might be a success, but the process executed was very inefficient and the people using the system might be not satisfied. Therefore the company should be enabled at the very beginning to fulfill the main rational criteria and then after a pre-selection add more specific and possibly irrational requirements. A process has been developed considering the various theories and practical experience to ensure this enabling process.

Reviewing the different projections in both theories, the organisational decision making and the ERP life-cycle theory, conclude that most researches are examined about variables but rarely about the nature of the decision itself (cf. Nutt et al., 2010, p. 535ff). Franz and Kramer point out in the article edited by Nutt et al. that a process of decision making should consider the following steps: Decision characteristics and personal & organisational characteristics influence the decision process leading to the decision outcome. They point out that this conceptual process is compatible with the three theoretical orientations: prescriptive, descriptive and naturalistic. Other researchers and theorists add to the decision making approach other orientations like political, organisational and informational (cf. Nutt et al., 2010, p. 525).

Comparing and analysing the different theories of decision making and ERP life-cycle process a decision making process was developed to consider all relevant factors for the efficient selection of an ERP system for SME.

Research Methods

An extensive literature review has been conducted starting from 2009 until 2013. Using the findings of this and the leveraging the experience of other scientists the decision to use and elaborate semi-structured expert interviews has been made. The first literature results have been tested and reflected for the semi-structured interviews. Between autumn 2010 and spring 2012 28 expert interviews have been executed in parallel accordingly. The propositions have been tested in that circle of events. The hypothesis was reviewed from different perspectives.

Semi-Structured Expert Interviews

A questionnaire was developed as a guideline for the expert interviews. The interviews were conducted mainly in person with the expert interviewees. Given the busy schedules of some the interviewees, some interviews were conducted on the telephone but all followed an identical structure. The questionnaire had been submitted in advance of the interviews to allow for preparation by the expert interviewees, when and if time permitted. All answers were discussed fully during the interviews, not just written down on the questionnaire. Some experts sent additional supporting material and brochures after the interview.

The companies in scope are small and medium-sized companies and therefore the relevant experts tended to be the company owners, board members or CEO's or in medium-sized companies the CIO or IT department leads. A total of 41 companies were contacted. Of these, 13 companies decided not to participate for various reasons. The remaining 28 companies with identified interview partners were conducted in 2011 and 2012. In summary, they were all highly knowledgeable and relevant experts.

Results

Satisfaction with the ERP system combines all propositions into a model of dependencies. The level of satisfaction is measured in relation closing the ERP life-cycle combining the beginning, the selection of the ERP system, with the end, the measurement of the satisfaction. Therefore it doesn't result in new propositions it finalise the existing ones with additional information and results in the research questions.

One key critical question after the ERP system implementation is the question, if it is the right system and if the people are satisfied with it in the daily business, then it is evaluated. The related research question has been asked. During the interviews and company studies and the results have been openly discussed as well as at an international conference. One statement came up "There are no criteria defined in the beginning (at selection point in time) and they are not measured after go live for satisfaction". It assumes that success is hardly measured and challenged with the experts. Given the experience with bigger companies it was a high likely hood that success is mainly not measured and defiantly not measured according to predefined criteria. Therefore the question is asked regarding positive and negative feedback. "The satisfaction with the ERP system is mainly gut feel. Only problems, complains and negative impressions are registered. If the ERP system runs successfully it is not captured in numbers."

The questions have been asked as part of the expert interviews. Satisfaction as such had to be rated on a scale from one to ten. One meant the company was not satisfied with the system at all; ten meant they are absolutely happy and satisfied with the ERP system. The next question was much more difficult, the question if they measure the satisfaction or what they relate their result to. One finding was that analysing the satisfaction with the system is hardly based on facts but rather on less negative feedback and feelings. If there are no complains about the system and the issue log is rather low the assumption is the people are satisfied with the system. None of the companies set up a measurement system or structure for evaluation up front. The following graph shows the relationship of the level of satisfaction with the fact how satisfaction is measured. The results from 28 expert interviews are pretty aligned. Most of the companies are satisfied with their solution but none (but one company (24) once) evaluated it. So, it is always gut feel of the senior executives or IT leads. The IT leads stated that they would know if there would be any problems because they would have a lot of negative IT tickets and hotline calls. None of the companies measure the success or satisfaction in any way. So, even another round of interviews wouldn't be more than gut feeling on a different level. Result from all expert interviews regarding it, can be summarized. That they do not measure the satisfaction but even more they do not measure against the original requirements. None of the companies know in detail if the system fulfils the first intentions.

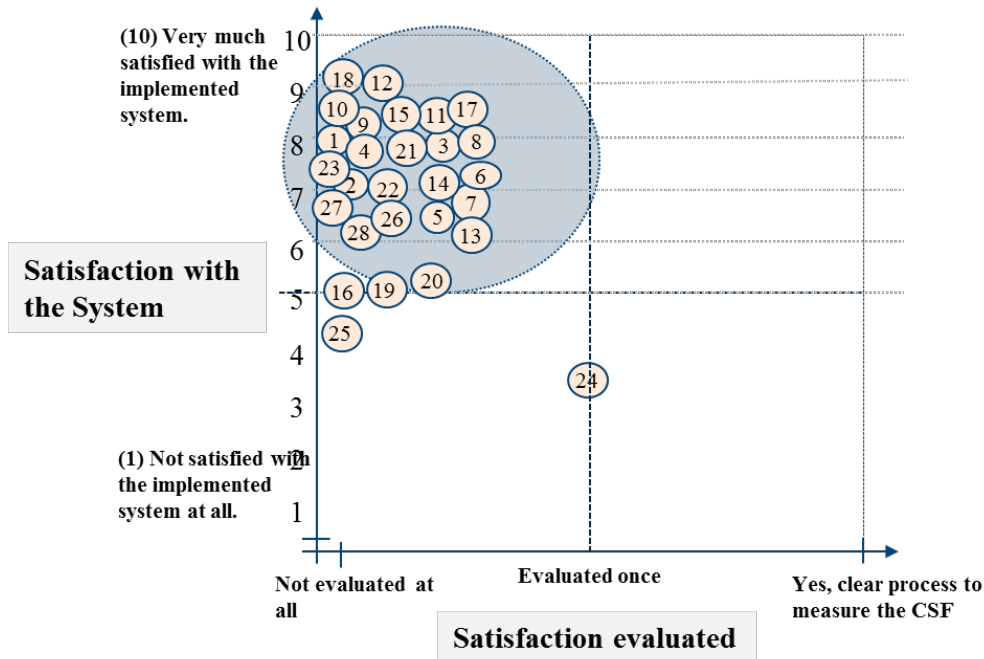


Figure 2: Result Satisfaction evaluated, created by author 2012

In summary; satisfaction has never been evaluated even if most of the people feel satisfied with the system. Satisfaction is based on gut feel and lack of complains. Even the one requirement, is usually not evaluated after go live and beyond. None of the experts did measure success in a structured way and not related to the requirements which triggered the system implementation. Even in the lessons learned of the expert interviews, it was mentioned that criteria should be defined in the beginning and evaluated afterwards for success.

The chosen method of interviewing experts after the ERP system was implemented could not confirm in hard facts that companies are not satisfied with the system. They feel satisfied on basis which is not measurable or supportable in clear hard facts or criteria.

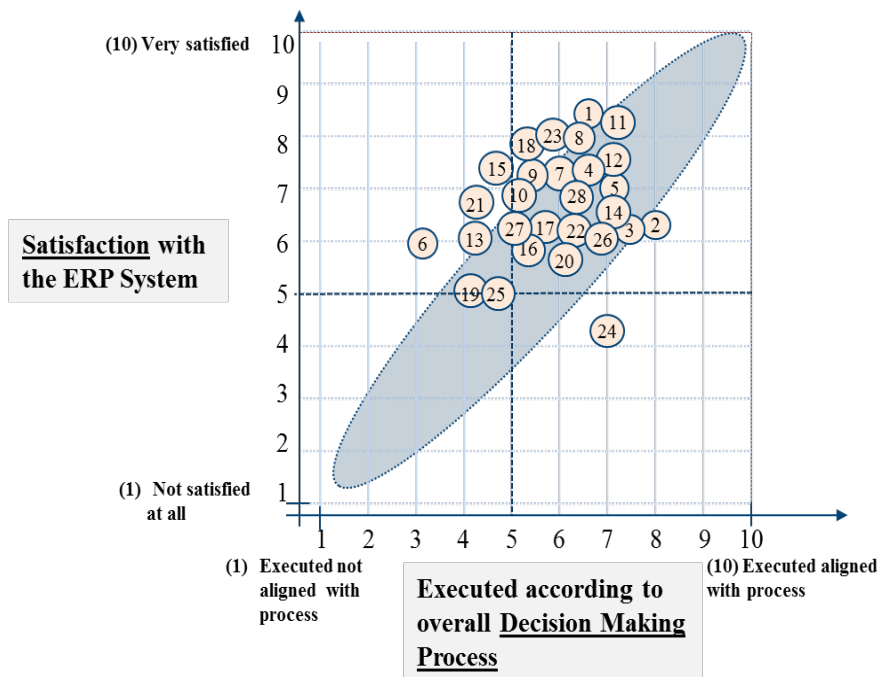


Figure 3: Summarized result of all findings, created by author 2013

In summary, Figure 3 provides an overview operationalized to one factor the execution aligned with the decision making process during selection. As higher the executed efficiency of the selection was, as higher the satisfaction with the ERP system and the overall outcome.

Conclusion

While searching the literature dealing with the criteria for selection as well as ERP selection processes focusing on the selection phase it became clear that these subjects are not complete. This research examined the ERP selection part of the overall ERP life-cycle process with the focus on SME companies. It developed and empirically tested a process relating the selection of an ERP system and the level of satisfaction with the overall ERP life-cycle by defining a set of criteria. The proposed process assumed a high performance approach for execution with the people involved and the criteria defined.

The hypothesis that the execution of the decision making process has an impact on the satisfaction with an ERP system can be confirmed. Even so the underlying research question that there a relationship between the selection of the system at the very beginning of the process with the end the satisfaction with the up and running system.

Although the findings of the current study contribute to a better understanding of the successful selection of an ERP system with long term satisfaction, there are several limitations to this study. The first limitation of the study is its generalizability. The study presents the viewpoints of corporations in the south of Germany in the production industry. It is most probably representative for Western Europe but it is unclear to predict, whether the findings can be generalized for other markets like emerging markets, Asia or the Middle East or even North America where SMEs are in a different position. Furthermore the suggested process should be tested in a greater amount of companies, followed by expert interviews out of these companies. It should be considered that project or company cases usually take over one year until the result can be analyzed and the satisfaction measured according to up front defined criteria. Additional companies could be tested in an early stage or it could be investigated in a comparable industry or product.

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THEORETICAL BASIS FOR LANGUAGE MANAGEMENT (PROGRAMS FOR CORPORATE TRAINING IN SCIENTIFIC RESEARCH LINGUISTIC CENTRE OF MESI'S TVER BRANCH - NILC)

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Abstract

Scientific Research Linguistic Centre (NILC) is a department of Moscow State University of Economics, Statistics and Informatics (MESI), Tver Branch. Being established as a multifunctional linguistic centre NILC focuses on providing various services from teaching languages and developing educational programs to translation.

NILC's practical activity is based on scientific research in the field of effective methods of teaching, learning tools, forms and models.

Despite a number of different interpretations of language management, from the choice of language for a certain communication be a bilingual or multilingual NILC has offered a new understanding of this term which is schematically represented as

Linguistic school → an employee of a linguistic school → an employee of an enterprise → activity of an enterprise

NILC implements its language management on the theoretical basis of its previous research – anthropocentric hierarchical model of teaching a foreign language, visualization of lingual signs, prospective interactivity and various modes of tutor's support.

An important stage in corporate education is developing profiles of competence in a foreign language for various groups of employees. The profile is constructed in compliance with the requirements for the knowledge of a foreign language which are necessary to meet for certain positions in an enterprise or company. Academic plans and learning content of the courses of foreign languages are carried out accordingly.

The keys elements for effective language management are meeting the requirements for the positions within the company which is achieved through extensive preparation work and flexibility in carrying out programs for corporate education.

Keywords: Language management, corporate training, business communication, learning foreign languages, international business

Introduction

Scientific Research Linguistic Centre (NILC) is a department of Moscow State University of Economics, Statistics and Informatics (MESI), Tver Branch. MESI was founded in 1932 and is now one of the leading universities in the Russian Federation both as a traditional higher educational institution and a modern university implementing e-learning. MESI's quality management system was certified according to ISO 9001:2008. In 2012 implementation of e-learning in MESI was qualified for the E-xcellence label and is now an Associate in Quality.4

NILC's activity is based on MESI's expertise in IT, distance, e-learning and language e-learning in particular.

Being established as a multifunctional linguistic centre NILC focuses on

- making research in various fields of linguistics, linguodidactics and language e-learning;
- developing language management projects;
- developing learning materials and tools for language e-learning;
- providing interpretation services;
- teaching English, German, French and Spanish of all levels of competence to various groups of learners;
- teaching Russian to foreign students through face-to-face and distance e-learning technologies;
- testing and training language skills through computer-based technologies.

NILC's practical activity is based on scientific research in the field of effective methods of teaching, learning tools, forms and models. Though NILC was founded in October, 2012, its activity is based on the experience acquired by our team since 1997 in teaching languages to the students of Tver State University and MESI's Tver Branch as well as to the employees of a number of enterprises in Tver Region.

One of the most important fields of NILC's activity is corporate studies, including development of educational programs and their implementation. The term language management is not new, as it is used by linguists, managers, teachers and translators. This term has become popular and widespread and, as a consequence, its meaning turns out to be vague and has many interpretations.

What is Language Management

Any activity becomes successful, if it is implemented on a solid basis of scientific research leading to the deep penetration into the essence of aims, tasks, educational content and methods of learning and teaching. Teaching a foreign language can hardly be an exception. With the very first steps we came to the conclusion that linguodidactics should be connected and based on reliable research in the field of learning. Our first attempts to determine the principles and parameters of teaching a foreign language were formulated within the framework of *anthropocentric hierarchical model of teaching foreign languages* to students of non-linguistic departments and specialists with a degree in any science except linguistics². Linguists are excluded because they should be taught differently from those people for whom language is not a major specialization but an essential means for professional growth and promotion.

The model is called anthropocentric because teaching is focused primarily on a student's personality. Student's interests, preferences and needs dictate the content of any course of a foreign language. The model is hierarchical because in the process of learning a foreign language we distinguish between various communicative spheres to participate in which people usually would like to learn a foreign language. In fact, applying the anthropocentric hierarchical model of teaching foreign languages we in fact try to rationally limit the number of spheres of communication in which a foreign language will be used, as lexis of any language is innumerable and learning a language can be a lifetime. Even in our native language there may be communicative spheres which are beyond our professional and everyday needs and interests. Hence, assessing the number of communicative spheres and trying to limit this number, we primarily find out why our students would like to learn a foreign language.

Our approach looks as simple as it seems to be banal; it is based on the common sense. Unfortunately, the common sense does not always win. Compare, for example, far

from being clear and applicable in practice the descriptions of competence and expertise in foreign language in The Federal State Educational Standards having been introduced since 2010-2011:

- General Cultural Competence 11 – to know one of foreign language as a means of communication within the framework of established special terminology of professional international communication (The Federal State Educational Standard for Higher Professional Education - 081100.62 State and Municipal Management);
- General Cultural Competence 14 – to know one of foreign languages providing effective professional activity (The Federal State Educational Standard for Higher Professional Education - 080200.62 Management);
- General Cultural Competence 14 – to know one of foreign languages on the level no less than colloquial (The Federal State Educational Standard for Higher Professional Education - 080100.62 Economics), etc.

It is worth mentioning that our approach to limiting the spheres of communication differs from The Common European Framework of Reference for Languages: Learning, Teaching, Assessment¹, abbreviated as CEFR, a guideline used to describe achievements of learners of foreign languages across Europe. It was put together by the Council of Europe as the main part of the project "Language Learning for European Citizenship" between 1989 and 1996 and since 2001 CEFR is used for national systems of assessing language competence. The Common European Framework provides a common basis for the elaboration of language syllabuses, curriculum guidelines, examinations, textbooks, etc. across Europe. It describes in a comprehensive way what language learners have to learn to do in order to use a language for communication and what knowledge and skills they have to develop so as to be able to act effectively. Within the CEFR learners' knowledge and skills are divided into three main categories, which in their turn are split into six levels of competence. For each level of competence there are descriptions of what learners should know or is able to do, in terms of reading, speaking, understanding, communicating, writing, etc. Standardization which has become the basis for the CEFR, besides considerable simplification (and by the way not always justified) of lexis of a foreign language to be learnt, has led to underestimation (if not total forgetting) the needs and interests of a learner as a personality, but not an averaged learner without any social background and even without an age differences.

Taking into account the needs, interests and preferences of a learner we have to state there can hardly be any universal textbooks, readymade educational materials suitable for any group of learners. We have come to the conclusion that it is necessary to compile or develop educational content on the basis of learner's needs. Consequently, our learning materials turn out to be a whole library of lesson's elements or parts, each of which is aimed at transporting specific knowledge and developing specific language skills and competences. A vast number of these elements allow us to respond flexibly to the needs of our learners and quickly compile and create textbooks, learning tools and instruments, assignments, etc. Since 2012 we started to use CourseLab 2.4, CourseLab 2.7, providing a high level of *visualization of a lingual sign*³. Our achievements in this field based on the research in the means of visualization open perspectives in distance teaching languages which is implemented through the Virtual Campus LMS (Learning Management System) and AdobeConnect.

Another step in the development of our methods of teaching has become MESI's participation in the ELBEP (Elimination of Language Barriers in European Prisons through Distance and E-Learning Technologies) Project in 2008-2009 within the framework of the European Lifelong Learning Programme (LLP). This project was initiated and coordinated by Anadolu University (Turkey). All member teams (apart from above mentioned they are EADTU, EDEN, Linguapolis (Belgium), Innowacja Foundation (Poland), Hellenic Open University (Greece), ESTA Bildungswerk E.V.– Training Provider (Germany) and

Consultant: Dr. Wolfram Laaser (Fern University - Germany) have got vast experience in distance and e-learning, creation of e-courses. The project was aimed at producing electronic portals of Turkish, Polish, Greek, Spanish and Russian languages for a specific target group – the prison staff. Knowing at least an elementary course of the language native to a prisoner should help a prison staff member to establish friendly and cooperative relationships with prisoners and hence promote the socialization of the latter afterwards.

Our team of developers has created an e-portal of the Russian language for beginners. The portal development started from a scratch. The key notions forming the theoretical basis for the language portal creation are interactivity and visualization. Starting to develop the e-course of Russian we put forward an approach which we call *prospective interactivity*⁵. This approach is aimed at creating an e-learning environment offering every possible means to help students in the process of learning Russian in case they will have either questions or problems. To reach this purpose there has been also created an information portal, a Homepage of MESI, containing information data. The essence of the approach is to prepare help and instructions how to solve future problems and questions which we have to foresee taking the point of view of our future students. The pilot application of the project in 2009 (there 49 learners from Germany, Belgium and Greece) has proved our approach to be successful as students turn to the information portal to find answers to quite a number of questions.

The ELBEP Project also allowed us to test various modes of tutor's support – both synchronic and a-synchronic, as well as various combinations of languages for communication between a tutor and learners,⁶ among which the most effective turned out to be the communication in two languages, when each participant of communication spoke the language which was foreign for him/her but native for the other participant. As applied to The ELBEP Project this meant that a learner formulated questions and requests in Russian, while a tutor answered in the language which was native for the learner.

The introduction of the notion of *language management* for the arrangement of corporate studies is a natural proceeding of NILC's research in the field of effective teaching and learning foreign languages.

As we have already mentioned above language management is treated differently. Thus, for example, Bernard Spolsky⁷ applies this term to characterize language policy both of a state as a whole, and of an individual. In fact he deals with the choice of language for a definite sphere of communication. If you know several languages, you manage these languages while choosing this or that language to communicate with under certain circumstances or in a definite situation of communication. This interpretation of the term is closely connected with the notion of multilingualism⁸.

Most often we use a non-native or foreign language in the professional sphere of communication. Hence, bilingualism or multilingualism, and language management, as a rule, are connected or refer to the choice of a profession, job or work place.

Translation agencies treat language management as provision of possibilities to translate from one language to another. And they necessarily state, that their activity is effective because of knowledge they have about that sphere of production, business, science, etc., in which the translation is made (for example, Language Management. Inc, a company offering translation services to various clients⁸). Some companies go even further than that providing outsource staff if there it is necessary to know a foreign language for implementing business projects. An example of such an activity is ALM - Asset Language Management Company⁹. Schematically this activity of a linguistic school or a translation agency is described as follows:

Linguistic school → an employee of a linguistic school → activity of an enterprise

In any case the interpretation of language management includes the unity of linguistic and business activities. The consequence of this unity is quite obvious: to be effective and successful a teacher of language should not only know a language and how to teach it to learners, but he/she should also have vast knowledge in a definite sphere of business. This understanding has become the basis for our interpretation of language management. Schematically NILC's activity in the field of corporate education is described as follows:

Linguistic school → an employee of a linguistic school →
an employee of an enterprise → activity of an enterprise

In this scheme the interaction denoted as an employee of a linguistic school → employee of an enterprise shows the revealing of the needs of a learner (a group of learners) and carrying out programs of foreign languages taking into account these needs.

An important stage in developing the programs of corporate education has proved to be profiles of competence in a foreign language for various groups of employees. The profile is constructed in compliance with the requirements for the knowledge of a foreign language which are necessary to meet for certain positions in an enterprise or company. Academic plans and learning content of the courses of foreign languages are carried out accordingly.

The profile of foreign language competences includes a set of skills characterizing the levels of knowledge. They are reading, audition, writing and communication skills. The detailed description of all skills depends of the requirements existed for a certain group of employees. The groups are distinguished by the company itself, depending on its mission, connections with international partners, etc. Sometimes such groups are used as a source of candidates for the upper positions in the company. Thus, for example, there are four groups of employees in Jabil, Ltd. (Russia), they are: Top Managers (the inside abbreviation for it is VIP), Golden Reserve, Reserve and Potentials. These groups are the basis for the promotion plan developed by the Human Resource Department of Jabil, Ltd. (Russia). This company acts as a subsidiary of a US Jabil, Corp., hence the knowledge of English is of great importance for the successful and effective work of its employees. NILC carried out four profiles of English language competence for the employees of Jabil, Ltd.(Russia):

- Profile 0 - Breakthrough or beginner
- Profile 1 – Basic user
- Profile 2 - Independent user
- Profile 3 - Proficient User.

Further you see an example of a 0 Profile.

✓ *Apprehension of speech by listening (audition):*

- a) in everyday communication: understanding of simple questions (what your name is, where you live, about your family, etc.), short statements and announcements.
- b) in business communication: understanding common phrases for office communication (greetings, questions about presence/absence of boss/colleague, etc.)
- c) in professional communication: understanding professional terminology in the flow of speech.

✓ *Speaking (prepared speech):*

- a) in everyday communication: Умеет представиться, рассказать о себе, задать вопросы об имени, месте проживания, профессии собеседника
- b) in business communication: using the simplest phrases of office communication (to greet, to offer coffee/tea, etc.)
- c) in professional communication: using professional terms and non-verbal means of communication (gestures, face language, etc.)

✓ *Speaking (spontaneous speech production):*

- a) in everyday communication: often non-verbal response to the simplest questions
- b) in business communication: no

- c) in professional communication: no
 ✓ *Writing:*
 a) in everyday communication: ability to write a simple social letter (congratulation with somebody's birthday, with a festival, etc.)
 b) in business communication: no
 c) in professional communication: no
 ✓ *Reading:*
 a) in everyday communication: reading adapted texts using a dictionary
 b) in business communication: reading with the help of dictionary some business papers for extracting the most general information; reading business papers without a dictionary and understanding the most general information (numbers, dates, proper nouns, etc.)
 c) in professional communication: with the help of a dictionary reading technical (and other professional) documents, without a dictionary extracting information understanding international words.

Language Management and Corporate Training

Profile of the learner is the key element in the development of educational programs in NILC. The learner can be a private person or an employee of the company which cooperates with NILC. In this case, when developing a curriculum the requirements of the enterprise are taken into account as well.

A type of these of programs based on the profile of the learner and developed taking into account the needs of the enterprise is a training of business skills. It is most effective when learning a foreign language of business and professional communication.

Such trainings are designed to develop practical communication skills in a particular situation.

Currently, there is a demand for such short-term programs. This demand is dictated by the following factors. First, nowadays a lot of foreign companies emerge on the Russian market. They have their affiliates in Russia but the main corporate communication language is English or German. So all employees have to study a foreign language and be able to communicate with foreign colleagues in it.

Second, because of the relatively recent entry of foreign companies in the Russian market, Russian managers lack the expertise of business communication with international partners. Third, the programs of language teaching in secondary school or higher educational institutions don't include any training of business skills.

Training programs can be focused on the development of specific business skills - writing a business letter, negotiation, making presentations, conducting telephone and video conferencing, etc.

For example, NILC developed and successfully tested a training program «Effective presentation in English." Such training is designed for those who want to learn and develop presentation skills in a foreign language. During the training learners

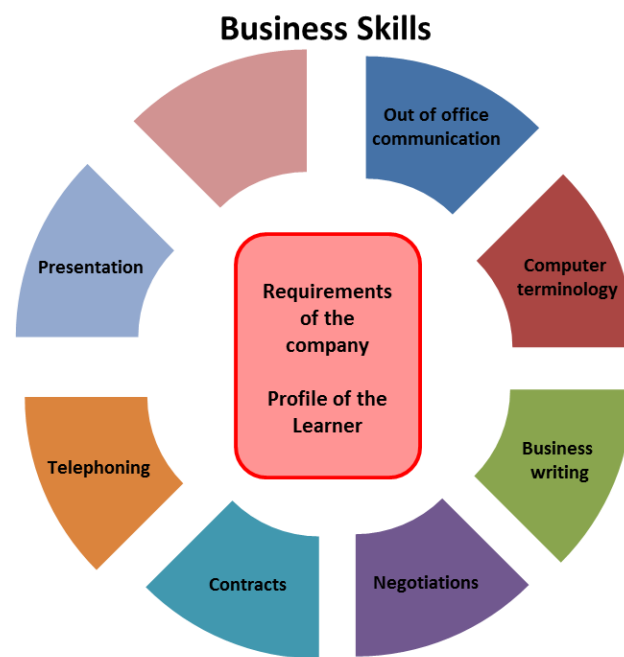
- get acquainted with the language of presentation (how to present yourself and your information like a professional, to make comments during the presentation, how to conduct Q&A sessions, to make conclusions),
- find out how to make a perfect presentation,
- learn to apply the methods of focusing attention of the audience on the important aspects of the presentation
- prepare their own presentations and get the comments of experienced trainers.

Training is a kind of lecture in a foreign language, accompanied by the presentation in Power Point. Learners are also offered short videos on the subject of the training for viewing and further discussion.

The information obtained is reinforced by specially prepared exercises and role-playing games. For training a trainer develops handouts, which contain key information of the training, exercises and a list of linguistic units used in the given communicative situation.

During the training learners practice all language skills: speaking, listening, writing, reading. However, the main emphasis is placed on the development of the specific skill which is the most essential for the training. Thus, for the training "E-mail writing" this skill is writing, for the training "Conference Call» naturally - listening and speaking.

The business skills mentioned above are common to most businesses and organizations. We can see only some changes in the degree of skill refinement and language units that are used in different fields of communication depending on the nature of business. All these changes are based on the profile of a particular learner and the requirements of an enterprise. The list of the business skills can be extended taking into account the needs of the organization.



Business skills can also be connected with the requirements of different divisions in the company. For instance,

- Finance
- Logistics
- Participation in international exhibitions and presentations (for marketing department)

Business skills training can be effectively complemented by language simulators. A Language simulator is an interactive model of the language situation which by its own internal conditions is as close as possible to the real communication.

Language Simulation plays an educational role: participants obtain relevant skills and competencies. Interactivity of simulations provide opportunities to develop learners' skills and competence of the primary communication: building strategies, solving tactical and operational tasks - that is, to learn virtually how to do all the things that can be learned only in practice.

In the language simulation scenario develops in an artificially-created environment and participants are encouraged to make an individual reasoned decision about how to act, and most importantly, how to express their needs verbally in a particular situation.

Language simulations have several advantages:

- Visualization - learners master new lexical and grammatical patterns being aware of their actual use in practice;
- Automatism - the careful and profound training of these lexical and grammatical patterns;
- The ability to perform a variety of communicative roles.

An example of language simulations in NILC is the use of role-playing games during the training "Conference Cal" In one of the versions, the learners receive instruction cards with problems that may arise during the video conference, and learners are invited to respond to a given situation.

A problem role-play card: The video has some problem

Possible answers: "You're (very/ rather) jerky." "I can't see people at the edge of the room." "Your image has frozen." "The image has disappeared." "The image and sound are out of synch."

In the other variant, learners are given cards with possible questions or requests of interlocutors and learners have to select various options of answers or possible reactions to these issues.

A question or request: "Please have a look at the one with the heading in bold."

Suggested answers for students to choose: "There seem to be two in bold. Do you mean the top one?" "Yes, got it. Please go ahead." "Not yet. Just give me a moment." "I'm not sure that's the problem. Can you try turning up the volume?"

Conclusion

Scientific Research Linguistic Centre of MESI's Tver Branch (NILC) implements its language management on the theoretical basis of its previous research and developments – anthropocentric hierarchical model of teaching a foreign language, visualization of lingual signs, prospective interactivity and various modes of tutor's support. The keys elements for effective language management are meeting the requirements for the positions within the company which is achieved through extensive preparation work and flexibility in carrying out programs for corporate education.

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WAGE DIFFERENTIALS IN THE CZECH AGRICULTURAL SECTOR IN THE PERIOD OF THE 1ST QUARTER 2000 TO THE 3RD QUARTER 2012 AND LABOR PRODUCTIVITY

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Abstract

Long lasting wage disparity in agriculture has a negative effect on the number of workers in this sector and thus rural demographic development. The causes of the external income disparities in the agricultural sector according to economic theories have changed over time and currently each determinant of wage disparities in agriculture reaches a significance of various sizes. This paper carries out the calculation of the gross external wage disparities in the agricultural sector compared to the values for the total economy. The main objective of this paper is to estimate the significance of the influence of labor productivity in agriculture, calculated as the ratio of gross value added and total employment in the agricultural sector, on wages in agriculture using linear regression model of the 1st differences of the variables, estimated by ordinary least squares method. One solution could be to increase the labor productivity.

Keywords: Wage disparity, agrarian labor market, agrarian sector, labor productivity

Introduction

average gross monthly nominal wage (average wage) full-time employees equivalent was 24 514 CZK in 3rd quarter of 2012 according to the official statistics of the Czech Statistical Office (CSO). In contrast, in the sector of agriculture, forestry and fishing (the agricultural sector) according to the classification of economic activities NACE (group A) the average salary was only 20,266 CZK. The difference between these values is equal to 4248 CZK in absolute terms and as a percentage the difference is 17.32% of the value of the average wage in the national economy as total. The wage difference for the 1st and 3rd quarter of 2012 of the absolute value of 6174 CZK and the percentage of 25.64% demonstrated the large seasonal fluctuations typical for the agrarian sector (the highest values of the average wage in the agricultural sector usually in the 4th quarter and lowest in the 1st quarter). In 2011, the average wage in agriculture reached 77.9% of the average wage in the overall national economy. Prolonged wage disparity in agriculture has a negative effect on the number of workers in this sector and hence on demographic development in the countryside. In 2011, the employment in the agricultural sector decreased again by 5%. Also in 2011, most employees in the agricultural sector, i.e. 45% of all employees were in the age group 45-49 years. It is necessary to pay attention to this problem because of the irreplaceable role of the agricultural sector in the national economy and in society in general.

Wage disparity between the sectors of the economy is not a new phenomenon. For example, Slichter (1950) calculated the correlation between different sectors. Krueger and Summers (1987) continued in this topic and Krueger and Summers (1988) also tried to explain these wage differences using the matrices of industry characteristics and employees' characteristics. The main part of the work (the linear regression model) is based on the theory of nominal wage determination in the labor market, however, using the average values of the

variables. It is based on standard microeconomic theory assuming a relationship between the wage growth and productivity growth (Speckesser and Meager, 2011).

Main Text

The external wage differences in the agricultural sector compared to the values of the total economy were calculated on the time series of the period 2000 to 2011 for annual data (because only for this period these time series of methodology classification of economic activities CZ NACE are presented in CSO database), and for quarterly data the period of the 1st quarter 2000 to 3rd quarter 2012 downloaded from the CSO database. Subsequently, these data are estimated by the trend models, linear and polynomial (Lewis, 2012, or Kaplan, 2004).

Linear regression model to estimate the linear trend function has the form:

$$\text{Error! Bookmark not defined. } y_t = \alpha t + \beta + u_t, \quad (1)$$

where y is wage disparity, t is trend and u is a random variable.

The largest coefficient of determination R^2 for quarterly data reached a polynomial trend function:

$$\text{Error! Bookmark not defined. } y = \alpha_0 + \alpha_1 t + \alpha_2 t^2 + u_t, \quad (2)$$

The hypothesis regarding the trend in data time series of wage differentials in the agrarian sector is the increasing trend.

The objective of this work is to estimate the impact of the variable of average labor productivity in the agricultural sector (calculated as a ratio of gross value added in the agricultural sector and total employment in the agricultural sector) on the average wage in the agricultural sector, in a linear regression model in the form of first differences using ordinary least squares (OLS) method (Hansen, 2000, or Gujarati, 2004).

The linear regression model is based on the theory of wage determination in the labor market ($w = MPL * P$, i.e. the nominal wage is equal to the nominal value of the marginal product of labor) and has a simple form of:

$$\text{Error! Bookmark not defined. } y = \alpha_0 + \alpha_1 x_1 + u_t, \quad (3)$$

where the dependent variable y is equal to the average wage in the agricultural sector and the explanatory variable x_1 is the average labor productivity in the agricultural sector. The hypothesis of the model is the positive relationship of the average labor productivity compared to the average wage in the agricultural sector (α_1 should be larger than zero). It's a very simplified version of the model used in Carneiro (1998).

The calculation of the wage differences from 2000 to 2011

The highest value of wage differences in the period of 2000 - 2011 was in 2009 (5700 CZK) during the financial and economic crisis, which had a greater impact on the agricultural sector (CZ NACE: A) than the national economy as a whole. The lowest one (2763 CZK) was in the beginning of the monitored period, in 2000. The calculated average wage differences among the agricultural sector and the national economy increased the most (by 26.6%) between the years 2001 and 2002 and decreased the most (by about 5.3%) between the years 2009 and 2010 due to very high levels of wage disparity in 2009, the year of the hardest effect of the economic crisis. The value of the ratio of the average wage in agricultural sector divided by the one in the national economy reached the biggest value in the year 2001 (again due to the business cycle changes) and the lowest level in the year 2003 (maybe thanks to the EU funds and implementation of the EU policies in the pre-accession period). The value of the percentage change (from the previous year) of the ratio increased the most between the years 2009 and 2010 (by 2.4%), again due to a very low value in the

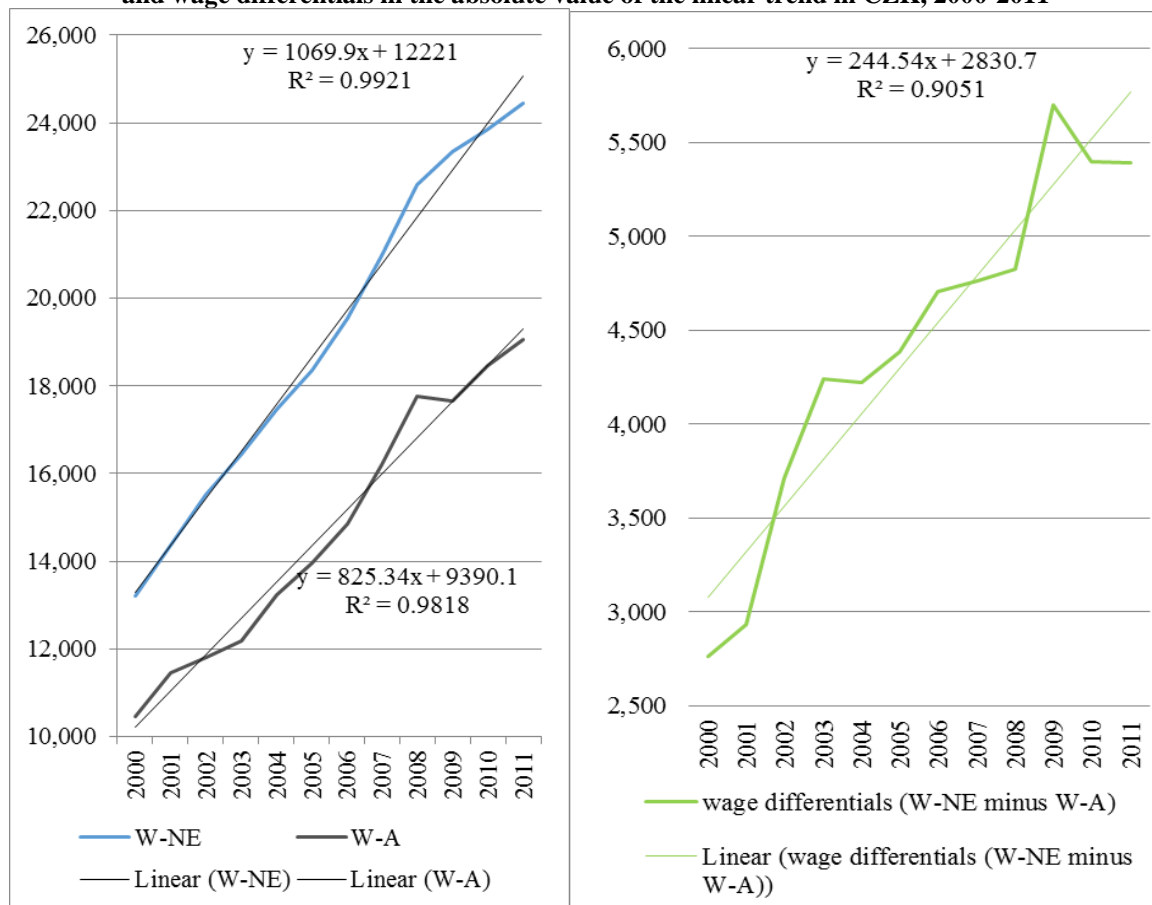
year 2009, the year of economic crisis, and decreased the most between the years 2001 and 2002 (by 4.4%). Table no. 1 describes the wage differences in the selected period in more detail.

Table 1: Average wage (W) in the agricultural sector (WA) and the total national economy (W-NE), their difference and the average wage in the agricultural sector as a percentage (%) of the average wage in the national economy, 2000 - 2011

	Share of W-A on W-NE in %	Percentage change of the share of W-A on W-NE in %	Nominal wage difference (W-NH minus W-A)	Percentage change of the nominal wage difference in %
2000	79,09827		2 763	
2001	79,61469	0,652886	2 931	6,080347
2002	76,09508	-4,42081	3 711	26,61208
2003	74,18138	-2,51488	4 242	14,30881
2004	75,82732	2,218813	4 222	-0,47148
2005	76,10663	0,368346	4 383	3,813359
2006	75,91323	-0,25412	4 708	7,415013
2007	77,27251	1,790571	4 763	1,168224
2008	78,63403	1,761971	4 827	1,343691
2009	75,58259	-3,88056	5 700	18,08577
2010	77,37596	2,372733	5 399	-5,2807
2011	77,9301	0,716165	5 393	-0,11113

The graph no. 1 describes the evolution of the average wage in the national economy and the agricultural sector with the **linear trend** and the calculated average wage differentials in the absolute value also with the linear trend in the period from 2000 to 2011 using annual data. The linear trend is increasing that is consistent with the hypothesis of this paper.

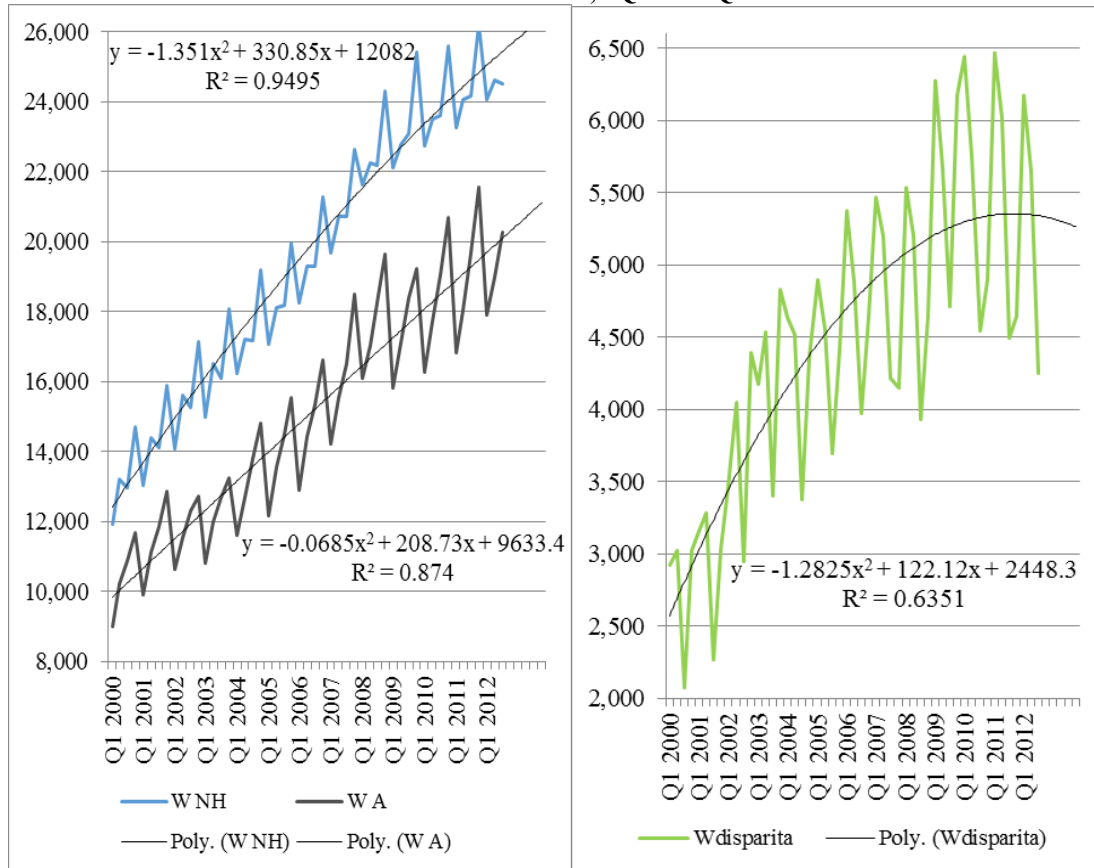
Graph no. 1: The average wage in the national economy and the agricultural sector, with the linear trend and wage differentials in the absolute value of the linear trend in CZK, 2000-2011



Source: data CSO, own elaboration

The graph no. 2 demonstrates the development of the average wage in the national economy and the average wage in the agricultural sector with the polynomial trend of the second degree in the period of the 1st quarter 2000 to the 3rd quarter 2012 using quarterly data. The calculated wage differences among the agricultural sector and the national economy in the absolute value with the second-degree polynomial trend in the period from 1 quarter of 2000 to 3 quarter of 2012 is showed separately. Again the linear trend has an increasing slope (more or less in the second case) that is consistent with the hypothesis of this paper.

Graph no. 2: The average wage in the national economy and the agricultural sector in the second polynomial trend Regulations and wage differentials in the absolute value of the second polynomial trend order in CZK, 1Q2000-3Q2012



Source: data CSO, own elaboration

Results of the linear regression (average wage vs. average labor productivity in agricultural sector)

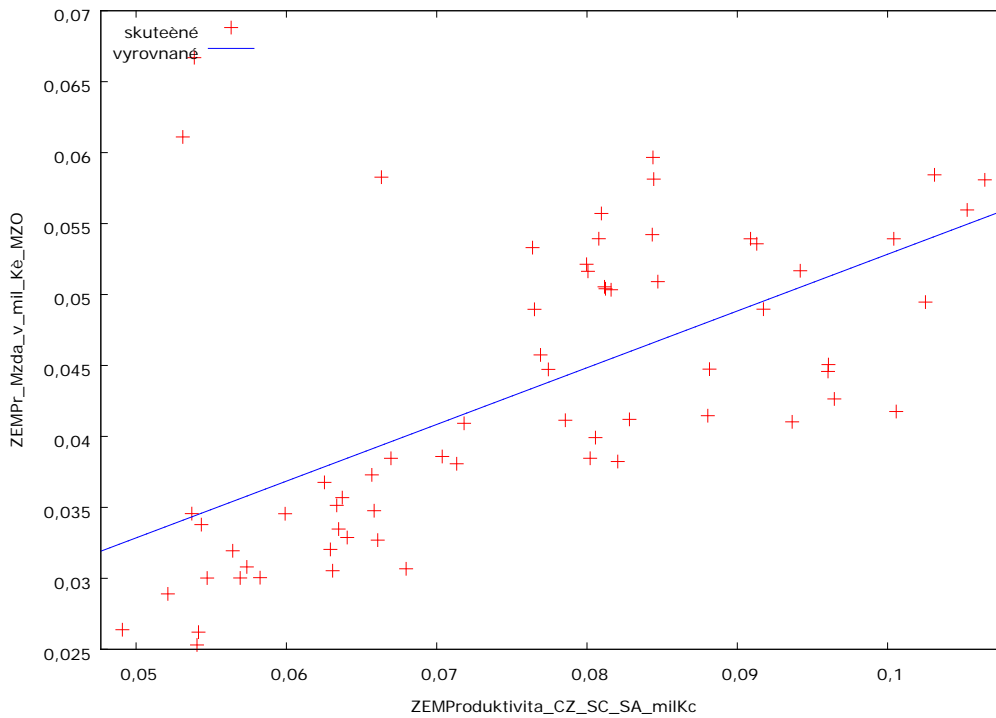
The estimated parameters by OLS method of the linear regression model defined above with average wage in the agricultural sector as an endogenous variable and average labor productivity as an exogenous variable are showed in the following equation:

Error! Bookmark not defined. $y = 0,0129 + 0,3998x_1$ (4)

Thus, a growth in an average product per one employee in agricultural sector of 1 million CZK is connected with an increase of 0.3998 million CZK a year in the average income in the agricultural sector.

Unfortunately, the coefficient of determination of the model was only 0.368849. However, model parameters were statistically significant according to the t-tests. The results are consistent with our hypothesis and economic theory.

Graf no. 3: Regression lines of estimated linear regression of the relationship between the average wage in the agricultural sector (vertical line, in millions CZK), and average labor productivity (horizontal line, in millions CZK), 1996Q1-2012Q2



Source: data CSO, output from Gretl software

Conclusion

The results concerning the average wage differences in the agricultural sector in contrast to the national economy stress the ongoing problem of the Czech agricultural sector.

The difference between the average wage in the national economy and the agricultural sector achieves the highest value during the financial and economic crisis in 2009, suggesting that the crisis burden fell on wages in the agricultural sector more than on the wages in the national economy as a whole. The biggest jumps in the data time series of the percentage change in the ratio of the average wage in the agricultural sector to the average wage in the national economy happened mainly during the economic crisis (negative jumps, i.e. increasing the wage gap) and during the recovery (positive ones, i.e. narrowing the wage gap) contrasting the high value in the crisis with the one during the recovery.

The slopes of the trend lines in both cases for annual data (linear trend function) and for the quarterly data (second-degree polynomial trend function) partially confirm our hypothesis of an increasing trend for wage disparity. Nevertheless, the explanatory power of the estimated trend functions is low due to the short time series.

The results of the linear regression model estimated using the least squares method confirm the hypothesis of a positive impact of average labor productivity to the average wage in the agricultural sector, according to economic theory, but the statistical significance of this model is very low.

This paper tried to contribute to the debate of wage disparities in the agrarian sector. The possible solution to the problem of wage differentials could be to increase the average labor productivity in the agricultural sector, for example by increasing investment in the agricultural sector. However, the explanatory power of the results of the linear regression model is low requiring further and more complex research that incorporates all interconnected variables.

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DECISION MAKING UNDER THE CONDITIONS OF RISK AND UNCERTAINTY IN SOME ENTERPRISES OF PRISHTINA AND FERIZAJ

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Abstract

Managers take decisions in all levels but they are often faced with uncertainty and risk. In the field of management it is not done much to study the attitude of managers behave in relation to their decision they take in risk circumstances. The purpose of this paper is to reflect decision taking as one of very important managerial concepts, with attention to conditions of uncertainty analyse on some private and public enterprises of country. The aim of this paper is to identify criteria, types and process of decision taking under conditions of uncertainty and risk in organisations that is in reality reflection of respective image of organisation.

It is used normative method using primary and secondary data. The qualitative research is based in the sample of 20 managers of enterprises in two municipalities of Kosovo. As a technique for collection of primary data is used direct interview with managers.

Based on the findings is ascertained that assessment of risk and uncertainty on decision taking is made mainly based on intuition. Such decisions are made without taking sufficient information, without precise analyse and without going through 8 steps of decision taking. It is also not paid needed importance to experts of respective fields while IT tools were not used to analyse the risk.

Keywords: Decision making, risk, uncertainty, intuition, probability

Introduction

Decision making

Decision taking is a multidimensional process and it is not simply to make one choice. Decision taking as an integral part of management is one of determining characteristics of leadership. The quality of taken decisions has main impact on the success of non-success of organisation. The decision taking is considered managerial function and organisation process because in most cases this action requires not only quality but also readiness to face with effects, those it passes individual and becomes concern of determined group of people. According to Richard L. Daft⁸⁵, *Decision represents the process of problem identification and the process of solving it.* John R. Shcermeron⁸⁶ defines decision as the process of selection of best possible action, from the entirety of alternatives. Decision taking is the process of

⁸⁵ Richard L. Daft, "Organization Theory and Design", Fourth edition, West Publishing Company, Saint Paul, page. 346

⁸⁶ John R. Shcermerhon jr. "Management and Organization Behaviour", John Wiley and Sons, Yew York, 1996, page 194

problem introduction, formulation of alternatives, analyse of alternatives and selection of best alternative, than continues with the implementation of alternative and its control.

The decision making process is constituted from eight steps:

1. Identification of problem: This process starts with existence of problem and the difference between existing and desired state. The managers are good if they are able to understand three main characteristics of problem: to be in flow about the problem, to be in pressure to act

2. Identification of criteria for decision making: After identification of problem it should be identified the criteria for solution of problem. The criteria should be based on the importance and weight depending from issue or problem for which is needed decision.

3. Distribution of importance / weight of criteria: The decision maker should weight the importance of criteria and classify them by giving priority according to its importance.

4. Development of alternatives: Decision maker must be creative, thus in cooperation with team should list the alternatives based on which certain problem could be solved.

5. Analyse of alternatives: The selected alternatives are put into analyse in this step. There will be carried out the investigation of information and additional material in order to identify the priorities and weaknesses for each presented alternative.

6. Selection of alternative: After carrying the weight of presented alternatives, in this step is chosen the best alternative which generates the highest amount calculated at previous step.

7. Execution of decision: In this step is placed the decision on action, and the decision has to be followed to the persons of concern as well as their engagement is accepted for the work which follows. In the cases people who execute decision participate in the process they are enthusiast to support the implementation of decision.

8. Evaluation of effectiveness of decision: It is evaluation of result where may be seen if the problem is solved. In the cases where the problem still exist than the manager have to see what was going wrong and to return to previous steps.

The perspective of decision making

The decision making process involves evaluating a scenario from different angles, or perspectives, in order to identify solutions that will lead to the desired outcome.⁸⁷ Three main perspectives on decision making are rationality, limited rationality and intuition. Rational decision making means managers make sustainable solution that maximizes value under the conditions of specific limitations. When managers take rational decisions but are limited from their ability to process information, this presents rational limited decision taking. Whereas intuitive decision making is when the decisions are taken based on experience, feeling and accumulated judgment. The right solving of problems is mainly intuitive and decision taking results from the unclear mixture of experience, imagination, intelligence and feeling joined with conscience.⁸⁸

Depending from the nature of problem, the manager may take different type of decisions. When we have to deal with structural problems the decision making is programmed while when we have to deal with unstructured problems it is not programmed. Managers try to take good decisions because they will be judged based on the results of those decisions. It is known that managers often disregard regulations and norms when they have to take decisions under risk and uncertainty. An attention also must be paid to the context of decisions that means to analyse the structure of organisation and its organisation culture.

⁸⁷ <http://www.wikihow.com/Develop-Alternative-Perspectives-for-Decision-Making>

⁸⁸ Manaxhimi, Dr. Shyqyri Laci, Tirane, 2008, faqe 178

Attitude to risk on decision making

Risk management is difficult process and its purpose is to save property, capital or profit of organisation by decreasing the potential of losses. Risk management may be defined as making decision for the activities by which would be decreased the probability and the consequences of unpleasant effects that may be done only through identifying and assessing risk. Researches tried to study the role of risk in their field of interest. According to researches P. Slivic⁸⁹ (2000) and P. More (1983)⁹⁰ people percept the risk in different ways depending from the field of work. One valuable definition for risk in the decision making field introduced authors H. Raiffa and R.D Luce⁹¹, who make the distinction of three conditions that managers are faced with while taking decisions:

1. **Security** -accurate decision making because results of each alternative are known therefore managers may take secure decisions.
2. **Risk** – each action leads to one of specific results, where results of alternatives cannot be evaluated. The ability of determining probability may be the result of previous experience or of secondary information.
3. **Unsecurity** -actions may lead to a group of consequences, but where the probability of result is completely unknown. For decision maker the security and justification for settling an alternative is missing.

In generally managers are not inclined to accept risk. Some studies showed that managers do not accept that risk by which they are faced with is inseparable with situation and they simply move its acceptance by considering it as controllable issue.

Description of study and results

The study work is carried in Prishtina and Ferizaj municipalities of Kosovo and includes direct interviews with 20 managers of enterprises. The enterprises are from private and public sector situated in two municipalities of Kosovo, respectively 16 enterprises from private sector and 4 from public sector. From managers is requested to define what is risk and how they deal with it, how risk influences on decision making and how they manage it, how the organization influences at the decision making process and the use of information technology to manage risk. Protocol with questions is previously delivered to managers who have not been selected by random sample. They were asked to describe one decision taken under risk situation during the last year. Taking into account the small number of managers who accepted to participate in the study, we cannot state the results of this study may be applicable. However, it is considered that it is done some effort to cast light on relation to decision taking under the conditions of risk and uncertainty, which is not much explored.

Results of study

Based on the literature analyses and after careful elaboration of the received replies from managers, the results of study are presented as following:

Question no.1: What is risk and how it is defined?

Majority of managers' point out financial, commercial and investment risk, while the situation when the result is unknown for decision taker is a risky situation that may led to a mistaken solution. Around 68% of them consider as risk decisions the ones they take for investments. Here is included the investment on new constructions, purchase of new equipments, development of new products and introduction of goods in new markets. They were not sure if the investment done for new machinery will for a shorter time bring bigger

⁸⁹ P.slovic. "The Perception of Riskt". London, Sterling, VA: Earth, 2000.

⁹⁰ P.Moore, "The business of risk", Cambridge University Press, 1983

⁹¹ H.Raiffa & E.S. Luce "Games and Decisions", John Wiley and Sons, 1957, faqe 13

product after comparing it with the amount invested in them. The majority of managers say they are not able to calculate properly the types of risk they are faced with therefore they concentrate on investment of projects they believe to be good investment and profitable. Around 18% of them were convinced that it is necessity to undertake risk and the uncertainty is in fact the reason of risk existence.

Question no.2: Selection of alternatives to deal with risk

Managers were asked to rank alternatives they will choose once they are faced with problems that involve risk and uncertainty. The managers of enterprises considered to be not enough strong financially would avoid all the decisions with risk. At the table are shown two types of responses. In the first group are managers who take decisions themselves, majority of them select an alternative of avoiding risk in decision, while 2.80% of them gather additional information and only 2.10 % try to decrease the risk upon decision making. In the second group the biggest number of managers declared that they delay with the decision making because they follow it up to other instances, to Board of directors, steering committee or to the owner of enterprise.

FIRST group			SECOND group	
Collects more information	Tries to decrease the risk	Avoids decision with risk	Delays the decision	Proceeds the decision to other organs
2,80	2.10	5,10	4.20	5.80

Table 1: Two types of responses from managers on question two.

Question no. 3: Can risk be managed? What do you think for people dealing with risk? They think risk can be managed if there is needed experience on respective field, sufficient knowledge for an issue and it is worked earlier on reduction of risk. More than half of them said they make subjective evaluations and they get based on their intuition and experience in their efforts trying to manage risk. At public enterprises there are cases where for certain projects involving risk the decision is taken by ordinary directors and not by field experts.

Question no.4: Culture in organisation, including the level of trust by subordinates. In this question about 52% of respondents declared that final decisions are always taken at the higher level of organisation and there is good faith to its subordinates. A number of them with 27% declared that in the organisations where they work prevails autocratic culture that is characterised with low trust to subordinates, and 21% confess that the owners are the ones who decide for everything by themselves and there is no type of democratic culture thus the change of managers in this kind of enterprises is often.

Question no.5: Have you used information technology to evaluate risk? The respondents have said they used information technology only to collect information but not to evaluate the risk. Only three out of all respondents could use Excel application to calculate financial risk.

Conclusion

In modern world decision making is important because it clarifies the understanding of cultural distinctions and acting with courage in the moment it is needed. Characteristics of effective decision making process are: the concentration to important matters; logical and consistent; takes into consideration objective and subjective thinking as well as analytic and intuition thinking; needs information and analyses to solve the dilemmas; ensures collection of relevant information and competent thinking and at the end it is reliable, direct, and usable. Based on findings gained from the study it is ascertained that there are identified problems on decision making under risk and uncertainty conditions. The problems are intercorrelated with the accuracy of data, lack of information, avoiding from the decision taking where risk apparatus and disregarding the risk upon decision making. The risk and probability evaluation carried by managers is mainly based on intuition. The decisions are taken without having enough information, without carrying full analyses and without paying importance to experts

of respective fields as well as without using computer tools to analyse risk and decisions. From other side it is noticed that people who take over the risk are more independent. At private sector owners are trend toward progress and few of them have capacity to take quick decisions. The overall consideration is that this people have personal courage.

During decision making under the conditions of risk and uncertainty more attention must be paid to details and more information should be collected by both managers the ones from private and public sector. This information will serve during the development and analyses of alternatives. At public enterprises during the process of alternative analyses must be involved the respective experts. Risk must be assessed by ground in order to know exactly about what will be the benefit and profit as well as the loss by taking difficult decisions. To assess the risk, managers should also support their work on the information technology tools.

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A MODEL FOR LOYALTY IN THE CONTEXT OF CUSTOMER RELATIONSHIP MARKETING

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Abstract

This paper focuses on the effect communication on the sales performance within CRM. The paper uses the hotel business as an example to evaluate if communication within Customer Relationship Management creates loyalty measured by the re-purchase behavior of existing hotel guests. The re-purchase behavior is regarded in the paper as the final outcome of loyalty.

In addition the research evaluates the qualitative distinctions between the most common message transmitters in direct marketing, namely e-mail and post mail. Over the last years an increasing number of companies have replaced the costly media channel post mail with the cheaper channel e-mail. This was done without a fundamental knowledge of the effect of switching marketing channels on the sales performance.

Different variables are responsible for customer loyalty. The author uses the European Customer Satisfaction Index model (ECSI) to create a new model which describes loyalty from a Customer Relationship Management standpoint.

For the quantitative research the marketing actions and bookings of four hotels in Germany were reviewed over a time period of 4.5 years. Due to relatively low marketing budgets hotels rely on direct marketing, therefore the results should also be applicable as a benchmark for other SME's.

The results show a direct correlation between communication and the sales performance. Also a clear qualitative distinction between e-mail and post mail as a message transmitter within CRM could be identified. The outcome should stimulate manager to re-evaluate their existing communication strategy and should be used as a basis for further research.

Keywords: CRM, loyalty, communication, sales

Introduction

The goal of an efficient Customer Relationship Management (CRM) strategy is to develop, keep and retain profitable customers. Many studies describe the effects of customer loyalty to an organization. Reichheld and Sasser calculated with a profit boost by up to 100% by retaining just 5% more customers (C.F. Reichheld F., Sasser E. (1990)); loyal customers intend to be less price-sensitive and would accept a 5% price increase in order not to endanger a relationship (C.F. Homburg C., Rudolph B. (1995)); and the retention of loyal customer's costs only 15 to 20% compared to the acquisition of new customers (C.F. Müller W., Riesenbeck H.-J. (1991)). Summarized loyalty provides companies more security, more growth and a better profitability (C.F. Gruner A. (2003)).

Without a doubt Customer Relationship is one of the most important success factors in the hospitality industry (C.F. Kopatz A., Waskönig A., Wassel P., Ploss D. (2002)) with communication playing an integral part in it. The difficulty in this context is, that the effect of communication on the loyalty of existing customers is not finally clear, no long-term studies

are available which shows the result of Relationship Marketing (RM) activities on the re-buying behavior.

Marketing is such a complex field that Wannamaker made the following famous statement: „I know that half of my advertising spending is wasted, I just don't know which half.” (C.F. Dettmer H., Hausmann T., Kloss I., Meisl H., Weithöner U. (1999)) According to a study from McKinsey and OWM conducted in 2012 only 15% of the responsible marketing managers believe that they know how much the different communication channels contribute to the company's success. Marketing agencies rate the competence of their clients much lower, only 3% are considered to have this capability (C.F. McKinsey, OWM (2012)). But these numbers do not relate to Relationship Management activities it is related to the sales effect of short term and transaction oriented marketing.

In order to evaluate the role of communication on loyalty the author adopted and enhanced the existing European Customer Satisfaction Index (ECSI) model and did a quantitative research with the booking and marketing data of four five-star hotels in Germany over a period of 4.5 years. Within a “Big Data” environment and the usage of an integrated CRM system it was possible for the first time to carry out a long-time study about the effects of communication on loyalty.

Literature Research

Communication and Customer Relationship Management

Marketing and Customer Relationship Management are strongly intertwined. Dick, Basu spoke already in 1994 about a dramatic shift in marketing away from a traditional transaction-oriented marketing to a longer-term focus of obtaining and keeping customers (C.F. Dick A. S., Basu K. (1994)). Today, the primary focus of marketing activities in an organization is often on the development, maintenance and enhancement of consumer loyalty toward its products or services (C.F. Grönroos C. (1995)).

Customer Relationship Management and Customer Relationship Marketing are commonly used for the same topic, abbreviated with the letters CRM. Customer Relationship Management includes all efforts of a company to positively influence the relationship between a company and a customer in order to stabilize respectively to enhance the relationship (C.F. Bruhn M., Homburg (2005)). CRM requires a sustained program of investing in and developing a wide range of resources e.g. brand, distribution networks, supply chains and know-how (C.F. Maklan S., Knox S., Peppard J. (2011)). Summarized the focus of CRM is to gain and keep profitable customers and those with a high potential.

Harker who analyzed 26 different definitions of Relationship Marketing (RM) respectively Customer Relationship Marketing came to the conclusion that an organization which is engaged in proactively creating, developing and maintaining committed, interactive and profitable exchanges with selected customers (partners) overtime is engaged in relationship marketing (C.F. Harker M. J. (1999)).

Based on the different definitions the author defines Relationship Marketing as a sub-domain of Customer Relationship Management to maintain and creating relationships with existing customers through marketing actions. The goal is to increase revenues and buying frequencies to gain a higher share of wallet to finally enhance the lifetime value of a customer. RM is therefore not a single project but a marketing strategy focused on the customer with the goal to maintain and increase the profitability of a company.

Communication plays a central role within Customer Relationship Management (CRM). Especially in the service industry a well-structured and valuable communication has a strong effect on consumer perception. Ball, Coelho and Machás cited that a qualitative valuable communication leads to trust, satisfaction and loyalty (C.F. Ball D., Coelho P. S., Machás A. (2004)).

Following Guffey and Almonte communication is the transmission of information and meaning from one individual or group - the sender - to someone else - the receiver. The main objective of communications is the transmission of meaning (C.F. Guffey M. E., Almonte R. (2009)). Normally communication is the exchange of information between the sender and the receiver. This is slightly different in marketing as in many cases the communication is a one-way transfer of information from the transmitter to the audience. Therefore Seeborn describes communication as the exchange of information respectively all forms of information transmission (C.F. Seeborn J. (2011)).

The transmission of information can result in learning processes and remembering effects. Since existing customers know the product of a sender the main purpose of communication within RM shall be the creation of remembering effects and through that leading to buying impulses. But the high number of the different available communication channels respectively show how complex it is to verify and measure communication results.

The Construct of Loyalty

The Stanford Encyclopedia of Philosophy defines loyalty in the way that “loyalty is characterized as a practical disposition to persist in an intrinsically valued (though not necessarily valuable) associational attachment, where that involves a potentially costly commitment to secure or at least not to jeopardize the interests or well-being of the object of loyalty.” (Stanford Encyclopedia of Philosophy (2011))

In a business context loyalty is a psychological awareness process or the observable reaction of a consumer, where intentional and factual retention or intensification of the relationship is based on specific reasons (C.F. Keaveney S. M. (1995)).

Retention and loyalty are in many cases used as synonyms for customer loyalty. Bruhn argues that loyalty requires a positive attitude from the consumer towards a company and its services, retention on the other side can also exist with a negative attitude towards a company (C.F. Bruhn M. (2009)).

Loyalty overall is a complex subject. The overall theoretical construct of loyalty is described in the following figure. The psychological and behavioral effects are separated into two areas, a cognitive and a conative part. On the psychological level the variables ‘perceived quality’ and ‘perceived value’ influence the level of satisfaction, which finally influences the commitment towards a supplier. The behavioral results are the possibility of recommendation and loyalty itself.

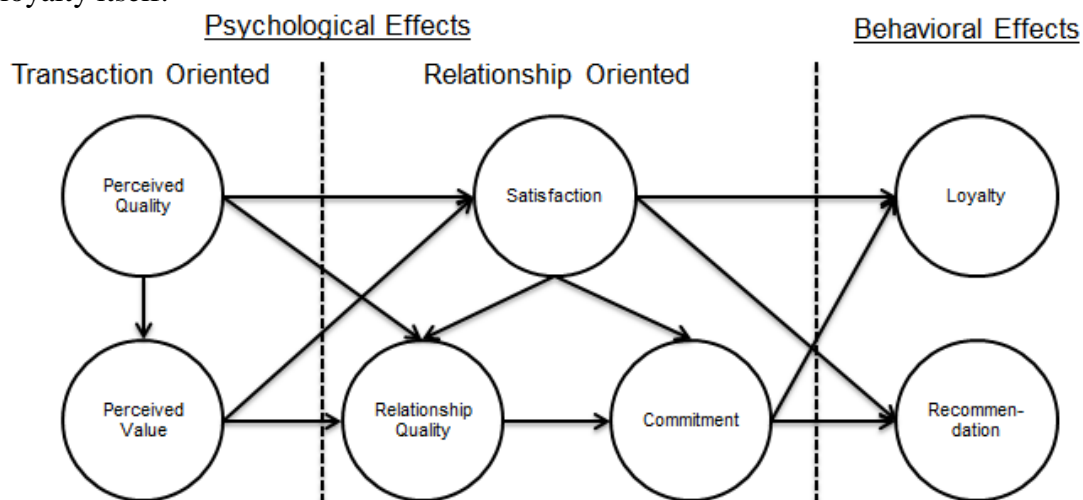


Figure 1. Variables of Loyalty

(Source: Own Figure based on Bruhn M. (2009). 'Relationship Marketing'. Vahlen, München, P. 68)

Loyalty and satisfaction are clearly separated variables or outcomes, as can be seen in the model, although they are clearly related (C.F. Oliver R. (1999)). In general, it can be stated that the higher the level of satisfaction, the higher the chances for positive effects on loyalty (C.F. Hallowell R. (1996)). All common loyalty models follow the pre-described theoretical foundation and use satisfaction as their central element. The most mentioned models in the research are the American Customer Satisfaction Index (ACSI), the European Customer Satisfaction Index (ECSI) and the Swedish Customer Satisfaction Barometer (SCSB) (C.F. Johnson M. D., Gustafsson A., Andreassen T. W., Lervik L., Cha J. (2000)).

The European Customer Satisfaction Index (ECSI) which is used in the following is adapted from the SCSB and ACSI and consists in total of seven variables, with four drivers: image - which means the idea that customers have from the product or company; expectations - which means the information customers have made with products and services offered by the company; perceived quality - which consists of product quality plus service quality and corresponds to recent experiences made with similar products or services; perceived value - which means the price value relationship and three consequences: satisfaction; complaints - which means the management of complaints and loyalty - the long-term commitment and repurchasing intention of the customer (C.F. Ferreira I., Cabral J., Saraiva P. (2010)).

Hypothesis and Development of a Loyalty-Model for Relationship Marketing Main Research Question

The literature research and the review of the different loyalty models revealed that the subject of communication is not part of the current models. Additionally a model which describes Relationship Marketing in a broader context is not existing as well. Although researchers as well as managers agree on that communication is a central part of Customer Relationship Management respectively Relationship Marketing a model or numbers are not available.

Therefore the main research question the author tries to answer is:

H0: Has communication to existing customers a positive effect on loyalty?

The question means in detail how valuable are the mainly used direct marketing channels, namely e-mail and post mail, in order to create loyalty. Loyalty in the model is defined solely by the re-purchase behavior of existing customers following the Swedish Customer Satisfaction Barometer (C.F. Ogikubo M., Schvaneveldt S. J., Enkawa T. (2009)).

1.1. Development of a Loyalty Model which covers the Aspect of Communication

The "Relationship Marketing Loyalty Model" is an adoption and enhancement of the existing ECSI model. Ball, Coelho and Machás already enhanced the existing ECSI model by the variables communication and trust but not in a context of Customer Relationship Management. Their findings were that satisfaction is the most important variable for the explanation of loyalty, though the second highest effect on customer loyalty has the variable communication (C.F. Ball D., Coelho P. S., Machás A. (2004)).

For the model the author add the variables communication channel, time and frequency. The following table shows the enhancements and differences between the RM Loyalty Model and the ECSI model. The RM Loyalty Model uses the existing findings of the ECSI model where the driver variables expectations, perceived quality, image and perceived value leads to the consequences customer satisfaction, complaints and loyalty.

<i>Variables</i>	ECSI	RM Loyalty Model
Drivers	customer expectations	customer expectations
	perceived quality	perceived quality
	image	image
	perceived value	perceived value
		<i>communication channel</i>
		<i>frequency</i>
	<i>time</i>	
Consequences	customer complaints	customer complaints
	customer satisfaction	customer satisfaction
	Loyalty = repurchase behavior plus intention to recommend plus intention to buy addition	<i>Loyalty = repurchase behavior</i>

Figure 2. Drivers and Consequences in the RM Loyalty Model compared to the ECSI Model
 (Source: Own Figure based on Ferreira I., Cabral J., Saraiva P. (2010). 'An integrated framework based on the ECSI approach to link mould customers' satisfaction and product design'. Total Quality Management, Vol. 21, PP. 1386-1387)

Communication in the model is defined as a one-way transfer of messages from a company to its existing customers using direct marketing channels. The overall value of RM are the measured positive economic effects. Therefore the author follows Harvey, Mogg and Enis who evaluated the value of communication respectively its effectiveness in terms of conversion of consumer attention to purchase action (C.F. Heinonen K., Strandvik T. (2005)). The model does evaluate customer loyalty in form of the generated behavioral results which means the repurchase behavior.

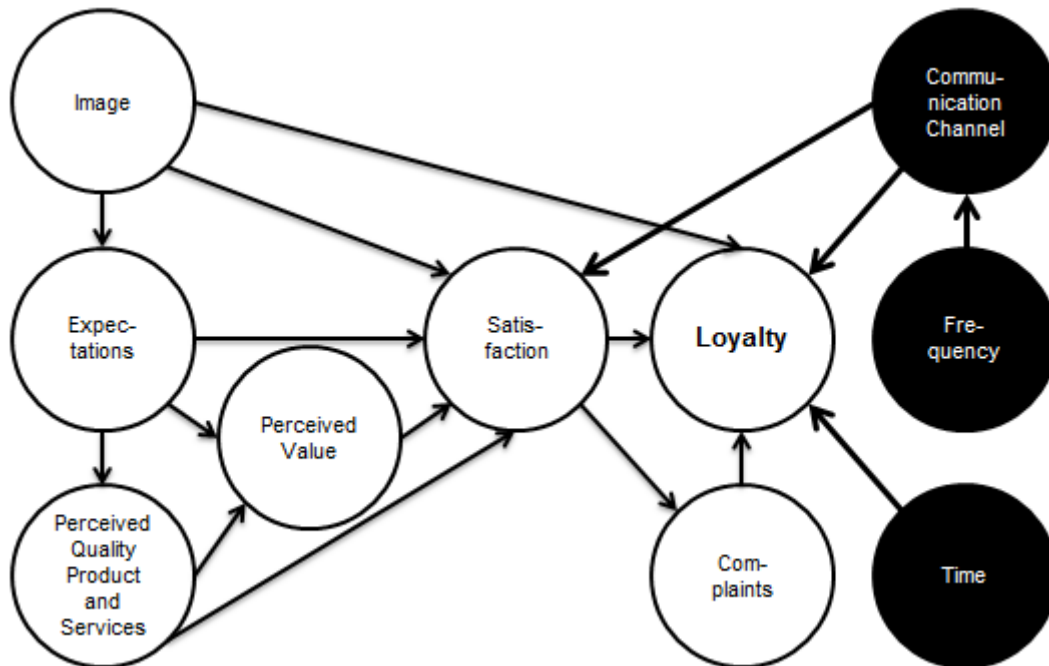


Figure 3. The RM Loyalty Model for Explaining Relationship Marketing
 (Source: Own Figure based on Ball D., Coelho P. S., Machás A. (2004). 'The role of communication and trust in explaining customer loyalty'. European Journal of Marketing, Vol 38, No 9/10, P. 1277)

In the developed “RM Loyalty Model” (see figure above) communication is divided into the variables “communication channel“, “frequency” and “time”. The driver variable frequency stands for the number of sent messages. The third additional variable is “time”. Time in the model is defined as the timespan between the present date and the last purchase of a customer.

Empirical Analysis of the RM Loyalty Model – Results & Interpretation

The data for this quantitative research is secondary data, which has been gathered over a period of 4.5 years by collecting data of RM activities from four different hotels. In total 249,742 customers with 474,521 bookings were included in the total data set. In order to rate the value of Customer Relationship Marketing it was necessary to narrow down the test group to the so-called “First-Timers”, new customers which had their first stay within a certain period. The defined lapse of time was the 2nd half-year of 2007 (n⁻¹ to n⁰ in the figure). In total 5,222 guests spent their first stay between July and December 2007 in one of the four hotels. All first timers with either a correct mail address or valid email address were included in the test group. From January 2008 to December 2011, all direct marketing actions were monitored. Through that process all bookings generated after the dispatch of a message from members of the target group were tracked and included in the analysis.

In the research model the independent variables are the number of messages for each communication channel (e-mail, post mail) which influences the dependent variable “Number of Bookings”.

In the first step it was evaluated if the distribution is significant between the variables e-mail and post mail and the generated number of bookings. A non-parametrical test (median test) was used since the variables were not characterized by a normal distribution. Since the significance level (Sig.) was .000 for both communication channels the null hypothesis could be rejected. This means that the reviewed communication channels have a significant influence on the number of bookings.

Since the null hypothesis could be rejected the strength of the correlation between the variables was measured with the Pearson correlation systematic. All channels showed a positive correlation coefficient. For the channel e-mail the correlation on the number of bookings was 0.237, for post mail 0.302.

Based on the Pearson correlation the coefficient of determination was calculated. It describes the value of the regression model. The value of coefficient of determination varies between 0 and 1. The closer the value to one the better the correlation for the variables within the model (C.F. Rahul J. (2009)).

Table 1. Coefficient of Determination for the different Media Channels

Media Channel	Pearson Correlation	Coefficient of Determination
E-mail:	r = 0.237	R ² = 0.056
Post Mail:	r = 0.302	R ² = 0.091

Ceteris Paribus the channel post mail has an influence of 9.1% on the generation of hotel bookings. E-mail has an influence of 5.6%. These numbers support the assumption that a qualitative difference between the surveyed channels exists. The following figure describes the influence of communication on loyalty.

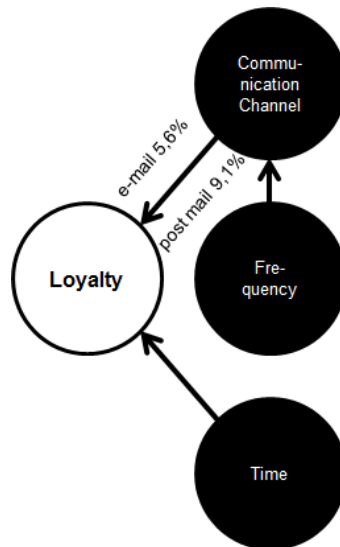


Figure 4. The Influence of Communication on Loyalty within CRM
(Own figure)

The figure is a snapshot of the overall loyalty model highlighting the effect of communication. The research question about the role of communication within CRM can be answered: Communication has a direct effect on loyalty and between the different message transmitters exist a qualitative distinction. This leads to the result that the electronically transmitted media channel e-mail has a significantly lower influence on the re-purchase behavior of existing customers as the traditional and touchable media channel post mail.

Conclusion

While researching the literature concerning the role of communication within Customer Relationship Management it became clear that this topic is relatively new for the scientific community. Although it seems to be clear that communication plays a central role within CRM no loyalty model could be found which covers the different relevant variables of CRM. Even the role of the different media channels as message transmitters for existing customers are un-covered so far.

The hypothesis that communication plays an important role for the creation of loyalty respectively for keeping existing customers loyal could be confirmed. The channels e-mail and post mail have a direct influence on the number of bookings. But the quality as a message transmitter for both channels is different. Post mail campaigns create higher booking rates than e-mail messages. This leads to the assumption that the channel e-mail should not be regarded as a replacement for post mail. E-mail should be used furthermore as an additional channel to stay in touch with existing customers.

There are of course several limitations to this research. Beside communication several variables are responsible for the creation of loyalty. On top the hotel business has its own specifications and is very fragmented. The research was done with four hotels in Germany, geographical differences may exist. Another point is the changing media landscape. Today customers receive more e-mails than during the test period in addition smart phones changes the reading behavior and influences the ability to perceive electronically transmitted marketing messages. It is recommended to test the outcome with other hotel types in different geographical regions as well as in other industries.

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CORPORATE SOCIAL RESPONSIBILITY RESEARCH METHODS ANALYSIS

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Abstract

Although the last decade of the corporate social responsibility (CSR) is talking more and more, but it is accompanied by many uncertainties that affect the same social responsibility activities and the disclosure of social information to stakeholders. The problem remains that the different studies of CSR provide mixed results about nature and scope of social information, about theories on corporate social information disclosure behaviour and about CSR impact to company's reputation and financial performance. Therefore the aim of this article is to systematize research of CRS information disclosure. In order to narrow the scope of the study, the object of the study involves scientific studies which were carried out during the period of 2008-2013 and which deal with social information disclosure in the banking sector. The main reason why the banking sector was selected is that although banks actively participate in activities of socially responsibility companies, banks and other financial institutions are often excluded from scientific studies due to their nature of activities. The carried out analysis of CSR research methods showed that most often method used in CRS research is the content analysis method, and only less than a half of the analyzed scientific studies use other research methods in addition to the content analysis, such as correlation and regression analysis. The researchers using different techniques of content analysis, different CSR indicators and different sources of information resulted in the absence of a unified methodology of corporate social information disclosure and its research the obtained study results are hardly comparable and in some cases even contradictory.

Keywords: Corporate social responsibility, research methods, content analysis, social information disclosure

Introduction

Corporate social responsibility (CSR) has become an inevitable necessity. The new development trends of economics, the use of new technologies and economic globalization presents new challenges not only to the business community of different countries but also to the whole of mankind. According to the author, today's world is living in such a period when the future of the earth and mankind depends solely on our knowledge and the willingness to change. Therefore today the CSR is treated as a matter of strategic importance how the environmental and social aspects should be integrated into the business strategy and everyday practice.

Corporate social responsibility is conceived as activity policy and practice of organizations (and individuals) when the companies voluntarily integrate social and environmental matters into their business and combine them harmoniously with economic interests, and the relationships with all stakeholders are based on the valuable principles of respect for the individual, society and the environment.

Even though the CSR is being discussed more and more, it is accompanied by numerous uncertainties that affect social responsibility activity itself, the disclosure and presentation of its information to the users. Different researchers analyze different aspects of social responsibility and social responsibility itself differs depending on the country context. It can also be observed that the majority of studies were performed in developed countries although over the recent years there has been an increase in their number in developing countries as well. The research of corporate social responsibility showed that recently the main focus is paid on disclosure of social information. The problem remains that the different studies provide mixed results about nature and scope of social information, about theories on corporate social information disclosure behaviour and about CSR impact to company's reputation and financial performance. There is no unified and reliable corporate social information disclosure and research methodology. Therefore the aim of this article is to systematize research of corporate social responsibility information disclosure.

In order to narrow the scope of the study, the object of the study involves scientific studies which were carried out during the period of 2008-2013 and which deal with social information disclosure in the banking sector. The main reason why the banking sector was selected is that although banks actively participate in activities of socially accountable companies and are inclined to reveal social information of their activities, banks and other companies belonging to the financial sector are often excluded from scientific studies due to their nature of activities.

Research methodology used in the paper is the systemic and comparative analysis of the scientific literature, generalization, theoretical modelling.

Corporate social responsibility and its information disclosure

The environmental issues which occurred due to the rapid economic development, as well as social and business ethic issues which emerged during the subsequent economic crisis encouraged leaders of the countries to take into account the interfaces between economic development and ecologic and social issues and implement the economic development model which ensures sustainable development. The pressure of stakeholder groups for the implementation of sustainable development concept promotes company's management decisions related to their social responsibility.

The financial crisis in 2008-2009 has highlighted the importance of CSR in the banking sector because the irresponsible behaviour of financial institutions is important for both individuals and businesses, and even the economy of states. According Argandona (2009) the use of CSR in financial institution could help to reduce financial crisis if not systemically, at least in some organization, which was most affected by the crisis. First, the use of CSR could have prevented certain institutions from going bankrupt, or at least it would have made it less likely. Second, CSR might have contributed to creating a different climate in the business world. The third function performed by CSR in preventing a crisis, and also in getting out of one, is the creation and maintenance of trust, whose loss has been one of the most significant consequences of present crisis. The CSR exist in different sector, but only few authors analyses CSR in the banking sector. Recent years have seen increase in the volume of such research, because banks increasingly integrating CSR into its usual activities. This is confirmed by Scholte (2008) study of bank in North America, the Pacific region and the Europe which showed that CSR is becoming increasingly important in the international banking sector. CSR is becoming a well-established concept in the financial services sector. Hoepfer and Wilson (2010) notes that the recent focus on social, environmental, ethical and trust issues in the banking sector are related to the three international initiatives: United Nations Environmental Programme Finance Initiative (UNEP – FI), Equator Principles and Principles for Responsible Investment (PRI).

In recent decades many researchers analyze how the company responds to the increasing external pressure on social responsibility and delivery of social information. The companies, in order to inform the society about the policies in this field, provide social responsibility, environmental, sustainable development reports or publish this information on websites. In order to prepare a report on the organization's interaction with the environment, employees, community, users and other stakeholders the specific social information is needed. For this reason, with the development of corporate social responsibility the growing role plays the social accounting, which includes social information collection, analysis and presentation to stakeholders in order to reflect the corporate ethical behaviour, i.e. their impact on the environment and society. The social information itself is defined as the information provided by the company on the different social aspects which may be affected by corporate activities, such as related to the employees, social community, environmental protection and other ethical issues. The studies of banking sector show that there is a focus on the environment, culture, education (especially financial education) and social issues. The scientific literature provides the analysis on various aspects of factors influencing voluntary presentation of corporate social information; however it is possible to point the following main research directions: nature and scope of social information; theories on corporate social information disclosure behaviour; CSR impact to company's reputation and financial performance. All directions research provides controversial results because they use different sources of information, methods, analyzes the different factors on the impact of CSR and CSR impact to different indicators. Therefore, the remainder of this article will attempt to systematize CRS study of the banking sector, according to the study methods, the factors and sources of information.

CSR research: methods, factors and sources of information

The analysis of scientific literature published in the period of 2008-2013 shows that the method most widely used for CSR research is the content analysis (see Table 1). The content analysis method is mainly used to determine nature and scope of social information. Along with the content analysis method about 34 percent of scientists used other research methods such as correlation and regression analysis. Justification research of theories on corporate social information disclosure behaviour and the research of CSR impact to company's reputation and financial performance alongside to the content analysis uses correlation and regression methods. In these studies, content analysis is used in determining the dependent variable, ie the level of disclosure of information.

However, the content analysis is the most commonly used method for research of corporate social information disclosure. Sweeney and Coughlan (2008) define content analysis as a research technique that is used for determination of the presence of certain words and concepts in the text. Some content analysis research measure the presence/absence of items, some misuses the extent of disclosure of these items (Bouten et al., 2011).

According to the nature of study the content analysis method can be divided into two groups, i.e. research aimed to investigate the extent of social information disclosure, and the research aimed to investigate the quality of social information disclosure. In order to investigate the extent of social information disclosure there are most commonly used research based on the number of units, while in order to investigate the quality of disclosure there are used various indexes (Dagiliene, 2010; Hooks, van Staden, 2011; Leitoniene, Sapkauskiene, 2012; Andreaus et al., 2013).

Table 1. The prevalence of methods used for CSR research

Author, year	Content analysis	Correlation analysis	Regression analysis
Barako, Brown, 2008	x		x
Branco, Rodrigues, 2008	x	X	
Sweeney, Coughlan, 2008	x		

Everaert et al., 2009	x		
Wise, Ali, 2009	x		
Cuganesan et al., 2010	x		
Dagiliene, 2010	x		
Bouten et al., 2011	x		
Dagiliene, Gokiene, 2011	x		
Hooks, van Staden, 2011	x	X	
Lungu et al., 2011	x	X	
Zickiene et al., 2011	x		
Carnevale et al., 2012	x	X	x
Dagiliene, Leitoniene, 2012	x		
Leitoniene, Sapkauskiene, 2012	x		
Masud, Hossain, 2012	x		
Murcia, Souza, 2012	x		x
Relano, Paulet, 2012	x		
Roca, Searcy, 2012	x		
Sobhani et al., 2012	x		
Uwuijbe, Egbide, 2012	x	X	x
Wijesinghe, 2012	x		
Akinpelu et al., 2013	x		x
Andreas et al., 2013	x	X	x
Sharma, 2013	x		x
Total	25 (100%)	6 (24%)	7 (28%)

Selection of units is a key element of the research design in the content analysis (Hooks, van Staden, 2011). The scientific literature accentuates various research units: words, sentences, phrases, rows, sheets, percentage in the sheet or in the report. The calculation methodology of words, sentences, phrases, rows, sheets involves counting the quantity of words, sentences, phrases, rows, sheets containing the information about the corporate social responsibility. The percentage in the sheet or in the report shows the proportion of social responsibility information in the report compared to information presented in one sheet or in the whole report.

One of the most popular units is the number of sentences. According to Cuganesan, Guthrie and Ward (2010), the number of sentences is more suitable than the number of the words drawing conclusions from the narrative reports. In addition, the calculation method of sentences (rows) is preferable when converting diagrams, tables and pictures to equivalent rows and this makes encoding more reliable than words (Cuganesan, Guthrie, Ward, 2010). Dagilienė (2010) also states that sentences provide complete, relevant and reliable information about the company's CRS disclosure level. In addition, although this measurement is not accurate, it provides the possibility to compare variations of disclosure levels between companies (van Staden, Hooks, 2007). Dagilienė and Gokienė (2011) states that from the methodological approach the number of sheets of social reports can be easily counted and is useful in comparing different companies.

Although most authors for calculation of sentences use only grammatical sentences in the textual parts of the reports and do not take into account the content present in diagrams or tables, Cuganesan, Guthrie and Ward (2010), Hooks and van Staden (2011), and Everaert et al. (2009) includes tables and diagrams into the research and thus allows the analysis of the entire report.

To analyze the evaluation of social information disclosure the authors used a variety of indexes, some has developed new, and others has adapted or improved indexes that were used in the previous research. According to Hooks and van Staden (2011), the disclosure index is used to evaluate, compare and explain differences in scope and quality of disclosed information in corporate reports. The content analysis using the disclosure index usually

involves highlighting of any important sentence corresponding to the specification of disclosure index, and the subsequent encoding of sentences according to the selected quality assessment scale. In this way, the descriptive text shall be divided into categories in order to be able to draw conclusions on the thematic content (Hooks, van Staden, 2011).

Corporate social factors are grouped into different groups in the research the disclosure of CSR information. There are many different ways in which indicators can be divided into categories For example according to the principles of the UN Global Compact (Leitoniene, Sapkauskiene, 2012), the OECD Guidelines for Multinational Enterprises, ISO 9000, SA 8000, the EU Eco-label, triple bottom line (Roca Searcy, 2012), the GRI Sustainability Reporting Guidelines (Everaert et al, 2009; Bouten et al, 2011; Wijesinghe 2012 and Cuganesan, Guthrie and Ward, 2010). Many of sustainability and CSR indices are developed based on the GRI Sustainability Reporting Guidelines.

The level of social responsibility information disclosure, factors affecting this level and their interconnection are identified by using content, correlation and regression analysis. Different authors studied the connection of social responsibility to different factors (see Table 2). Normally the dependent variable is the level of disclosure of social information, while the independent variables are used vary depending on the purpose of the study, for example, Barack and Brown (2008) studied the relationship between the level of disclosure of social information and corporate governance-related variables.

Table 2. Factors determining CSR information disclosure level

Author, year	Factors
Barako, Brown, 2008	Composition of the Board; the proportion of women in the Board; the proportion of foreigners in the Board; the non-performing loan ratio
Branco, Rodrigues, 2008	Number of sections; total assets; net profit; number of employees
Lungu et al., 2011	Total assets; gross income; annual income change; return on assets; return on equity
Murcia, Souza, 2012	Auditing company; financial leverage; internationalization; issue of shares; profitability; equity to asset ratio; origin of control; corporate governance; size; sector; corporate sustainability
Uwuijbe, Egbide, 2012	Return on assets; financial leverage; auditing company
Akinpelu et al., 2013	Total assets; gross income; number of sections
Sharma, 2013	Total assets; return on assets; financial leverage; equity dispersion; the independence of directors in the Board; foreign equity percentage in the company's ownership capital

Different authors' regression studies give different results. For example, Murcia and Souza (2008) regression model can explain 48 percent of social information disclosure; Sharma (2013) - 51 percent; Uwuijbe and Egbide (2012) - 59 percent. Akinpelu et al. (2013) and Branco and Rodrigues (2008) confirmed that the size of firms is related to the level of social responsibility information disclosure. Meanwhile Lungu Caraianni and Dascalu (2011) studied the relationship between corporate performance reporting and disclosure of social information. They sought to determine whether differences between the scope of the reporting may be related to the size or profitability of enterprise. In contrast to previous studies, the results show that there is a significant negative correlation between profitability and corporate social and environmental disclosure.

Considering social information disclosure measure under investigation, it can be noted that the majority of researches analyzed the annual reports as a social information disclosure measure (see Table 3). Also one of the most popular measures is a web site, but most of the authors did not analyze the web site separately, it was analyzed as an additional source. However, the popularity of this measure shows that the number of companies which disclose social information not only through the annual reports but also on the internet is constantly increasing. Only a few authors analyzed the other reports which disclosed solely the social

and environmental information (social responsibility report, environmental report, sustainability report) and this could be related to the sectors under investigation, because not in all sectors the companies tend to provide separate social, environmental and sustainability reports.

Table 3. CSR information disclosure measures

Author, year	Social Responsibility Report	Environmental Report	Sustainability Report	Web site	Annual Report
Barako, Brown, 2008					x
Branco, Rodrigues, 2008				x	x
Sweeney, Coughlan, 2008	x				x
Everaert et al., 2009	x				
Wise, Ali, 2009					x
Cuganesan et al., 2010				x	x
Dagiliene, 2010					x
Bouten et al., 2011					x
Dagiliene, Gokiene, 2011	x				
Hooks, van Staden, 2011	x	X		x	x
Lungu et al., 2011			x	x	
Zickiene et al., 2011				x	x
Carnevale et al., 2012	x				
Dagiliene, Leitoniene, 2012	x		x		
Leitoniene, Sapkauskiene, 2012	x		x		
Masud, Hossain, 2012					x
Murcia, Souza, 2012					x
Relano, Paulet, 2012	x		x		x
Roca, Searcy, 2012	x	X	x		x
Sobhani et al., 2012				x	x
Uwuijbe, Egbide, 2012					x
Wijesinghe, 2012					x
Akinpelu et al., 2013					x
Andreas et al., 2013	x				
Sharma, 2013				x	
Total	10 (40%)	2 (8%)	5 (20%)	7 (28%)	17 (68%)

Frequency of use of annual report can be justified by their regularity, reliability, availability and useful information for stakeholder's accountability (Dagiliene, 2010). Bouten et al. (2011) justifies the use of the annual report for two reasons. Firstly, annual report plays an important role in corporate accountability activities as it is prevailing and often can be directly accessible in the company's web site, and also because it is considered as one of the most important tools used by companies to communicate with the stakeholders (Bouten et al., 2011). However as stated by Van Staden and Hooks (2007), the separate environmental report is prepared with ever increasing frequency and/or provided information on the company's website. This is supported by Lungu, Caraiani and Dascalu (2011) which states that the companies provide reports on the corporate social aspects in the separate sustainability reports, section of annual report or both, therefore in the research they analyzed websites and CSR reports as regularly published document.

Conclusion

The carried out analysis of CSR research methods showed that: Most often method used in CRS research is the content analysis method (100 percent of the analyzed studies), and only less than a half of the analyzed scientific studies use other research methods in addition to the content analysis, such as correlation and regression analysis (accordingly 24 and 28 percent).

The content analysis method is mainly used to determine nature and scope of social information. The problem is that different authors use different techniques of content analysis (words, sentences, and the number of pages of disclosure index) and different classification of social information indicators (for example, according Principles of the UN Global Compact, Guidelines for Multinational Enterprises, ISO 9000, SA 8000, GRI Sustainability Reporting Guidelines and others) therefore the different research results are difficult to compare.

Justification research of theories on corporate social information disclosure behaviour and the research of CSR impact to company's reputation and financial performance alongside to the content analysis uses correlation and regression methods. In these studies, content analysis is used in determining the dependent variable, i.e. the level of disclosure of information. Again, different techniques of content analysis influences are still conflicting results of regression analysis.

Other problem is that investigating of corporate social responsibility scientists uses not only the different research methods and indicators, but also the different sources of information disclosure (CSR reports (40 percent of the analyzed studies), section of annual report or both (68 percent), websites (28 percent), sustainability reports (20 percent) and other). This also makes it difficult to compare results from different studies and to assess its reliability.

In summary it can be said that in the absence of a unified methodology of corporate social information disclosure and its research the obtained study results are hardly comparable and in some cases even contradictory.

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THE IMPACT OF FDI INFLOW ON EMPLOYMENT IN V4 COUNTRIES⁹²

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Abstract

Paper's effort is to analyse the impact of FDI inflow on employment of V4 countries by using panel data. This method allows us to evaluate the effect of FDI inflow on vacancies creation. Further, we discuss and explain the role of FDI inflow in this process with the focus on particularities of the V4 countries labour markets. Finally, paper discusses implications of FDI analysis and tries to verify the positive effect of FDI inflow on employment in V4 countries.

Keywords: Employment, unemployment, Okun's law, FDI inflow

Introduction

During last decades, economies are trying to attract the foreign direct investment (FDI) to create employment and enhance the nation's purchasing power through higher wages. Understanding the determination of employment levels requires the recognition of the existence of factors that inherently cause employment to vary, such as age, fertility, education, labour laws, minimum wage levels, and changes in interest rates, productivity, terms of trade, and the openness of the economy. However, FDI flows have contributed significantly to the expansion of the productive sector and the innovation of production techniques.

The FDI have the potential to generate employment through direct hiring of people for new plants, which means they improve aggregate domestic employment through types of jobs created, regional distribution of new employment, wage levels, income distribution and skill transfer (Mickiewicz, Radosevic and Varblane (2000)). These direct effects are accompanied by indirect or spillover effects. Indirect effects take place through movement of trained labour from foreign firms to other sectors as well as they create links with suppliers and service providers and through increase of incomes, which can also increase employment through higher levels of consumption, savings and investment. The integration of FDI into a local economy results in transmission of business culture, which includes corporate values, organisational structures and management practices (Mirza, 1998). Because FDI bring relatively new technology, its impact on employment depends on the interaction between productivity growth, output growth, and the specialization of labour.

Along with the improvement of skills, technology, productivity and trade, FDI may have the potential adverse effects on wages and employment in the host economy. The following are four different effects of FDI on job creation:

- (1) Employment creation through new production capacity and new jobs.

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(2) Employment crowding-out: the inflow of FDI makes the competition more intense, which is why some domestic enterprises reduce employment to improve their competitiveness.

(3) Employment shift taking place in transfer workers to new enterprises.

(4) Employment loss: not efficient or not suitable workers for new corporate environment will lose their jobs.

Combining the positive and negative impact, UNCTAD in its report shows the direct and the indirect potential effect of FDI on the labour market as outlined in the following table.

Table 1: Potential effects of inward FDI on the quantity, quality and location of employment

	Direct		Indirect	
	Positive	Negative	Positive	Negative
Quantity	Adds to net capital and creates jobs in expanding industries	Acquisitions may result in rationalization and job losses	Create jobs through forward and backward linkages and multiplier effects in local economy	Reliance on imports or displacement of existing firms results in job losses
Quality	Pays higher wages and has higher productivity	Introduces practices in e.g. hiring and promotion that are considered undesirable	Spillover of "best practice" work organization to domestic firms	Erodes wage levels as domestic firms try to compete
Location	Adds new and perhaps better jobs in areas with high unemployment	Crowds already congested urban areas and worsens regional imbalances	Encourages migration of supplier forms to areas with available labour supply	Displaces local producers, adding to regional unemployment, if foreign affiliates substitute for local production or rely on imports

Source: UNCTAD (1994).

Net effect of the FDI especially depends on the type of investments. Horizontal FDI are generally driven by market-seeking motives, while cost-saving motives are underlying vertical FDI. Horizontal FDI represent substitution between the foreign and domestic activities, mainly whether FDI is undertaken in the tradable goods sector. FDI replaces trade in the Heckscher-Ohlin framework so that horizontal FDI would have a negative effect on production at home country and positive at host country. When foreign companies search out new markets, the effects on employment is mixed as benefits came at a cost to local less productive companies.

On the other hand, companies seeking to export cheaply produced goods will positively influence the host economy as they create jobs and raise output without threatening domestic companies. Vertical FDI are supposed to involve "an element of complementarity between the firm's domestic and foreign operations" (Braconier and Ekholm 2000: 448). However, they may also involve labour substitution if upstream or downstream activities traditionally conducted at home are relocated to foreign affiliates. Net effects depend on whether cost savings through vertical fragmentation enable the parent company to improve its productivity and expand its market share, and on the degree of complementarity between foreign and domestic stages of production (Hanson et al. 2005).

Further complications for the prediction of the FDI effect on employment are brought by the chosen mode of entry. A positive employment impact on the host country is more assumed in case of Greenfield investment, which entails the creation of new manufacturing plants, as they create new production capacity and increase the demand for labour. Otherwise,

they may potentially bring labour-saving technologies which decrease the labour demand and crowd-out less competitive domestic firms making the net effect negative.

The alternative mode of entry that takes advantage of already established assets – through mergers and acquisitions – is assumed to be neutral to employment in the short run, as it is just a transfer of ownership, or even negative due to cuts in costs and increase efficiency in the newly acquired subsidiaries. FDI through mergers and acquisitions does not generate employment at the time of entry into the host economy, and may lead to lay-offs as the acquired firm is restructured. However, the greater efficiency and better quality may lead to more jobs in the long run.

ILO research shows that there has been a decline in the employment content of growth since the late 1990s, which means the rate of output growth required for net employment creation has risen. At the same time, the IMF has documented historically low levels of global savings and investment. The consequence is that the relationship between growth, investment and employment creation has weakened. There may be many reasons for this; one factor might be the type of foreign direct investment. According to previous World Investment Reports there was noted a rising share of FDI in form of mergers and acquisitions, rather than in Greenfield investments. High levels of foreign investment, therefore, could be consistent with minimal employment creation.

The remainder of the article is organized as follows. Section 2 describes the literature on the impact of FDI on employment. Section 3 lays out the data and the methodology. Section 4 presents the results, and Section 5 concludes.

Literature review

The economic literature has extensively examined the FDI flows to uncover its influence on growth and development and labour market. Evidence from case studies of FDI on the employment and wage impact are quite controversial. The effect on the host countries has been considered in different aspects. Most research has emphasized the effect on economic growth, wage levels, technology spillover, foreign trade, employment structure and employment in the host economy (Floyd 2003, Dicken 2007).

The impacts of FDI on aggregate employment at regional or world level have received little attention in the empirical literature. The studies at the aggregate level showing that increases in FDI do in fact lead to improvements in employment levels at the national level are the studies of Braunstein and Epstein (2002), Spiezia (2004), and Vacaflores (2011). Vacaflores (2011) examines the effect of foreign direct investment (FDI) on employment generation for a group of Latin American countries in the period 1980-2006 and finds that FDI has a positive and significant effect on the employment generation in host countries, which is driven by its effect on male labour force. This positive effect is particularly important for less developed economies, periods with low inflation, and for the later period of the sample, but suggests that only countries with high level of informality and those attracting low average inflows of FDI accrue this benefit.

Lee and Vivarelli (2004) point out that even if trade and FDI are expected to positively affect employment, employment creation cannot be automatically assured, as the employment effect can be very diverse in different areas of the world. Spiezia (2004) finds that the impact of FDI on employment is increasing with per-capita income for a group of 49 countries, but its effect is not significant for low-income developing countries. Vacaflores and Mogab (2012) find that the subsidiaries in Asia are the ones that respond to increases in FDI by the largest additions in employment, followed by subsidiaries in the Americas, but that only those subsidiaries in the Manufacturing and Service sectors present a statistically significant influence.

According to Liu (2011) research in China in secondary and tertiary industry for the period 1985-2008, growth of FDI in the long run would promote employment, and it is especially true for tertiary industry, where bidirectional linkage between FDI and employment exists; in the short term FDI has limited and even negative effect on employment, with the latter indirectly increasing the former.

Banga (2005) in its analysis for 78 three digit level industries in India have shown the impact of FDI, trade and technological progress on wages and employment. The findings show that the higher extent of FDI in an industry leads to higher wage rate in the industry; it has no impact on its employment. Similarly technological progress is found to be labour saving.

To estimate dynamic labour demand functions for blue and white collar workers, Arellano and Bond (1991) refined a panel data analysis. Through the GMM estimator, they found FDI had a significantly positive, though quantitatively modest impact on manufacturing employment in Mexico. It also showed there was a positive effect on blue collar employment. But it was diminished with the increase of skill intensity of manufacturing industries.

Ramirez (2001) has shown that the technology transfers to Mexican economy from the parent companies are capital intensive in nature, resulting in a limitation in the long term employment creation in the automobile industry. However, in contrary to negative impact, the study by Ernst (2005) shows the concern of positive employment impact on the domestic economy. Concerning chemical products, an analysis of employment data of major TNCs confirms the relatively positive employment impact. The figures are relatively less favourable for Mexico. TNCs involved in computers and, in particular, electronics, created significant employment in Mexico during the 1990s in the chemical industry but figure for the year 2000 has shown a declining trend in all the companies examined.

Most researchers conclude that there would be higher positive employment effects if the investment takes the form of Greenfield investment. On the other hand, there will have a limited, even negative effect on the employment level if foreign capital comes through mergers and acquisitions and buys privatized enterprises (Dicken, 2007).

While the direct impact of FDI on employment has inconclusive answer, FDI may create positive indirect impact on employment generation. However, research on the indirect effect of FDI on employment is very limited. The estimates of impact of FDI in U.S. by Glickman and Woodward (1989) using the survey data from the Bureau of Economic Analysis (BEA) have shown a substantial increase in employment between 1982 and 1986. In terms of the indirect effect, Sjöholm (2008) studied the relationship between FDI and technology and found a clear linkage between the employment and technology. On the one hand, new technology may make firms more competitive which permits them to grow and employ more workers. On the other hand, new technology may also decrease demand for labour by substituting the low skilled employees with fewer high skilled employees. Hence, the change of technology policies will affect the job creation. Moreover, firm ownership also is an important part of job creation.

Mickiewicz, Radosevic and Varblane (2000) showed that the bigger diversity of types of FDI is more favourable for the host economy. There is higher potential that it will lead to more diverse types of spillovers and skill transfers. If policy is unable to maximise the scale of FDI inflows then policymakers should focus much more on attracting diverse types of FDI.

Finally, we can conclude that the quantification of the overall impact of FDI on employment is still uncertain from both theoretical and empirical points of view. To the extent that FDI contributes to economic growth then it may be contributing indirectly to the creation and improvement of employment.

Methodology

Literature on relationship between unemployment and FDI inflow is not reflecting the Okun's law as the possibility to explain the level of unemployment or its change at the macroeconomic level. This basic law of economics considers the economic growth as the main and only factor of changes in unemployment. According to Knotek (2007), Okun's law may be formulated in three versions.

First is the difference version that means:

change in unemployment rate = $a + b * \text{real output growth}$

This may be also expressed as:

$$\Delta UR_t = a + b * gGDP_t$$

Second, gap version that is given by following equation:

$UR_t = c + d * \text{gap between potential and actual output}$

or: $UR_t = c + d * GDPgap_t$

The last, third version is dynamic approach that assumed that the unemployment rate is given not only by current, but also previous economic growth, as well as by former unemployment rate. Then, the equation may be written as:

$$UR_t = c + \beta_1 * gGDP_t + \beta_2 * gGDP_{t-1} + \beta_3 * UR_{t-1}$$

Considering the growth of output as the main factor influencing unemployment rate, the question that arise is what is the impact of FDI inflow on unemployment, respectively employment? To answer, we decided to use Okun's law with additional variable – FDI inflow. Data we have used cover period 1993 – 2012. We have examined three versions of Okun's law using panel data for V4 countries. Variables used in each version differ.

In difference version, dependent variable is change in unemployment rate measured as percentage point change. Independent variables are GDP growth and log of real FDI inflow. Equation may be expressed as:

$$\Delta UR_{i,t} = c + \beta_1 * gGDP_{i,t} + \beta_2 * \log RFDI_{i,t} + \varepsilon_{i,t}$$

In gap version of Okun's law, dependent variable is expressed as unemployment rate in percentage points. Independent variable Gap is calculated as difference between potential and actual output in logarithm. Potential output was calculated by Hodrick – Prescott filter. Second variable is the log of real FDI inflow.

$$UR_{i,t} = c + \beta_1 * Gap_{i,t} + \beta_2 * \log RFDI_{i,t} + \varepsilon_{i,t}$$

Dynamic version of Okun's law assumed that unemployment rate depends not only on current, but also on previous variables of GDP growth and FDI inflows, as well as on previous unemployment. We use the same variables as in previous variants. The equation may be written as:

$$UR_{i,t} = c + \beta_1 * gGDP_{i,t} + \beta_2 * gGDP_{i,t-1} + \beta_3 * UR_{i,t-1} + \beta_4 * \log RFDI_{i,t} + \beta_5 * \log RFDI_{i,t-1} + \varepsilon_{i,t}$$

To estimate results, mainly coefficients of our interest associated with FDI inflows, we have used statistical program Gretl.

Estimation results

Estimation results of our panel regression are presented in Table 2. In all three models, panel regression with fixed effect was the most appropriate. Regressions give us following results. We confirm the significance of GDP growth and GDP gap in influencing the unemployment; it means that Okun's law is valid also in V4 countries. GDP growth or GDP gap is significant on 1% level in all versions, except for the one year lag of growth in dynamic version. Even here, its statistical significance is on 10% level. The most important finding that has come from all regressions is no significant impact of FDI inflow on unemployment. Variable FDI inflow is not significant in any Okun's law variant. The results seem to be surprising. However, if we look deeper to the structure of FDI inflow to V4

countries, a huge inflow was realized through privatization. Greenfield investments become part of these economies mainly after the losing effects of former privatization. These reverse impacts on unemployment given by a different form of FDI inflow cause such ambiguous results. We may conclude that there is no significant impact of FDI inflow on unemployment in V4 countries. The only factor that influences unemployment is the GDP growth, respectively GDP gap.

Table 2: Estimation results for Unemployment

Difference version [d_UR]			Gap version [UR]			Dynamic version [UR]		
gGDP _{i,t}	-0.32208 (0.0575303)	***	Gap _{i,t}	39.9791 (6.90439)	***	gGDP _{i,t}	-0.278512 (0.0568416)	***
logRFDI _{i,t}	-0.0855872 (0.124881)		logRFDI _{i,t}	0.141867 (0.212864)		gGDP _{i,t-1}	-0.116221 (0.0645639)	*
- 76 observation in Difference and Dynamic version, 80 in Gap version - dependent variable in square brackets - standard errors in parentheses - ***, **, * - statistical significance on 1%, 5%, and 10% level						logRFDI _{i,t}	-0.0289653 (0.118617)	
						logRFDI _{i,t-1}	-0.186915 (0.124912)	
						UR _{i,t-1}	0.872422 (0.0523062)	***

The main effort of the paper is to analyse the impact of FDI inflow on employment. Let's look to the same issue of FDI impact from another point of view. We already know that FDI inflow has any significant impact on unemployment rate. Although there is a negative relationship between unemployment and employment, both may be influenced by different factors. For example unemployment rate count only with unemployed people those are active in looking for new jobs, but not with those who are not. Or, these people have to be registered in any employment office. This is common methodology of unemployment measure in V4 countries. Although there are some differences, we expect that the FDI inflow will have no significant impact on employment, as well as the results show it has on unemployment rate. One of the advantages of FDI inflow is claimed to be job creation. New jobs should then cause decrease in unemployment rate. If the main factor influencing unemployment rate is GDP growth or GDP gap, the same factor should have impact on employment. Then, to examine the impact of FDI inflow on employment, we use the Okun's law, but using employment to population ratio instead of unemployment rate.

Results of such panel regression represented in Table 3 are similar. We have found no effect of FDI inflow on employment formulated as employment to population ratio. Finally, we may conclude that FDI inflow has no significant impact on employment in host country.

Table 3: Estimation results for Employment

Difference version [d_E/P]			Gap version [E/P]			Dynamic version [E/P]		
gGDP _{i,t}	0.158515 (0.044523)	***	Gap _{i,t}	-31.6459 (5.18338)	***	gGDP _{i,t}	0.115825 (0.0453551)	**
logRFDI _{i,t}	0.144063 (0.0966461)		logRFDI _{i,t}	-0.175682 (0.159805)		gGDP _{i,t-1}	0.1074 (0.0495721)	**
- 76 observation in Difference and Dynamic version, 80 in Gap version - dependent variable in square brackets - standard errors in parentheses - ***, **, * - statistical significance on 1%, 5%, and 10% level						logRFDI _{i,t}	0.123195 (0.0955614)	
						logRFDI _{i,t-1}	0.0725727 (0.0994424)	
						E/P _{i,t-1}	0.906327 (0.0532794)	***

Conclusion

We use macroeconomic perspective to examine the effect of FDI inflow on employment by applying modified Okun's law. We are conscious of some imperfections of such approach. There are two explanations in using this alternative. First, the lack of data on microeconomic level, so we were not able to distinguish between FDI inflow to Greenfield

investment and Mergers and Acquisitions (privatization) and changes in employment in these different types of foreign direct investments. Second, government and central agencies proclaim the growth of employment induces by foreign direct investment inflow. We are familiar with job creation in case of Greenfield investments. However, we cannot claim the positive effect of FDI inflow on employment for FDI as whole.

Theory of foreign direct investment says about the positive impact of FDI inflow on unemployment, respectively on employment. Besides, FDI inflow boosts economic growth. Investments create new jobs and subsequently decline unemployment. This broadly accepted claim is part of many researches, however with different results. Most of them conclude that the impact of FDI inflow depends on the form of FDI entering host country. Impact of FDI inflow on employment is positive in case of Greenfield investment and negative in case of privatization. The impact on economy as whole is so unclear.

We have examined the impact of FDI inflow on employment from the macroeconomic perspective. To do that, we have used data for V4 countries in period 1993 - 2012. Results show that there is no statistically significant impact of FDI inflow on employment. Due to these results, we cannot confirm positive effect of FDI inflow on employment in V4 countries.

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A DODGY QUESTION OF THE LEGAL FORM: FORMALITY REQUIREMENTS FOR THE POA GRANTED ABROAD TO ACT ON THE TERRITORY OF POLAND

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Abstract

Ever increasing interest of foreign investors in establishing their businesses in Poland results in a build-up of problems concerning the legal form of taken actions. When it comes to acting and representing foreign entities before Polish authorities, including notaries, courts and public administrative bodies, the form of a power of attorney appears to be of a particular importance. The article deals with the issue of the due form of the power of attorney granted abroad to undertake actions on the territory of Poland. The author tries to address the most relevant problems relating to this issue, i.e. the issue of equivalence of forms, formal validity, application of an appropriate law and the legal power of legalisation and apostillisation of documents.

Keywords: Power of attorney, equal dignity rule, governing law, form of legal acts, apostillisation, legalisation of documents

Introduction

Depending on a given factual configuration, providing the formal validity (fr. *validité formelle*) of the authorisation with foreign element⁹³ (authorisation to represent or act on another's behalf) usually requires not only the knowledge of the collision rules⁹⁴, but also the provisions in force in the country where it is to be granted. However, even the most profound knowledge of the provisions of international private law rarely suffices to come up with unambiguous solutions. In practice, the existence of many iffy situations results in electing and applying the safest solutions available (in specified circumstances), i.e., obtaining the "highest" available legal form⁹⁵ and procuring the appropriate apostille (always).⁹⁶ Aside from the economics of such choices, even then, they do not guarantee that the obtained form is correct. On the other hand, despite obtaining the correct form, there arise problems of the practical nature, concerning the admission of the attorney-in-fact (in Polish: "*pełnomocnik*") to the particular legal action, whether by the notary⁹⁷ or the relevant public authority.

⁹³ Hereinafter: the power of attorney „PoA”. The existence of the foreign element requires the application of the international private law (*conflict of law rules*).

⁹⁴ The rules provided for situations of the conflict of laws.

⁹⁵ The interested parties are trying to ensure that the level of formality is as high as possible.

⁹⁶ Irrespective of the fact whether it is needed or not.

⁹⁷ Czubik, P., *Odpowiedzialność notariusza za dokonanie czynności na podstawie dokumentów zagranicznych*, *Nieruchomości*, No 12 (148)/2010, CH Beck, Warsaw, pp. 10-13; Czubik, P., *Pełnomocnictwa do przeniesienia własności nieruchomości sporządzane za granicą na obszarach objętych "ekstraterytorialnością jurysdykcyjną"*, *Rejent*, No 5 (229)/2010, pp. 16-30.

The legal form for granting the PoA

The Polish act on the private international law⁹⁸ regulates the issue of the form of the legal action in Article 25. It constitutes the equivalent of Article 12 of the previously binding law on the private international law of 1965⁹⁹. Under Article 25 of the PIL, the form of the legal act shall be governed by the law applicable to the act itself.¹⁰⁰ In case of the PoA, the applicable law is determined by application of Article 23 of the PIL (or possibly collision rules of some other countries as well). However, it should be remembered that securing the form prescribed by the law of the country, in which the activity is performed, is generally sufficient.¹⁰¹

For the formal validity of the PoA it is therefore necessary to procure the form required by the applicable law for the PoA (“*lex causae*”) or the law of the place where the PoA is granted (“*lex loci actus*”). It is worth adding that actions indicated in Article 25 section 2 of the PIL concern only the actions *expressis verbis* indicated therein, i.e., limitations resulting from Article 25 section 2 of the PIL. do not concern the granting of the PoA. Basically, there are no provisions forcing the use of Polish requirements as to the form of the granted PoA¹⁰². It is always possible to grant the PoA without observing the Polish requirements as to the legal form.

The form of the PoA ex lege causae

Pursuant to Article 23 in conjunction with Article 4 section 1 of the PIL, the PoA has its own legal status.¹⁰³ Article 23 of the PIL explicitly foresees the possibility of selecting the applicable law (“*lex causae*”) for the PoA. However, vis-à-vis the third party, with whom the attorney-in-fact made the legal action, he can rely on the law chosen only when this third party knew about the choice of law or could have easily found out about it.¹⁰⁴

Usually it is recommended to include a clear statement in the text of the PoA concerning the selection of law (see Article 4 section 2 of the PIL). Similarly, towards the attorney-in-fact, the principal will be able to rely on the law selected, if the attorney-in-fact was or should have been aware of this.¹⁰⁵ Subject to securing appropriate acts of care (so that other people knew about the choice of law), the principal can select any applicable law he wishes to.¹⁰⁶

In the absence of the applicable law selection by the principal, the PoA is subject, in sequence¹⁰⁷: (i) to the law of the country of the attorney-in-fact’s seat (“*lex locationis*”), in

⁹⁸ The Act of February 4, 2011, Private International Law (J. L. 2011, No. 80, item 432), in force from May 16, 2011, hereinafter referred to as the „PIL”.

⁹⁹ The Act of November 12, 1965, Private International Law (J.L. 1965, No 46, item 290).

¹⁰⁰ Czubik, P., *Artykuł 25 nowego ppm - przełom dla notariatu RP*, Nowy Przegląd Notarialny, No 1(47) /2011, pp. 30-46.

¹⁰¹ If the contract is being concluded between persons who, at the time of declaring their intentions to be bound, are present in different countries, it shall be sufficient to comply with the form prescribed by the law of either of these countries.

¹⁰² With this caveat though, that possible bilateral agreements concluded by Poland with some other countries might provide for different collision rules.

¹⁰³ Górecki, J., *Forma umów obligacyjnych i rzeczowych w prawie prywatnym międzynarodowym*, Katowice, Poland 2007.

¹⁰⁴ Article 23, section 1, sentence 2 of the PIL: “The chosen law may, however, be invoked in regard to the third person only where the latter knew or could readily have known about the choice.”

¹⁰⁵ Article 23, section 1, sentence 3 of the PIL: “The principal may invoke the law chosen in regard to the representative only if the latter knew or could readily have known about the choice.”

¹⁰⁶ However, it should be kept in mind that for the avoidance of doubt and security of contemplated transactions, it should be the law which is commonly recognized in international community; see: Czubik P., *Nowe prawo prywatne międzynarodowe w świetle praktyki notarialnej*, cz. II, Nieruchomości CH Beck – prawo, podatki, praktyka, No 3/2013, Warsaw, p. 21.

¹⁰⁷ See: Article 23, section 2 of the PIL.

which it continuously works (on a permanent basis). It must be held that for the application of this rule the attorney-in-fact should be a legal person, or at least a professional representative¹⁰⁸; (ii) If the attorney-in-fact does not act continuously in his office or has no office (e.g. a natural person), the PoA is subject to the law of the country, in which the principal's place of business is situated, if the attorney-in-fact acts in this place on a permanent basis¹⁰⁹; (iii) the law of the country, in which the attorney-in-fact actually acted, representing the principal, or in which he should have acted in accordance with the principal's will. The last of the mentioned rules is applied most frequently. Therefore, if the principal does not select the applicable law, usually this will be the law of the country, in which the attorney-in-fact works or should work (according to the intention of the principal).

Determination of the applicable law for the PoA enables us to determine the formal requirements (the level of formality) for granting the PoA ("*ex lege causae*"). The choice of the legal regime results in the possibility for the principal of availing himself of the legal form provided for the specified PoA under the selected regime. For securing the formal validity of the PoA, it is the safest for the principal to select the law he knows best and which conditions of the formal validity are familiar to him. For example, if for the applicable law the principal selects English law, the Polish regulations with respect to the legal form of actions will not be used. In particular, Article 99 § 1 of the Polish Civil Code will not be applied.¹¹⁰ It is quite important since Article 99 § 1 of the Polish Civil Code introduces to the Polish law the "equal dignity rule", that is, requires the same legal form for the PoA, as for the legal action, to which the PoA authorises. Therefore, if the principal wants to sell the real estate situated in Poland, and for the PoA he has selected the law of the country, which for the PoA to sell the real estate does not require any particular form, then for the formal validity of such PoA no particular form is required (e.g. a normal written form can be used)¹¹¹.

It is worth adding that according to Article 25, section 1, sentence 2 of the PIL, even in case of the determination of the Polish law, as the applicable law (selected or indicated by the collision rules under Article 23 section 1 of the PIL) it will be sufficient to procure the form demanded by the law of the country, in which the PoA is being granted.

Knowledge of foreign laws

If the attorney-in-fact is to operate on the territory of Poland, there is nothing to prevent the principal from granting the PoA in accordance with the provisions of another country's law (by selecting the foreign law as the applicable law). However, the problem will arise at the moment of performing the contemplated action/-s. The second party, or for that matter also the notary, the public administration body or the court, are not required to know the foreign law. Therefore, it might be difficult for them to establish what is the scope of the attorney's authorization, what kind of restrictions are imposed upon him and what are the consequences of the actions of the attorney-in-fact if he exceeds the scope of his authorization. To avoid this type of dilemmas, if the attorney-in-fact is to operate in Poland, the PoA is usually selected to be governed by Polish law.

¹⁰⁸ E.g. an attorney-in-fact acts on a permanent basis in Poland and has his office in Poland – Polish law will be governing.

¹⁰⁹ E.g. the Spanish entrepreneur grants the PoA to a person acting on a permanent basis in Spain – Spanish law is applicable.

¹¹⁰ The Act of April 23, 1964 – Civil Code (J.L. No 16, item 93) with further amendments, hereinafter referred to as: the „Civil Code”. Article 99 § 1: “Where a special form is required for the validity of a legal act, a power of attorney to perform such act shall be granted in the same form.”

¹¹¹ Provided that a possible bilateral agreement does not specify otherwise.

It is also worth mentioning that it is reasonable to directly indicate (in the text of the PoA) that Polish law is to be the governing law. If the principal fails to do this, it may turn out that the collision rules indicate the foreign law as the applicable law. If, on top of that, the PoA is also granted abroad, then even if the form of the PoA conforms to the requirements of Polish law, the PoA may be invalid. It will be like this if the foreign law for the given type of the PoA requires a legal form higher than the form demanded under Polish law.

The form *ex lege loci actus*

The choice of Polish law for the PoA does not exclude the possibility of granting it in compliance with the formal requirements applicable in the country, in which the principal operates. Despite the formal validity of such PoA, there will come up the problem of the evaluation of this by the principal's contractors and public authorities in Poland.

In case of judicial acts, the court may consult its experts who are the experts in a given (foreign) law/s. This is allowed under Article 1143 § 3 of the Polish Code of Civil Procedure.¹¹² However, when it comes to, among others, notaries, tax enforcement officers or court's bailiffs, they have no instrument which could help them to determine whether the conditions regarding the legal form applicable in the country of granting the PoA have been met or not. If the PoA has not been granted in the form required by Polish law, the notary may refuse the performance of the given action stating that he cannot verify the fulfilment of necessary requirements.

, it appears that despite the lack of such requirement in many cases the safest solution is the submission of the PoA to Polish law and fulfilment of the Polish demands regarding the form of the legal act prescribed for the PoA.

Legalisation and *apostille*

If, however, the PoA has been granted according to the requirements applicable in the country of its granting, it will be necessary to convince the Polish contractors (or the notary, public authorities, etc.), that the conditions regarding the form applicable for the PoA in this country were duly met. In such cases we can encounter the quite common practice of legalizing documents, as a way to demonstrate that the form of the PoA is valid.

The requirement of documents' legalisation

Pursuant to Article 1138, the first sentence, of the Polish Code of Civil Procedure, foreign official documents have the same probative value as Polish official documents. Then, according to Article 1138, the second sentence, if the document concerns the transfer of ownership of the real estate located in Poland, it should be authenticated by Polish diplomatic representative or the consular office". In the Polish legal doctrine dominates the notion that by "the document concerning the transfer of the ownership of the real estate" is should be also meant the document of the PoA authorising the attorney to enter into the agreement transferring the ownership of the property. It is commonly agreed that the PoA to other actions does not require legalisation.

It is worth adding that the legalisation is required only for the "official documents" (i.e. coming from/issued by entities having some administrative power). The provision of Article 1138, second sentence, of the Polish Code of Civil Procedure does not refer to private documents. So, if the foreign *lex loci actus* requires for the PoA (concerning the acquisition/sale of the real estate) only the normal written form (i.e. private document), the PoA granted in this form does not require legalisation.

¹¹² The Act of November 17, 1964 – the Code of Civil Procedure (J.L. No 43, item 296) with amendments; Article 1143 § 3: "The court may also use other means, such as consulting an expert, in order to determine the content of a foreign law or foreign judicial practice, or the existence of reciprocity."

Demonstrative value of legalized documents

Besides equipping the document with some feature of formality (document is rubber stamped by Polish officials), it is difficult to clearly state, what does it de facto mean that the document has been legalised. It is hard to establish what exactly is checked during the document's legalisation process. It is assumed that the legalisation is the confirmation that the document has been executed according to the law of the place of its execution.¹¹³ Nonetheless, this cannot be a direct inference (result of reasoning) from Article 21 of the law on the functions of the Consuls of the Republic of Poland,¹¹⁴ under which: "the consul legalizes official documents, executed or authorized in the accepting country or in the Republic of Poland". Also the Vienna Convention¹¹⁵ does not give any indications what the document's legalisation really means¹¹⁶.

It is chiefly agreed that the legalisation of the document means at least that the form of its preparation in the given country really exists.¹¹⁷ Moreover, legalising documents the consul exercises its special competence (acts as public officer), what means that his notes and annotations have some special probative value. Therefore, it is advisable, during the legalisation process, to request the consul to place on the document an annotation stating that the submitted document satisfies all requirements regarding the legal form of the country, in which it was made. However, on the whole it is difficult to clearly state what is the probative value of this kind of annotation. More often than not, the consul will not verify whether the form of the legal action corresponds with the requirements of the country from which the submitted document originates.¹¹⁸

However, given the function of consuls and for the lack of any other possibility of the official verification of documents with foreign element, it can be argued that the legalised document has been executed in compliance with the formal requirements of the country that it was prepared in. However, this cannot mean that material-law conditions were satisfied or that it is not possible to negate the appropriateness of the form. Everyone should be allowed to prove that the procured form is not sufficient (for given purposes).

Apostillisation of documents

It should be pointed out that in practice foreign documents are rarely subjected to the procedure of legalisation. It is the result of the fact that the requirement of authorization (legalisation) drops out, if the provisions of international agreements abolish this requirement¹¹⁹. Among such contracts the most important is the Hague Convention from

¹¹³ See: The judgment of the Polish Supreme Court, dated October 7, 2003, ref. no IV CK 23/02, LEX no 590838.

¹¹⁴ The Act of February 13, 1984 on the functions of Consuls of the Republic of Poland (J.L. 2002, No 215, item 1823).

¹¹⁵ The Vienna Convention on Consular Relations, signed in Vienna, 24 April 1963: [http://legal.un.org/avl/pdf/ha/vccr/vccr_e.pdf].

¹¹⁶ In Article 5 of the Vienna Convention, among other consular functions, it is mentioned the following (point f): „acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State”; the legalisation is considered one of these functions.

¹¹⁷ See: The judgment of the Polish Supreme Court, dated October 7, 2003, ref. no. IV CK 23/02, LEX no 590838.

¹¹⁸ It might be the simple result of the lack of knowledge of the foreign law by the given consul.

¹¹⁹ See more in: Czubik, P., *Konwencja haska o zniesieniu wymogu uwierzytelniania zagranicznych dokumentów publicznych*, Bydgoszcz, Poland 2005.

1961¹²⁰ currently in force in relation with 106 countries, which abolishes the requirement of the legalisation of the huge amount of documents.¹²¹

Due to a fairly simple way of obtaining apostille (it is affixed by competent authorities; in Poland by a special Department of the Ministry of Foreign Affairs) this kind of “seal of approval” somewhat became a transactional practice in Poland. It is used in all those instances where the foreign element is present. In most cases the apostille is procured even if a document is exempted from the requirement of legalisation¹²². Therefore, there arises a question whether the apostille clause (affixed to the document), even if it is not required, gives the document any particular demonstrative value. In particular, whether it certifies that the document has been executed in line with the formal conditions of the country in which it was prepared.

In accordance with Article 2 and 3 of the Hague Convention, the apostille is used just to certify: “the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears.” There is no provision that would state that the apostille certification confirms the due form (formal validity) of the document.¹²³ The apostille however, certifies that the document was signed by the person performing particular public function (state official). Assuming that this person has verified that all formal conditions for formal validity of a given document, in the country of its preparation and for the given legal action have been met, it can be argued that the apostille certification provides certain factual presumption of the formal validity of the executed document.¹²⁴ This factual presumption is however based on a rather dubious assumption that the person signing (stamping) the document has taken due care and checked whether the specified formal conditions have been met. In many cases this will never happen. To conclude this topic; it is not possible to obtain a clear certification of the document’s formal validity. Neither legalisation nor affixation of the apostille guarantees that the PoA was granted with satisfaction of all the requirements of the formal validity laid down in the law of the country of its granting.¹²⁵ In order to be more or less sure that nobody in Poland will raise the issue of the proper legal form, one should ensure that the Polish law is selected (as the governing law) and all the requirements of Polish law are met. If, however, the principal cannot come to Poland, and there is a requirement of the form higher than the

¹²⁰ The Hague Convention of 5 October 1961 Abolishing the Requirement for Legalisation for Foreign Public Documents; hereinafter referred to as the „Apostille Convention”.

¹²¹ However, the abolition of the requirement for legalization in the country of document’s submission requires the affixation of so-called: “apostille”.

¹²² Under Article 3 of the Hague Convention: „(...) formality mentioned in the preceding paragraph cannot be required when either the laws, regulations, or practice in force in the State where the document is produced or an agreement between two or more Contracting States have abolished or simplified it, or exempt the document itself from legalisation.”.

¹²³ See: The Resolution of the Polish Supreme Court dated April 13, 2007, ref. no III CZP 21/07. It was held that: After the accession of Poland to the Hague Convention abolishing the requirement of legalisation of foreign official documents the only formality that may be required in order to certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears, is the addition of the certificate described in Article 4 of the Convention. However, it does not mean that the courts are excused from the obligation to check whether the document affixed with the apostille meets the requirements of the legal validity prescribed by the law of the country where the document was prepared; *Biuletyn SN*, No 2007/4/9.

¹²⁴ Czubik, P., *Glosa do uchwały Sądu Najwyższego z dnia 13 kwietnia 2007 r., III CZP 21/07*, Rejent No 12 (200)/2007, pp. 170-177.

¹²⁵ Hulist, M., Kot, T., *Jeszcze o formie pełnomocnictwa udzielonego za granicą*, Rejent No 6/2001, p. 109; Czubik, P., *Oddalenie wniosku o wpis w księdze wieczystej w związku z nieustaleniem zgodności formy pełnomocnictwa poświadczanego zagranicą – glosa do Postanowienia Sądu Rejonowego dla Krakowa-Podgórze, Wydział Ksiąg Wieczystych z 18 maja 2007, Dz.Kw.39185/06, Nieruchomości CH Beck – prawo, podatki, praktyka*, Warsaw No 8(108)/2007, pp. 21-22.

simple written one, the following question arises: what kind of requirements should be met by the document executed abroad, so that it can be considered as meeting all Polish requirements concerning the formal validity (legal form).

Equivalence of legal forms

Doubts arise mostly in case of the requirement of the form of a notarial deed. The following question pops up: is it even possible (and if so, when) to satisfy all the requirements of the Polish notarial deed, specified in the Polish law on notaries¹²⁶ through the agency of a foreign notary/notary public.

Some authors argue that in order to obtain the form of the notarial deed, the document must be made by the Polish notary operating in Poland¹²⁷. Nonetheless, nowadays it seems that the prevailing view is different. Most authors claim that there are no obstacles for the Polish requirements concerning the form of the notarial deed to be met by the foreign notary¹²⁸.

However, to conclude that the given document meets the conditions of the Polish notary deed, the act executed abroad must be “equivalent” to the act which would have been made by the Polish notary acting in Poland. Foremost, it means that the notaries should be of a kind. As it is generally accepted, the foreign notaries are on a par with Polish ones if they come from the country which belongs to the family of the so-called Latin Notaries.¹²⁹ In these countries, notaries have similar social status comparable both in terms of education and the position in the society.¹³⁰ Moreover, for obtaining “equivalence of form”, it is necessary for the foreign notary to fulfil the requirements which are specified for notarial deeds in Polish law. The notarial act should be performed in a similar manner as it would have been performed in Poland under Article 92 of the law on notaries.

The request for the PoA prepared in the form “equivalent” to the Polish notarial deed may be quite perplexing for some foreign notaries.¹³¹ The equal dignity rule resulting from Article 99 of the Polish Civil Code is rather uncommon in other European legal regimes. Therefore, it quite often happens that at the request of a principal to make the PoA in the form of notarial deed, a foreign notary prepares a document with just notarized signatures (believing that it is completely satisfactory regardless of the activities to which the PoA is to authorise). However, one should remember that usually the form “equivalent” to the Polish notary deed means the highest form available in the given country abroad.

In practice though, e.g., the court registrars quite often make entries to the land and mortgage registers based on agreements executed by attorneys who held “notarized PoAs”, however as a matter of fact issued only in the simple written form.¹³² The registrars rarely

¹²⁶ The Act on Notaries, dated October 14, 2008 (J.L. No189, item 1158).

¹²⁷ See: Drozd, E., *Czynności notarialne z elementem zagranicznym w obrocie nieruchomościami* (in:) II Kongres Notariuszy Rzeczypospolitej Polskiej. Referaty i opracowania, Poznan-Kluczbork 1999, p. 19.

¹²⁸ See: Pazdan, J., *Pełnomocnictwo w prawie prywatnym międzynarodowym*, Kraków 2003, pp. 138-139.

¹²⁹ The countries belonging to the International Union of Latin Notaries (UINL, currently the International Union of Notaries). UINL is a non-governmental organisation. It aims to promote, co-ordinate and develop the function and activities of notaries throughout the world. It was formed by 19 countries at the time of its establishment in 1948. Nowadays the organisation includes 83 countries, of which 21 out of the 28 member countries of the European Union and 15 out of the 19 countries of the G20.

¹³⁰ Górecki, J., *Forma umów obligacyjnych i rzeczowych w prawie prywatnym międzynarodowym*, Katowice 2007, p. 175.

¹³¹ Czubik, P., *Trudności w dokonywaniu na terytorium niektórych państw czynności w formie wskazanej przez prawo polskie jako lex rei sitae*, Problemy Współczesnego Prawa Międzynarodowego, Europejskiego i Porównawczego, Vol. IV/2006, pp. 24-32.

¹³² Czubik, P., *Zachowanie formy aktu notarialnego w przypadku pełnomocnictwa udzielonego za granicą – kilka uwag w nawiązaniu do praktyki polskiej*, Rejent 2004, No 1, pp. 23-42., and *Konsularne poswiadczenie podpisow na pełnomocnictwach do przeniesienia własności nieruchomości sporządzonych zagranicą w zwykłej*

examine the issue of the “equivalence of forms”. Therefore, many quite canny and ingenious ad-hoc solutions pop up:¹³³ e.g. the principal, granting the PoA in the normal written form, designates the document “notary deed” and submits it to the notary for signatures’ certification. Polish courts (or notaries for that matter) usually pay close attention just to the name of the document. Therefore, when it comes to the recognition of the document before Polish authorities (courts or notaries) this form of the PoA is usually (surprisingly!) sufficient.

Conclusion

In theory, obtaining the proper form for the PoA granted to the attorney to act in Poland seems quite simple. However, the transactional and judicial practice brings some problems. Since it is not always easy to establish what type of document is good enough (for given purposes), parties or lawyers for that matter, reach for the highest available form or try to outsmart the authorities.

The business practice rarely helps to work out uniform solutions (the correct ones). Transactional lawyers just want to close the transaction as soon as viable and possibly without any bumps and holdups. Therefore, the idea is that it is better to pay more at the beginning for a higher legal form (and apostille), than have some problems down the road. It is the common line of reasoning. Furthermore, it is obvious that the formal validity of the PoA will not help a lot, if it cannot be effectively demonstrated to other parties or public authorities. As a result, all disputes regarding legal form of the PoA usually end up in procuring the highest available form.

It also cannot be denied that the selection of the safest solutions is usually prudent. The establishment of the minimal valid legal form is quite tricky. It requires not only the knowledge of collision-of-law rules, but also the rules being in force in foreign legal jurisdictions. Moreover, if the PoA is granted abroad, there is no reliable way to provide evidence for the full validity of the granted PoA. When some dispute arises at some point in the future it will be up to the court to decide whether the PoA was valid or not. However, nobody thinking reasonably wants to put the whole transaction on the line just because he is convinced that the given form of the PoA is sufficient.

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formie pisemnej, Problemy Współczesnego Prawa Międzynarodowego, Europejskiego i Porównawczego, Vol. V/2007, pp. 174 -182.

¹³³ Czubik, P., *Kilka spostrzeżeń na temat związków formy czynności prawnej i legalizacji dokumentu*, *Radca Prawny*, No 4/2004, pp. 70-76, and *Zachowanie formy aktu notarialnego w przypadku pełnomocnictwa udzielonego zagranicą – kilka uwag w nawiązaniu do praktyki polskiej*, *Rejent*, No 1/(153)/2004, pp. 23-43.

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CORPORATE CONSOLIDATION PECULIARITIES IN UKRAINIAN RETAIL GROCERY MARKET

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Abstract

The purpose of the article is to study the state and general retail trade development trends in Ukraine, monitor processes of consolidation and concentration of market power in Ukrainian grocery market, evaluate concentration levels of international trade FMCG companies and analyze the impact of the mentioned processes on the competitive environment of the domestic retail turnover. Analysis and systematization of scientific research of foreign and Ukrainian scientists allowed choosing concentration ratios for different quantity of firms and Herfindahl-Hirschman index as methodological tools for a study of the market concentration level and accumulation of assets, consolidation of market power by the international FMCG companies in the retail market in Ukraine. The Ukrainian grocery market is defined to have certain specific features which despite the overall positive evolution of retail trade volume and retail trade chains turnover are reflected in the dominance of local business representatives on it, low concentration level versus other European countries, as well as negative concentration dynamics of international capital in the retail grocery market in Ukraine.

Keywords: International retailers, grocery market, market concentration

Introduction

The development of trade is an essential condition that ensures a favorable economic and social environment in any state. In most economically developed countries of the world trade is a key strategic sector of the economy that maintains a balance between supply and demand, satisfies the needs of the population, affects the economic potential forming; and it is also a major employer of the economically active population¹³⁴. Recession processes in the world and Ukraine in recent years influence the peculiarities of domestic trade, which are the strengthening of capital concentration process of huge commercial chains that acquire less successful market operators in crisis. The above mentioned emphasizes the need to study the consolidation and concentration peculiarities of the retailers market power in the food market of Ukraine for further distinguishing the international retailers importance in it.

Production and capital concentration in different markets has been the subject of a considerable amount of research both in Ukraine and abroad. Most of the recent studies was conducted by such foreign scientists as A. Bationo (2012), W. Baumol and A. Blinder (2011), Ch. Vehorn and J. Kopf (2013) K. McGoldrik (2012), J. Peoples (2012), F. Young¹³⁵, I. Vasiliev (2008), A. Mitrofanov (2002), E. Yudnikova (2008) and others. Among Ukrainian scientists we should distinguish the works of V. Apopii (2010), V. Bazylevych and V. Fyliuk (2012), A. Herasymenko (2010), A. Ihnatiuk (2010), V. Lahutin (2009), H. Fyliuk (2009), A. Shymko (2012) and others, who pay special attention to the production and capital

¹³⁴ Sevruk, I.N. The state and development trends of the retail trade in Ukraine. Journal of Economy and entrepreneurship, vol. 7, no. 8, 2013.

¹³⁵ <http://www.quickmba.com/econ/micro/indcon.shtml>

concentration evolution, competition and competition policy, government regulation of monopolies, and industry market research, including general trends to activate the concentration and consolidation processes in the domestic market segments.

However, pointing out the significant role in the modern Ukraine development of retail trade, which is the part of the few sectors that keep positive economic dynamics even in crisis, we need to examine the current situation and identify retail trends in Ukraine, analyze mechanisms of the processes of concentration involving national and international capital in the Ukrainian food market (segment FMCG), the study of which is also important because more than half of the cost in the Ukrainian consumer basket falls at FMCG. Moreover, transformation processes in the domestic grocery market (FMCG) is a part of general trends in capital consolidation and concentration of powerful international retailers on food markets in Central and Eastern Europe. Therefore, in this aspect, it is important to study the specific features of the above mentioned processes in the Ukrainian market.

Main Text

According to State Statistics Service of Ukraine the retail trade turnover in Ukraine before the financial crisis was characterized by a constant growth. In particular, in 2007 and 2006 the annual increase throughout the country was 20%, and in Kyiv city – 25–30%. Over that period much attention was paid to expansion of small retail format chains, development of shopping malls and retailers' expansion to the regions. However, the positive trend of the previous years changed into the crisis of 2008 – 2009, which was reflected in the 6.5% decline of trade network retail turnover, but in 2010 the situation in the retail market changed by 21% growth (Table 1). Retail market began to stabilize and recover in 2010–2011. However, the real dynamics was lower due to the increase of retail prices by 1.5–2 points for that period. Year of 2011 was characterized by the overall growth in retail trade as well as trade network retail turnover growth by 24.6%, which was associated with stabilization of population income growth, expansion of consumer loans to individuals etc.

Table 1. Turnover of retail trade in Ukraine, bln.UAH

Year Indicators	2007	2008	2009	2010	2011	Year-on-year change (%)			
						2008	2009	2010	2011
1.Turnover of retail trade ¹³⁶	325,1	456,0	444,3	541,5	685,7	+40,3	-2,6	+21,9	+26,6
2.Retail turnover of the enterprises (legal entities) including:									
2.1.Retail trade turnover of the trade network of enterprises	171,7	238,5	222,9	271,4	338,7	+38,9	-6,5	+21,8	+24,8
2.2.Retail turnover of restaurant business	6,5	8,4	8,1	9,5	11,4	+29,2	-3,6	+17,3	+20,0

Source: State Statistics Service of Ukraine¹³⁷, calculated by author.

Analyzing the state of retail trade in Ukraine according to State Statistics Service of Ukraine, we must pay attention to the methodological notes that were taken into account to work out Table 1. According to the explanations¹³⁸ the retail trade turnover includes turnover of retail businesses that operate as retailers and estimated sales of consumer products through

¹³⁶ On the basis of the total single survey and administrative data on retail trade network and restaurant business, owned by individual entrepreneurs.

¹³⁷ <http://www.ukrstat.gov.ua>

¹³⁸ <http://www.ukrstat.gov.ua>

a trade network belonging to individual entrepreneurs, and markets (based on the total single survey and administrative data on retail trade network and restaurant business, owned by individual entrepreneurs). The retail turnover of the enterprises means the amount of sales of consumer goods to the population through the retail trade network and restaurants, as well as industrial, transport and other non-trading companies directly to the public over the company’s cash desk. Additionally, the retail trade turnover includes selling food stuffs through trade channel to institutions, organizations and enterprises to serve their contingents (sanatoriums, child-care institutions, hospitals, etc.).

Tendency of reducing the volume and share of retail trade turnover network and restaurants can be explained by the growth of another component of retail trade turnover – the retail turnover of individual entrepreneurs and formal markets selling consumer goods. For example, in 2000 the share of this component accounted for 35.8%, while in 2011 - 46.2%, that is an increase by 10.4 percentage points (Fig. 1). Thus, the organized trade (including trade network) is about 55-60% of the retail market of Ukraine and markets - 40-45% accordingly.

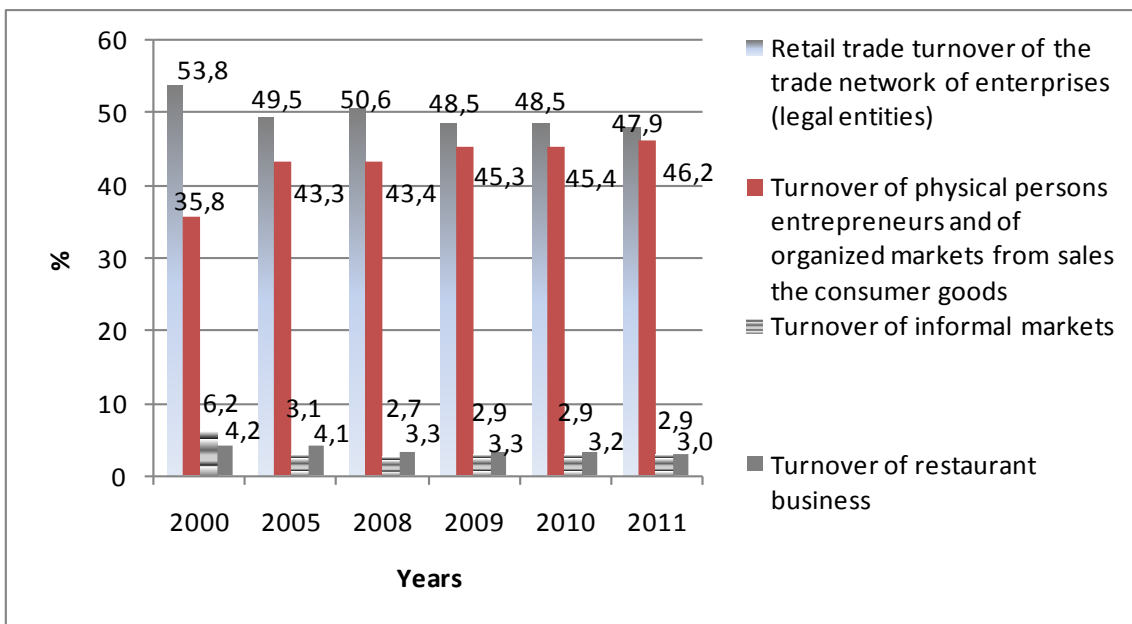


Fig.1. The dynamics of structure sales of goods through trade channels¹³⁹

Despite the gradual recovery of the economy from the crisis, Ukrainian citizens still have to spend much of their income on food stuffs mainly because of their rise in price that violates the macroeconomic regularity by which the higher is population’s income, the lower are food stuffs purchase expenses in the structure of consumer spending. The share of nonfoods in 2005 amounted 58.4% of the total volume of goods sold through the trade network, in 2006 – 61.8%, 2007 – 64.7%, and 2008 – 65.6%, in 2009 the economy saw a decline in nonfoods share by 5.6 percentage points to 60%, with the next growth in 2010–2011 (Fig. 2).

¹³⁹ <http://www.ukrstat.gov.ua>

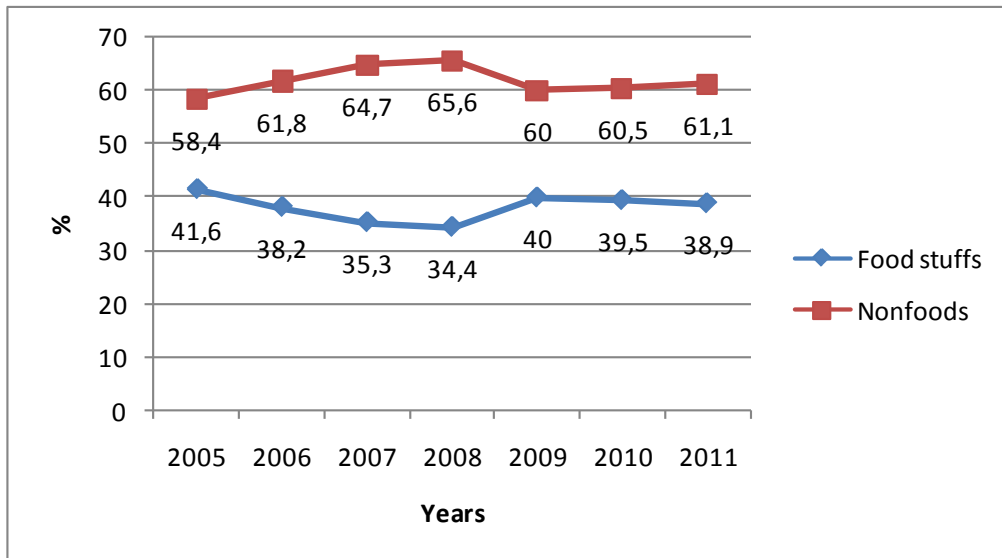


Fig.2. Dynamics of commodity structure of retail trade turnover of the trade network in Ukraine, 2005-2011

In general, the state and development of retail trade in Ukraine can be characterized by certain features and the following general trends.

1. Development of retail trade in Ukraine corresponds to general global trends: active development in the pre-crisis period changes by the economic downturn caused by the global financial and economic crisis, with the further improvements in the trade development.

2. The share of organized trade is gradually getting higher – 55–60% of the retail market of Ukraine, which also emphasizes changing preferences of consumers who prefer formal trade to informal.

3. Ukrainian domestic market saw the active development of new trade formats of foreign origin: supermarkets, hypermarkets, cash & carry, discounters, the quantity and retail space of which is constantly growing (the largest growth rate is peculiar to hypermarkets), replacing more traditional forms (markets, etc.).

4. Nonfoods share in total trade network retail turnover increased to 61.1% in 2011; however, the pre-crisis level of 2008 has not been achieved yet (65.6%).

It is noteworthy that the retail industry or retailing refers to those industries the importance of which for the economy can not be reduced and with the development of information technologies it is increasing or modifying. As for the Ukrainian retail market, besides the trends mentioned above, there is also a tendency to market entry of more and more foreign players with significant access to international investment resources and ample opportunities for the innovative industry development. According to the results of the annual survey by international A.T. Kearney “Global Retail Development Index” company 2006 Ukraine took fourth place in the list of the most attractive regions in pre-crisis, in 2007 Ukraine held the fifth position after India, Russia, China and Vietnam and was highly attractive to the multinational companies, but in 2008–2009 the country's position changed, and Ukraine was at the 17th place due to the global financial crisis¹⁴⁰. Although in 2010–2012 according to A.T. Kearney the country was not included even in the rating of the thirty most attractive countries for investment in the retail trade, but we do not consider Ukrainian grocery market to have a significant decline of the international retailers’ activity. Moreover, the management of most international retailers present in the market underline their intention to expand business in Ukraine (for example, Russian X5 Retail Group is planning to open

¹⁴⁰ <http://www.atkearney.com/consumer-products-retail/global-retail-development-index>

stores at brand “Perekrestok Express”¹⁴¹), and some foreign companies, such as Russian retailer of premium supermarkets “Azbuka vkusa”¹⁴² plans to enter the Ukrainian retail market at once.

The global financial crisis affected the activities of both domestic and international retailers in the retail market of Ukraine. During the crisis the consolidation processes in the Ukrainian market are becoming widespread: the number of foreign chains that have not properly assessed the real situation of the Ukrainian market and proved unable to compete under these conditions, left the retail market by selling their stores or leasing their retail space to successful national or international operators. The examples are Russian retailers “Paterson”, “Piaterochka”, “Vester”, “O’kay” and the European ones “Euromart” (U.S. and Greece), “Smak” (Ukraine and Serbia), “Bumi-market”¹⁴³ (Lithuanian “BM-Trade”) and others.

The research of Ukrainian retail grocery market showed that retail segment of FMCG is represented by national, international retailers and national operators that are fully or partially owned by foreign investors. Among multinational corporations in the retail and wholesale trade on the Ukrainian food market there are companies: Metro Group (LLC “METRO Cash & Carry Ukraine”), Auchan Group (LLC “Auchan Hypermarket Ukraine”), which in 2012 together with Metro Group announced the purchase of German chain Real,¹⁴⁴ - LLC “Real,- Hypermarket Ukraine”) by Auchan, Rewe Group (FICE “Billa Ukraine”), Spar International (LLC “Spar Ukraine”), X5 Retail Group (PJSC “X5 Retail Group Ukraine”, represented by “Perekrestok” chain), most of which are developed by starting from scratch or “greenfield investment” (Billa, Metro), merger or acquisition of national operator (Perekrestok, Auchan), or through franchising (Spar). Moreover, the market has national retailers, which, however, have “foreign roots”, that is why we consider them to be representatives of international business (hereinafter - the international retailers). Among them there are such chains as Novus, whose investor is a Lithuanian company “BT Invest”, Furshet (PJSC “Furshet”), “Torhovy dim “Amstor” and stores Brusnichka (LLC “Ukrainskyi retail”). The official sources¹⁴⁵ announce that a 100% - owner of Furshet is a British company “Anthousa Ltd.”, through which 21% of the company shares has a French chain Auchan, the rest is owned by the well-known Ukrainian businessman Ihor Balenko. “Torhovy dim “Amstor” is a part of PJSC “Smart Holding”, 75% of which is owned by British company “Optimabest Management Ltd.”, and therefore we can talk about the presence of foreign capital in the Ukrainian food market. One more company present in the market, which has a stable growth dynamics, refers to the list of national networks with a foreign capital: LLC “Ukrainskyi retail”. It should be noted that 100% of the share capital of a company is owned by “United Retailers Ltd.” - a subsidiary of the Cyprus holding company “SCM Holdings Ltd.”, 100% shares of which belong to a successful businessman Rinat Akhmetov¹⁴⁶. Thus, Ukrainian retail grocery market is characterized by a large number of subjects of different organizational forms with the total quantity of 395 stores in August 1, 2013 (including 121 stores of multinationals operating in the field of international trade) in various formats with extensive regional coverage.

¹⁴¹ <http://www.russiaretail.com/182470/X5-to-launch-Perekrestok-Express-chain-in-Kyiv.shtml>

¹⁴² <http://biz.liga.net/all/prodovolstvie/novosti/2411571-rossiykaya-set-azbuka-vkusa-vykhodit-na-ukrainskiy-rynok.htm>

¹⁴³ The chain was acquired by Ukrainian company "Fozzy Group".

¹⁴⁴ <http://www.auchan.ua/uk/auchan-world/news/#news1>.

¹⁴⁵ <http://фуршет.com.ua/ua/company/>.

¹⁴⁶ <http://www.scm.com.ua/uk/about-us/scm-holdings-ltd/>.

Analysis of the international companies in the Ukrainian retail grocery market showed that the overall dynamics of international retailers' turnover is positive and has a constant growing, but year-on-year growth is slower versus the total market growth (Fig. 3).

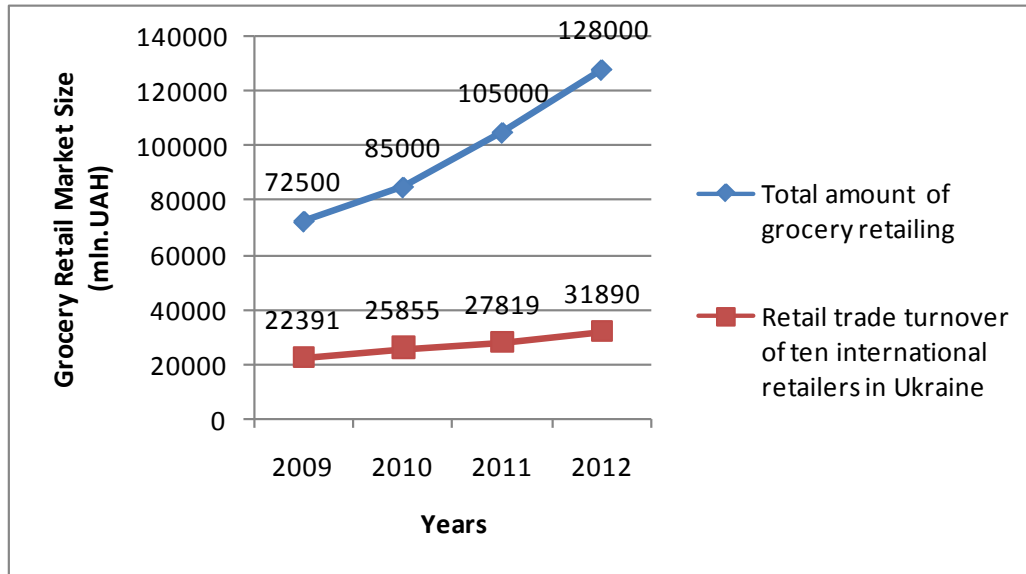


Fig.3. Dynamics of retail grocery market and retail trade turnover of ten ¹⁴⁷ international grocery chains in Ukraine ¹⁴⁸

Considering the analysis of the competitive environment and concentration of foreign capital in the Ukrainian food market we must analyze the fact of commencement of proceedings by the Antimonopoly Committee of Ukraine (AMC) on anticompetitive concerted actions of 18 huge retailers including those of interest within this paper: LLC "Auchan Hypermarket Ukraine", FICE "Billa Ukraine", PJSC "Furshet", LLC "NOVUS Ukraine", PJSC "X5 Retail Group Ukraine", LLC "Spar-Center", LLC "METRO Cash & Carry Ukraine" and the foreign company LLC "ACNielsen Ukraine", which is known to conduct market research in Ukraine.

According to the official sources ¹⁴⁹, during the investigation started by the Committee in May 2012, it was ascertained that defendants committed anticompetitive concerted actions resulted in food stuffs price increase in trade networks during 2010-2011. At the same time the defendants coordinated the interaction format with suppliers that affected interests of the producers, by creating a cartel with LLC "ACNielsen Ukraine" company in the center of it. The latter is known to follow ICC/ESOMAR standards, and in this respect there is a question of the company research activity in compliance with the principles prescribed by the International Code ¹⁵⁰.

Thus, we can assume that the Ukrainian market is characterized by relatively low level of competition that allows retail chains to compete with each other not directly but indirectly, as far as pricing policy of the retailers in most cases has an identical nature, and the struggle for consumers is based on specific differences within other elements of the marketing mix.

Hereinafter we need to determine the level of concentration of international capital in the domestic market. According to the domestic and international research practice to

¹⁴⁷ "Real,-" company operated till 2013 and was counted here as a separate chain.

¹⁴⁸ Estimated on the basis of data provided by an independent consulting group "GT Partners Ukraine".

¹⁴⁹ <http://www.amc.gov.ua/amku/control/main/uk/publish/article/99632>

¹⁵⁰ http://www.esomar.org/uploads/public/knowledge-and-standards/codes-and-guidelines/ICCESOMAR_Code_Russian_.pdf

analyze the process of concentration it is expedient to use the concentration ratio (Bationo, 2012, Baumol, 2011, Herasymenko, 2010, Mitrofanov, 2002, Yudnikova, 2008, Vehorn, 2013 etc.) and Herfindahl-Hirshman index (Bazylevych, 2012, Chow, 2012, Fyliuk, 2009, McGoldrick, 2012, Peoples, 2012, Vasiliev, 2008, OECD Economic Surveys, 2013 et al.). That is why the research of concentration level in the retail market of Ukraine was done on the basis of these concentration ratios (Table 2).

Table 2. Concentration ratios in retail grocery market of Ukraine, 2009-2012 ¹⁵¹

Indicators	Year				Year-on-year change (%)		
	2009	2010	2011	2012	2010	2011	2012
1. CR (3)	24,41	22,68	18,15	16,73	-7,11	-19,98	-7,79
2. CR (5)	28,50	27,36	22,74	21,11	-3,97	-16,92	-7,15
3. CR (7)	29,48	29,04	25,03	23,50	-1,48	-13,82	-6,09
4. CR (10)	30,88	30,42	26,49	24,91	-1,51	-12,90	-5,96
5. Herfindahl-Hirshman index (HHI)	236,41	201,89	133,35	111,07	-14,60	-33,95	-16,71

Thus, despite the gradual increase in sales of the international retail chains in the domestic food market, concentration ratios for three, five, seven and ten international retailers in the grocery market of Ukraine and Herfindahl-Hirschman index for 2009 - 2012 indicate a lack of consistency and single-direction of the international capital concentration process in the retail of Ukraine. The calculated concentration ratios show multidirectional trends of Ukrainian food market development in pre-crisis and post-crisis periods: a sufficient scale and high pre-crisis dynamics and significant decrease of business consolidations in the modern conditions. Recent trends allow us to hypothesize about the temporary market structuring completion phase in value and quantitative terms, attended by further stabilization process or sluggish growth. We should note the importance of not only the recession as a factor of destructive influence on the process of assets consolidation and market power concentration. Equally important is the impact of institutional determinants, including the lack of a clear legislative system; delaying the process of a law on trade adoption; the spread of illegal mechanisms for acquiring controlling interest to most developed countries; the presence of corporate conflicts associated with the formation and redistribution of ownership in joint stock companies. As a result, we can point out the obvious feature of the concentration process in the retail grocery market of Ukraine comparing to the markets of Central and Eastern Europe: a relatively low concentration level of foreign and high concentration level of national capital. Low concentration level, on the one hand, confirms the existence of competition in the market and the lack of a dominant position of a certain company, including foreign capital in the grocery market of Ukraine, but on the other hand, this level leads to a number of sector-specific risks and complications. Thus, high concentration level may increase the stability of the market during the crisis. Equally important is the accelerating transformation of the trade sector due to the innovative development of the considerable investment resources of the dominant companies. In this sense the national economy faces a conceptual dilemma to find a consensus between the low and high concentration levels of the relevant market sector, which actually comes down to a choice: to increase competitiveness of powerful operators, possibly non-residents, and the industry as a whole or a transparent competitive environment and economic sovereignty of the state.

¹⁵¹ Calculated on the basis of data provided by an independent consulting group GT Partners Ukraine

Conclusion

Therefore, the analysis of the retail trade state and development trends in Ukraine showed that the retail sector is one of the most dynamic. During 2006-2011 retail trade was characterized by increase in the formal trade share and the share of nonfoods sales through the retail trade network; growing interest in modern retail trade formats, and moving away from traditional trade forms of Ukrainian retail market. The analysis of the state and trends of market power consolidation and concentration processes in the retail market of Ukraine, the assessment of the concentration level of international FMCG - retailers and analysis of the impact of the mentioned process on the competitive environment of the domestic retail trade showed that these processes occur, but relatively slow. Ukrainian market refers to the markets with a low concentration of foreign capital and dominated positions of national retail business operators. According to the research the international retailers occupied the most advantageous positions before the crisis, due to better access to credit and investment resources on a global scale comparing to national operators, and successful strategy of a corporate development in times of crisis. However, since 2010 it is possible to identify a clear downward tendency in the dynamics of concentration processes of international capital in the Ukrainian retail grocery market.

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BARRIERS AND DESIRE OF WESTERN BALKAN COUNTRIES TO BE INTEGRATED TO THE EUROPEAN UNION

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Abstract

This article aims to analyse the integration process of Western Balkan countries to be integrated to the European Union.

This paper is divided into two parts. Through the comparison, the first part analyses the process of integration of the Western Balkan countries.

The second part consists on a questionnaire which is conducted by the author regarding to the faith and adherence conditions that the Albanians have to the European Union.

Even though the European Union is in crisis, it still remains attractive for Western Balkan countries, which will have to overcome many obstacles to become as a part of the European family. Croatia accession on July 1, 2013 is the concrete example to realize the dream of other Balkan countries that want to join the EU.

EU enlargement is a completely open process, which aims to create a stronger and sustainable Europe, with an important role on the world stage and also a single, broaden and more integrated market, which intended to stimulate the economic growth, to the countries that are already members of EU, and also the other countries which are in the process of this integration.

As a conclusion the accession process is necessary, because countries can't create the future alone. This thing would be achieved only through the cooperation between each-other. The European Union is the only opportunity for the advancement of Western Balkan countries, after the fall of the Berlin Wall, and the artificial division between East and West. Only through the EU assistance, the region may have economic development, unemployment decrease, crime reduction and peace etc...

Let us hope that the Western Balkans will be regenerated as part of the European family.

Keywords: European Union, integration, potential candidate, future

The Western Balkan countries and the adhesion process

After the fall of Berlin Wall and joint of two Germany, the Western Balkan countries looked their future in European family.

Thessaloniki Summit was like a stamp for these countries to start the adhesion process.

Integration is a process with stages and an individual process at the same time, because it depends on which country how and for how long it fulfills the adhesion criteria or named as Copenhagen criteria.

Thessaloniki Summit represents a historic step for these countries, because this union has been an opportunity and a perspective for the adhesion and enlargement of this region in European Union. So, date 21 June 2003, brings also the approach of connections between European Union and Western Balkan.

Western Balkan region is composed of seven states: Albania, Croatia, Serbia, Montenegro, Macedonia, Bosnia-Herzegovina and Kosovo which is the youngest country in the world.

The common thing of this region is the fact that although nationalism exists between them, they have only one and common purpose, integration in EU.

Enlargement is the most ambitious Project of European Union, based in the idea of economic, political and military reunion.

As M. Bogdani says in her book "Europe is not complete without Western Balkan", but this integration must be earned with the work of state and especially of parliament, from a consensus between them so a political stability is achieved, "depends on how quick or how slow we'll go forward with the reforms, with economic and political stability to walk toward the adhesion and full rights integration in European Union."

Comparative aspects of Gross Domestic Product and GDP per capita

Table 1-1

Countries	Comparing aspects of GDP and GDP per capita	1999	2003	2006	2008	2009
Albania	GDP \$ USA	2199 (95)	3146 (99)	7145 (04)	8532 (05)	9273 (06)
	GDP per capita \$USA	670 (95)	930 (99)	1918 (04)	2899 (06)	3354 (07)
Croatia	GDP \$ USA	15508 (95)	20222 (99)	31343 (04)	36230 (05)	41542 (06)
	GDP per capita \$USA	3250 (95)	4530 (99)	5440 (04)	9558 (06)	11576 (07)
Macedonia	GDP \$ USA	1813 (95)	3348 (99)	4672 (03)	5711 (05)	6214 (06)
	GDP per capita \$USA	860 (95)	1660 (99)	2248 (04)	3059 (06)	3659 (07)
Serbia	GDP \$ USA	15910 (95)	13742 (98)	20492 (03)	25747 (05)	31594 (06)
	GDP per capita \$USA	1510 (95)	1289 (98)	2626 (04)	4220 (06)	5596 (07)
B&H	GDP \$ USA	5900 (92)	4706 (99)	8446 (04)	9568 (05)	12815 (06)
	GDP per capita \$USA	1500 (92)	1210 (99)	1883 (04)	2533 (06)	3712 (07)
Montenegro	GDP \$ USA	–	–	–	2042 (05)	2462 (06)
	GDP per capita \$USA	–	–	–	3310 (05)	3745 (06)
Kosovo	GDP \$ USA	–	–	–	–	–
	GDP per capita \$USA	–	–	–	–	–
Slovenia	GDP \$ USA	16328 (95)	19862 (99)	27671 (03)	34146 (05)	36715 (06)
	GDP per capita USA	8200 (05)	10000 (99)	15214 (03)	18610 (06)	22933 (07)
Romania	GDP \$ USA	33488 (95)	33034 (99)	59694 (03)	97660 (05)	118370 (06)
	GDP per capita USA	1480 (95)	1470 (99)	2535 (04)	5633 (06)	7697 (07)
Bulgaria	GDP \$ USA	11225 (95)	11572 (99)	23142 (04)	26960 (05)	31469 (06)
	GDP per capita USA	1330 (95)	1410 (99)	2347 (04)	3995 (06)	5186 (07)

The Source: Istituto Geografico De Agostini Novara, *CALENDARIO ATLANTE DE AGOSTINI*, 1999, 2003, 2006, 2008 and 2009

From table no. 1.1 we see an economic decrease of Western Balkan comparing to two countries of East and Central Europe, due to wars and conflicts among them, based in macroeconomic indicators. Ex Yugoslavia was composed of 6 countries and among them, Slovenia was the country with more developed economy and highest level of living compared to other 5 countries.

- **Slovenia** lies among Austria and Italia Alpes and this is the reason that it is part of Central Europe. It has a population of 1 million and 900 thousand inhabitants and it is a homogenous population, that means it is composed only from slavic population.

In year 1995, the war was occurring in B-H, and serbian and croatian corps, bombed and massacred different cities of B-H. Of course that this war was bringing economic damages not only to the states where the war was happening, but also to the neighbour countries. This is the reason why the GDP was lower when compared to Romania, but higher when compared with Bulgaria, whereas the GDP per capita were higher compared to both Romania and Bulgaria. In year 1999-2000, we have increasement at two main indicators. This is the reason that Slovenia together with 9 other states of Central and Eastern European joined EU.

- It is known that **Romania and Bulgaria** became members of EU on 1 January 2007. Romania compared to Bulgaria referreing to GDP, stays in higher tank than Bulgaria, whereas in GDP per capita is a little more than Bulgaria, with a small difference. If we compare **Romania with Croatia** we can distinguish that it is higher referring to GDP and regarding GDP per capita Croatia is better, and this increasement is reflected more afte Dejton Conference in year 1995, which set up between Croatia-Serbia-Bosne-Hercegovina and here we have a highlighted increasement per capita compared to Romania. This shows that after the death of Tujman President, Croatia was fulfilling the criteria to integrate to NATO and EU and fact is that on April 4, 2009, it became a member of the North Atlantic Tretay Organization (NATO).

Romania, comparing to Serbia, shows to be far away regarding GDP and GDP per capita. This fact, has its own explanation, Serbia continued the violence pressure to Albanian people in Kosovo, after the war with Croatia and BH was over. This is the reason that Serbia is not a member of NATO. There is a chance for Serbia to adhere faster than Albania to the EU after Mladic was arrested and extradited to International Criminal Tribunal for the former Yugoslavia to stand trial, and Goran Hadzic was the last indicted fugitive to be arrested.

- Let us analyze the data for three other countries in Western Balkan; Albania, Macedonia and Bosne Hercegovina. These countries are the most economically regressed region of Western Balcan. Referring to GDP, Albania is higher that Macedonia but lower than BH, and referring to GDP per capita, Albania is a little lower than Macedonia and much more lower than BH. Macedonia comparing to Bosnia Herzegovina is lower referring to GDP even though they are at the same level referring to GDP per capita.

Both indicators have been increased in Albania after the 1997 poltical chaos, comparing to the economy of our country. After 2005, there is a political stabilization, reform fulfillling in Albania, in 2006 Stabilization and Association Agreement was signed and so this made possible that on April 1, 2009 it was ratified by countries id EU. On 04. 04. 2009 Albania and Croatia became members of NATO. On 28. 04. 2009 Albania applied for candidate status to EU, but in order to be a member of EU, 100 questions that EU will deliver must be answered. As the integration is a step by step process, Albania passed the visa liberalization with the European countries and depends on her how fast or which steps will take to integrate with full rights to European Union.

- **Macedonia**, a member of former Yugoslavia, became a Republic in 1992 as the former Macedonia Republic. This brought a strong reaction from Greece which doesn't recognize this name, being afraid that Macedonia will pretend to take Thessaloniki. I have to emphasize that two countries have recognized Macedonia with this name, USA and Albania. Macedonia is one of the first countries that have signed the SAA but the political situation has not been stabled. There exist inner conflicts between Albanian and Macedonian-Slavain who request their rights to be known as the second nation in Macedonia, to have their own language, schools where they can learn their language and to have their own flags in regions where they have 25% of the population. The war between them brought the Ohri Meeting in 2001 where the albanians' rights were accepted. Adriatic Card 3 (Albania, Croatia, Macedonia), predicted that these countries to be candidates for members of NATO, but Greece again put veto by requesting changing of the name of Macedonia. The Prime Minister

Nikolla Grujevski with his government, declined their request and even though USA and EU made efforts that these two countries could reach consensus, which did not succeed and the consequence was that Macedonia did not participate at Bucharest Summit in 2008, and at the same time Macedonia did not apply for the NATO membership. As President Bush has said: "NATO doors will be open for Macedonia".

- **Bosnia Hercegovina**

One of the six countries of Yugoslavia Federation. It became apple of discord between two of the most military strong countries of Yugoslavia. The battles started since 1992-1995 with Dayton Conference where President Clinton met with 3 presidents, Tujman, Milosevic, Alia-Izet of B-H. In this Conference it was decided that Bosnia would join Croatia and create a Federation that would include 51% of BH territory whereas Serbia Republic would include 49% of BH territory. This was a very fragile agreement but at least armistice and serenity were reached. Dayton Agreement was so fragile that war started again if the international troops leave, but a protectorate, for which the occupier force would not like to take political charge. The way that maps are prepared, that determine the territories to Serbian, Croatia and muslim people does not encourage cooperation between them. Bosnia issue is not settled yet. Today BH is a military protectorate that is guided by United Nations Organization and Albania has sent military troops to BH.

- **Kosovo**

On 16.02.2008, Kosovo, the youngest country in the world, proclaimed the independence. Kosovo has a 85 year long history full of pain, disasters and violence. Serbian committed many crimes in Kosovo especially after the World War II and only in 1974 President Tito named Kosovo and Vojvodina as autonomous province with self governing rights. The first shock for the system of Yugoslavia came on March 1981, when Albanian students in Pristina, supported by most of the Kosovo population, started political demonstration requesting equality with other nations of Yugoslavia, self governing for the region and their region to be republic. The demonstration was stamped out by the Serbian army and police, however this problem could not be hidden or covered with violence. As the Albanian writer from Kosovo has said "this war started in Kosovo and will end in Kosovo". After this demonstration in 1991, there started conflicts and the first republics that voted for the break-away from the Federation were Slovenia and Croatia. After the Dayton peace, the first independent republics of the former Yugoslavia started to deal with the economical development of their country but the other Serbian criminal Milosevic denied the self governing right of Kosovo as an autonomous region and started terror against Albanian civil people in Kosovo.

5 months after Dayton Conference, Kosovo Liberating Army (UÇK) was established. This army fought for the Kosovo Independence so it could be a Republic on her own. The battles between UÇK and Serbian troops aggravated a lot and day after day UÇK members' number was increased by young people. This caused a big concern for the Great Powers especially for the American and EU politicians. This made them to interfere in order to solve the conflict, but Milosevic started massacres to civil population and obliged the international community to interfere by NATO after the diplomatic negotiations failed.

So, on March 14, 1999 NATO airplanes began bombing the Serbian army positions in Kosovo and the industry in Serbia. In June Milosevic gave up and accepted to retire the Serbian troops from Kosovo. Since then Kosovo was a protectorate of United Nations Organization and was led by different Governors from European countries. Kosovo nation could not accept this situation because they fought for Kosovo to be a Republic. They achieved this on February 16, 2008 when President Sejdiu and Prime Minister Thaçi proclaimed the Republic of Kosovo. Today, not only Kosovo, but Serbia also and other neighbor countries need help from the international community for investments in order to

disappear the war signs. As Misha Glany says “bombs caused big damages to Kosovo and Serbia” whereas their neighbor Balcan countries passed through other economical damages, it is evaluated that loss of Serbia including Kosovo during the first three months, is 7-10 milliard dollars. But other countries too need short term help in order to compensate gross domestic product caused by was approximately 5% in countries affected by, Macedonia, B-H until 0.5% in Romania and Hungary. However if Great Powers do not achieve to exploit the actual opportunity to invest in this region, then the problems in Balkan will surely continue for some other 10 years.

Albania and EU integration process

Diplomatic relations of Albania and European Union were established in 1991. The most important milestone for Albania and EU was one year later, on May 11, 1992 with the signing of Cooperation and Trading Agreement which came into force on December 1, 1992.

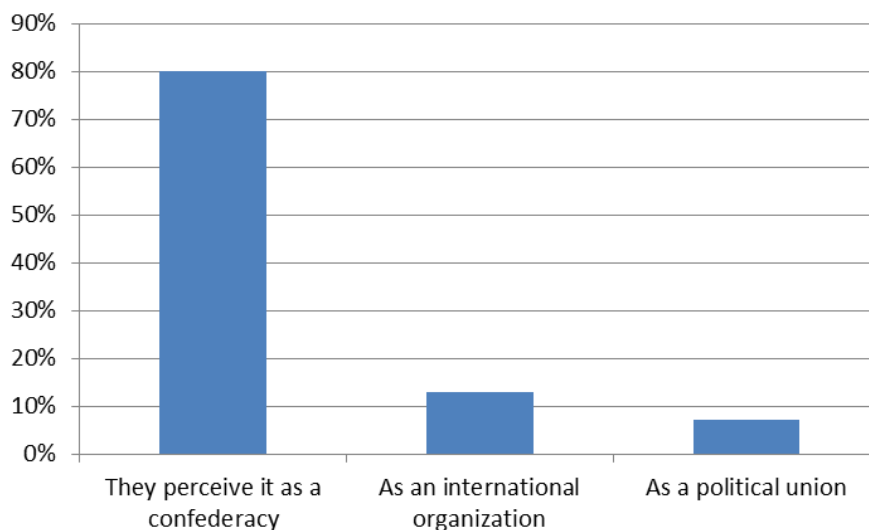
On May 1999, European Union approved a new initiative for 5 countries of Balkan, Albania, former Yugoslavia Republic of Macedonia, Croatia, Bosnia-Hercegovina and Yugoslavia Federal Republic, called Stabilization Association Process.

Thessaloniki Summit held on June 2003, named also Zagreb II confirms the future for integration to EU of Western Balkan region and gives a chance to the exploitation of instruments used in new member countries.

2010 year gave to the Albanian citizens the chance to travel without visa in European region. Let's hope that Albania will fulfill the conditions to be a candidate country in EU and to continue through reforms the way to be a member with full rights and duties in European family.

How do Albanian percept European Union

Graphic no. 1.



- 80% consider as nation union
- 13% as international organization
- 7% as political union

Source: Questionnary realized by author

From Graphic no. 1.1 we can notice that Albanians have knowledge for EU:

- 80% consider as nation union
- 13% as international organization
- 7% as political union

We ask many times what is European Union. Is it a confederate or a federate? Which is its identity? European Union should report its purpose but it is difficult to answer this question because European Union owns a confederate and federate character.

But EU depends on his citizens, in faith for political integration and in this way EU will have another formality. One thing is for sure, EU is the most advanced and favorable formality for European citizens.

To conclude, as Herodotus says: “None knows about Europe ... where is this name taken either who gave this name” whereas as according to Grigore Silasi opinion “*European Union is not an European nation and will be not one European nation, it will be a federate like American model or like German governing meaning which is a federate in classic style.*”

European Union is based on international treaties, but it is much more than a traditional nation country. Being neither a country or a federal country, it is in a continuing integration process, as a governing institutions which can't be classified according to the existing models.

Conclusion

The world runs with fast rhythm toward integration and globalization.

China Wall and Berlin Wall taught us that none of the countries who build walls, barriers could not develop and walk toward development.

Western Balkan countries, being a region that always had wars, have understood that not being part of the European family can not develop. Only integration could bring profits. Nationalism and wars bring only regress. The war in B-H and in Kosovo shows this very well. As a part of Western Balkan and a member of this region, each of us have to contribute to be one family, regardless the faith, economical or nationalism changes. Western Balkan must REBORN!

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E-GOVERNMENT IN LEBANON

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Abstract

Technological inventions stand beyond limits in applications to promote and sustain good governance, as man travels in open space, in search and discovery of the mysteries of the galaxies.

In contrast, man in most developing countries still relies upon the primitive instinct reflected in thought, behavior, and culture of violence.

Good governance is enhanced by technological discoveries to promote constructive communication, facilitate transactions, keep accurate records, provide better public services, and combat corruption. It is the key factor to promote governance transparency, managerial effectiveness and sustain development.

The presence of good governance will help countries fight violence and corruption by spreading a sense of equity and utilitarianism.

This research focuses upon collecting data from the developing country of Lebanon, in the MENA region, where most official and public transactions are still carried out, handwritten, in ledgers and endless bureaucratic tapes. The authors aim to collect and analyze the actual data, for its heartbreaking, that in the 21st century humans are still living in the swampy darkness of corruption and backwardness.

The hypothesis of this research aims at highlighting the importance and values, produced by the application of e-government to help sustain the country's development.

Keywords: E-government, good governance, Mena region bureaucratic, corruption

Introduction

The world wide sweeping innovations, discoveries, and application of information technology, along with the advanced digital connectivity, have profoundly revolutionized businesses and services performance in both, the public and private sectors.

Good governance in the developed world contributed to exporting the technology to developing countries to help them modernize their socio-economic and political systems.

To survive, in these modern times, saturated by competition, continual change and creative innovations, businesses and governance must quickly adapt to changes generated by information and communication technology (ICT) to provide optimum services to citizens and customers, while sustaining economic development. [Malhotra, 2010]. The world, today, is best described as an electronic one. For those who partially adopted the new trends, but remain chained to medieval taboos, awkward ideologies and laws, lack of ethics and poorly individually designed management system and governance, they are missing the ride on the future wagon. Indeed, they remain victims of ignorance, illiteracy, violence, and often self-suicidal cultural missions.

Problems and Definitions

This topic was chosen based on the urgent need by MENA countries, particularly Lebanon, to adopt technological innovations in order to free themselves from the poor governance, based on dictatorial centralization of the administrative, legal, cultural and political systems, which tie these countries to dark times and backwardness.

Some countries in the MENA regions earn huge sums of monies from oil and gas revenues allowing them to physically develop their countries and better service their citizens. Others are struck by poverty with large demographic boost, ruled by “divine” dictators, still living, physically and mentally three to four centuries behind. Examples of these countries are Egypt, Syria, Iraq, Lebanon, Yemen, and some North African countries.

The people of these countries suffer from many issues that need to be considered and understood:

1. Archaic political systems based on theocratic rule, cult of the leader and the Shari’a religious laws, an economic political mafia ruling under different types and forms.
2. Autocratic systems far from any democratic rule, controlled by military, religious, or political individuals or groups, intolerant of any opposition or challenges within a fully centralized environment.
3. Corruption, nepotism, fear, and lack of human rights’ respect in addition to unqualified bureaucrats who rule the state.
4. Old fashioned systems of education, based mainly on copy-paste practices and imitations. As for those individuals who reach high educational level, they are compelled to emigrate, be jailed, or disposed of for they constitute an ultimate threat to the ruling “princes”.
5. Lack of good governance, meaning absence of the rule of law, accountability of public servants, planning, transparency, citizens’ participation, equity and inclusiveness.
6. Poverty and hunger, as bureaucrats abuse their power instead of serving the citizens, for they are mainly concerned with their individual welfare or that of the “boss” = Al-Zaim.
7. Worst is the lack of economic stability and security as violence, crimes, threats, and terror, constitute daily happenings.

The Electronic Government: Definition and Review

Electronic government consists of wide and efficient use of application of different technologies by governmental departments and ministries to connect with and better serve the citizens. Such application offers many categories of benefits such as: (a) fast delivery of services to save time; (b) reduction of monetary costs along with lesser frustration, confusion, and mistrust; (c) continuous access to correct information and policies by the citizens; (d) reduction of corruptions and bribes; (e) support for administrative, cultural, social and economic reforms; (f) decentralization, privatization, and effective establishment of good local governance.

Methodology of Research

The basic information of this research are primarily drawn from semi-structured interviews, and to concepts already treated by various scholars.

The focus will be on analyzing the implementation of electronic government while evaluating the factors leading to its success or failure.

The great forward strides achieved by the internet growth in the past decades, contributed to revolutionize the communication process and information dissemination, nationally and internationally. James K Scott estimates that websites are increasing at an unlimited pace [Scott 2005].

Literature Review

Although governments of developing countries have slowly begun to incorporate ICT in their planning for administrative efficiency and reforms. The strategic use of such technology would lead to more efficiency, transparency, accountability, and effective public management. [UNDESA, 2004]

In the US, for example, the Office of Management and Budget (OMB) claimed that e-government ended up by saving the US over \$508 million, in 2007 for tax payers and the federal government. [OMB, 2009]

One must however, use caution, for e-government is not a “magic wand” once applied, it solves all problems. [Saide and Hala, 2006]

Any failure to reach the desired targets may not be in the program itself, rather in the human and legal actors empowered to administer it, [UNDESA, opcit] which often choose to implement their own twisted system.

Sometimes, government in developing countries may initiate such a change to reduce external political and financial pressures, for international agencies [Ciborra, 2003], such as the IMF, the World Bank and other donors, do link their aid to administrative and technological reforms by the receiving government. [World Bank Group, 2003]

E-government encompasses all the ICT with computer networks such as Internet and intranet, to include many digital connections and (a) connections between government agencies and departments for a healthier decision making process; (b) between governments and NGOs promoting accountability before the citizens; (c) between government and businesses for optimum delivery of services. [Heeks, 2006]

The ultimate objective of e-government is to achieve good governance through interactions between the citizens, the state, and civil society, conducting online businesses and communication. [Montagna, 2005]

The UN agency, UNESCO, identifies in its electronic government toolkit, four types of interaction as foundations for e-government application and success. [Patricia, 2003]

1. Government to government involving sharing and exchanging of data on the national provincial and local levels.
2. Governments to citizens through distribution of information and electronic delivery of services: such as obtaining certificates, paying taxes, renewing license, and others. The citizen would consequently be allowed effective participation in the process of policy formulation and building trust.
3. Government to business involving transactions exchanges between both sectors of rules and laws regarding taxation and different policies.
4. Government to employees focusing on rules, laws, training, work guidelines, benefits, pay structure, employees welfare and rights, and public housing.

E-government will quickly and more directly bring information to individual citizens and organizations, enabling them to access these information without physically travelling to government offices, wasting time, money, fuel, and most of all suffer frustration and depression when standing in long lines and be compelled to pay bribes, humiliated, and abused.

E-government Role in Initiating Reforms

It is important to keep in mind that e-government is neither a simplistic automatic application of technology nor purchase of computers to deliver public services; it is rather the creation of a productive relation between the ruled and the ruler, through good governance and the rule of law. E-government ought to be considered as a major key for initiating reforms and changes to revolutionize democratic relations and transparency.

To achieve the finest objectives, major steps must be applied.

1. E-government requires a strong public managerial leadership, fully transparent, ethical, and qualified to manage the state resources.
2. Clearly outline the relation between the public and private business sectors, including NGOs when dealing with ecommerce. [Center for democracy and technology, 2002]
3. Enhance citizens' engagement and acceptance of the changes by promoting public participation in the national decision making process, sharing national vision to reach efficiency and consumers satisfaction.

As a precondition for the success of e-government's application, the bureaucracy and the public must be ready to accept and engage in this process involving a digital economy and administration.

Lebanon's Case

Lebanese Problems

These major problems form the basic parts of the citizens' daily life in the MENA regions. The authors chose Lebanon as a case, for this tiny country is plagued by so many ills, yet, for almost 90 years, it has not been able to move forward and free itself. The focal point is the awkward administrative system that raises several issues:

- Identification of the major public management problems and weaknesses, whether socio-economic, religious, legal, political, or military.
- Corruption causing high costs to the country and the citizens.
- Inefficiency in applying the rule of law.
- Absence of e-government in most ministries and departments.
- Tight centralized of administration where the citizen who needs approval of a specific document must travel to Beirut; consequently contributing to traffic jam increasing burning fuels causing pollution, wasting two to five days of his/her productive time, shuttling back and forth with little results to end up with frustration and the decision to emigrate.

Lebanese public management continually relies on manpower especially when public employees are hired without adequate qualifications.

Nepotism is the main criteria in hiring public servants ignoring standards, potentials and experience.

In most governmental departments, citizens' requests and applications are mechanically recorded and processed leading to waste of precious time, corruption, delays, and sometimes loss or shelving of the applications.

Based on this tragic reality, Lebanon, more than ever, needs to install new technologies to provide quality services to its citizens. Such change will definitely face challenges and obstacles that require evaluation.

Following the elaboration of the main problems plaguing the Lebanese traditional public management, it is evident that an evolution has been far too late behind, and needs urgent consideration. Electronic digital government presently appears to be the only available system that would carry answers to inherited public administration problems. New models of public management are needed, making use of sophisticated technical innovations in order to facilitate government-citizens relation. [Opcit]

Obstacles to E-government Application

In spite of the necessity to implement the E-government process in the MENA region, and particularly in Lebanon, many obstacles must be either removed, or at least treated within defined and feasible strategy of action. Among these obstacles, the main ones revolve around e-readiness including

1. A favorably developed cultural environment, whereby, leaders, managers, administrators and citizens, ought to evolve from a primitive culture based on violence, blind

religious beliefs, intolerance and political authoritarianism, into a modern, democratic and secular society.

2. Access to networking by opening many channels focusing on utilizing the latest communication technology, tools and means that the citizens will be able to understand and use.

3. Networking education aiming at training and developing human capital to quickly learn how to utilize the Internet and intranet to facilitate the required transactions. This requires major change in management behavior to avoid resistance, abuse, and failure.

4. The culture of violence that is often promoted and “divinized” by uncontrolled theocratic leaders who pretend serving “God”. These leaders teach the youth from early age the so called “virtue” of killing and terrorizing others as being divine qualities and desires, earning the criminals, in the eyes of God, favors and much happiness on this earth and after.

5. Scarcity of all kinds of resources to carry the process through. In contrast, such a scarcity may lead to mismatch between future objectives and the reality. Another concern lies in the fact that the private sector recruits top quality human elements, leaving the public one to manage with mediocrity.

The Benefits of E-government Application

Contrasting with the obstacles the E-governing process offers many benefits to the rulers and people alike.

1. It places services online to reduce costs and increase gains to citizens as it reduces time, energy and corruption. [Amit and Zott, 2001]

2. Provides quality service delivery being offered online avoiding the huge and confusing bureaucratic and less tapes. [Rinne, Lage and Andrade, 2001]

3. Enhances transparency and accountability, whereby unethical bureaucrats and managers would have fewer opportunities to abuse their powers and fend off their responsibilities. Documents, applications, fees and other requirements will be fully recorded, subject to scrutiny and accountability while allowing the citizens to review most of the records.

It is recommended in this section that government establishes a special court in every district, pending the geographic and popular size, empowered to listen to citizens, handle their complaints and small claims against the central and local governments.

The ICT’s applications are numerous beginning with granting permits and licenses, recording traffic violations and regulations, payments of taxes and many others.

4. Creates a diversified network of information and dynamic learning process. [Mansell and Wehn, 1998] This improves the communication process and governance effectiveness. [OECD, 2001]

5. Creates partnership and collaboration between central, regional, and local governments to boost citizens’ trust in their public management on the basis of transparent partnership, especially, since dictatorship, violence, incompetence, instability and corruption have been the main factors in the mismanagement practices.

The MENA region, like the rest of the world, has been recently lacking effective and visionary leadership. In the case of E-government, leadership becomes a prerequisite driving force to achieve success, before, during, and after the implementation.

The modernization of the administrative system in Lebanon through E-government application must take into full consideration the socio-cultural – religious – legal - economic and technical state of the matter as it pertains to

1. Technological factors centering on the development of the national infrastructure, which has not yet recovered from destructions, incurred during the 1975-1990 civil war. The basic issues encompass the electrical energy that is still primitive, the telecommunication

(internet intranet and telephones) ranking Lebanon very low among the developing countries. Government officials competence to deliver their promises remains either verbal or ink on papers stashed in dark drawers. Among the main premises are (a) implement a national microwave system with high network capacity; (b) lunch satellite stations; (c) link ministries and state institutions.

2. Legal and political factors, whereby the Lebanese government ought to review the country's old laws, regulatory procedures, overlapping and conflicting authorities, and its policies toward human resources elements.

3. Organizational factors to focus on leading the country and its people out of the medieval mentality and behavior. Lebanese public institutions are still run in the same manner as in 1926 and even 1860, when Lebanon was granted semi-independence status. The main organizational problems that stand as firm obstacles to national development comprise (a) old and obsolete laws; (b) an archaic political system torn between theocracy and secularism; (c) poor and unqualified human resources; (d) lack of true national leadership; (e) corruption and lack of accountability; (f) multiplicity of military actors spreading violence and fear; (g) cultural promotion of warfare and hatred by some groups.

4. Regional and international factors whereby a large portion of Lebanese citizens are either blinded by empty emotional slogans and religious affiliations, or are bought by foreign bribes, to a point that they have forgotten how to be loyal Lebanese citizens. They have plunged the country into foreign conflicts and narrow stereotyped rumors or interpretations; consequently Lebanon has become a theater for regional and foreign gladiators who fight their wars through their Lebanese puppets.

Conclusion

The successful application of electronic government to generate the desired value and healthier environment in the targeted country, Lebanon, and most developing states, requires much preparation to reduce the obstacles and prevent failure. E-government adoption necessitates much preparation by the citizens, the bureaucrats and top public decision makers. It requires e-readiness to be strictly and meticulously evaluated, and continually reviewed to sustain profitability and success. The minimum in certain issues must be secured, such as training citizens and bureaucrats, and easing the system's use by the average individual. Universities and learning institutions as well as the media could play a crucial role in support of E-government application. The most important factors in the adoption of this system remain above all the political stability and the rule of law.

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FEATURES OF THE ALBANIAN TOTALITARIAN STATE RELATIONS BETWEEN RELIGION AND THE STATE

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Abstract

After the end of World War II, it was established the totalitarian regime. Albania was transformed into the country where the most severe and intolerant form of Communism originated and developed from, and which isolated the country from the outer world and put it in a state siege. Years went by and every power was concentrated in the hand of one single man, The Dictator Enver Hoxha. the totalitarianism that was being established in Albania, considered all as being equal and aimed at having the whole nation under its control. In this paper I will present the features of the Albanian totalitarian state during 1945-1990. I will introduce the way the state was organized, how the leadership of that time, headed by the state chairman Enver Hoxha, managed to run the state. how did such a system manage to change, transform the whole social life and why was Religion exactly impinged? I will focus on the aspect of human freedoms and rights such as: practice of religious freedoms, imprisonings, murders of the clergymen, and why was the state interested in invading the Clergy. What was the real reason of religion prohibition?

Keywords: Dictature, communism, totalitarianism, religion, state, prosecution

Albanian totalitarianism and the commons of totalitarian systems

Totalitarianism is the activity of one single political party which monopolizes all political activity and the ideology of this party is turned into the official law of state. Political system that was installed in Albania after the Second World War was “ The regime one-party has in its hands all of national structures and is turned into a political dominated force where has a total control over all society.”¹⁵² At the outset, the state-party had the strategy of domination of each sector of society, elimination of all opposing parties and specially the religion that was seen as the single real obstacle in establishing the new communist order. “ First of all, totalitarsim is a certain outlook. Before it is showed in a shape of prison, concentration camp, police controle, totalitarianism comprises a thought; it is expressed through a certain social logic, comprises a special inventive configuration and a legitimation of a precise frame of the truth and of a special unchangeable group of transconception”¹⁵³ . According to philosopher Artan Fuga totalitarianism can be studied and explained through three conceptual frames: Spatial- Totalitarianism in different countries. The common philosophical logic of totalitarian regimes installed in different countries, despite different socio-cultural conditions of their determining. Time- Philosophical logic and social of authoritarianism, dictatorship and authoritarian regime showed by history. Cultural- Philosophical logic of totalitarianism and its relations with whole spiritual and intellectual creativity of society.”¹⁵⁴

Function of totalitarian power in Albania was based on certain ideas they hold for half of century this political idea lived in state-party. “The thought that it is completely

¹⁵²Skura, Gentjana, “Experience in construction of Albanian state 1945-2005”, p 79, “SHBLU”, Tirana, 2011.

¹⁵³ Fuga, Artan, “Paths towards cave of snake ”, p. 18, “Ora”, Tirana 2001.

¹⁵⁴ Fuga, Artan, “Paths towards cave of snake p. 18, “Ora”, Tirana 2001.

possible to know reality in a objective manner, the thought that a politic based on a Leninist ideology is unmistakable, that determinism is essential and that can be done long predictions, thought for necessity of directive role of communist party in the state`s structure.”¹⁵⁵

Every other thought that left towards these ideas was seen as a ideological mistake, sabotage or enemy with new power and order that was being established. Albanian totalitarianism that was situated from 1945 to 1990`s was characterized by: One single official ideology it is refered all of aspects and activites of human existence. The sole ideology must be embraced and absorbated by all members of totalitarian society without any exemption. Everyone that go controversary with official ideology or with principles of new communist state establishing, was seen as an obstacle for aid of system. One single massive party directed by dictator , framed in a restricted hierarchy shape. Each sector and piece of of state, party, society is concenstrate in leadership`s state-party hands. A police terror system connected narrowly with single party and it has the essential activity the war with enemies of regime and class or arbitrary layers. Totalitarian terror, differently from that of previous autoritary regimes, was not simply a repressive means, but a means that liquidated opponents and kindled fear, extraordinary pressure. According to Fuga, all totalitarian state`s activity consisted in: “ Ateism, thus war against religion, religious institutions and religious consciousness, equality in living conditions and life style of citziens, proletarian internationalism, collectivisation of agriculture, politisation of customs and traditions, political totalitarianism, personal life asketism of people in conditions of material poverty¹⁵⁶. State, society, individuals, party become one. The state has everything in its hands, the state has in its hands the state its self. The state, state-party organizes, leads, ménages everything. “ The state becomes Lord for every possible decisions in economic field. So the functionary of state is he mobilizing the economy” ¹⁵⁷ and each life sector of Albanian society in totalitarianism. According to social scholar Hysamedin Feraj “ Enverism totalitarian rule, its penetration in all fields of thought and feelings, by Albanian nationalism sight, composes penetration of Russian, serb and greek nationalism thought, panslavism and panhelenism byzantine- orthodox in thinking, feelings and in general spiritual world of Albanians”. ¹⁵⁸ Totalitarianism is a term that is used for the first time in Italy in 1922, realting to fascism movement of Benito Mussolini. In this year the word “totalitarianism” was codified in Italian Enciclopedy, while in Great Britain the term “totalitarianism” was treated at “Time” Journal in 1928 codifying in four years late,r also in Social Scientific Encyclopedia of United States. Hana Arendt in her book” Origin of totalitarianism” see the totalitarianism as a form completely new of domination that characterized bolshevism and nazism as political systems bazed over terror and “totalitarian ideology”, which didn`t aim simply to transform subordination of human nature itself through creation of “new man” or “new order”. In political discours of communism period in Albania, “new communist man” cleaned from dogmas, belief or whatever foreign show was the appropriate man for construing the system governes in Albania for 45 years.Arendt insisted the totalitarian regime had not as goal to organize citziens, classes or social group, but so called “masses” such as employee masses, cooperative masses, popular or actioner masses, terms meted in every speech of Albanian`s communist leaders and beyond. Hana Arendt insisted that only German Nazism and soviet bolshevism can be classified as totalitarian meaningful systems. In Albanian case this was not authentic because it was a copy of Russian bolshevism.

¹⁵⁵ Fuga, Artan, “Paths towards cave of snake p . 67, “Ora”, Tirana 2001.

¹⁵⁶ Fuga, Artan, “Left no right”, p. 90, “Ora”, Tirana 2003.

¹⁵⁷ Fuga, Artan, “Left no right”, Fq. 92, “Ora”, Tirana 2003.

¹⁵⁸ Feraj, Hysamedin, “Sketch of Albanian political thought”, p.360, “Pegi” Tirana 2006 .

Totalitarian agenda: Tortures, imprisonings, arrests, executings

Executings, imprisoning, tortures were in agenda of the day”¹⁵⁹. Totalitarian system had exactly determinate the agenda for establishing new communist order. The fear and panic were disseminated at the people everywhere with only the aim to convince opponents and disseminating everywhere the idea that tragic fate waits everyone which don't obey or oppose to the new system. Albanian totalitarian regime was terribly cruel against its opponents. According to they that have passed on the back suffers and unexampled cruelty of totalitartian activity of state and segments of investigation, torture and prisons. "Against all of they which didn't want, it was turned furthermore into a hunger “ to eat” people. To eat people each-other. “To eat” people alive. Also courage to say a word that didn't belong to the long line of praise for power, kindled power`s hating and its mechanisms were applicated immediatly by their unfinished hunger to eat people. Worst for any citiziens when he say any word against “primary leader”¹⁶⁰. All society life and its whole activity, totalitarianism took understand if it relied with dictator`s name. “

Arrests and uninterrupted condemnations held the people in a permanent state of tention and fear. The accused people were not any more “collaborationist” of occupant. At the halls of courts were appeared many outstanding figures of “ National Liberation War” and of resistance against occupant. Was clear that new regime was conducted toward totalitarian political monism, without conditions, without reserves”¹⁶¹. Totalitarian tide had catch everyone and everything, system`s members too. The system seeked sacrifices and from inside of frame, system didn't ask for no one and nothing, its only aim was its establishment. Ejëll Çoba tells for communist terribles and tortures quoting his roommate “ One day Salih Vuçiterni told me: I'm ready to sign my decision of death, but only to rescue from tortures. Me too – I replied”¹⁶². The system tagged him that wanted to eliminate and afterwards did his elimination binding to subscribe for charge from his activity that and in a dream had not seen. Activity of totalitarian order installing in Albania caused imprisoning, tortures also elimination in this country from elite people to simple people was a clear activity of genocide. “Genocidisation of this elite continued systematically through structures of dictatorship`s machine, prisons, working camp, seizing, exile, depersonalization... The prison, this monstrous institution of communist dictature was a real hell: officaly the capacity of theses places in prisons and camps was approximately 3000 individuals, and in fact their number every year passed 5000”¹⁶³

Religious reprisal as a fenomen in albanian totalitarianism

In 19 novemeber 1967, albanian communist regime drewed badnamed decret no.4337 « On abrogation of some decrets ». It stopped a normeous decrets in years 1949-1951, which legitimate religious activity in Albania and agreement of state with religion. With this were stopped religious rituals and it predicted hard condemnations for all deviants of this decret and proclamed Albania officaly as a state without God. Absolut power installed in Albanian post-Second World War saw religion as an obstacle for unifying of society and spiritual power, saw it as an obstacle for establishing of new totalitarian order. At the beginning of establishment of communist order in Albania, religion was in target with the only goal to eleminate it slowly until fatal fighting in the year 1967. Communist propoganda brought the argument that revealed nationalist degree reigning in that time. « Religions cannot fit to

¹⁵⁹ Çoba, Ejëll, “Lost life” p. 12 “Adel Print”, Tirana 2010

¹⁶⁰ Gumeni, Daut, “Notebook from School of Party”, fq. 365, “Dudaj”, Tirana 2012

¹⁶¹ Repishti, Sami, “Under shadow of Rozafa”, fq.121, “Onufri”, Tirana 2004.

¹⁶² Çoba, Ejëll, “Lost life”, p. 43, “Adel Print”, Tirana 2010

¹⁶³ “Albanian Rehabilitation Center of Trauma and Torture” “ Antology of Communism Crime” p.5, “ARCT”, Tirana 2006.

Albanians people until they were not autoctones, but were created outside the country and were brought by occupants. This means that until the God was not Albanian, He cannot be believed »¹⁶⁴, thus in consolidation of society and order on new communist man, totalitarian systemsaw the religion as a serious obstacle and were found arguments to persuade public opinion that elemination of religion was something right. Dictator Enver Hoxha in the summet of Albanian-Chinese friendship, taking as exemple Chinese ally, specially in February 1966 when it took a tide of changes in the culture sectors calling Chinese cultural revolution. The goal of revolution was « attempt of PPSH leaders to install their authority in local organizations of Party, to subordinate again the people, to fight all « dangerous mentalities inherited from the past » and to re-establish its impact over all sectors of life »¹⁶⁵, where without a doubt religion was the primary goal after there were eleminated almost phisically and institutionally, still had remained one year from final knock. When the state put the mattock over religion, except brutal destroy of essential object , some mosques, churches, monasteries, religious schooles, libraries were turned into appropriated places for activity of power, turning into sport places, various stalls, cultural centers, theatres, fitness center, dancing halls, ateliers, cafes, warehouses, museums, public baths, homes for the elderly etc. Heavenly God was substituted with terrestrial God (dictator). The walls of mosques were filled by slogans that praised the Party, which has closed them. In that eventfull year (1967), afarist visitors said that in Tirana « beautiful orthodox church of pilgrimage in south party of the city is turned into a night club for party members. The chancel is used as a brasserie with a cafe machine and plein of ordinary beverages». According to researcher Hysamendin Feraj the dictator Enver Hoxha and enverists, the war against religious beliefs, have legitimated also with « nationalist » arguments, as the war to secure and force national unity from disruption that encourage « traditionally » religious clergy, war started also by « renaissance » expressed by the slogan « The religion of Albanians is Albanianhood ». « E. Hoxha, presenting himself as continous of Albanian nationalism idea of the past century, writes, according to him, from the First Consult of PKSH had said « Our Renaissancers said « Albanian`s religion is Albanianhood ». This argument of Hoxha is believed and supported verbatim as a real motif of him for the war aganist religion in Albania »¹⁶⁶.

Conclusion

Totalitarian that was installed in Albania almost for 45 ago was the activity of a single party which monopolized all political activity and the ideology of this party was turned in a official law of state. State-party had at the beginning the strategy of domination over all society sectors, elimination of all opponent parties or opponents of regime and particularly of religion that was seen as the single real obstacle in construing new communist order. One single party massive leading by dictator, framed in a rigorous hierarchy shape. Each sector and segment of state, party, society is concentrated in leader`s state-party hands. A police terror system related closely with single party and has the essential activity to fight against enemies of regime and classes or arbitrary layers. All the activity of totalitarian stateconsisted in: war against religion, religious institutions and religious consciousness, equality in living conditions and lifestyle of citiziens, proletarian internationalism, agricultural collectivisaton, politisation of customs and traditions, asketism of personal life , in conditions of material poverty. Executions, imprisoning, tortures were in agenda of the day during all totalitarian system. All the life of society and its activity in totalitarianism obtain sense if it was related with the name of dictator. The system tagged him that it wanted to eliminate and after that

¹⁶⁴ Pol Shanse, Elizabet e Zhan, "Albania or logic of disappoint", p.51, "Elena Gjika", Tirana 2000.

¹⁶⁵ Duka, Valentina, "History of Albania 1912-2000", p.282, "SHBLU", Tirana 2007.

¹⁶⁶ Feraj, Hysamedin « Sketch of Albanian political thought », p.352, "Pegi" Tirana 2006.

made his elimination binding sign for charges that had never dreamed . Absolute power which was installed in Albanin after Second World War looked the religion as an obstacle in unifying Albanian society, and spiritual power it looked as an obstacle for construing new totalitarian order. At the beginning of construing new communist order in Albania, religion was targeted in order to eliminate it slowly until destructive strike in 1967.

Except the brutal destruction of essential objects of some some mosques, churches, monasteries, religious schooles, libraries were turned into appropriated places for activity of power, turning into sport places, various stalls, cultural centers, theatres, fitness center, dancing halls, ateliers, cafes, warehouses, museums, public baths, homes for the elderly etc. Heavenly God was subsituted with terrestrial God (dictator).

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POLICING IN MULTI-ETHNIC COMMUNITY (MACEDONIAN CONDITIONS)

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Abstract

The late 20th and the early 21st century started to push on and implementation decentralized proactive policing in draft model of community policing the first in highly developed countries and later gradually on countries in development. This model not includes only fight against crime but also deal with any security problems at the local community level so that you can rightfully say that it is modern concept of security on strategic principles and prevention programs. The long road to Euro-Atlantic integration Macedonian police this trend of modern policing is still making strides to become a reality. The extent of integration on the police in society and interaction was perceived as well exchange of information with local community in this case we need empirical research for resolving on the security issues. Such a one research recently was completed in Macedonia but research conducted from student team of FON University. The results show that the integration of the Macedonian police in ethnically mixed areas, and that citizens have confidence in police officers with their different nationalities.

Keywords: Security, policing, multiethnic community, police

Introduction

Police work in a multiethnic environment is very sensitive and cannot take place in isolation without the cooperation of citizens. In a society where there are different ethnic groups, the role of the police is determined precisely by its multi-ethnicity. The heterogeneous composition of the population is a source of diversity which can be cause of any security problems. The more of eventual gap is deepen between interethnic conflicts, the more the police will be more difficult. On the other hand it needs to establish impartial connection for detection on the potential sources of security risks and threats.

The Republic Macedonia are met with security challenges of conflicts that spreads over the Balkan countries: Bosnia and Herzegovina (1993), Albania (1997) and Serbia in the Kosovo crisis (1999). One decade Macedonia lived in misconception is that "oasis of peace", but the reluctance of political and security plan brought to the brink of civil war in 2001. Almost one year after the military conflict was signed the Ohrid Framework Agreement. Post-conflict situation in Macedonia had need of international assistance in order to implement reforms in the security sector and in many other spheres as part of the obligations set out in the Ohrid Framework Agreement. For this purpose, among others, were formed ethnically

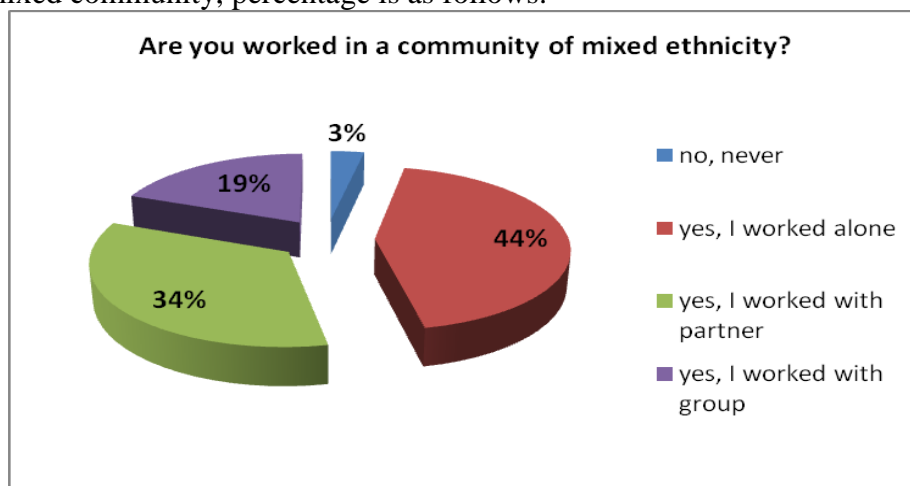
mixed police patrols to guarantee the safety of citizens in crisis regions. Ten years later the conflict Macedonia continues to build peace and stability.

This policing in ethnically mixed environment was the focus of one of our empirical research, which studied the attitudes and opinions of its police operation, as well as perceptions of citizens regarding their personal security. For this purpose, we conducted an anonymous survey of several cities in the former crisis regions in the Republic of Macedonia, which we covered, three target groups: police officers, police executives and citizens.

Attitudes and opinions of the police officers about policing in multiethnic community

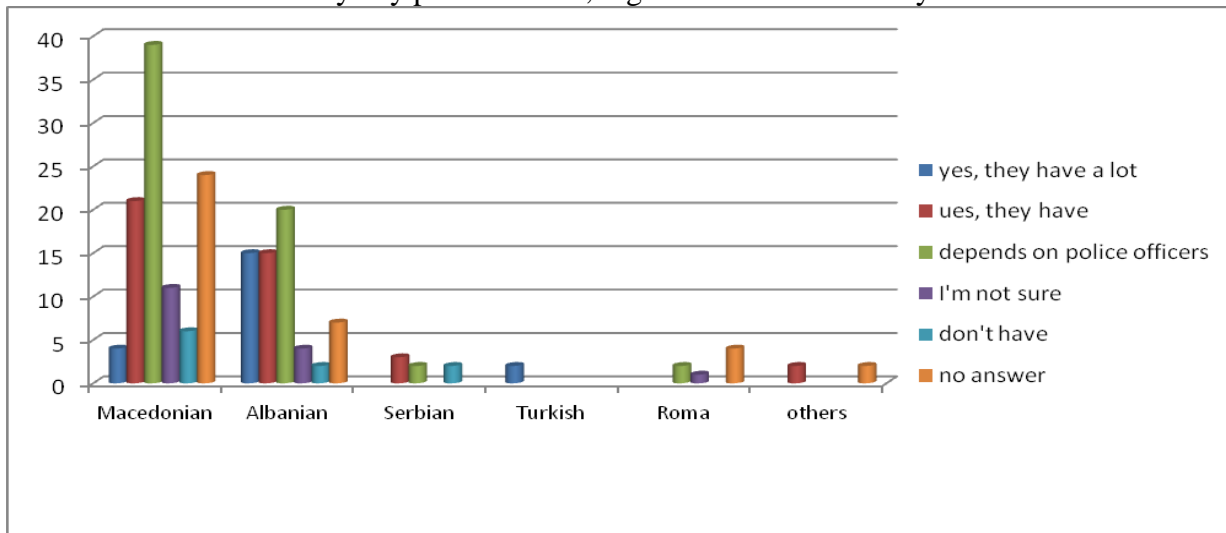
The universal formula for policing in community doesn't exist because all programs for community policing must be formulated and implemented in consideration of local political and cultural environment. Model of policing in multi-ethnic community should help police officers to build relationships of cooperation, especially citizens who are of different ethnic origin and gain confidence in them. To achieve these goals requires police officers to have the skills and capabilities that can effectively flow into the region covering and police officers will become contact persons of the citizens who will indicate the problems in the environment in which they live. Such procedures in many cases may have preventive significance when time will indicate the danger of certain problems.

For this study was surveyed 188 respondents (uniformed police), and the instrument was used as a written questionnaire with 32 open and closed questions. The cities where the survey was conducted an ethnically mixed population structure in Skopje, Struga, Gostivar and Kumanovo. The results showed that police officers are almost unanimous in their views and work towards building trust towards citizens. Almost haven't police officer did not accomplished police duties in multiethnic communities, and from his experience so far the majority of respondents believe that police officers generally can accomplish all operations. The biggest problems in policing work is lack of expertise in tactical and ethical and cultural relations officers to citizens. But deficiency have in communication, protection of human rights, and composing official documents. It terms of ethnicity of surveyed police officers, mostly are Macedonian and Albanian. For the question did you police officers worked in ethnically mixed community, percentage is as follows:

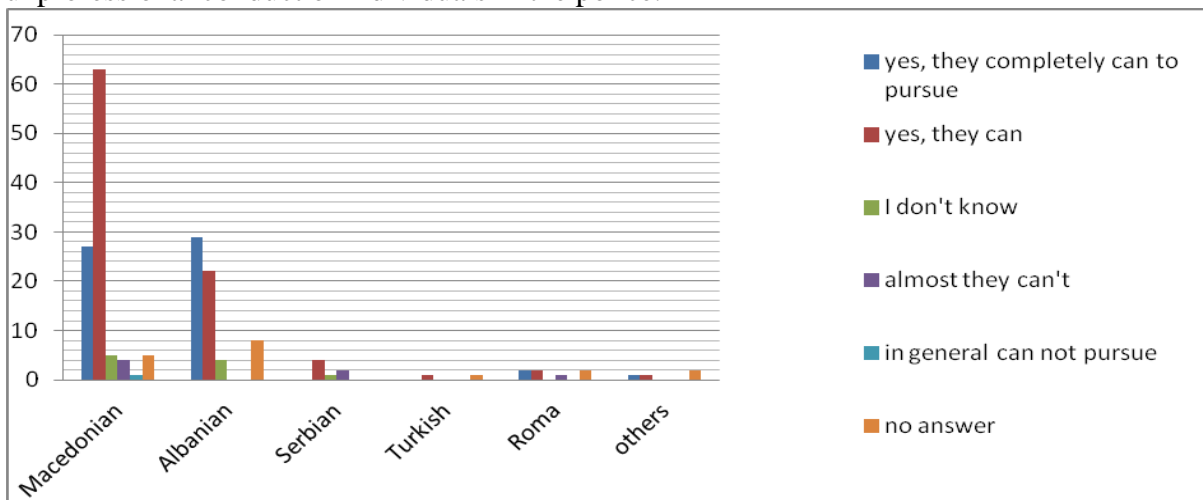


From the results we can see that 44% of police officers have themselves perform police duties in a multiethnic environment and 34% partner. The small percentage (3%) that didn't worked in a multiethnic environment, but high indicating that a non-selective approach to doing things. For the question did you police officers feel safe when performing their tasks, 68% said they found the risk situation and the relatively small number said that they felt unsafe and risky.

The one the most important question is do you citizens have confidence in police officers of different nationality from their experience of police officers but the results of research showed that the confidence of citizens still depend on the person of the police officer. The most important is his personality profile of a police officer because he should be the first person that will be answered for environment in which it exercises its function. Another thing that is very important to must have, fair and equitable access to all, regardless of ethnicity in consideration of the multicultural character and standards present and emerging ethnic groups. There should be no prejudice and negative attitudes and beliefs toward members of different ethnic groups. The police officers should have communication skills that will enable easier and more open access to citizens and continuous upgrading of their skills through various trainings. In accordance with democratic principles is the sole legitimate police authority should serve citizens and care for their safety. This principle should be accounted for by any police officer, regardless of his ethnicity.



The attitude of the police officers in relation with accomplishment of duties towards citizens who are of different ethnic origin is mainly that they can meet, which is a significant positive indicator. Although the opinion there is the Macedonian police officers can carry this challenge, there are isolated cases where it is the national animosity between police officers and citizens from different nationalities contributing in some cases to exist and unprofessional conduct of individuals in the police.

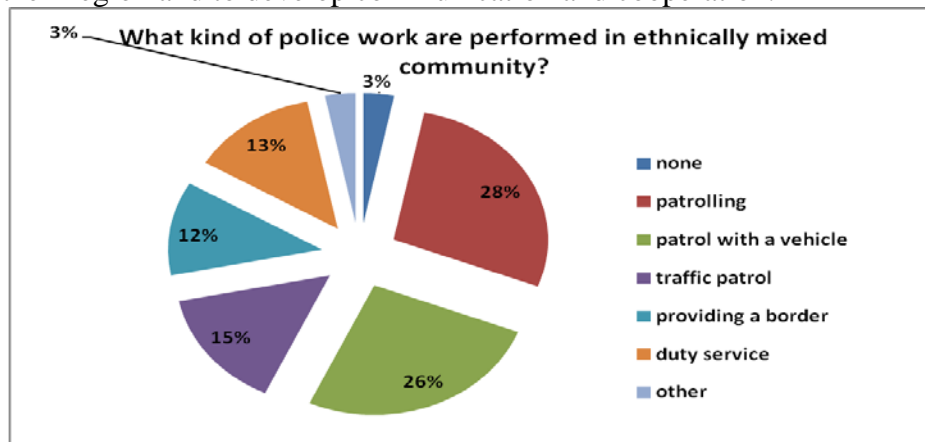


The communication between the local community and representatives of the police is the driving force that is necessary for the successful functioning of society as a whole. The

communication between the local community and representatives of the police is the driving force that is necessary for the successful functioning of society as a whole. To create a suitable basis for successful cooperation is necessary to generate frequent contacts between citizens and police officers. It means to intensify meetings with citizens to the extent that they feel that the police are close to the people and that is there to protect them and exists for the benefit of the entire community. Definitely the police deserve the support of the citizens. We could say that this relationship is interdependent. The views of the majority of surveyed police officers on how to improve this communication is no political interference or to prevent excessive influence of political structures on these relationships , acquisition and strengthening of mutual trust , good cooperation , understanding and respect , and fair , honest and legal business. Also, there are opinions that the transparent operation may be closer community, and to raise public awareness and greater cooperation. This concept of policing provides higher education for police and citizens by organizing debates, seminars and workshops.

For the question asked by police officers to change the prosecution of police work , most do not have the answer , while others said they should change the attitude that needs to be professional , and to respect the laws and rules. In some studies that have been done on this subject and there is a presumption that police officers from minority ethnic communities police tasks to prosecution and indiscriminately in contrast to police officers belonging to the majority population for reasons that have a greater understanding and respect for others minority ethnic groups .

About the type of activities and tasks that police officers have accomplished most concerned for patrol activity is an excellent way to met citizens with police officers who are chosen to their region and to develop communication and cooperation.



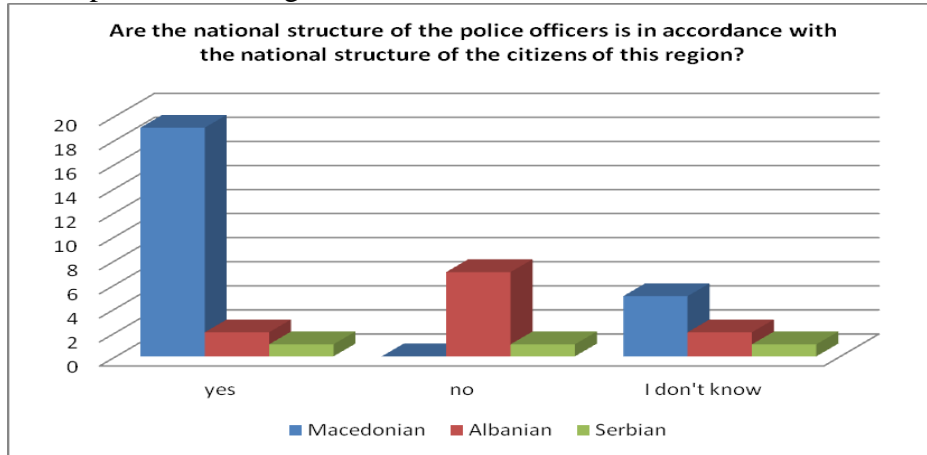
According to the results of a survey it was found that there are deficits in policing. As previously mentioned, the police function is complex and limited by differences result of the lifestyle of ethnic groups, over with the police are faced with a challenge to respond appropriately and effectively to their needs. Police officials indicate deficiencies in the accomplishment of the patrol activity. The reason is for tactical incompetence treatment not ethnical and illiberal approach in relations with citizens, as well as poor and insufficient communication with members of different ethnic backgrounds. Definitely we must take into account the human rights violations and liberties by the police.

The basic requirement for gaining citizens and their confidence is a proper legal right and transparent policing because that way the results are visible and objective. Measures to achieve transparency and communication include public distribution of reports on crime and policing, introduction of mechanisms for citizens to request services from the police,

creating forums for open discussion of issues of crime and security, and the introduction of Policing community.

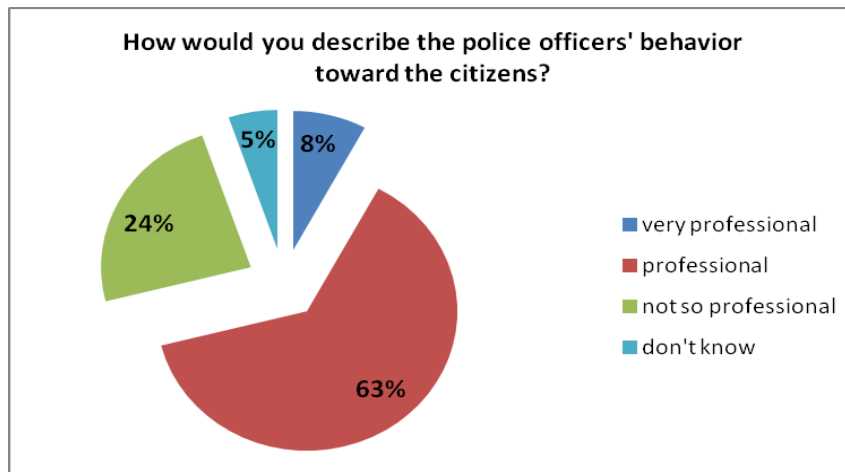
Attitudes and opinions of the police chiefs about policing in multiethnic community

Considering that police managers organize, control, analyze and evaluate the work of the police, the information which they possess are essential for understanding the work of police officers, particularly in areas with mixed ethnic composition. Therefore we surveyed 38 police managers (commanders, chiefs, guides the shift etc..) of police stations in Skopje, Tetovo, Gostivar, Kumanovo and Struga. We asked the 30 questions. For the purposes of this paper, we'll present the answers of a few questions that are most important for police work in multi-ethnic and post-conflict region.

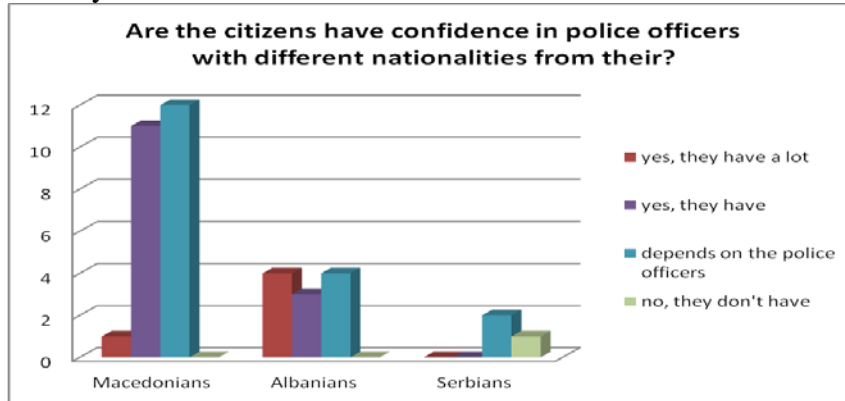


▪ In the Republic of Macedonia as a multiethnic country, according to the Ohrid Framework Agreement (which restore peace and stability), in the work of police participate police officers from minority, in order to restore the confidence of citizens, especially those of non-Macedonian ethnicity. Research has shown that almost everywhere the conditions for representation of police officers from all ethnic groups in the cities of mixed ethnicity are satisfied. Two-thirds of police managers, regardless of their nationality, reported that structure of the nationality of police officers in their place of work is in line with the national structure of the citizens of that place. Most police chiefs of Macedonian nationality (19 of 24) emphasize this proportional representation.

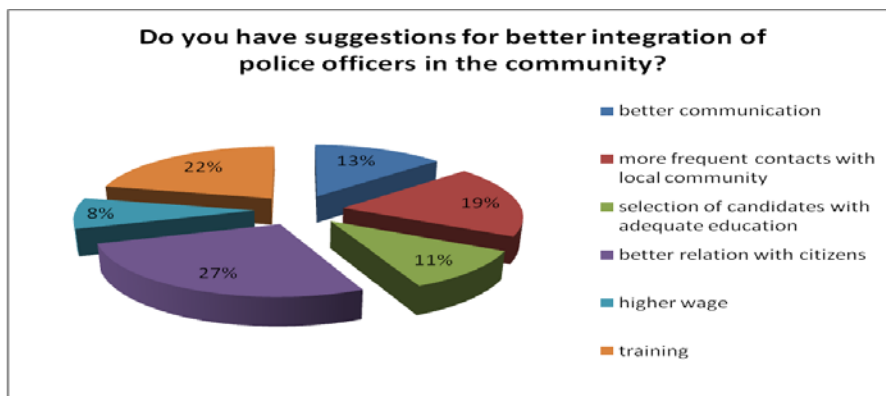
Police chiefs of Albanian nationality represent opposite views. From a total of 11 multiple of them (7) believe that the national structure is not consistent with the structure of citizens.



▪ We asked the police chiefs to evaluate the activities of their colleagues under their command. Good and ethical conduct of police officers is a fundamental element for successful policing as a service of citizens. The question was: How would you describe the police officers' behavior toward the citizens? Even 72% of interviewed head of departments considered that police officers in their work have a professional attitude and they know how to do their job, but concern fact that 24% of surveyed believe that there are police officers who unprofessionally execute their tasks .



▪ Everyday policing requires constant contact with people from different ethnicity. We asked the Police chiefs: Are the citizens have confidence in police officers with different nationalities from their? On this question, most said they trust depend on police officers themselves and although that different nationalities affect, the behavior of police officers is a major element to increase the trust of citizens. Global view of all police chiefs is that the citizens of ethnic cities have confidence in the police and may regard as a service for citizens. It is important to note that the same opinion is shared by both sides, the Macedonian and Albanian police chiefs , which is an encouraging indicator of the social environment in Macedonia.



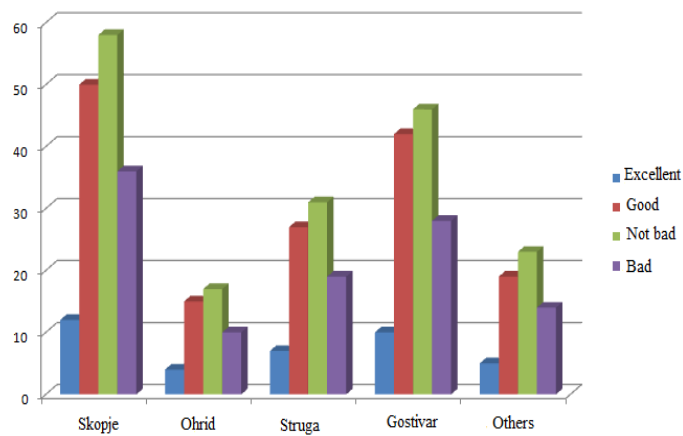
Police chiefs believe that it is necessary more frequent contacts and better communication with the local community, as well as righteous selection of personnel with appropriate education for better integration of police officers in community.

Attitudes and opinions of citizens about policing in multi-ethnic community

This paper made an attempt to actualize the issue of police action in a multi-ethnic community, moreover, by conducting a survey among citizens, we tried to understand the model of cooperation between police and citizens living in a multi-ethnic environment. Some experts in this field rightfully believe that the essence of the transparent operation of

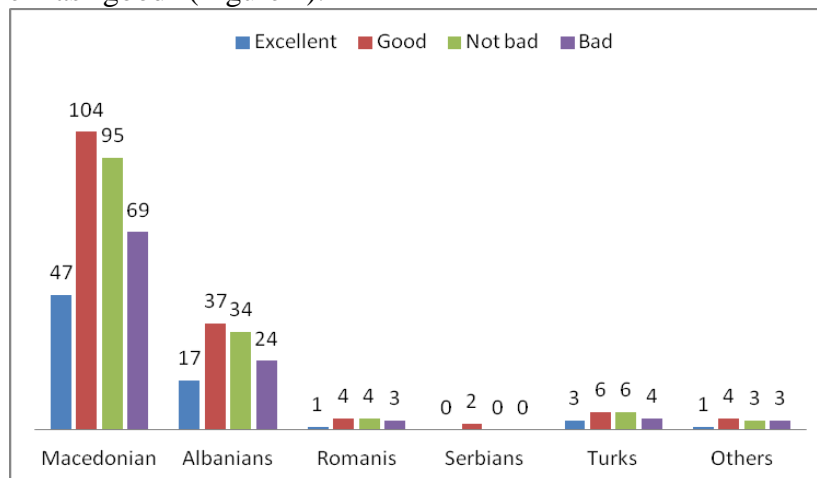
uniformed police should be reduced to the action of a contact police¹⁶⁷ officer who will conduct daily and direct contacts with citizens regardless of their ethnicity. In this way the police, fused with the local population, contributes to solving any security problems, making life in a multi-ethnic community safer today and more prosperous in the future. Modern conditions no longer require police officers to perform by order and command, but by creating and upgrading their professional conduct within the functioning of the model known as the community policing.

473 people from ethnically mixed environments (Skopje, Gostivar, Kumanovo, Struga) with the greatest representation of Macedonians and Albanians were asked to participate in a written survey. Respondents believed that they live in a relatively safe environment. Most people evaluated the police's work in a multi-ethnic community with a 2 in a scale of 1 to 4 (Figure 1). These estimates of the respondents reflect the contribution of the police in solving key security issues in the local community.



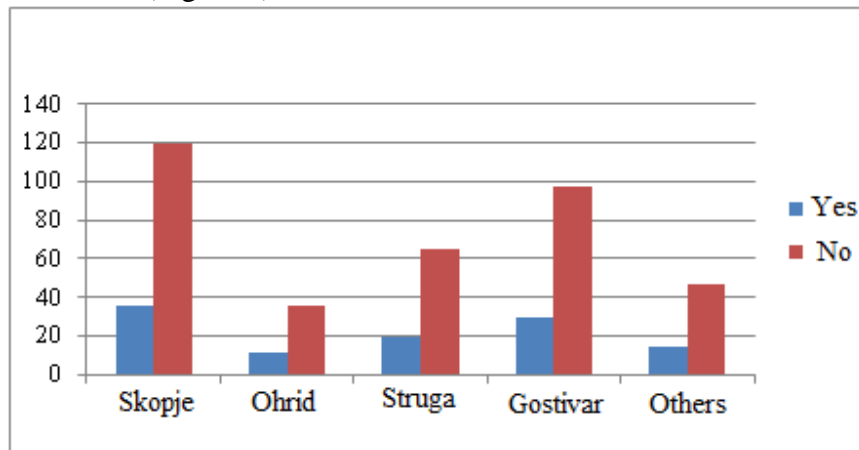
Traditionally, citizens turn to the police whenever they need any help, and the police contact the people when they collect required information.

Modern police work involves maintaining regular contacts and fostering partnerships with the community to address any security risks and threats. Citizens should have their 'own' police officer that they would communicate with on regular bases. The dominant majority of the citizens who participated in the survey evaluated police behavior in direct contact with them as "good" (Figure 2).



¹⁶⁷Consult: Mratovic, Sajner and Faber V. Volarevic, *A Strategy of police work in the community*, MUP Croatia, 2003.

In order to define the approach of police work in a multiethnic environment, among other things, it is necessary to take into account the perception of the local people about whether the police behavior toward them depended upon their ethnicity. This approach is associated with meeting two group goals: internal and external. Internal goals include the conviction of police staff on the importance and necessity of fostering a model of police work as a service to citizens in a social environment with multicultural diversity. External goals include informing the public about the benefits of this model.¹⁶⁸ Research has shown encouraging results. In fact, most respondents said that police actions are not depended on the ethnicity of the citizens (Figure 3).



Citizens in the country believe that their security is mostly threatened by accidents and thefts (especially of cars), and least of domestic violence.

Conclusion

The reasons for the variability of the structure of the police function in space and time should be looked in the interaction of the police system with its sociable environment. In our social conditions the police activity at a local level should be developed in three directions: the relation of the police and the publicity in the multiethnic composition (public relation), criminal preventive structures (community services) and participation of all the structures of the society in the prevention of the criminality (community participation).

For determination of the development of the police activity in our multiethnic society, the research was focused on the attitudes of the main subject in this interaction, i.e. police officers, police administrators and citizens. From their attitudes we concluded that in the recent period of multiethnic functioning of our society the police has shown carefulness and attention to effectively solve the problems of the citizens regardless of their ethnicity, as well as for solving tasks that are out of the domain of police working, but are very close.

The research has also shown the awareness of the police officers and administrators for the deficit of their working and they came out with suggestions for improvement of the same, while the citizens gave direct opinions of how protected they feel, what mostly endangers their security and at which part the police treatment should be improved.

Throughout this research we succeeded in making a real image that will serve as a mirror of the current police working, but also a basis on which the police will build their efficiency-to correspond to their citizens.

¹⁶⁸ Consult: Aronovich, A., *Crime prevention (Community policing)*, The Hague, 1998.

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DANDUPALYA: THE REALITY CHECK ON MODERN CRIME

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Abstract

Crime has now taken on a new avatar. It is new, evolved and now, without reason. At the very inception of this pursuit to go into the depths of modern crimes, it must be said that the study of the notorious gang of 'Dandupalya' (India) does not only open the back doors and throw light on the effect of Indian criminal laws alone but also springboards to a much more universal subject which deals with the effectiveness of deterrent values of criminal laws and highlights certain social problems that Indian society is inherent with. Certain parallels have also been drawn with established theories of criminology to try and understand the mindset of the gang itself thus highlighting aspects of education, environment etc. with relation to crime causation in India. The reasons of crime causation have now come to light in a new and unprecedented way all due to the actions of this notorious gang. 'Dandupalya' is a small village situated near Bangalore ([India](#)) and was brought into the limelight when a dozen members of an extended family, some of who settled in the village began killing and looting at will. They were known as 'The Dandupalya Gang.' This was the first instance of such crime in India where there was barely any motive, no provocation, absolute disregard for consequences and ruthless and large scale murder, rape and theft at will. Shockingly, they had a persistent obsession with slitting throats as well which was the signature trait of the gang itself. A parallel has further been drawn between a restricted scope of organized crime, and the 'Dandupalya' crime spree while studying the failure of police functions in this regard and thus exposing the mindset of these criminals with regards to their deviant functioning.

Keywords: Dandupalya, Modern crime

*"Even till date the gang members do not repent their crimes."*¹⁶⁹

The Charge Sheet

As many as 112 cases were allotted in 2002 to the court located on the Bangalore Central Prison premises and it was named as the Special Court for Dandupalya gang cases. The Dandupalya gang members gained notoriety for their gruesome crimes where their victims were robbed and had their throats slit. They were arrested by the then Joint Commissioner of Police (Crime) Suresh Babu in 1999. The cases related to Bangalore were investigated by Inspector Chalapati.¹⁷⁰

The shocking crimes include the murder and rape of a woman from whose house a total amount of 2.5 lakhs worth of jewelry was stolen in the Vijayanagar police station limits on the 28th of October 1999. Raksha Shetty was murdered in the Ramamurthy Nagar police station limits on the 20th of February 2000 and the murder case of Nazarbad in Mysore was

¹⁶⁹ The Hindu, Staff Reporter, June 28, 2012

¹⁷⁰ The Hindu, Staff Reporter, Friday, October 1st, 2010

also a charge levied against the gang. Sudhamani, on March 22nd, 2000, was murdered and robbed of jewelry worth 1 lakh in Kamashipalya police station limits.¹⁷¹

The traits of a typical Dandupalya gang operation was slitting the throat, washing the weapons at the place of crime and assaulting those present at the scene¹⁷². A crime by the Dandupalya gang was very evident because of the gruesomeness and monstrous nature of it. Aged people were targeted and on the whole victims were raped, killed and their throats slit. Most times it was for monetary motives but the alarming part of their entire spree was that at times they would not even need to kill or slit throats as the victims would readily give up their money in fear of life thus making it safe to assume that the gang members themselves were deviant to the point of a being obsessed with killing by slitting throat.

The Strategy

The gang's reach spread across Kolar, Bangalore, Mandya and Mysore in Karnataka, Hosur and Denkanikote in Tamil Nadu, Chittoor and Ananthpur in Andhra Pradesh.¹⁷³ What must also be noted is their style of operation was very planned and executed with precision. They would, select lonely houses on the outskirts of a town and target those houses with few members present during the day. One of them, Gangamma, would send her daughters-in-law to survey the area and select a house. The women would go during the day in the guise of toilet-cleaners and bangle-sellers.

Once the target was identified, they would disconnect all their telephone and electricity lines. They would bolt the doors of neighboring houses to prevent others from coming to the victims' help. The most shocking part of their entire crime spree was that they would slit the throat of every one of their victims which eventually started became a trademark of sorts of the crime gang. The numbers just kept increasing and they had a total count of 80 murders and over 110 cases of robbery.¹⁷⁴

Parallel Theories to the Behavior Pattern

The universal phenomenon of anti- social conduct does not merely restrict itself to a function of group life but extends to include the variables of cultural status and social organization of the group.

Edwin Sutherland in his theory of '*Differential Association*'¹⁷⁵ in the early 1900's held that the act of crime and criminal behavior is learnt from others indulging in criminal acts, and especially from those people who directly form ones inter personal groups. Sutherland's theory thus stresses on the following core characteristics that serve as the foundation for '*Differential Association*':¹⁷⁶

Firstly criminal behavior is learnt through the means of communication from one person to another. Secondly this learning takes place through the common medium of an intimate personal group. Further, what is taught is not just the art of committing the crime but also its rationale, attributes, mentality etc. all of which is picked up from the others. Lastly '*Differential Association*' varies in frequency and intensity and there is often a favorable situation that initiates the crime in the mind of the criminal. This situation is so called '*favorable*' by virtue of the fact that the situation itself must portray an easy get away or provides an escape from the stronghold of the law.

¹⁷¹ *Ibid*

¹⁷² The Hindu, Staff Reporter, Wednesday, Sep 01, 2010

¹⁷³ The Hindu, Staff Reporter, Friday, Oct 01, 2010

¹⁷⁴ *Ibid*

¹⁷⁵ Nancy J. Herman, *Deviance: A Symbolic Interactionist Approach*, Chapter 7, pg.64

¹⁷⁶ Edwin Hardin Sutherland, Donald Ray, *Principles of Criminology*, pg. 93

The 'Dandupalya Gang' surprisingly was very closely linked to this theory of Sutherland. They were from a common background, essentially the same village. They were all children of poverty and lived their life in the same conditions. They thus, belonged to the same inter personal group, and hence when a few indulged in crime and got away with it, the rest followed suit.

The gang is the living proof of this theory. At the initiation of their crime spree they consisted of about 11 people and were most active between the years of 1997 to 2001. When caught, there were about 75 people on the whole, rowdies, who claimed allegiance to the gang. The gang itself consisted of about 30 people including men, women and children.¹⁷⁷

A parallel must more be importantly drawn to the debate of the Nature theory v. the Nurture theory which highlight causation of crime and tries to determine whether the choice of causing the crime exists in the individual, or in the individual interacting with other individuals or is influenced due to external factors.

The Nature theory essentially states that one of the most important factors that play a role in crime causation is the natural state and intelligence of man. William Healy was the most significant contributor to this theory. William Healy stressed on individual determinism when he stated that "dynamic center of the whole problem of delinquency and crime will ever be the individual offender."¹⁷⁸ Thus stating that an unbiased choice always resides in the individual offender and because of his low intelligence quotient, he indulges in the acts of crime.

On the other hand, the Nurture Theory states that individual intelligence, must be looked as a partly biological phenomenon as seen in the nature theory but most importantly a completely sociological phenomenon¹⁷⁹ because intelligence is not something that is not entirely inherited by birth but is rather a culmination of factors such as environmental, social, home factors, etc.

Sociologists have time and again explained criminal behavior in terms of poverty, broken homes, residential zones, ecological processes, social disorganization, and differential association¹⁸⁰ thus proving the nurture theory in its essentiality.

The nurture theory further overrides the nature theory because one cannot assume that since parents have a low intelligent quotient the child must too,¹⁸¹ as the argument is baseless making the nature theory redundant when compared to the nurture theory.

When we now infuse the nurture theory into the Dandupalya situation, the result is but obvious. Dandupalya is but a small village with barely 400 families where most of the people are 'Kuruva' (cattle rearers) and belong to the schedule castes who live on a day to day basis.¹⁸² They are thus in the search of salvation from the fires of poverty and hunger and most of them are uneducated due to the lack of infrastructural facility. With these conditions it is but obvious that they would indulge in crime because the lack of education, poverty and the social surrounding lead to the less I.Q which under the nurture theory causes crime.

It would be interesting to note the effect of the *home environment* with regards to the work of David T. Lykens.¹⁸³ The 'Home environment' is essentially what makes the personality traits of an individual and in Lykens opinion, was a strong reason for causing crimes. It is because of the home environment itself that some people are more susceptible to

¹⁷⁷ DNA (India), M. Raghu ram, Wednesday, May 27, 2009

¹⁷⁸ William Healey, *The Individual Delinquent*, Boston: 1915, p. 22

¹⁷⁹ Larry J. Siegel, *Criminology: Theories, Patterns, and Typologies*, pg 162

¹⁸⁰ Clarence R. Jeffery, *The Structure of American Criminological Thinking*, 46 J. Crim. L. Criminology & Police Sci. 658 (1955-1956)

¹⁸¹ John Slawson, *The Delinquent Boys*, Boston: Budget Press, 1926

¹⁸² V Shoba, *Dandupalya- The name that stuck*, The Indian Express, Sunday, March 18th, 2012.

¹⁸³ David T. Lykken, *The Antisocial Personalities*, pg. 203

causing crime compared to others. According to the former secretary of Health, Education and Welfare, Louis Sullivan (1992) only 20%-30% of juvenile criminals come from intact families and the rest are all from families that were either broken or incomplete with either parent missing thus portraying the effect of the home environment in the world of crime. It is the home environment that generally opens people to the world of violence and makes them more tolerant towards acts of aggression.

Thus, families in Dandupalya due to poverty and the ecological conditions aim at migrating to the cities for work, which leads to families breaking and can have a very detrimental effect on the youngsters.

Organized Crime

It's surprising to see that even though the gang was not an organized crime group on an international scale, they created an impression and everlasting dent by virtue of a new genre in the world of crime demonstrating that there is a very dire need for new laws on the domestic scale.

The essentiality of the Dandupalya crime spree is that they functioned as a 'gang.' Before dealing with the legal accountability of a 'crime gang' the Dandupalya episode itself can be said to fall under a restricted purview of 'Organized Crime,' but the question posed now is that are the penal provisions of 'Organized Crime' strong enough to handle such modern day crime.

Organized crime is defined as "Long-term criminal activity conducted in a structured and systematic manner, with the aim of generating illicit income".¹⁸⁴ The 'Dandupalya' crime spree was one of the most successful crime sprees to ever run in rural areas and even though the gang is not included under the head of an 'Organized Crime Group'¹⁸⁵ as it is not a transnational crime group in nature, they posed a just as big threat as they were motiveless and killed for the sake of killing. Moreover the structure itself of the crime group was very well established which was another reason why it was so successful in all their crimes and at the same time, successful in avoiding the police. The entire structure was the main reason for their success rate because like any successful organized crime group, the Dandupalya gang consisted of a durable core of key individuals, chief among who was 'Krishna' and around who was a circle of subordinates, specialists, and other transient members. What gave them an added advantage was their group of other disposable associates who would join the core gang from time to time thus making the gang itself like a shade of mist, uncatchable and untraceable.

The Dandupalya gang can be studied in relation to 'The Brinjaree Thugs'¹⁸⁶ who were a gang of notorious thugs but would easily avoid detection due to their nomadic life style. Since, they were always all on the move it would be impossible to trace any crime back to them, and to a large extent the same was true with the Dandupalya Gang too.

This was the first time in India that Organized Crime of such a level had started taking place in rural areas. As of now, if we were to see to the legal provisions dealing with the same, we could start at Section 120 – A of The Indian Penal Code, which defines criminal conspiracy as two or more persons who agree or cause to do an illegal act or a legal act by illegal means. Section 120-B speaks of punishment for the same in the form of fine or imprisonment or both. Section 379 of The Indian Penal Code talks about the punishment for theft wherein whoever commits theft shall be punished with imprisonment of either

¹⁸⁴ Blacks Law Dictionary

¹⁸⁵ Art. 2 of the UN Convention against Transnational Organized Crime (adopted 15 November 2000, entered into

force 29 September 2003) UN Doc. A/55/383

¹⁸⁶ James Hutton, *A Popular Account of the Thugs and Dacoits*, pg 9

description for a term which may extend to three years, or with fine, or with both. Section 302 of The Indian Penal Code awards a death sentence or life imprisonment as a punishment to murder.

Section 396 states the law on 'Dacoity' with murder wherein if any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or imprisonment for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Hence, from the above references there arises an alarming question which poses a great threat to society even today.

Is Justice truly served?

Is justice truly served if we hold the 'Dandupalya gang' guilty only under the heads of the above given penal provisions and if not, what are the added legal provisions that we can include their crime spree under?

The answer to this question is not a simple one. The 'Dandupalya' crime spree posed a twofold problem. Not only were there joint cases of murder, theft and rape but also for a crime spree like the one caused by the 'Dandupalya' gang, the only thing that they functioned on was their own will and fancy and thus, had little or no regard for any preventive or deterrent effect any law had on them.

Their social status and poverty could be a major reason for the same but in their cases, they at times murdered, for the sake of killing. The obsession of theirs with slitting throats is also sound proof that they were mentally instable. At times they did not even need to kill as families were readily giving up their money to them but yet they committed murder. Thus, when one murders for the sake of murdering, without any financial, sexual or substantial motive, why are the laws not more stringent on them. Agreed that a death penalty is the last and most devastating resort in such circumstances but the law must come down harder in the form of, maybe trying to justify harsher methodology in the worst of the worst cases so as to gain any further information, to such hard willed criminals without motive because the main aspect of criminal laws is to, at the end of the day, provide a deterring effect on other similar willed criminals and by taking a step in this regard against such sort of criminals the state immediately send out a message to other such psycho criminals that when it comes to public interest, nothing is excusable. The 'Dandupalya' gang is definitely not the last of such free willed merciless criminals and if the state needs to cut such criminals in the bud, much more harsh laws are required as of now because crime when on motive is understandable but crime when on free will and fancy, is not and the same message must be sent out by the state while guarding the interest of the public before more and more criminals adhere to the 'Dandupalya' crime methodology.

The Law on Gang Violence

Well, the harsh and bitter truth is that till date there is no such central legislation in this regard. The need to suppress 'Gang Activity' should be the first prerogative of the legislature today because 'Gang Crime' is such a phenomenon that it firstly makes the criminals involved fearless because of the belief that the other gang members will always support each other. Secondly, by virtue of this, the entire purpose of having criminal law as a deterrent is lost and last and most importantly, gang criminal activity is the most influencing sort of criminal activity that is present today to which the 'Dandupalya' case is itself a witness as more than 75 rowdies claimed loyalty and showed their support to the dangerous gang of criminals by the time they were caught.

When functioning in a gang, it is also harder to calculate who and how many members are the key members of any gang and also, how many members are associated with them on the whole. This was proved again by the 'Dandupalya' gang because even after they were caught, the then Joint Commissioner of Police (Crime) Suresh Babu (1999) who was responsible for the capture of the infamous crime gang was threatened by the gang members he captured that their 'friends' outside jail would kill him¹⁸⁷. Till date nobody is sure whether each and every member of the 'Dandupalya' gang was captured or not and the fear is that even today a few members may still be on the loose.

Even after such a reality check on gang violence the legislature fails to take cognizant of this fact and come up with necessary laws. The only saving grace in this regard is 'The Uttar Pradesh Gangsters and Anti- Social Activities (Prevention) Act, 1986' which looks to suppress gang activity however, this is applicable to the State of Uttar Pradesh only.

Education and its Rippling Effect

As already proved by the 'Nurture theory' stated above that less I.Q and lack of education can play an instrumental role in crime causation. Further, The Dandupalya Gang exposed the existing and alarming gap with regards to education within the urban and rural areas.

Education was put into the concurrent list of India¹⁸⁸ thereby putting substantial responsibility and a need for action on both the State and the Centre respectively.

Further, Article 21-A in the Constitution of India to provide free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right in such a manner as the State may, by law, determine.¹⁸⁹

However The Dandupalya Crime spree exposed another set of problems. Firstly it showed the dire need for proper implementation of the law in rural areas. The law and funding for its implementation does not always penetrate to the lowest level of society. The rural, who the urban treat as outcasts and who are generally left out, in light of the Dandupalya event, show the rippling effect it can have. Education itself is the first step to reduce crime and thus, proper steps must be taken to assure that the youth of today is taught not to indulge in the crime of tomorrow.

Further, post 14 years, there is a lacuna in the law as to what medium of education is to be given to the youth. Way back in 1999 also, it was seen that qualitative data from the PROBE survey suggest that parental interest in education is generally quite high. Most parents would like their children (particularly sons) to be educated, and favour compulsory education for all children.

However, they have a dim view of the schooling system. Low teaching standards are their main complaint and in rural areas this has continued till date with no substantial action being taken by the government thus resulting in the birth of such hard willed criminals from the rural region.¹⁹⁰

An individual with a low level of education is left with little or no alternatives to a livelihood thus being more susceptible to commit a crime than other.¹⁹¹

¹⁸⁷ *Supra*, 2

¹⁸⁸ The Constitution (Forty-second Amendment) Act, 1976

¹⁸⁹ The Constitution (Eighty-sixth Amendment) Act, 2002

¹⁹⁰ Jean Drèz, *School Participation in Rural India*, 1999

¹⁹¹ TJ Rephann, *Links between rural development and crime*, Papers in Regional Science, 1999

The Executive's Job

Police functions of a state are instrumental in carrying out duties to ensure law and order in the state. However, when it came to nabbing the Dandupalya gang, the police efficiency was brought into question.

"The former Police Commissioner, Mr. S.C.Burman, said that as police nabbed more than a dozen members of the Dandupalya gang earlier and gathered information from them, it may not be difficult to apprehend the absconding criminals. ``Despite all these, why police are not been able to catch them is really puzzling," he observed.

The two former Director-General and Inspector-General of Police, Mr. B.N.Garudachar and Mr. K.Ramalingam, suggest that getting a thorough knowledge of the gang and pepping up the crime-detection staff should be the priority of police.

They said the staff should be encouraged and their crime-detection knowledge enhanced. Police should first ascertain the strength of the Dandupalya gang, deploy informants and exchange information with public about the gangsters. They should also compile a list of murders that had taken place in the past three or four years and keep a watch on the movements of those involved in them,"¹⁹²

The crime branch literally took years to nab this gang thus, clearly showing that crimes of this nature need to be looked into and the executive must be more ready to take charge of such issues. Infrastructure, mindset and readiness of the executive officials are indeed the need of the hour if the society requires a faster action to such situations.

Conclusion

In conclusion, it can only be said that the State should stop sleeping on its duty to make effective and dynamic laws that keep evolving with the evolving face of crime in order to protect the society at large. Crime is not anymore about a theft or a murder with a financial or at times a sexual motive. Crime is no more a singular entity act. Crime is not what it used to be. It's time the state wakes up and understands this simple fact. Education in all sectors is a must if our society needs to develop. Development means developing with society as one single unit thus leaving no section behind. Further there is also a need to separate a 'crime gang' statutorily and provide a separate set of penal provisions for the same. Lastly, it is the executives job to ensure the well-being of society. The fact that the police took years to catch an untrained and uneducated set of criminals speaks volumes for itself questioning the response of the police to such matters. There is a need for a better and more efficient system if we are to tackle crimes of such a nature hence forth. Once this is achieved, the average Indian citizen would feel a lot safer as these provisions are a must to tackle such evolving crime. Crime never sleeps and hence neither should our law or its makers.

¹⁹² The Hindu, K.V.Subramanya, Sunday, Aug 5th 2001

NATIONAL DEFENCE AND SECURITY

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Abstract

Safety is a condition in which states consider that there is no danger of a military attack from political coercion or economic compulsion, so it can easily be developed. Security is actually inherent structural element of the state that the present degree of cultural and civilization development requires a modern approach to the solution and organization. When we are talking about national security, usually emphasized that one of the basic functions of the state is to provide a system of relationships from harmful outside influences. National security of a country must not threaten the fundamental values of the national security of all other countries, members of the international community. The politics of national security is a complex and interdependent set of measures, activities, plans and programs undertaken by Republic of Macedonia to protect, maintain and enhance the security of Republic of Macedonia and its citizens, in accordance with available resources and active cooperation with the international community.

Keywords: Safety, security, national security

Introduction

Each community foundation is striving to achieve their personal and collective security. In fact it's a natural tendency to function as its own integrity and life in general. To achieve this goal it is necessary to achieve and maintain the safety or life.

Defense, security and safety issue of a separate state on the subject of study for scientists from different fields. It is increasingly the focus of interest of the general public, the broader aspects, which have great electronic media images of killings, destruction and suffering from different meridian, and very successfully „serve“the public.

Today, we live in a time when issues of peace and war become inseparable from territorial, racial, religious and nationality of people.

Republic of Macedonia as part of the global community, within their means, must necessarily participate in efforts to overcome the concept of cooperation and friendship over power and dominance. Regardless of what we are members of the club of great powers whose voice in international relations generally means a final decision that they are some relevant indicators show that we are so insignificant, at least in the region.

Confirmation of this is definite historical experiences, especially newly created knowledge and confidence in the community about the importance of Macedonia as a regional entity in the present crisis , summarized in the slogan , stable Macedonia , Balkans stable , stable Europe. "

National security

The notion of national security is of relatively recent date. Today often used and basically refers to the independent state which seeks to protect the physical integrity and territory.

Usually when defining national security offered formulations of the type that it is the ability of its internal state values to protect against external threats. Or that national security

is, the absence of baseline risk of the state ", and that national security is the security of a country, its national security and territorial integrity, sovereignty.

One of the problems tied to the notion of national security is located on the route home values and the related problems such as vital national interests and values . They are very fluid, subject to changes in time periods because they are determined exclusively by objective factors.

If we recall the generally accepted values in international relations and the principles of international law, subject to the national security of any country is its survival, territorial integrity and internationally recognized borders its political independence. Of these, usually joining other such as the right to a separate standard of living, the right to dispose of their natural resources, traffic law, and respect the right of others. To protect the indicated values of national security, international law and recognizes each state and the right of self-defense.

There is strong agreement among most authors treat this issue that survival is the right priority in value to protect national security.

According to A. Grizold, national security is defined as the security of the state and its content covers the territory of national security, protection of people's lives and property, maintain national sovereignty and the exercise of the fundamental functions of the state. Then emphasizes that must be taken for specific activities carried out by the states to protect and defend before any threats from the environment, that security activities must be in accordance with the capabilities and should be properly planned and aligned with global and regional preparing the international community .¹⁹³

National defense

Based on the current situation in the defense objective possibilities, experiences and trends in the development of this activity in other states, and respect for the elements that are universal and general- world significance.

Identification of defense doctrinal views was carried out over the prism and acceptance of the following requirements:

- Defense Doctrine of the Republic of Macedonia has its foundations to the total so far is experience the military organization of the Macedonian people.

- Defense doctrine must be directed to the future, to acknowledging the modern achievements of our country in all areas of social and political life, to be open to any kind of change to follow the development of the military factor in the immediate environment and the world.

- The boundaries of fair possible to follow and incorporate international experiences in preparation for the defense of scientific theory and practical plan, taking into account doctrinal approach to reflect our reality, adapted to our conditions and developments in materials, culture and civilization in general terms with a high level of consistency¹⁹⁴.

How and to what extent these experiences are either already built into our theory or practice depends on many factors. It mainly depends on the quality of the practice and its similarity to future global military situation and the quality of scientific generalization and creative transformation of generalized experience in theoretical thinking.

Basically this is a new approach that involves generalization of the theory of NOV and theoretical aspects of running a modern defensive war, creative transformation of the elements that correspond to future military situation and practices, while keeping in mind the time and peaceful experience

¹⁹³ Nacev., Z., Nacevski R., War, peace and security, treasury Macedonian, Skopje 2000. p.383

¹⁹⁴ Nacev., Z., Nacevski R., National Security and Defence, Faculty of Philosophy, Skopje, 2001, p.283

Mentioned process is especially complicated scientific theory and creative activity that requires a high degree of intellectual engagement thought the result would be particularly useful for modern defense organization and preparation. This plan ahead for us many serious works that we should not be only declarative and descriptive nature.

The experiences of the wars that were fought by other countries and their creative use is a significant source for drafting the national defense doctrine and strategy. But applying the experiences of the wars of other countries, as well as the experiences of their military activity in peace, it is critical to reconsider the terms of the realistic comparing the conditions in those countries, The Constitution and the tasks of the Armed Forces in wars that were fought or kept in conditions that exist or may have predicted that there will be.

Changing socio-economic conditions, especially in the ever changing technical and technological components, giving new content and features of modern wars and influencing the shape of their conduct.

The study of modern wars should answer many questions that depend preparations for defense, and the manner of conducting the war. From them we would emphasize the following:

- Opportunities, types, characteristics and purposes of eventual aggression;
- Strengths and resources that can be expressed aggression, especially the possibility of using NHB weapons;
- The role of species and gender, especially armored-mechanized and air units together;
- Terms and method of starting the war and the possibilities for surprise;
- System and method of execution and duration of mobilization and development of the armed forces;
- Possible adverse operating procedures and its strength, strategy, and tactics of the armed struggle;
- The duration of the war, etc.

National Defense Strategy

Each state determines its national values and goals are usually defined by the Constitution.

Defense Strategy of the Republic of Macedonia is a document that provides strategic guidance for the development and functioning of the defense system of the Republic of Macedonia in 2015.

The strategy stems from the Constitution of the Republic of Macedonia, the Law on Defense, National Security Strategy and the strategic commitment of the Government to integrate into Euro-Atlantic structures. Defense Policy of the Republic of Macedonia to fully accept the principles, objectives and tasks arising from the Strategic Concept of NATO, the Comprehensive Political Guidance NATO Summit in Riga in 2006 and the European Security Strategy of 2003.

Based on the assessment of future security threats, risks and challenges to national security of the Republic of Macedonia, the Strategy defines the strategic defense missions and guidelines for their implementation, provides a vision for the evolving capacities of the Ministry of Defense (MoD) and the Army of Republic of Macedonia (ARM), identify necessary resources for maintenance and development of the defense system and provides guidelines for political and military integration in NATO .

Strategy will contribute to maintaining continuity of political consensus in society regarding the development of the defense, to establish a common vision for future defense needs and to continuously improve the cooperation between the entities of the defense system.

The strategy is in line with the obligations and responsibilities arising from membership of Macedonia in NATO and the EU. Through active participation in the Partnership for Peace (PfP), the Planning and review of forces (PARP), the Action Plan for NATO membership

(MAP) and the European Security and Defense Policy (ESDP), the Republic of Macedonia has established an extensive defense cooperation with countries NATO and the EU.¹⁹⁵

Our grounds of national security and defense policy is destined and determined by the core values which include:

- Fundamental rights and freedoms of man and citizen, free expression of national identity, democracy, rule of law and respect the generally accepted international norms;
- Integration and equitable representation of citizens belonging to all communities in the state government and other public institutions at all levels;
- Protection of property, free market and entrepreneurship, humanism, social justice and solidarity;
- Ensuring, promoting and developing local self-government;
- Protecting and enhancing the environment.¹⁹⁶

Political strategy of national defense

The political strategy of national defense of the Republic of Macedonia should be seen as part of the overall security policy, and the policy defines fundamental goals in defense of the republic. So first they set basic goals then specific ways, concepts and programs as they are generated.

These basic goals of our political strategy of defense:

1. International cooperation in the field of defense through the development of bilateral and multilateral contacts within systems of collective security and defense and our participation in the construction of new European security architecture;
2. Deterrence of aggression, with a clear determination to maintain its defensive potential in line with our capabilities, needs and relevant international treaties;
3. Defense in case of aggression or armed opposition in the event of an armed attack.

Based on these three strategic objectives are allocated specific ways or concepts as they are generated. In this sense, achieving the first objective will be realized through the development of bilateral cooperation in building trust and keeping the peace, and can be accomplished through our membership in NATO and the WEU.

Preventing aggressive intentions of some of its neighbors in terms of deterrence of aggression will be accomplished by maintaining an appropriate level of preparedness of the armed forces of the Republic of Macedonia. With every possible aggression against our country would carry the risk of failure of the aggressor, suffering losses and thus a distraction from it.

To realize the defense of the Republic of Macedonia in the event deterrence fails, as our next strategic target, Republic of Macedonia must maintain armed forces proportional to the forces in countries with similar potential, according to their own abilities and needs.

Diplomatic Strategy of National Defense

Diplomacy is basically political activity and if proficient and skilled, an important ingredient for power. Its main aim is to enable countries to achieve the objectives of its foreign policy without calling for strength or right. Hence, diplomacy is a means of

¹⁹⁵ Defence Strategy of the Republic of Macedonia, Official Gazette, No.30 of 01.03.2010

¹⁹⁶ http://arhiva.vlada.mk/files/Vladina_koncepcija_za_bezbednost.pdf

communication between officials designed to promote the foreign policy through a formal contract or agreement by peaceful means. Although it includes discrete activities as gathering information, explanation of intent and endangering the goodwill, not surprisingly, marked diplomacy, Edmund Burke in 1796 for all these activities was generally known as negotiation. With diplomacy not only deal diplomats by profession. Function and perform other employees and individuals under the supervision of officials.¹⁹⁷

Diplomacy is divided into general, military, diplomacy and diplomacy peak within international organizations.

At a time in which we live, and in this framework, the relationship between diplomacy and security has become very complex and evolving. The engagement of diplomacy seen through the prism of security and defense mainly exercised at three levels:

- Internationally
- The regional and local level
- At the national level.¹⁹⁸

At international level diplomatic activities aimed at adapting the interests of actors without the use of violence through mediation and setting rules and norms to reduce tensions or violence. If you still get to the occurrence of violence or conflict, the task of diplomacy is a peaceful solution to the problem by creating a predisposition for a ceasefire, the withdrawal of forces from the touch line, creating buffer zones and other measures of long-term nature. In certain situations diplomacy can maneuver with violent means at the expense of creating conditions for the adoption of contractual solutions.

At the regional and local context, especially if it is a small and vulnerable state, the effect of diplomacy is focused on creating, suitable agreements, declarations and agreements on security, which often included within the UN.

At the national level diplomacy is usually presented as state manipulation of power, manifested through various actions in the form of:

- Intimidation of the force;
- Create a temporary or long-term alliances and coalitions;
- Sending threatening signals;
- Warning opponent;
- Creation of legitimacy for possible or have the force and others.

One of the areas of practice of diplomacy at this level and in cases where there is an outbreak of major catastrophes and natural disasters, in cases dramatically militant paramilitary groups, refugees and others. One of the important areas of high diplomatic activity is related to the procurement of arms, equipment and transfer of technology, as well as preventive diplomacy by asking the UN forces in the area of potential conflict.

Economic strategy of defense

The economic strategy of defense of national economic development strategy of Republic of Macedonia in the period and represents a program of support to the economic system of defense efforts in peace and in war.

Studies and experiences in this area indicate the following:

1. States that continued defense spending over 10 % of the gross national product have almost no real chance to be economically stable and strong;
2. The weak economy without predisposition properly renewed, directly contributing to declining military expenditures;

¹⁹⁷ G.. R.. Beridzh, diplomacy, Theory and Practice (Third Edition), Prilep October 11, 2009

¹⁹⁸ Nacev, Z., Nacevski R., War, peace and security, treasury Macedonian, Skopje, 2000, p. 274

3. Each state leadership is well informed of the price of engagement in war and it is actually one of the main parameters that determine the decision to become militarily involved, or to find the approach that would implement different solutions to deliver the identified national goals;

4. Military planners are inclined to offer a solution in the form of quick victory in order to avoid the bankruptcy of the country, but although it is possible, it is probably a short war;

5. Basically, peace is cheaper than war, but the cost of defending the country felt in times of peace;

6. An increasing tendency for maximum conservation of living force account cost factors influence the increased consumption in military conflict.

Basically the most important issue in this matter should be resolved is how to align the interests of peace time economy with military defensive? It is a long and almost continuous struggle for a peaceful time lows on economic and military needs. The state will manage the eternal struggle to bring down the most needed and bearable frames, in peace and in war, and thus affect the successful execution of the defense of the country, practically reached the top skill in solving this problem.

The development of appropriate programs and projects directly related to the issue of public spending. The expenditure defense along with those for administration public order and security and international relations, with a portion of the total expenditure of the public sector. The general intention in Macedonia is to resist the strong pressures to expand spending for public consumption and it is down to the lower level, and the ratio of military spending to the sector in terms of the GDP to be held within reasonable limits, regardless the objective will outweigh the problems regarding allocations for transformation and modernization of the Army and other branches of the defense system of our country.

In the modern state budget expenditures for the defense of participating in an average of 15%, while countries with low income per capita and limited opportunities spend relatively less on military needs. It applies an undivided assessment that military expenditures have a high social priority and difficult to adapt to restrictive measures. Our defense spending can check in, the White Paper. "

National Military Strategy

Military strategy is a theory of decision-making through the use of weapons and combat actions in order to achieve the objective of the war. It actually creates a military plan, structured more consecutive goals by designing a series of actions that allow achieving the ultimate goal of conflict. Based solutions to plan, organize military assets in a way that will allow them maximum effectiveness in terms of opposing intentions and actions, and certainly in line with what enables and provides objective situation.

Military strategy is a scientific discipline of military science, is part of the National Defense and Security Strategy of Republic of Macedonia, which deals with the crucial tasks related to the development, preparation and use of armed forces to civilian control, management and command over them. Using the results of other scientific disciplines that study the laws of war, the possibility of endangering state security in the use of military force, types and methods of warfare, potential adversaries and their military capabilities and other features, modes and modalities of conducting defensive war.

The subject of military strategy and organization, equipping, overall size and separately by type and gender, training of soldiers and officers, combat readiness of the armed forces, planning combat actions, leadership and commanding the bands, coordination and harmonization of actions the civilian components of the immune system, logistical support, arranging the territory, the action of forces in conditions of high control of the

territory by the opponent and the reaction of the armed forces in various stages of the armed conflict .

- Transparency of planning
- The manner of engaging in collective systems and planning joint defense
- The manner of cooperation with the countries of the Partnership,
- The performance of humanitarian tasks and tasks of rescue,
- Training and implementation of joint exercises
- The way of achieving the required level of interoperability with NATO
- Educate the categories of ARM in allied and friendly countries,
- Standardization of equipment and weapons by NATO and other criteria.

The main objectives of military strategy aimed at deterrence of aggression, giving adequate resistance in case of attack, protection and sovereignty of airspace in case of use of aggression against other countries. For successful opposition, military strategy deals with issues related to maintenance of ready forces, how to increase their interoperability with allies and friends, their modernization, activation of bilateral agreements and other arrangements in the event of war, etc. Yet many of the issues that concerned military strategy, one is dominant and that is how to provide deterrence from aggression.

Conclusion

Our success in defense and survival directly depends on the degree of conservation of the living force.

National Defense Doctrine of the Republic of Macedonia is essentially a doctrine of peace, anti-war doctrine. This doctrine is directly aimed at securing peace in immediate and wider environment. That this is so can be easily observed if one looks at our core objectives of foreign policy. Participation of the Macedonian people and other ethnic groups in defense is aimed at achieving substantive goals and commitments in regard to the defense of the country.

The quality and professionalism in the performance of defense and protection work should only be one continuous task that needs to be moving.

The National Defense on the one hand is the dominant participant in the national security strategy that stems from it being the purpose of achieving the planned security standard or condition. It derives from the basic normative views on national defense doctrine concerning the defense of the whole business. The strategy should address how it will be implemented at a time when resistance would have been defeated on the battlefield, as the nation will recover from such traumas, whether and how it will transform the Army, which forms the combat will be dominant or our political doctrinaire attitude and determination to join NATO.

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EXCEPTIONS TO THE CRIMINAL JURISDICTION OF THE COASTAL STATE ON MERCHANT AND ON NAVAL VESSELS IN THE HELLENIC LEGAL ORDER

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Abstract

Hellas as is known possesses one of the most strategic position in the Mediterranean Sea while is between Asia and Europe, near to Africa, between Black sea and Mediterranean Sea, between Eastern and Western Mediterranean. Due its position is rendered nodal point in political, geographic and economic level between the above continents. Hellenic people from the antiquity have developed an intense shipping activity which led them progressively to the configuration of one of the most important shipping forces in world level. Hellas possesses the first position in the European Union (EU) regarding the capacity in tons by vessels under Hellenic flag. Also is between sovereign forces in international level concerning the capacity of vessels under Hellenic flag but also in vessels which are under different flag but are owned by Hellenic ship owners. All these, have led to the configuration and to growth of a law concrete sector, the maritime law, which is constituted by national provisions as also by international provisions.

Keywords: Merchant vessels, naval vessels, Hellenic coast guard, United Nations Convention of Law at sea (UNCLOS), jurisdiction, law enforcement agency (LEA)

Introduction

Hellas holding a key position in the Mediterranean area, with a long coastline, is a contact point of three continents and respectively a contact point of their cultures. At the same time as a State with a strong shipping tradition, for centuries transferred in Hellas, but also in other countries through its shipping, experiences, habits, traditions and influences.

As a State at a key position was and still is the crossroad of the major shipping and trade routes in the Mediterranean. The intense employment with the shipping had as a result, the development of maritime law in Hellas and subsequently the monitoring of international developments in this field. The result was the endorsement of international maritime law conventions in the Hellenic national legal order, the establishing of bilateral agreements and the development of national legislation based on the general principles of international maritime law.

The Hellenic Competent Authority concerning policing on vessels, seamen, ports, generally in maritime area and consequently on the implementation and monitoring of relevant legal provisions constituting maritime law and related to the above is the Hellenic Coast Guard (H.C.G.). H.C.G. is one of the basic Law Enforcement Agency (LEA) in Hellas which, monitors and implements the relevant legal provisions under specific conditions each time.

The maritime tradition that has been developed by Hellas for centuries has resulted in the formation of maritime law, a law that in which had been incorporate and international legal provisions. The search of topics related to offenses committed on vessels but also in

maritime environment occupies the Hellenic administrative and judicial authorities in a high level. This specific legal area presents many peculiarities associated with many other areas of law such as international law, maritime law, special maritime laws etc.

Purpose of this study is to examine critically the provisions referred on the exemptions to the criminal jurisdiction of the coastal State, as provided in the public international maritime law and in the Hellenic legal order (Note 1). In this context it will be examined the criminal jurisdiction of the coastal state in specific sea zones like in the internal waters, in the ports, in the territorial sea, in the continental shelf, in the exclusive economic zone, in the open sea and will also be developed the right of hot pursuit. Finally, the study will be closed with the presentation of the conclusions.

Exceptions to the international public law

The principle of full and unlimited jurisdiction of the coastal state for offences committed on vessels anchoring, which outlines the ceilings of port State jurisdiction, is valid on condition that they do not otherwise specified either by an International Convention or either to national law rules.

Hellas with international conventions has restricted the exercise of criminal jurisdiction on crews of vessels under foreign flag which are in anchor in its ports.

The broadest possible jurisdiction establishes the Treaty of Friendship, Commerce and Navigation between Japan and Hellas (article 11 of Law BXNE 1899), where is determined that Hellenic vessels moor in Japanese domestic waters are subjected to Japanese laws and jurisdiction and the Japanese vessels that moor in Hellenic domestic waters are subjected to Hellenic laws and jurisdiction.

It is noted that is not established exclusive jurisdiction of Hellas as a coastal State, but concurrent and parallel Japan as flag State keeps intact the right to exercise jurisdiction on offences committed in a Japanese vessel.

Hellas has signed bilateral consular conventions with France, Turkey, Belgium, Italy, Spain, USA, Lebanon, Poland, Britain and Australia in which generally is provided that the Hellenic authorities do not intervene in case is committed an offence on a vessel under the flag of the above mentioned states unless:

- A. The offence that was committed- is engaged domestic individual or individual who is not a member of the crew.
- B.-An offense of such nature happened that was disrupted public peace and good order on land or in port and
- C. -requested the contribution of the local authorities.

In the Convention between Hellas and the Republic of Lebanon [article 27 of Legislative Decree (LD) 1273/49], local authorities can intervene and when is going offense characterized by the legislation of the coastal State as a felony.

In the Consular Conventions with Poland (Law 838/1978) and B.Britain (LD 2619/1953), is allowed the intervention not only when are comes to felonies, but also when the act concerns issues to public health, safety of life at sea, immigration, customs, maritime pollution and drugs.

When there is any of the above conditions, the jurisdiction of the Hellenic courts is complete and are applied the Hellenic penal laws, regardless of the laws of the flag State bears the docked vessel, as long as the committed offense is taking place in the «domestic» (Note 2).

But reflection causes the meaning of the term «disruption or threat of public order or order or peace», because given that this is a judgment on the things non-supervised refuted by the Hellenic Supreme Court, it is up to the substance Court of the substance to determine each time to aid whether or not.

Until now have not established specific criteria to assist in the uniform classification of the various cases in this vague and general meaning resulting to exist arbitrariness or inconsistency.

However has judged in legal precedent that the possession by crewmembers of pistols, machine-guns and cartridges and other war material, without the permission of the authority, caused danger to public peace and good order of the port and the city. It is noted that there was not any cited reason by the Court (Note 3).

Also has judged that as long as the fire that has occurred in a foreign vessel was negligible extent, was not disrupted ports tidiness and tranquility (Note 4).

Still has judged that there was not disturbed the order and the quietness of the port from a homicide by negligent committed in a Turkish vessel docked at a Hellenic port. It is also noted that there was not again cited any reason by the Court (Note 5).

On the contrary when was not disrupted by the offence committed the public order, quietness and serenity of the port and was not requested the assistance of Port Police Authorities, there is no domestic criminal power according to the relative provisions of the domestic law.

The view that was supported jurisprudential (Note 6) that if there is no reason to innervate the Hellenic authorities because it was disrupted the tidiness of the port then the opinion is that the crime is considered as crime committed in abroad is incorrect.

The above case law position ignores the fact that the crimes committed on foreign vessels in the Hellenic internal waters, are committed in domestic, while articles 6 and 7 of the Hellenic Penal Code (HPC) are referred to acts committed abroad. Besides and article 161 (Note 7) of the LD 187/1973 (A' 261) [Hellenic Maritime Public Law Code-HMPLC] cannot accept exceptions.

In the context of the Council of Europe Member-States was signed in Paris on 11-12-1967 the European Convention on Consular Duties (Law 1363/1983).

According to this Convention the Administrative Authorities of the coastal State, do not intervene in matters that are related to the internal management of the vessel unless is requested by the consular officer of the vessel flag or consented to that (article 35 paragraph 1).

Concerning to criminal jurisdiction issues of the coastal State, as host State for offences committed on vessel bearing the flag of the sending state according to article 36 of this law, the following shall apply:

A.-The judicial and administrative authorities of the residence state cannot exercise their jurisdiction or to intervene in crimes or incidents that took place on the vessel but only after request or consent of a consular officer or of other duly authorized person.

B.-Regardless of the consular officer consent, the judicial authorities of the host State can exercise their jurisdiction concerning offences committed on vessel if these offences:

1. Committed against or by national of the coastal State.
2. They disturb the peace or the security of the host State port or of the territorial sea or of internal waters.
3. They are offences against the laws and regulations of the residence State and concern the state security, the public health, the rescue of human life at sea, the entrance in the territory, at the custom or the pollution with hydrocarbons and
4. they are serious offences.

As serious crimes considered offences which according the state residence laws are punishable by a maximum imprisonment penalty of at least five years, or eventually for states that will inform this with sentences of three or four years.

C.-The administrative authorities of the host State intervene regardless of the consular officer consent:

1. When a person is accused of an offence committed on vessel, on which the judicial authorities of the host State can exercise their jurisdiction in accordance with the above or where there are serious reasons to believe that such an offence has been committed or was committed on vessel.
2. When entitled to intervene pursuant to paragraph 2 of article 35 of the Law 1363/1983.
3. When a person is detained against his/her will on vessel, except the case of a crew member detention for disciplinary offence and
4. to take a measure or to conduct an investigation that consider as necessary concerning one of the topics referred to in paragraphs (b) and (c) of article 36 paragraph 2 of Law 1363/1983.

The arrangements bind the contracting parties which have acceded to the Convention which have been ratified by them and express the absolute and unlimited jurisdiction of coastal States in their internal waters and ports. Application precondition is to have ratified this Convention so the host coastal State as well as the sending state of which its flag is bearing by the vessel which is at anchor in the waters of the host State (Note 8).

Exceptions to the internal law

Hellas has limited its criminal jurisdiction in the following cases:

A.-Article 161 of HMPLC titled «Crimes on foreign merchant vessels» in which are determined the following:

1. Port Police Authorities exercise according to articles 158 (Note 9) and 159 (Note 10) their competencies in foreign merchant vessels and auxiliary crafts, located in ports and territorial sea of their region if otherwise is not predicted in international conventions, in the following cases:

- a) If is disturbed or is threatened the public order and
- (b) if is requested the contribution of the Port Police Authorities by the master or of other person who is on vessel.

2. In cases of Port Police Authorities intervention is invited to attend the intimate consultant authority, which is informed in time for the intervention time. In cases of extreme urgency, the announcement of the intervention can be done at the time of the action.

B.-Also according to article 162 of the HMPLC titled «Investigative acts in foreign vessels», in which is determined that the Port Police Authorities can make on foreign commercial vessels when they are in Hellenic territorial waters in accordance with the provisions (of course of domestic law), and in keeping with the second paragraph of the preceding article, arrests and investigative acts against persons who are persecuted, as well as persons arrests who have been convicted for a crime or is suspect to escape including the military personnel.

Criminal jurisdiction in the various sea zones

The criminal jurisdiction of States in sea zones is one of the most important issues that occupy HCG personnel due to the nature of police duties exercising. The main topics in legal terms are defined by the International Convention on the Law of the Sea (UNCLOS)(Note 11). More specifically:

Internal waters

Internal sea waters are those waters that lay between the coast and the point from which starts the measurement of the territorial sea. With the term internal waters we mainly characterize ports, coves and the so-called historic bays.

In the internal waters, which are assimilated almost seamlessly with the land area, the coastal State exercise all the powers, has full sovereignty with the only self limitations

prescribed by international law on mooring and anchoring of foreign vessels. The main difference between internal waters and territorial sea, is that in territorial sea foreign vessels have the right of innocent passage (Note 12).

In particular the sovereignty is expressed with the following competencies containing the main characteristics of State power:

- Entry in the internal waters is determined exclusively by the coastal State, which may prohibit or allow generally or specifically.
- Vessels that are in the internal waters are under the jurisdiction of the land State. On these vessels are performed and executed State laws.
- Identification of internal waters with the land provides also to the coastal State exclusive competencies of sea space total usage.

The existing provisions of international law are minimal, and this is explained by the fact that Member States do not wish to have special international arrangements for regions that are subject to the same regime as with the land (Note 13). They mainly concern the mooring and anchoring of foreign vessels and are included in the Convention and in the Statute «On the international regime of Sea Ports of Geneva» in 1923 (Note 14).

In the statutes are proclaimed:

- a.-The principle of equal treatment between vessels bearing the flag of a coastal State and vessels caring the flag of other Contracting States.
- b.-The reciprocity principle.

Also refers to the terms of arrival and anchoring, in providing services, the imposition of duties and taxes and the movement of persons and goods in ports. All the arrangements are subject under the reservation of public order safeguarding and defense of the coastal State.

The general common law predicts that the coastal State can prohibit to all the vessels, merchant and war, entering to the ports for reasons on public order and national security, with the following exceptions:

- a.-Vessels that fleeing mandatory due to injury, bad weather or other cause,
- b.- Vessels that carrying State Heads or diplomatic representatives accredited to the coastal State,
- c.-foreign vessels fishing in applying of international conventions (Note 15).

UNCLOS does not contain general rule concerning State's territorial sovereignty limitation in internal waters, in favour of the jurisdiction of vessel flag State (Note 16).

Ports

Port is the place which has been formed naturally or artificially in order to allow the anchoring of vessels and to provide security and other facilities in actions and activities related to navigation, maritime transport and trade. Port definition is contained in article 1 of the statute on the international regime of maritime ports (Geneva 1923).

The above definition is very restrictive, because it considers that ports are: «Are the normal frequently under maritime vessels and used on external trade». Unlike according to the general international law, ports are those in which are not normally «Frequented normally» sea vessels, as the ones which are not «Used for foreign trade» (Note 17).

In article 137 of HMPLC (Note 18) titled «Port expansion» is determined that port includes:

1. a. Its sea area.
- b. Ground segment called «port zone land». This covers the entire length of the port and arrives at depth and area that includes the port structures, areas and facilities which serve its functional needs (piers, docks, beach sidewalks, yards, auction sites, water sports facilities, areas of loading works and storage loads, passenger movement) for maritime transport service and transport from land to the sea and vice versa.

2. When there is a need to be determined the extent of the port land zone shall be determined by joint decision issued by the ministers of Public Works, Transport and Communications – Shipping and Public Order (Note 19).

In the Hellenic legal order port determination is given on the provisions of law 2971/2001 (A' 285). Specifically in article 1 is determined that «Port is zone land and sea together with works and equipment, allowing mainly accommodating every type of vessels and recreation vessels, loading - unloading, storing, receiving and cargo forwarding, passenger and vehicle service and the development of business activities, which are directly or indirectly connected with maritime transport» (Note 20).

The coastal State has full jurisdiction on the offences committed on vessels under foreign flag in ports, regardless whether this jurisdiction is exercised on the basis of customary rules or by specific bilateral or multilateral agreements with other States (Note 21).

Any offence committed on vessel under foreign flag in ports is under the jurisdiction of the coastal State except the exceptions that introduces the international law or the internal law of the coastal State.

Offence was committed on vessel under foreign flag that anchoring in a Hellenic port, shall be deemed committed on Hellenic territory and the Hellenic penal laws are applicable regardless of the flag State law, unless otherwise provided by an International Convention or a rule of national law (Note 22).

Possession of weapons by crews of vessels under foreign flag sailing into Hellenic ports is legal only if they have been authorized by the competent Port Police Authority and if are fulfilled the conditions laid down by the domestic provisions (Note 23).

Unless otherwise specified by international law rules, merchant vessels under foreign flag may be subject of seizure and forfeiture according to the laws of the port State. To merchant vessels are assimilated in terms of their legal position and the vessels that are owned by the foreign State but are used for commercial purposes, as well as the leasehold for this purpose (Note 24).

It's outside of the coastal State jurisdiction and of its local authorities disciplinary offences, unless if requested their assistance or the performed acts are being of such a nature that can disturb the port tranquility.

Exception to the exclusive jurisdiction of the coastal State is introduced by article 32 (Note 25) of the UNCLOS and more specifically on warships. In particular on warships override the law of the warship flag State as warships are fully assimilated with the territory of the flag State. They are covered by immunity and the coastal State cannot exercise criminal jurisdiction on them even when they are in its ports. The only exception is if the master or the Consul requests the assistance of the coastal State authorities.

Following the principles of international law, set out in article 163 of HMPLC (Note 26) that the Port Police Authorities refrain from any interference in relation to crimes committed by foreign warships.

Also the coastal State has complete criminal jurisdiction on vessels conflicts or of other maritime incidents that are taking place in its port. Characteristically in UNCLOS in article 92 (Note 27) is established on vessels collision or other incidents on the open seas, the exclusive jurisdiction of the flag State law or of the nationality of the master.

In article 97 paragraph 3 of UNCLOS (Note 28) is determined that «No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State» but this provision relates to criminal jurisdiction, in cases of conflict or another episode, in the open sea and not in internal waters or ports of the coastal State.

If case that in the State port moored vessel under foreign flag, after a collision or other marine episode that took place in the open sea, cannot be exercised criminal or disciplinary proceedings against the responsible person.

In articles 218, 219 and 220 1 of UNCLOS (Note 29) is canonized the possibility of State port to take in cases of marine pollution by vessels under foreign flag independently which is the place where the offence was committed.

In fact in article 219 of the Convention is provided for the possibility of the port State to take preventive administrative measures on preventing departure under foreign flag from the port if has been ascertained that the vessel docked in its port, violates the internationally applicable rules and standards referred to the navigability of vessels, with the result to exist a risk of pollution of the maritime environment.

In the cases referred to in articles 218 and 219 of the Convention in order to be existed port State jurisdiction, must have taken place a violation of international regulations.

In the Convention also are provided guarantees for the benefit of the vessel under foreign flag and its crew, as well as for the flag State of the vessel in articles 223 (Note 30) and next. There are three types of guarantees:

a.-The first type of guarantees concerns the rights of the accused. It is the exercise of port State power only by officers or by warships, respect for the rights of the accused and imposing only fines (article 224, 230 paragraph 1 and 3), (Note 31).

b.-The second type of guarantees is referred in the same vessels under foreign flag (articles 226 and 227) (Note 32) and

c.-the third type of guarantees concerns the precedence given to the flag State of the vessel (article 228 paragraph 1 and 3) (Note 33).

Territorial sea

Territorial sea is part of the territory of the coastal State in accordance with international law and therefore the coastal State exercises full sovereignty in this zone (Note 34) having the presumption of general jurisdiction as in its other land territories (Note 35).

The full sovereignty of the coastal State in the territorial sea is expressly provided in the article 2 paragraph 1 of UNCLOS in which is predicted that: «The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea» (Note 36).

In the specific sea area domination is complete and includes all the legislative, administrative and executive powers, limited where otherwise is provided by rules of international law (Note 37).

When a crime was committed on foreign vessel in Hellenic territorial sea, it is considered that was committed in domestic, while it has been committed on Hellenic vessel in territorial sea of foreign State is considered that was committed in abroad.

Competent authorities for policing territorial sea in Hellas are the Port Police Authorities (HCG). In their police jurisdiction are subjected the merchant vessels under Hellenic and foreign flag crossing the territorial sea according to the requirements of international law. In the Port Police Authorities competence falls the total of policing competencies apart of specific that expressly exempted by law (Note 38).

It is noted that the prosecution of certain offences such as illegal fishing and smuggling is a competence and of other services such as Customs offices via sea financial police (Note 39).

Hellenic warships in the context of its overall mission on ensuring maritime control, take over when is needed and policing duties in territorial sea after request of the competent

authorities or even ex officio, when is perceived a violation and the presence of HCG floating boats or of the Customs authorities is impossible (Note 40).

The local Port Police Authorities have jurisdiction that includes intervention right on Hellenic merchant vessels crossing the Hellenic territorial sea for controlling and implementation of all the State laws, carrying out investigations, arrests and generally of all the necessary procedural acts, jurisdiction which is extended to international sea as vessels are under the jurisdiction of the State which its flag bears.

The situation differs for vessels under foreign flag while article 2 paragraph 3 of the UNCLOS determines that: «The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law».

The dominance thus in territorial sea is limited according to UNCLOS provisions and in particular with the institution of vessels innocent passage under foreign flag, which is not foreseen respectively for the land, subsoil and airspace and with other restrictions that imposed to States sovereignty.

Consequently, Port Police Authorities have the right to do any kind of investigations, arrests, interrogations etc. in foreign merchant vessels that violate the rules of innocent passage as provided for in international law. In case that a foreign warship violates the rules of innocent passage (Note 41) from the Hellenic territorial sea are not in force the same policing rules that are in force for merchant vessels and the only thing that may require the coastal State is the immediate removal of the warship from its territorial sea and following the responsibilities search of the flag State which is responsible for the actions of its warships.

Only warship or State vessel used for non-commercial purposes and charged with police duties, can ascertain the rules violation of innocent passage by a foreign warship and to instruct order for removal from territorial sea in case of non-conformity with the articles 30 and 31 of UNCLOS (Note 42).

Also the coastal State and therefore is in the police functions of Port Police Authorities, has complete criminal jurisdiction for offences occurring on vessels under foreign flag during navigation within the territorial sea as and when the offence has been committed, when the vessel was in the internal waters of the coastal State, and then the vessel entered in the territorial sea (Note 43).

In practice States exercising their criminal jurisdiction only for crimes against State interests or affect public order or officially is asked the intervention of the coastal State (Note 44).

In article 17 of UNCLOS is determined that «... ships of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea» and of course this right is not in force in Member States internal waters.

The right of innocent passage covers and warships as in section 3 of UNCLOS which is referred to innocent passage in the territorial sea is listed as a subtitle of subsection A' «Rules applicable to all ships», while in no other provision of this Convention is not prohibited to warships to exercise the right of innocent passage or to perform it under certain conditions.

The crossing and its conditions are determined in articles 18 (1) of the Convention, (2), article 19 paragraphs 1 and 2 in which are cited all the activities which do not constitute harmless passage (Note 45).

The passage is considered harmless when is not disturbing the peace, public order and the security of the coastal State. These terms are vagueness and there is no commonly accepted definition in international law, which means that whenever, is needed must be referred in the national laws of the Member States, which means every time a subjective assessment.

UNCLOS connects harmlessness of the crossing with the enumeration of acts that fall within the State jurisdiction by reversing the proof burden. Therefore if the crossing is harmless until to the point that takes place the harmful action coastal State bears the proof burden of the harmful event and its consequences.

Also the wording of paragraph m, of article 19 paragraph 2 of UNCLOS makes an indicative listing, giving to the coastal State the ability to assess whether an activity of the foreign vessel that passes through the territorial sea has or not a direct relationship with the passage so to be considered as harmless (Note 46).

The criminal jurisdiction of the coastal State is defined in article 27 of UNCLOS in which are defined and the exceptions (Note 47). The most important thing in that article is that if the crime was committed on vessel which exercise the right of innocent passage during transit the coastal State would not have criminal jurisdiction.

In UNCLOS is not provided anywhere the way that the coastal State will exercise the criminal jurisdiction in the case of foreign merchant vessel located in the territorial sea (anchor), and is not derived from internal waters phenomenon which is common in Hellas. In this case relatives are the articles 161 and 162 of HMPLC (Note 48).

In UNCLOS in article 27 paragraph 5 is defined and the case where foreign vessel coming from a foreign port and just passing through the territorial sea of the coastal State and the crime was committed before entering in the territorial sea. In this case the coastal State cannot exercise its criminal jurisdiction except of the exceptions that are described in the same provision.

Related to the above is and article 23 of the Convention, which gives to the coastal State the right to intervene and to control the vessel, the cargo, the accompanying documents and the keeping of the preventive measures (Note 49).

Finally the International Convention of Brussels of 10 May 1952, «For the Unification of certain Rules Relating to Penal Jurisdiction in Matters of Collision or Other Incidents of Navigation» (Note 50), is enforced and in territorial sea unless a Contracting Party, with Declaration excepts its territorial waters from the scope of the Convention. But if the Convention applied in the territorial sea the jurisdiction of the coastal State in the event of vessels collision will be limited because it will canonize the flag State competence (Note 51).

Thus from the above reveals the following:

A.-For acts committed in foreign vessel that exercises the right of innocent passage, is applied the law of vessel flag State except the defined exceptions in UNCLOS.

B.-Foreign vessels which pass through Hellenic territorial sea, the Hellenic authorities cannot take legal action unless is possible the prosecution according to articles 6 and 7 of the Hellenic Penal Code (HPC) and regardless of any other condition in the cases referred to in article 8 of the HPC. However, if the foreign merchant vessel crosses the Hellenic waters having departed from Hellenic port, the acts that are committed on this are subject to the criminal jurisdiction of the Hellenic authorities (Note 52).

Acts committed on a Hellenic vessel that exercises the right of innocent passage through foreign territorial sea are subjected in the domestic criminal jurisdiction according to Convention provisions and only exceptionally are subjected to the criminal jurisdiction of the coastal State, if are laid down the conditions determined in the Convention.

Continental shelf

The coastal State according to articles 77 and 78 of UNCLOS has certain sovereign rights on the continental shelf (Note 53).

In article 77 paragraph 1 is determined that «The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources». These rights according to paragraph 2 of the same article are exclusive, in the

sense that if the coastal State does not carry out searches on the continental shelf or exploit its natural resources, no one else can undertake such activities without the express consent of that State.

According to article 81 «The coastal State shall have the exclusive right to authorize and regulate drilling on the continental shelf for all purposes».

From the above is concluded that the sovereign rights of the coastal State over the continental shelf, have limited functional purpose and extent which concerns solely the right of search, the right of natural resources exploitation and the right of drilling (Note 54).

Thus the coastal State does not have permissions to the overlying of the continental shelf waters of the seas - unless the shelf coincides with its exclusive economic zone-nor on the territory of the continental shelf for uses that are not expressly provided by international law (Note 55).

UNCLOS does not predict criminal jurisdiction of the coastal State over the continental shelf.

But since there are permanent or temporary facilities or floating constructions on the continental shelf, destined for search and exploitation of hydrocarbons is established country's criminal jurisdiction for offences committed on these facilities and structures or within the security zones around them (Note 56).

Exclusive economic zone

The exclusive economic zone (Note 57) is governed by a special legal regime that is not identified with the status of sovereignty in territorial sea but not even with the regime on the high seas. The coastal State has criminal jurisdiction only for the implementation of the law concerning its sovereign rights exercise.

Concerning the right of the coastal State (Note 58) to construct and to regulate the operation of installations and structures for economic and other purposes, is noted that these facilities are under the jurisdiction of the coastal State in which is included the competence of certain measures repression establishment, as well as the competence of defining security zones around of artificial islands or other facilities.

The exclusive criminal jurisdiction of the coastal State on the premises includes and the criminal jurisdiction on crimes committed on the premises or cause damage on them.

More specifically the permanent or temporary installations or floating constructions on the exclusive economic zone, intended for hydrocarbons exploitation, as well as security zones around them, assimilated to the country territory (article 12 paragraph of law 2289/95 «Search, investigation and hydrocarbons exploitation and other provisions») (Note 59).

Offences committed on the premises or in the security zone are judged according to article 12 paragraph 14 of the law 2289/95 by Piraeus competent courts.

On the same topic relative is and Rome Convention of 10 March 1988 «On the Suppression of illegal acts against maritime safety» and the attached to this Protocol «On the suppression of unlawful acts against the safety of fixed platforms on the continental shelf» (Note 60).

Aim of the Convention is the most effective prevention and suppression of illegal acts against vessels. As such acts are considered the violent seizure of a vessel, threats or violent actions against persons aboard on vessels and mechanisms placing on vessels with purpose destruction or damage caused.

Basic objective of the Convention is be ensured the adoption of appropriate measures against the persons who commit the above acts. At the same time obliges Contracting Governments to cooperate between them on the prevention of terrorism display acts against vessels, to exercise prosecution against the perpetrators or to make extraditions to another State party (Note 61). For this reason, the text of the Convention contains provisions of criminal and procedural law.

According to article 3 (E) of the Protocol, as a stable platform is meant any artificial construct docked at the bottom for search purpose and exploitation or for other economic purposes.

On the criminal jurisdiction of the coastal State for the exercise of its sovereign rights in its exclusive economic zone, relevant is article 73 of UNCLOS (Note 62).

Based on the above article is clear that UNCLOS establishes a wide-ranging criminal jurisdiction of the coastal State for the exercise of its sovereign rights in its exclusive economic zone. These measures include the possibility of boarding in foreign vessels, inspection, arrest and initiate of the relevant proceedings.

The above though wide-ranging criminal jurisdiction of the coastal State on vessels in the exclusive economic zone may be exercised under specific restrictions lay down in article 73 of UNCLOS. These are:

A.-The jurisdiction can be exercised only on the sovereign rights of the coastal State relating to biota in the exclusive economic zone. Therefore does not apply to the non-living natural resources,

B.-vessels that will be detained as also and their crews will leave immediately freely after the deposit of a reasonable guarantee. The coastal State ought also immediately to notify the flag State of the vessel, for the seizure or impoundment of the vessel as well as the penalties imposed then,

C.-penalties imposed or threatened for violation of legislation on fisheries in the exclusive economic zone, may not include imprisonment or any other form of deprivation of liberty, unless there is specific agreement between the coastal State and other States concerned. The custodial sentences cannot be imposed neither to the citizens of the coastal State for the above offences, since the criminal jurisdiction of the State concerned in the exclusive economic zone shall be determined and limited by UNCLOS (Note 65).

It is also in force and the criminal jurisdiction of the coastal State referred to customs, fiscal, health and immigration legislation.

According to article 111 (2) of UNCLOS (Note 64) «The right of hot pursuit shall apply *mutatis mutandis* to violations in the exclusive economic zone or on the continental shelf, including safety zones around continental shelf installations, of the laws and regulations of the coastal State applicable in accordance with this Convention to the exclusive economic zone or the continental shelf, including such safety zones».

Open sea

The only connective element for acts committed on a vessel on the high seas is vessel flag (Note 65).

The flag State of the vessel has according to the international law, in principle power on all the persons and things that are on the vessel, when the latter is on the high seas.

Namely the flag State, on the one hand, retains the power legally have on certain people and things, in which is included the vessel and on the other hand acquires and power on people and things, by the fact and only that they are on the vessel that if was not on the high seas would not have.

In this case, there will be concurrent jurisdiction of the State which has original jurisdiction on persons and things, and the vessel flag State.

The flag State exercises full and exclusive jurisdiction in principle on board to occupants, and the things that are on this and for each criminal remarkable fact.

The exclusive jurisdiction of the flag State is recognized and by UNCLOS according to article 92 (Note 66) in which is defined: «1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in this Convention, shall be subject to its exclusive jurisdiction on the high seas. A ship may not

change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

2. A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality» (Note 67).

The flag State is free to define the rules which will apply on board vessels in the free sea (Note 68). Namely it has the right to extend the validity of the whole law on its vessels, or conversely to designate part of the applicable legislation, or to exclude only certain laws or to enact special legislation for vessels that will carry its flag. In practice do not miss the special law rules placed by several States to regulate matters of their flag vessels and when they cross the open sea (Note 69).

In that respect as far as concerns criminal law rules, the trend of States is to be applied them and to vessels caring their flag (Note 70).

If a crime was committed entirely on a vessel on the high seas is applied without problem the criminal law of the vessel flag. The criminal law of the vessel flag State, is also applied and in cases where the crime is not completed in the same vessel but part of this or the effects of its consequences are taking place aboard on another vessel or at sea or ashore if they bear the same flag or occur in a space of the same flag (Note 71).

Problems arise in cases where the act or its consequences unfold on two or more vessels that bear flags of different countries or on a vessel of a certain flag and in the land or in a port of one or more different States of the vessel flag State.

In these cases, there is overlapping of more criminal claims of different States, claiming criminal jurisdiction on the basis of jurisdictional links that have been adopted by various States to the rules of their national law.

Based on the provisions of articles 5-11 of the HPC exists domestic criminal jurisdiction with the following distinction:

A.-Act is considered that is committed in domestic, if was committed on a vessel bearing the Hellenic flag (article 5 paragraph 2 of the HPC) or the result occurred in Hellenic territory or on Hellenic ship.

b.-The Act is considered that is committed in abroad, if place of act commitment or omission and the result is not a Hellenic vessel or ground, but the act was committed by a domestic offender or against domestic victim, whenever sub serves case of domestic criminal jurisdiction according to the provisions of articles 6 and 7 of the HPC.

This domestic criminal jurisdiction is independent of other States concurrent criminal jurisdiction which relies on their own jurisdictional links according to their national rules of law.

Different is the case where the act or the omission constituting the offence and all its consequences takes place in the open sea and not on a vessel, e.g. members of the crew of a sinking vessel fall into open sea and one of them kills someone in order to get the life jacket.

In this case, place where the crime took place is the open sea, a space without State organization, on which there is no sovereignty of any State or criminal jurisdiction. But neither has the State of the vessel flag from which fell the offender and the victim jurisdiction, after the separation of the bond with the law of the flag from the time they ceased to be onboard.

If the perpetrator and the victim were Hellenic there is domestic criminal jurisdiction according to the articles 6 and 7 of the HPC. If they two were foreigners even if they were members of a Hellenic vessel under wreck from which fell into the sea, this act is not subject to domestic criminal jurisdiction while is an foreigner act that was committed abroad (open sea) by a foreigner (Note 72).

In the case of the vessel sinking or abandonment of risk after masters command, is supported and correctly in my view that the life rafts considered that they have the flag of the sinking or of the abandonment vessel (Note 73). That's because the vessels lifeboats that carried on this, necessarily bear the name of the vessel and are considered as its necessary annexes. Once they are recognized by the legal status of the flag that bears the vessel the legal status of the latter is in force and for them (Note 74).

Right of hot pursuit

To the exclusive jurisdiction of the flag State on the high seas have been introduced some exceptions. These exceptions based on UNCLOS are reported to the right of hot pursuit, in collision of vessels on the high seas, in piracy, slavery and on cases of illegal emissions into the open sea.

The right of hot pursuit is the legal persecution of a foreign merchant vessel on the high seas, after a violation of the coastal State laws, which has been committed within the jurisdiction of the coastal State (Note 75).

The above right is connected on the one hand with the full and exclusive sovereignty exercised by each State in internal waters and in territorial sea, and on the other hand with the fact that the escape of a foreign vessel in high seas that violated the law of the coastal State is easy.

The continuously pursuit if it's effective could have as a result the arrest of the foreigner vessel on the high seas and in this sense is extraordinary jurisdiction of the coastal State (Note 76).

In UNCLOS the article refers to the hot pursuit is 111 paragraphs 1, 3, 4 and 5.

In particular in paragraph 5 of the said article is defined that: «The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect». For this reason the right of hot pursuit is exercised by HCG patrol boats or of Customs vessels but not by Government vessels used for commercial purposes.

According to the HMPLC and the Compulsory Law (CL) 389/1936 the competencies of Port Police Authorities as also of Customs office patrol boats extend only up to the outer limit of the territorial sea. More specifically the patrol boats of the HCG and the Customs authorities patrol boat must under domestic law to stop the pursuit at the end of territorial sea as soon as the foreign vessel got into international waters.

From the moment that the internal legislation doesn't mention for police powers in international waters, this gap is covered by the international law and the pursuit of foreign commercial vessels can be performed by the Hellenic State vessels starting pursuit within the Hellenic territorial waters and continuing and in the international waters (Note 77).

Conclusion

In this brief study were examined the provisions on exceptions to the criminal jurisdiction of the coastal State on merchant and on naval vessels in the Hellenic legal order as provided in the public international maritime law but also in the internal legal order. In this context was examined the criminal jurisdiction of the coastal State on individual maritime zones i.e. internal waters, in ports, in the territorial sea, continental shelf, the exclusive economic zone, in the open sea, while was also developed and the right of hot pursuit.

From the juxtaposition of the provisions indicates that the framework of the relevant national and international provisions applied by the Hellenic national authorities is sufficient and well multitudinous. In parallel the Hellenic judicial authorities have developed an extremely interesting case law associated with implementing provisions for cases of offences that have taken place on board vessels both commercial and military.

It is noted that the provisions applicable to offences which have been made on commercial vessels are more flexible in their application of the relevant provisions application on warships. This is largely understood, due to the fact that the warships in absolute degree express State sovereignty of the flag State they bear. In parallel States can expand their cooperation in criminal matters related to vessels by signing bilateral contracts, something which Hellas has performed extensively, with the signing of several bilateral agreements due to seafarers and the size of shipping that manages.

The main implementer of the relevant legislation that has established or has incorporated in the Hellenic legal order the State is the HCG. It should be noted that for the thorough implementation of the legal provisions that legally binding Hellas has developed an important network of National Port Police Authorities but also and Consular Maritime Port Police Authorities in various countries abroad, which has been staffed by HCG officers and aim not only to a close monitoring of shipping policy in States that have a strong shipping or are located international organizations but also in the implementation of the relevant provisions from the parties responsible in any case as ship owners, ships and crews, on the basis of the flag and the nationality which, in case they bear.

In addition participates in all the international meetings aim at the drafting and signing of contracts related to shipping issues, something which is necessary because of the huge size of shipping that is managed by the competent national authorities.

It is also noticed that important role in matters of criminal jurisdiction on vessels plays UNCLOS, given the fact that this Convention has been signed and has been incorporated into the national legal orders of a large number of States and as already has been mentioned and by Hellas.

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Notes

Note 1. Concerning the implementation of criminal jurisdiction on commercial and warships in the Hellenic legal order see Korontzis Tr. (2012). Implementation of penal jurisdiction in merchant vessels and warships in the Hellenic legal order. *International Journal of Business and Social Science*, vol. 3, issue 17, September 2012, p.p. 139-154.

Note 2. See Hellenic Supreme Court 261/84, 306/75, 1105/73.

Note 3. See Hellenic Supreme Court 1105/1973.

Note 4. See Piraeus Misdemeanor Court 358/74.

Note 5. See. Piraeus Misdemeanor Court 375/1963.

Note 6. See Piraeus Misdemeanor Court 358/74 with which was accepted that by small negligently arson in foreign vessel in Piraeus, from which was not disrupted the orderliness in the port can not be implemented the Hellenic criminal laws.

Note 7. See Hellenic Maritime Penal Law Code as exists today (1988). Publication of ministry of Mercantile Marine, p. 94.

Note 8. See Tsiridis P. (1998). Criminal jurisdiction in maritime space and crimes committed on vessels.P. Sakkoulas, Athens, 1998, p.p. 288-289.

Note 9. Article 158 of the HMPLC is titled «General competencies». See also Hellenic Maritime Penal Law Code as exists today, op cit., p. 94.

Note 10. Article 159 of the HMPLC is titled «Investigative duties of Port Police Authorities». See also Hellenic Maritime Penal Law Code as exists today, op cit .p. 94.

Note 11. It was incorporated into the Hellenic legal order by the law 2321/1996 (A' 136).

Note 12. See Roukounas E. (1997). International Law I, the State and the territory, law of the sea, Ant. Sakkoulas, Athens - Komotini, p.p. 91-94 and Ioannou K.- Oikonomidis K.- Rozakis Ch. - Fatouros A. (1991). International Public Law, Competencies in the International Law. A. Sakkoulas, Athens – Komotini, p. 61 and next.

Note 13. See Roukounas E., op cit., p.p. 92-93.

Note 14. In the specific Statute Hellas has acceded by the law 3904/1929.

Note 15. See Roukounas E., op cit., p. 137.

Note 16. In UNCLOS are some provisions which are characterized as «probing» of other States specific rights, as article 8 paragraph 2 according to which «Where the establishment

of a straight baseline in accordance with the method set forth in article 7 has the effect of enclosing as internal waters areas which had not previously been considered as such, a right of innocent passage as provided in this Convention shall exist in those waters», article 51 paragraph 1 according to: «Without prejudice to article 49, an archipelagic State shall respect existing agreements with other States and shall recognize traditional fishing rights and other legitimate activities of the immediately adjacent neighbouring States in certain areas falling within archipelagic waters. The terms and conditions for the exercise of such rights and activities, including the nature, the extent and the areas to which they apply, shall, at the request of any of the States concerned, be regulated by bilateral agreements between them. Such rights shall not be transferred to or shared with third States or their nationals». See Asonitis G. (1995). The United Nations Convention on the law of the sea. Athens, Papazisis, 1995, p.p. 69 and 94.

Note 17. See Roukounas E., op cit., p. 97 and p. 125 and next.

Note 18. See Hellenic Maritime Penal Law Code as exists today, op cit., p. 87.

Note 19. With the current Government structure relative is the ministry of Internals, ministry of Infrastructure, Transport and Communications, ministry of Public Order and Citizen Protection, ministry of Shipping and Aegean, available on the website <http://www.primeminister.gov.gr/government>, (visited on 16-04-2013).

Note 20. Also in the same law relatives are the articles 18 «Port area», 19 «Land port area», 20 «Sea Port Zone», 21 «Sea and land port zone determination» and 22 «Port land zones status» of law 3018/2001 as amended and is in force by the law 3153/2003.

Note 21. Further and in order to be protected shipping from terrorist acts, in December 2002 were adopted by the International Maritime Organization (I.M.O.) new provisions which were incorporated as Chapter XI-2 in the International Convention on Human Life at Sea, 1974 under the title «Measures to strengthen maritime security against unlawful acts».

At the same time was adopted International Ship and Port Facility Security Code (ISPS Code) against unlawful acts. The code in question is consisted by two parts, one mandatory and one with guidelines on the mandatory implementation of security measures predicted in SOLAS and of the ISPS Code with detailed requirements for the signatory Governments, Managing Authorities and Port Operators and Shipping Companies. Hellas has ratified these texts with PD 56/2004 (A' 47).

In the same time EU adopted Regulation 725/2004 concerning the security improvement on EU vessels and port facilities, which aims to harmonize interpretation and implementation as also to the EU control of special measures on enhancing maritime security. With the same regulation specific provisions of Code part B took mandatory character and was expanded its implementation area.

Then and for completion of the legislative framework was adopted Directive 2005/65/EC on enhancing port security. This directive concerns at each port where there are one or more port facilities covered by Regulation 725/2004. See also law 3622/2007 (A' 281) as well as Korontzis T. (2011). Security and ports. The contribution of ISPS Code in combating of illicit actions. Nautiki Epitheorisi, issue 578, June- July- August 2011, p.p. 65-81.

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Note 22. See Piraeus Appeals Court 72/90, Five Members Piraeus Appeals Court 166/83, Piraeus Misdemeanor Court 155/85.

Note 23. See Hellenic Supreme Court 261/84 Vlachou No. 4/90.

Note 24. See Tsiridis P., op cit., p. 115.

Note 25. See Asonitis G., op cit., p. 32.

Article 32

«Immunities of warships and other government ships operated for non-commercial purposes

With such exceptions as are contained in subsection A and in articles 30 and 31, nothing in this Convention affects the immunities of warships and other government ships operated for non-commercial purposes».

Note 26. See Hellenic Maritime Penal Law Code as exists today, op cit., p. 95.

Note 27. See Asonitis G., op.cit., p. 127.

Note 28. Ibid, p. 131.

Note 29. Ibid p.p 227-229.

Note 30. Ibid p. 232 and next.

Note 31. Ibid p.p. 233, 236 and 237.

Note 32. Ibid p.p. 233-235.

Note 33. Ibid p.p. 235-236.

Note 34. See Dipla Ch.- Rozakis Chr.. The law of the sea and its implementation in Hellas. I. Sideris, Athens, p.p. 13-47.

Note 35. See Doris, E. Public lands, seashore and beach, maritime environment pollution, territorial sea, sand taking. Volume B', Issue A', Athens, A. Sakkoulas, p.189 and next, Roukounas E., op cit., p. 97. In particular each State has the right to determine the width of its territorial sea. The width can not exceeding 12 nautical miles and is measured from the baselines defined in accordance with the provisions of UNCLOS (article 3 of the abovementioned Convention and next).

Note 36. See Asonitis G., op cit., p.p. 66-67.

Note 37. See Ioannou K. - Strati A. (1996). Introductions of sea Law, issue A', p. 63.

Note 38. See law 3922/2011, PD 67/2011, PD 85/2012 and Korontzis T.. The Hellenic Ministry of Mercantile Marine, as an autonomous administrative governmental institution in the period 1971-2011. A descriptive and critical approach. International Journal of Business and Social Science vol. 3, issue 8, p.p. 61-75 and Korontzis, T. The statutory role of the Hellenic Coast Guard. PhD, Library of Panteion University of Social and Political Sciences, Athens.

Note 39. See articles 1 and 2 paragraphs 2, 3, paragraph 1, 7 CL 389/1936.

Note 40. See PD 210/93, LD 420/70.

Note 41. The right of innocent passage in accordance with the predominant view is an attempt to reconcile the principle of navigation freedom and of the coastal State sovereignty theory in its territorial waters. It's obvious the need of coastal State laws and regulations respect by the crossing vessels so the innocent passage to have harmless character.

Note 42. See Asonitis G., op cit., p. 82.

Note 43. See Roukounas E., op cit., p.p.149-150.

Note 44. See Krispis, I. (1951). Legal Status of Commercial Vessels in Ports and in the Open Sea during in peacetime. N. Sakkoulas, Athens, p. 36.

Note 45. See Asonitis G., op cit., p.p. 7-75.

Note 46. See Ioannou K.- Strati A., op cit., p. 67.

Note 47. See Asonitis G., op cit., p.p. 79-80.

Note 48. See Hellenic Maritime Penal Law Code as exists today, op cit., and p.p. 94-95.

Note 49. The wording in that article of the expression «dangerous or harmful substances» is vague and may cover a wide range of cargo.

Note 50. LD 4409/1964.

Note 51. See Tsiridis P., op cit., p. 131.

Note 52. See Hellenic Supreme Court 87/1954.

Note 53. See Doris E., op cit., p.p. 203-228.

Note 54. See Ioannou K. -Strati A., op cit., p.p.154-157.

Note 55. See Ioannou K.-Oikonomidis K.- Rozakis Ch.-Fatouros A., op cit., p.p. 72-73.

Note 56. See article 12 paragraph. 12 and 14 of law 2289/1995 (A' 27), «Search, investigation and hydrocarbons exploitation and other provisions».

Note 57. See Ioannou K. -Strati A., op cit., p.p. 145-208.

Note 58. As far as concerns Hellas and the perspectives in Aegean, see. Karakostanoglou V., «The rights of the coastal State in its exclusive economic zone: challenges and perspectives on the Aegean Sea» in Perrakis St. The Aegean Sea and the New law of the sea. Edited by Perrakis St., Ant. Sakkoulas, Athens-Komotini, p.p. 175-206.

Note 59. See Stratis A., «The Exclusive Economic Zone», op cit., in Dipla Ch.- Rozakis Chr. (2004). The law of the sea and its implementation in Hellas. I. Sideris, Athens, p.p. 145-207.

Note 60. Hellas has ratified both texts with law 2108/1992 (A' 204). In 2005 were adopted by the diplomatic conference in I.M.O. two protocols of which the first one modified the International Convention SUA 1988 and the second the SUA 1988 Protocol. In present time, Hellas is moving towards on the ratification of the 2005 Protocols.

Note 61. Until today SUA 1988 has been ratified by 145 States covering 87.74% of the world fleet, while SUA 1988 Protocol have been ratified by 134 States covering the 83.06% of worldwide fixed installations.

Note 62. See Asonitis G., op cit., p.p. 115-116.

Note 63. See Ioannou K. - Strati A., op cit., p. 176. According to article 86 of UNCLOS [PART II/HIGH SEAS]: «The provisions of this Part apply to all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State. This article does not entail any abridgement of the freedoms enjoyed by all States in the exclusive economic zone in accordance with article 58».

Note 64. See Asonitis G., op cit., p.p. 137-139.

Note 65. See Roukounas E., p. p. 129 and next.

Note 66. See Asonitis G., op cit., p. 127.

Note 67. See in general Perrakis St. - Tsaltas G., Editing, Formating (2006). Security and piracy on the high seas, the modern legal approach through the Convention of Montego Bay (1982) on the law of the sea. I. Sideris, Athens.

Note 68. It is worth to be mentioned a Security Initiative to prevent the Proliferation of weapons of mass destruction (Proliferation Security Initiative – P.S.I.) that has been developed since 2003.

This initiative was announced in May 2003 and constitutes the basis on promoting cooperation of USA with its alliances and third countries on the effective and dynamic response of proliferation (weapons of mass destruction – nuclear, chemical, biological) of related technology and materials as also systems (ballistic missile, etc.) of their transportation.

To this USA initiative from the beginning was acceded 9 countries: Australia, France, Germany, Italy, Japan, The Netherlands, Poland, Portugal, Spain, and the United Kingdom and later acceded Canada, Norway, Singapore and on 31.05.2004 Russia.

Except these 15 States which consist the political core (Core Group) of the initiative, other 60 States have expressed their political support and have signed the Declaration of Strips Principles (Statement of Interdiction Principles) that adopted in Paris on 04.09.2003. Hellas fully participates in the initiative from 01.06.2004 and has been committed to the implementation of Paris Declaration. PSI is not a new international body but a complement to multilateral policy in this area.

The resolution 1540 (2004) of the UN Security Council on the prevention of Mass Destruction Weapons provides the necessary legal basis for the development of PSI activities. According to the Interdiction Principles the initiative aims to:

- 1.-Substantial measures that will prohibit the scattering of Mass Destruction Weapons and related to these materials in third countries.
- 2.-Information exchange on any suspected material facilitating.
- 3.-Performance by the Member States, either on its own initiative or upon request from other States, inspection on vessels bearing their flag in the State waters or even beyond them. In this context Member States will examine to agree in providing license for carrying out inspection on vessels bearing their flag and on vessels of other States.

Checks in order to carry out the transfer of suspicious material will take place and in loads moving loads by land or air transport.

USA has acceded on agreements concerning the realization of inspection with third countries (Panama, Liberia, Cyprus, Croatia, etc.).

On a legal level for this initiative should be noted that article 111 of UNCLOS predicts that intervention in foreign vessels on the open sea can be done on a contractual basis. In addition, the inspection can be done in some cases and on other States vessels (e.g. piracy, slave trade, etc.).

In my view, the consent of the flag State may legitimize the realization of intervention in foreign States vessels and in this logic is taking place the exercise Active Endeavour in the Mediterranean area in recent years.

Specifically was expressed the view that in order to take place the intervention would be required the masters consent of the flag State vessel. According to this post the consensus is a quasi consent agreement if express the coincidence of the parties' willingness and for this reason offers a legal basis in the intervention act. Although from the point of view of international law, such an interpretation of the agreement can be accepted, are created other problems of the national part law such as who will give the consent, the State or the master and how. Additional problem in domestic law in terms of legal intervention is that such a case is not regulated.

This issue should be examined in relation to what happens in ports, in territorial sea and in the contiguous zone (if such a zone has been adopted). Finally a serious aspect is the fact that such measures could mean risks with notification of serious economic information (chartering, cargo handling, etc.) something that for the countries that have infrastructure of elaboration would be a weapon against the maritime interests of third parties.

Note 69. See Tsiridis P., op cit., p. 142.

Note 70. See Krispis I., op cit., p.p. 28-30.

Note 71. See indicatively Korontzis T. (2012). Maritime piracy in the international and in the Hellenic legal order. *Review of European Studies*, vol. 4, No. 5, Feb. 2012 p.p. 75-93 (doi:10.5539/res.v4n5p75).

Note 72. See Tsiridis P., op cit., p. 143.

Note 73. See Krispis I., op cit., p. 25.

Note 74. Ibid op cit., p. 144.

Note 75. See Bamboukos A.. *The modern law of the sea*. Sakkoulas, Athens-Komotini, 1985, p. 297.

Note 76. See Ioannou K./Strati A., op cit., p. 233.

Note 77. In this case it must be under consideration paragraphs 6 and 7 of article 111 of UNCLOS. See Tsiridis P., op cit., p.p. 138-139 and Liakouras P. *The contiguous zone in the Convention of 1982 on the law of the sea and its application in Hellenic seas*, op cit. in *Dipla Ch.- Rozakis Chr. (2004). The law of the sea and its implementation in Hellas*. I. Sideris, Athens, p.p. 109-143.

DUVERGER'S LAWS FROM MICROSCOPIC VIEW

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Abstract

This article deals with the problematic of relationship between electoral and party systems. Its based on theory of Maurice Duverger and Giovanni Sartori, but it takes the influence of electoral systems from microscopic view rather than from macroscopic view. It shows three different electoral systems – plurality, two round plurality and proportional representation, in three different countries – Germany, Great Britain and France, and influence of electoral systems to the party system, especially to small and new parties. It works with the theory of barriers, that parties has to overcome to become relevant – barrier to legislature and barrier to executive.

Keywords: Duvergers law, electoral systems, Great Britain, Germany, France

Introduction

History of research of electoral studies is the history examining their impact on party systems. Although a pioneer of this field is considered to be Maurice Duverger, long before him we find academics that came with theories about the relationship between electoral and party systems. We can mention Ferdinand Hermens, who on the basis of instability of Weimar Germany argued that proportional systems lead to the destabilization of the party and even the political system (Hermens 1968). But earlier in the 19th was talked about the impact of the electoral system, e.g. John Stuart Mill.

However, much attention is still given to Duverger, because he was the first one, who elaborated these ideas to a wider theory and in the original versions of his work expressed a strong relationship between electoral system and party system (which he later relatives). Duverger thesis can be expressed as follows:

- 1) Proportional representation (PR) results into multiparty systems with rigid, stable and independent parties.
- 2) Plurality system with additional conditions (second round of elections, requirement of majority) leads to multiparty flexible system of dependent and relatively stable parties.
- 3) A simple plurality system leads to a two-party system with large, independent parties.¹⁹⁹ (Duverger 1951)

Many authors have followed Duverger, whether they further developed his thesis, agreed with him or vice versa rejected it critically. But majority of research to the topic of relationship between electoral and party systems focused on number of parties, in simple terms, which system brings which number of political parties.

A little different perspective was brought by Giovanni Sartori, who worked with the term of a reductive effect (Sartori 1997). The influence of the electoral system lies in its ability to reduce the number of relevant political parties, ie those parties that have a real impact on politics.

¹⁹⁹ With rigid/ flexible the intraparty stability is meant, with dependent / independent the preelection competition is meant.

Still this issue remains to be examined from macroscopic point of view – party systems and number of parties. It is possible, however, using Sartori's typology to examine things microscopically - from the perspective of each party, specifically their chances of obtaining relevance, which means entering legislature or executive. If this assumption is combined with reductive conception of the electoral systems, the question is not “How many political parties an electoral system will bring”, but "Which system brings which conditions for a political party to become relevant." Relevant in this context is meant not only to overcome the first barrier, or to obtain a mandate / enter the legislative authority, but also exceed the barrier of government involvement.

I will try to illustrate this question on the three Western democratic political systems - Germany, UK and France, each of it uses a different electoral system. In each of these states, we can find new topics coming into politics since 70th, but in every country another influence and development was made. I will first briefly introduce the main points of the electoral system, and then the conditions under a new party can become relevant. In conclusion I compare effects of electoral systems. I will deal with the national political level, as it is difficult to create a unified picture of the lower levels, which are often very different.

Germany

German electoral system is the so-called personalized proportional system. The voter has two votes, one for candidate elected in single-member district and the other one for political party in multimember district. An important element is 5% electoral threshold, which eliminates small parties and prevents excessive fragmentation of the party system (Scarrow 2003). 5% threshold is therefore THE barrier, the parties must overcome. (There is an alternative barrier if the party wins at least three seats in single-member constituencies. However, it is unlikely that the party won three seats and does not exceed 5% threshold).

Germany has experienced the onset of mental transformation of the young generation in the sixties, through the revolutionary year of 1968 and further to the seventies. The key features of the new movement were ecological, environmentalist, pacifist and social - socialist / Marxist nature. Initially, these new ideas were reflected rather in local movements, which stood at the municipal level since mid seventies. At the end of the seventies the first regional branch was created, and in 1980 after the Green Party as such. In 1983 it succeeded with overcome the 5% threshold and with 27 seats came to the Bundestag for the first time. Important thing is that it does not guarantee participation in government. The Greens were unacceptable coalition partner by the main parties (Social democrats, Christian democrats), because the overall stance of the Greens can be described as anti-system - rejected the market economy, NATO, government participation. This policy came mainly from the Fundis - radically left-wing members. On the opposite side stood wing of Realos - realistically minded politicians, who gained the main influence in the party in 90th. As a result of winning Realos and other events (the unification of Germany, the failure of elections in West German section 1990), the Party's orientation has changed in the direction of pro-system party, which agreed with social market economy and anchoring Germany in NATO and the European Community / EU. As a result, it has become acceptable coalition partner and after the SPD victory in 1998 they entered the government.

This example shows that the first barrier - entering legislature is relative low, but overcoming the second barrier can be more difficult. Parties are independent on each other, and there are more coalition options for the parties, so it's unsure for a party to come to the government even as a winner of elections.

Great Britain

The electoral system in the UK is known as a plurality system - FPTP. In the single-member districts candidates fight against each other and the one who gets the most votes will receive a mandate. The electoral system has very disproportional effects, the prevailing party is heavily over-represented, and gains above-average share of seats compared to the share of votes. This system is disadvantageous to other parties except the first, especially for third parties and other parties and small and medium size, because their share of votes can not be transferred into a mandate and, if so, the gain is very small and has no effect on politics. As can be seen, the barrier to entry of new political parties in the system is very high and it is no coincidence that traditionally (except the last parliamentary term and the short period from 1977 to 1978) there are only two parties - Labour party and the Conservative party, which alternate in the government.

Under these conditions the main bearers of new policy issues are not new political party. Although there are parties in Britain that are defending themes that can be called minority (vs. majority - the economy, health ...) and these political parties are able to obtain several mandates, yet at the central level have no real impact on the policy and they have no government involvement (eg, the Green Party won in 2010 elections its first mandate).

Therefore, this system requires much greater flexibility from political parties and a greater ability to respond to new topics. Because the big parties want to hold their dominant position, trying to be the catch-all party, party maximizing their vote share, long-term overlooking of a particular topic could lead to the outflow of voters, despite the psychological effect of FPTP, which should force voters to cast a vote for a big party, which don't have to be a first choice, but with the prospect that the vote for a minor party will not lead to the gain of a seat and will be wasted. Therefore new themes that emerged since the seventies - the issue of devolution, the European Community, ecology etc. - were step by step elaborated into the program on both sides and is now an integral part of their policy.

France

French electoral system to National Assembly is two-round system with semi-open second round in single-member districts. To be elected in the first round of voting, a candidate must obtain at least 50% of the votes cast. If no candidate is elected in the first round, those who poll in excess of 12.5% of the registered voters in the first-round vote are entered in the second round of voting. If no candidate comply such conditions, the two highest-placing candidates advance to second round. In the second round, the candidate who receives the most votes is elected. Therefore there can be more candidates in second round than just two; characteristically there is a competition two candidates from left against one from right; or two from right against one from left. (Blais, Indridason: 2007).

This system brings at first sight a similar barrier as FPTP in the UK – parties need high vote share to gain a seat. Open second round, however, changes the electoral competition. From a competition of independent political parties is a race, forcing them to think about cooperation. New parties can achieve relevance in the case of vote share significantly lower than the real barrier, they need such a share that is relevant for one of the two major political parties (today Socialists and Union for a Popular Movement), so that it can help to gain superiority over its political opponent. In this case, for both large and small party is advantageous to form electoral alliance with the mutual exchange of votes.

Great party wins important extra votes and increases the chance of achieving an absolute majority of seats, small party may gain a few seats in exchange, the promise of fulfillment of program and possible government involvement. French case is complicated because of a different form of the local political system, in which the major role is held by President and main attention is focused on the presidential election and not elections to the

National Assembly, the logic of the system continues to work, also enhanced because the presidential candidates of major parties are pressured to negotiate support in the presidential election.

The most obvious example is the cooperation Socialists and the Greens, which has continued through several election cycles. Thanks to this cooperation, despite the low overall voter support (generally about 3% of the votes in the last election in 2012), Greens received 17 seats and two seats in government. The vote share therefore can be used much more effectively than under plurality system like in Britain.

On the other hand, another new party – National Front, that has reflected the topic of immigrants, is considered as radical and extreme and is not considered as suitable partner. Therefore, despite its vote share, that is higher than the one of Greens (5 – 10%), they had only 4 mandates in its history. It shows that for a small party at its own the barrier is too high.

Conclusion

On the example of three political systems, I tried to demonstrate how electoral system can effect to the low side and the pursuit of relevance.

Every electoral system has a reductive effect and each brings a different type of barriers for political parties to entry into the political contest. These barriers can be divided yet: the barrier to entry to the legislature; barrier to entry into the government; combined condition barrier to entry into the government after overcoming the first barrier. An important complement remains whether the party can rely on the assistance of the electoral partner, so it is possible to efficiently form coalitions (Duverger called it dependence / independence). The following table will try to compare the effects of three systems.

Table 1 – Comparing of effect of electoral systems

	Germany - PR	Britain - FPTP	France - TRS
barrier - legislature	low	very high	high / low
possibility of alliance	no	no	yes
barrier executive	mid high	high	mid high
combined barrier	middle	low	mid low

PR – Proportional representation; TRS – Two round system

Now for the explanation. In Germany, the barrier to entry into the legislature is relatively low, but its overcome does not guarantee government involvement. Due to the entry of more political parties, there are more options of coalition governments; therefore the probability of party government involvement is decreasing. Therefore the combined barrier is somewhere in the middle.

In Britain the first barrier is generally very high, same for executive barrier. But if a party is strong enough to overcome a first barrier and is relevant (so it is one of two major parties), it has high chance to be involved in government, therefore the combined barrier is considered as low.

In France, the barrier as such to entry to the legislative body is high. The character of electoral system that encourages the parties to create an electoral alliance, however, reduces this barrier. At the same time, this cooperation results in the fact that a party that exceeds the first threshold, if it is a partner of one of the major parties, has a higher chance of government involvement. Compared to Germany, this party is tied to the large party (it is dependent) and a large party takes it as a coalition partner to the government. Therefore the combined barrier is relatively low.

As a very conclusion I can daringly claim – electoral systems do matters.

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Web pages:

- www.bundeswahlleiter.de – election results in Germany
- <http://www.electoralcommission.org.uk/> - electoral results in Great Britain
- <http://www.electionresources.org/fr/> - electoral results in France

CONTEMPORARY ASPECTS OF RUSSIAN MEDIA (THE INFLUENCE OF COMMUNISM INHERITANCE)

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Abstract

Russian media came through a long path of development to today's adjective of free and independent, at least on declarative level. A special accent is on the fact that Russian journalist no matter the field of law, find the way to publish investigative facts and to stand on the side of undesirable opponent opinion. Those kind of journalists put aside any ideological or political obstacles which appear in their professional work. This work is dedicated mostly to them. Our research started from journalism and all of its characteristics during the Soviet Union period, because that part of Russian history affected the most on today's state of media in Russia. Years which followed the breakdown of Soviet Union are our later fields of concentration, especially the incoming democratization and liberalization of the system and journalism itself. We made an overview of normatives and legal framework which today's media in Russia are functioning on and also, we've looked back on the way and the system on which young journalists in Russia educate themselves today. All of these are very important factors and issues needed to be explained in order to enlighten all contemporary aspects of the Russian media today. There are always the causes and the results.

Basically looked, the main social studies on Russia's society are offering us a conclusion that it is highly centralized and that represents the main issue and obstacle in the process of full democratization of that former communist society.

We've questioned ourselves...why is the Russia on today's 148 place by the media freedom in the world?

Keywords: Russian media, contemporary aspects, Russia

Russian federation – a country with the biggest territory in the world, ninth by the number of its citizens. Main language is Russian and actual president is Vladimir Putin.

Journalism – skill of collecting, processing and preparation of information which are then spreaded in public by the print, electronic and on-line media. In everyday discourse, media are characterized as a *seventh power* or the *fourth estate*.

Investigative journalism – „a main definition would be seeking for what is about to hide, considering the fact that everything what intends to be hidden isn't worth of hiding.“ (Burgh:2007;page.26) Investigative journalism has different, more sophisticated and complex approach in collecting the information which are not familiar to the public, or are, in some way undesirable to be exposed in public.

Communism – political system, movement or ideology of classless society in which individuals don't have the rights on private property or freedom of speech and opinion opposite than major Communist Party which is the only political option in this single – party system.

Soviet Union -SSSR – the main political and ideological creator was Vladimir Iljič Lenin. By his leadership the Soviet Union became a socialist state on the Eurasian continent, governed as a single-party state by the Communist Party with Moscow as its capital. It was a

union of multiple subnational Soviet republics, its government and economy were highly centralized.

Communist Party – a political party specified in single – party systems and includes those that advocate the application of the social and economic principles of communism through the state policy.

Leninism - comprises political and socialist economic theories, developed from Marxism, and Lenin's interpretations of Marxist theory, for practical application to the socio-political conditions of the agrarian Russian Empire (1721–1917) of the early 20th century. In February 1917, Leninism was the Russian application of Marxist economics and political philosophy, effected and realised by the Bolshevik party who led the fight for the political independence of the working class. In media context, Lenin described press as a „*collective weapon for propaganda and agitation and a a collective system organizer.*“ (Lenin:1949;page.52)

Goskomizdat – the censorship body of all printed publications and all literal achievements. Goskino censored the film art, Gostelradio and State commission for television and radio of the Soviet union was in charge for editing a radio and television programmes.

The Cold War - dated from 1947 to 1991, it was a sustained state of political and military tension between powers in the Western Bloc, dominated by the United States with NATO among its allies, and powers in the Eastern Bloc, dominated by the Soviet Union along with the Warsaw Pact. This began after the success of their temporary wartime alliance against Nazi Germany, leaving the USSR and the US as two superpowers with profound economic and political differences.

Gorbachev's reforms – glasnost and perestrojka, Gorbachev's reforms touched all segments of society. It included freeing press restrictions and releasing political prisoners and dissidents from jail and internal exile. Verbal confrontations led in the Congress of Soviets were live broadcasted, the public was shocked by the amount of imperfections of the system and it's unfreedom.

Dissident - a person who actively challenges an established doctrine, policy, or institution. When dissidents unite for a common cause they often effect a dissident movement. The governing elite excludes them from the society as undesirable.

Samizdat – a literal publication which is often prohibited to be exposed publicly so the writers of such publications often public them illegally and unsigned. Samizdat publications started massively occur in former Soviet Union in 60-es and by the seventieth article of the Soviet Criminal law, samizdats were considered as criminal acts of „antisoviet propaganda“ all the way to the 80-es, until the Gorbachev's reforms.

Westernization - a process whereby societies come under or adopt Western culture in areas such as industry, technology, law, politics, economics, lifestyle, diet, language, alphabet, religion, philosophy, and values. Westernization has been a pervasive and accelerating influence across the world in the last few centuries, with some thinkers assuming westernization to be the equivalent of modernization a way of thought that is often debated.

Democratization - is the transition to a more democratic political regime. It may be the transition from an authoritarian regime to a full democracy, a transition from an authoritarian political system to a semi-democracy or transition from a semi-authoritarian political system to a democratic political system.

Russian journalism in the Soviet Union: the vortex of censorship, unfreedom and forced communist obedience

The journalism from the earliest history was one of the main indicators in the process of state system determination. On the scale of institutions which hold the core of democratic values, media stand in the front, as their unique keeper. Media in Russia in the Soviet period were practically struggling to survive the commands of obedience. That period

was marked by the forced restriction of human thought potential on the disturbing level of blinded following of the state authority. According to **Encyclopedia of the Soviet Union** journalism is „*activity of periodical public collecting, processing and dissemination of the actual information through the press, radio, television, cinema and other, one of the forms of the mass propaganda*“ (Pasti:2007;page.27) There is a certain dilemma about the part of 'periodical dissemination'. Did that actually mean controlled dissemination from the top of the Party, was that the special way of filtration of the main informations in order to inform public just with selected parts of informations? Maybe it's better to rely on the part where journalism is actually identified as activity of propaganda with no further analysis and explanations. We could use another definition to clarify things. This one is from **Soviet journalists guide** where journalism was considered as a „*well known field of public activity of the Party.*“ That means that every Soviet journalist had to work for the party, to follow their commands and to „fight against any appearance of possible bourgeoisie ideology or prohibited behaviour based on class stratification“ (Pasti:2007;page:30) This second definition leaves us with no doubt – journalists in the Soviet Russia were mainly a political servants in order to provide public opinion and orientation closer to ideals of real-socialism.

In Soviet Union the media represented a vital element of insuring the Communist party governance and rule of the ideology of communism. „*As the main characteristic of the ideology of communism can be considered the tough party line and the intolerance of any kind of criticism. Between the majority of conscious (the Party) and the unconscious mass stands agitation and aggressive propaganda from the party elites and that kind of language was only making an informed public and well indoctrinated.*“ (Nuhanović:2005;page.237) the **Lenin's doctrine of a Party political structure** and the domination of communism has characterized the press as „*not only a collective means of propaganda and agitation, but as a collective organiser of the system.*“ (Lenin:1949;page.52) That was Lenin's political testament published in than daily newspapers „**Iskra**“ in 1901- st and represents the clear framework in the interpretation of the degree of media freedom in Soviet Union. A Soviet media were under strict supervision, but this kind of ideological censorship is not only related to the media, but also in art, film, theater, literature, it was proven mechanism for mentally directing the population to uncritical support of the regime and the Party itself. A **Soviet censorship apparatus** as a means of shaping the mass, consisted of two large sectors:

Communist Party and KGB (Comitee of State Security) who were representing „the brain of system operations“ and served as the executive administrative bodies. Decision-making began with the **Secretary General** of the Communist Party Politburo addressing the Communist Party, followed by the **Department of agitation and propaganda** of the Central Comitee of the CP in Moscow. KGB was also responsible for the formulation of prohibited data, themes, creating a list of names and official positions that are not allowed to disclose. State secrets are thus processed and placed in the jurisdiction of the **General Administration for the Protection of State Secrets in the press**, also known as **Glavlit**, which is the first of four executive bodies whose main task was censorship of all publications whose contents threatened the confidentiality of informations of national importance, and CP itself had its special mechanisms of censorship in the form of several institutions divided into different fields of jurisdiction:

Goskomizdat was the censorship body of all printed publications, as well as all literary forms that were formerly within the literary achievements. **Goskino** censored art and film achievements, **Gostelradio** or the state **Comission for Radio and Television of the USSR** was in charge of broadcasting radio and television programs. In the USSR there were four channels: the „**First channel**“ or the first program had a central role in broadcasting and was available in the entire Soviet Union. The second one was the „**Channel of the Union**“, and the third channel was called „**Moscow**“. The **Fourth channel** encapsulates the popular

television quadruple offer then. Then-news were provided almost completely by the „**Telegraph agency**“, known as „**TASS**“, which today exists only in a changed name. Goskomizdat was responsible for providing insight state secrets and other confidential information only to the most preferred (this applies to political appointees). The aim was to prevent political unfiltered information never find their way to the public. „*The role of ideology and propaganda as a function of the essential ideological connotations, aimed at the abolition and reduction of part of the public information flow that offers ideas and values contrary to the ruling. That's the way of presenting the existing values and ideas as dominant interest, as a natural order of things, so, they are in a certain way, mythologized.*“ (Kukić:2004;page.56) Yet, it would be wrong to say that institutionalized censorship of the ruling structures of that era was publicly identified as such, it would be wrong to censorship in public discourse actually name censorship, that would pull a negative connotations, because the obedience of the ideology victims could be brought in question. Officially, there was no censorship in the Soviet Union. Formally, freedom of speech was guaranteed, but only „*if the consolidation of these freedoms is to maintain the socialist order and development.*“ (Plehanov:1974;page 67)

Every journalistic engagement that has meant a violation of the socialist model Agitprop (agitation and propaganda) meant a violation of declarative guaranteed freedom of speech and writing. So, journalists who were prosocial and prosystem minded had the status of a Soviet man with a high level of awareness of collectivism, social patriotism which also means responsibility to society as a whole. The task of the media in the Soviet Union was clear: to create an artificial ideological clean environment with friendly looking at communism and existing social furnishing, institutionalized control of the public in the form of censorship is usually presented in a different light, to avoid public outcry, and that could be accepted. Original meaning of the word censor has negative connotations and its overtones, because, the original meanings imposed controls, and the applicable meaning of those words were usually reformulated.. „ *such methods are used to achieve a higher good*“ (Plehanov:1974;str. 67) There was even an official „ **Document of prohibitions**“ or „ **Blacklisted data in the press, radio and television**“, which was published in **1987** and contained information that applies to the alleged military or state secrets. Forbidden information concered the structure of the armed forces, the type of weapons, crime rate, the situation in prisons, as well as information about censorship. The list was constatntly changing, according to ideological fluctuations and the changing old lists were destroyed, so that today there are only few such lists to serve as witnesses of that time.

Most of journalists and press editors then were Communist Party members and the Association called the **Union of Journalists**, which belonged to nearly **74 000** members. It was absolutely inevitable that all activities editors fit through the Party filtration. CP's tightened the censorship noose also about the most important links in the chain of journalistic identity-building in the education of journalists. The education in high schools for journalists is carried out in parallel with the compulsory education in „**High School of Party**“ in which lecturers were members of the journalistic elite in the Party, the most loyal „Party puppets.“ **School of Journalism within the Moscow University** served as the future course of the party regime reporters. „ *Students have studied the structure of the Party and Party basis in seven disciplines: **Theory and Practice of Soviet journalism and Party, The history of the Party, Training for television, radio and the press editors, Russian journalism and literature, Western journalism and literature, Stylistics of Russian language and techniques of journalism and information.***“ (Gryzunov;2009,page.14). Goal was propaganda, mobilization and organization of the masses in a new economic and political system that are „*producing a new, reformed version of man, homo Sovieticus*“ (Pasti:2007;page.39)

Lenin's concept of journalists as a literary party workers were even legally formalized with the decisions adopted at the **VIII, IX and XIII Party Congress** „*which the press publicly proclaimed Marxist-Leninist expression of well known formula of a collective propagandist and agitator system organizer, journalists have become Party officials.*“ (Talovov, *prema Pasti:2007;page.40*) The Cold War was also a historical period in Russia characterized by strong censorship in all areas of publishing, intellectual work and any labor that was meant for public publication. In that purpose, it is raised a lot of barriers that were operational separation with mission to disable the possible infiltration of unhealthy capitalist information that could poison „ *a healthy awareness of the communist man*“ (Tucaković:1999;str.56) This censorship system was later called „**The iron curtain**“. Therefore, all the journalistic professionalism of the Soviet era had its well-trodden path. Everything was starting from the political coursed high education, improvement propaganda-fiction skills in journalistic engagement, allocating a journalistic associations that were under the watchful eye of the Party and, eventually becoming a member of the Communist Party. Such journalists were belonging to the privileged class, were highly ranked in the organs of the Party, were part of the cultural elite, the people were represented as irrefutable intelligence.

Mikhail Gorbachev in 1985, after becoming General Secretary in CP, started to introduce systemic changes and changing the course of the existing policy. He brought a greater transparency, openness to people, offered a truth of state system without false informations. Also ,the media criticism is allowed without the fear of the consequences. These reforms, known as *glasnost* and *perestroika* were tending towards the gradual democratization of the real-socialistic Eastern bloc. Verbal confrontations led in the **Congress of Soviets** were live broadcasted, the public was shocked by the amount of imperfections of the system and it's unfreedom. The **fall of the Berlin Wall in 1989** and more nationalistic and inter-ethnic clashes after Gobachev's reforms, many of revolutions and, finally, the coup with the aim of re-establishing centralistic state system, takes us to 1991 and official dissolution of the Soviet Union.

Journalism after the USSR: the gradual westernization, the disappearance of censorship, democratization of political and media system in Russia

Policy of glasnost as a system of greater transparency to the people after the 1985's , Gorbachev began to introduce major social changes and it meant great progress. Authorian and unyielding command system that could not allow free thought, appears in public criticism of all previous political moves and disadvantages of the former system. It was a collective awakening of Russians. „*Gorbachev's moves towards detente had little to do with tough knocking fist of a hundred or expansion of international terrorism, under the Reagan's doctrine. They are undertaken with a view to cruel and inefficient centralized state created by Lenin and his followers directed towards economic and social changes, trying to implement reform from above.*“ (Chomski:1999;page,128) Therefore, since 1986, begins transitional era for Russia and its journalism. **President Yeltsin** signed a new **Law on the media**, just two days after the official dissolution of the Soviet Union in December 1991. The basic idea and purpose of the new Media law was to finally provide the media dissemination of informations that hadn't passed state tutor control. It was a legal guarantee against media censorship.

„For example, **Article 4** – ensure the prohibition of change of the constitutional order by force and the prohibition of incitement to social, class or national intolerance.“ (Lužkov:2003;str.78) **Article 3.** of this law meant a relief to those who have submitted requests for registration of print and electronic media. However,**Article 13.** is contradictory to Article3, because it allows state to reject the request for registration when the competent authorities conclude that potential objectives have been placed out of the media could violate

legal guidelines. **Article 16** authorized the state to shut down any media if it finds that he deliberately ignored the ban on promoting a conflict. Journalism has suddenly become a popular profession. Some researches suggest that the number of media has grown from **118 in 1991 to more than 4000 in 2001 st.** „*The media have begun to increase their budget, educate employees, modifying the contents. First money earned from advertisers invested in increasing salaries to journalists according to their employment. Journalists were given the opportunity to choose media that will work, the topic they will write, to be better paid and have better working conditions. Media took themselves to the labor market.*“ .(Pasti:2007;page.56) Quality investigative journalism has proven to be an indispensable tool for democratic communication. Many foreign investors have appeared at this time, recognizing the profit potential that was waiting for them, people in Russia were eager for diversified media and information with a critical review of the events. In Soviet system, journalists loyal to the Party could have a percentage share of equity in the media, but this new law will lose this right and journalists will become an “ordinary workers“. Capitalism has brought new rules. During the Soviet period, the two most popular printed editions, **Pravda and Izvestya**, were almost the only source of information about political events for the public. However, the situation changed in printed and electronic publications. „*The Russian Federation did not receive until 1991. her first channel RTR. Number of channels is increased, the most important was ORT, in which the state has a majority stake and the first private TV channel owned by Vladimir Guisinski.*“ .“(Pasti:2007;str.56)

Review of the normative and legal framework as the foundation of a new functioning of the media in Russia

There are **three laws** that regulate the media system in Russia currently and, based on them, every public communication has its certain limits. **Media Act** was passed in **1991**, the **Law on Communications in 2003**, **The Law on Information, Information Technologies and data protection was adopted in 2006**. In **1994 the Congress of Russian Journalists adopted a Code of Professional Ethics**, which give the basic guidelines for ethical reporting and journalistic self-regulation as a basic assumption of accuracy and objectivity. In **2008 was created the Ministry of Telecom and Mass Communications**, which regulates the mass media, telecommunications and IT activities. Law on Mass Media of the Russian Federation that we've mentioned it above, its adoption has brought a reversal in understanding the role and importance of the media in a democratic society.

Head One contains **General provisions** where it states „*In the Russian Federation the search, receiving, production and dissemination of information, the existence of mass media, possession, use and disposal of these media (...) will not be subject to restrictions other than those prescribed by the laws of the Russian Federation on mass media*“ (<http://www.medialaw.ru>) Thus, the statutory presumption that the only force that will control the media in Russia is a law itself. Because of that, in **Article 3**, which is called the „**Inadmissibility of censorship**“ is : „No provision on censorship of the mass information requested by officials, state bodies and institutions to control the content of the media is not allowed.“ (<http://www.medialaw.ru>) In Article 3 is also mentioned the fact that no legal provision is not supported in the creation of organizations and institutions whose activity is related to the censorship of the media. **Article 4** claims: „ No provision which implies the use of mass media for the purpose of committing criminal offenses is punishable, as well as disclosure of information constituting State secrets or any other legally protected secrets, spreading ideas that tend to extremism, as well as spreading propaganda.....and programs for processing information to influence the subconscious of human beings.“ (<http://www.medialaw.ru>) Contents of this Article is already on first reading seems ambiguous and it seems as legislation that intends to restrict democracy. This article ,for

example, left the authorities space for manipulation when it is necessary to limit the opinion of the masses. Yet, law is one thing, practice is another.

Defeat of democracy and investigative journalism: the murder of journalists, form of political censorship and cover-up regime opponents

Ana Politkovska

Russia is a complex work environment for investigative journalists and those ones who doesn't tolerate any shortcomings of Russian society, such as crime, corruption, despotism in politics, will hardly overcome all dangers in dealing with their job. „*Investigative journalism is accomplished by a thin line, the more journalists come near powerful individuals, the problem for them becomes more serious.*“ (Burgh:2007;page.127) In the last fifteen years in Russia were killed more than **250** journalists, concerning the data of the **Russia Federation of Journalists**. (<http://europe.ifj.org/en/articles/russian-federation-russian-union-of-journalists>) **Reporters without borders**, an international organization that brings together a large number of journalists from around the world, has declared Russia as one of the most dangerous countries for journalists. Russian media, who are controlled by the Kremlin, need to find a special way of self-censorship, because the number of political killings increases from year to year. **Olga Panfilova**, director of the **Russian Center for Extreme Journalism** points out that „*Russia is a dangerous place for practising journalism. According to media freedom, Russia takes 168 place. Why? First of all, because of the killings of journalists, because of violence and threats of governemntal bodies, censorships and arrests of journalists for libel and slander, state interference in editorial policy.*“ (Ružić:2008;page.83) So, journalists who were not afraid to show objectively the situation in Russia, with no regard to intimidation and threats, were brutally killed. There were many Russian journalists who have been killed under mysterious circumstances, but the far more media covered was the case of **Anna Politkovskaya** who shooked the world and passive Russian public. Her death sparked numerous protests and public dissatisfaction with the Russian citizens who understand that things have gone very far. Ana graduated journalism at the **Moscow State University**. She was recognized humanitarian and winner of numerous awards for journalistic professionalism. (In 2001 she won the Prize of the Russian Journalist's Union, in 2001 the Global award of Amnesty International Humanitarian journalism, in 2002, Freedom to Write award and the International Womens Media Foundation for Courage in Journalism, www.novayagazeta.ru)

She was undesirable in the circles of Russian jet power wielders because of her's reporting, especially on the **Russian.Chechen conflict**. Wstern media often quoted her texts, considering them relevant in the assessment of Russian policy and system. Russian authorities have considered her es the western spy. She was the author of three books – „**Chechen diary**“, „**A journey to hell**“ and „**Putin's Russia**“ Although her career in journalism began in the pro-Soviet newspapers, after perestroika she became a political commentator in the newspaper **Novaya Gazeta**, „They accused her for allegedly sympathizing with Chechen terrorists, because in her articles she identified Russian officers as tortures of Chechen's peaceful citizens. Thus in the article – People who are dissapearing, had written something about the fate of Chechen Zeliman Murdalov who was killed by a Russian officer Sergei Lapin Because of her, Lapin was arrested. Politkovskaya wrote about the war in another, different way, wrote in order of anti-Russian propaganda machine.“ (Ružić:2008;page.90) First threat Ana received was from **Sergei Lapin** who was later accused for her murder. She wrote about him as a Chechen's civilian killer. She was killed in 2006 when she went with her daughter to buy groceries. At the exist of elevator, the killer waited for her and fired four bullets into her. After her death, an investigation had begun which is still ongoing and pretty unsuccessful. Her colleagues from Novaya Gazeta found in

her computer the article which she intended to publish about disposing all locations where the Chechen civilians were tortured and killed. Later, after her tragic death, the article was published. *„Even the Reporters without borders gathered several thousand signatures to be formed a special investigative organization dedicated to the investigation of the murder of Anna Politkovskaya. Public and media pressure to encourage authorities to investigate violence has achieved very little. Discussion of sensitive issues is left to the traditional kitchen table - and the internet, which has in the past few years become a breathing space for people not only in search of information, but wanting to air their concerns in a relatively free environment.“* (<http://www.opendemocracy.net/od-russia/galina-arapova/media-freedom-in-russian-regions-you-must-be-joking%E2%80%A6>)

Conclusion

Media freedom is „killed“ by the gunshots, half-functional democracy rests on the inheritance of communism

Russian oligarchical elite tailor the course of today's Russian policy, the position of the media in the social system as well as the working conditions of journalists. Russia today is at the **148-nd** place by counting the press freedom in the world and its media landscape is bleak. That's the main assessment of **Reporters without borders**. Constant repression and oppression of freedom of the media breaks the image of Russians and potential goal that Russia should build as a new democratic force that can equally compete against the leading West. *„Individual journalists who try to work in the public interest and uphold the traditional standards of their profession face harsh reprisals from the Kremlin machine, which has at its disposal any number of means for suppressing freedom of speech, from energy-sapping charges of defamation and checks for ‘extremism’ to the newly reinstated article of the Criminal Code on defamation, which attracts astronomical fines of up to five million roubles (many years‘ salary for an average worker)“*(<http://www.opendemocracy.net/od-russia/galina-arapova/media-freedom-in-russian-regions-you-must-be-joking%E2%80%A6>)

World Congress of the International Federation of Journalists, meeting in Moscow in 2007, after the murder of Anna Politkovskaya had the aim to start a global campaign on the prevention of murders of journalists and better and safer conditions for their work. Russia since then has been considered one as the one of the most unsafe countries for reporting and dealing with journalists' work. Lack of democratic tradition makes this important transition towards full consolidation even more lasting and difficult. Formally, censorship is banned by **Article 29 of the Russian Federal Constitution and Article 1 of the Russian Law on the Media**. In fact it is flourishing. *“Censors as such no longer exist, but there are still editors or Research and Information departments whose opinion on a given article must be taken into account.“* Today's ‘censor’ will not normally check a text for ‘soundness’ before its publication (though I have heard of it happening on occasion). *Instead there are a number of effective levers (usually economic) that can be used on editors to agree a (spoken or unspoken) list of those subjects which are acceptable to cover and those which are taboo.“* (<http://www.opendemocracy.net/od-russia/galina-arapova/media-freedom-in-russian-regions-you-must-be-joking%E2%80%A6>)

Russian journalism in '90 –es was based on reporting without relying on trusted and verifiable sources. In some, pretty rare texts, were located quotes like *„judging from editorial sources“*. However, today, the media in Russia have greater accountability to the public. Investigative journalism exists, no matter the obstacles, as well as the opposition media. However, the difference is that self-censorship is no longer a matter of compulsion, but it's disguised imperative. *„Lacking the opportunity to cover the news properly or write on topical issues, many regional journalists are turning to the internet to publish their articles and simply to express their views“*(<http://www.opendemocracy.net/od-russia/galina-arapova/media-freedom-in-russian-regions-you-must-be-joking%E2%80%A6>)

[arapova/media-freedom-in-russian-regions-you-must-be-joking%E2%80%A6](#) Multiple killings of journalists testify that the applicable **Law in mass media, adopted in 1991**, which is considered the crown of the liberalization of the media system in Russia after the collapse of the Soviet system, exists only on the declarative level. Free access to information and the prohibition of political censorship system is officially guaranteed in Russia, but when **Anna Politkovskaya** accused the Russian authorities for the Chechen bloodshed, that was her last free thought. Judging by the **European Institute for the Media**, the Russian media are mostly managed by Putin, who is also the most dominant figure in the public life of Russia. It seems that the future of Russian journalism still depends on the main policy represented in Russia and the state rules, who create the dominant course concerning media and speech freedoms.

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USE VS. ABUSE OF SPECIAL INVESTIGATIVE MEASURES IN DETECTING SEVERE FORMS OF CRIME IN REPUBLIC OF MACEDONIA

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Abstract

The reformed Macedonian penal judiciary system is as concept a result of adjusting the development of the social system, which originated more than a century ago. Throughout the long history the penal system was, more or less successfully, adjusted to significant historical, political and social changes. The point of reference for the penal and legal reform is harmonization with the international standards on human rights and constitutionalism on one hand, and the increase of crime and corruption on the other. The development of the international law on human rights also had influence on the increase of the penal and legal protection, which resulted in harmonization of our legislation by embedding the international norms on human rights. The European Convention on Human Rights, which is considered to be the main instigator of the reforms of the penal procedure in the last ten years, also had significant influence on the law and the legal practice. With reference to a clearly defined and consistent reform concept, corroborated by solid comparative and empirical examinations, and comparisons with foreign experience, successful reforms of the penal judiciary have been initiated in the Republic of Macedonia. Comprehensive reform of the penal system must be planned and carried out exclusively based on rational and confirmed means and methods of detection, and elimination of all dysfunctional elements of the organization and the operation of the public prosecution, police and judiciary.

Keywords: Reform, incriminations, special investigative measures, crime

Introduction

Inclusion of special methods, that is, investigative activities in the penal and criminal legislation, for efficient legal and state control over the organized crime and sophisticated forms of terrorism and espionage is a relatively new aspect in the comparative and the international law. On one hand, it is recognized that the methods of secret surveillance, recording and wire-tapping are real threat for democracy and the human rights although performed in the name of their protection. On the other hand, there is strong awareness that democratic societies today are threatened by sophisticated forms of crime, espionage and terrorism. Therefore, states must provide means for efficient resistance to such threats. There should be a reasonable compromise between the requirements for protection of a democratic society and the individual rights. The main idea is to legally regulate certain actions of the state bodies, which may vitally interfere with the civil rights and freedoms, for the purpose of protecting the latter from abuse and using the results as evidence during the procedure.²⁰⁰

²⁰⁰ Given the level of classification of data according to the Law on Classified Data, in the course of creation of this work it was impossible to use statistical method or present any statistical data. In the course of creation of

The penal and criminal procedure reform, characterized by introducing new procedure and evidential rules and special investigative measures for detection and prosecution, is by all means the sole possible response to the increased danger from organized crime and its paralyzing influence over the penal justice system. The first Macedonian Law on Criminal Procedure was adopted on the session of the Assembly of the Republic of Macedonia on 26 March 1997.

The first phase²⁰¹ of the reform of the Macedonian penal criminal law aimed to harmonization with the most relevant international documents concerning human rights. The necessity of severe reforms of the penal criminal law area was identified in the Strategy for Reform of the Judicial System of the Republic of Macedonia of November 2004.²⁰² The general goal is to build a functional and efficient justice system based on the European legal standards²⁰³. The two key objectives to be achieved by such judiciary reform are to enhance its independence and increase its efficiency. Benchmarks (courses) of the reform are the following: increase the application of the principle of expedience of criminal prosecution; promote extra-judicial settlement²⁰⁴ and simplified procedures; abandon the court paternalism by transferring the burden of proving to the clients; provide proactive and leading role of the public prosecution in the pre-criminal procedure along with efficient control over the police forces; abolish the court investigation and take over the pre-criminal procedure from the public prosecution²⁰⁵; introduce a system of preclusions for certain criminal procedure actions and measures against abuse of criminal procedure authorities of clients; strict deadlines for rendering and writing the verdict; rationalize the system of legal remedies; implement the penal procedure recommendations of the EU and the Council of Europe; create efficient public prosecution and introduce a new operational and managerial structure as well as management and cooperation with the police and the other law enforcement organs.²⁰⁶

The Law on Criminal Procedure has endured significant amendments in 2004 when the Law on Modification of the Law on Criminal Procedure was adopted by the Assembly of the Republic of Macedonia on the session held on 14 October 2004.²⁰⁷ This novelty was of great significance both from the aspect of its volume and from the aspect of the new institutes that were regulated and further development of the existing penal criminal institutes. By the novelty to the Law on Criminal Procedure of 2004 a number of innovations have been introduced regarding the following: legalization of “special investigative measures” in detecting and prosecuting organized crime and other severe forms of crime; higher powers to the public prosecutor in the course of the pre-investigative procedure and extension of the principle of expedience; introduction of temporary measures of freezing and temporary confiscation of property, and other temporary measures; measures for acceleration of the

this work the following methods were used: method of contents analysis, induction and deduction, comparative method, and synthesis and generalization.

²⁰¹ Nikola Matoski, “*First phase of the Macedonian penal criminal legislation*”. Macedonian review on penal law and criminology, year 2, no. 1-3, (2004); 151-167

²⁰² Gordana Kalajdziev, “*Human rights and the penal procedure model*,” Macedonian review on penal law and criminology, year 1, no. 1, (1994); 139-141

²⁰³ Nikola Matoski, “*Necessity of reform of the Macedonian criminal legislation*”, Macedonian review on penal law and criminology, year 1, no. 1, (1994); 50-67

²⁰⁴ Gordana Buzarovska, “*Concepts of settlement and admission of guilt of the reform of the penal criminal legislation*”. Skopje: Faculty of Law “Justinian Primus, Symposium, 2008, 139-165.

²⁰⁵ Gordana Kalajdziev, “*Pitfalls and misbeliefs of the investigation reform*”, Skopje: Faculty of Law “Justinian Primus, Symposium, 2008, 65-171.

²⁰⁶ About the necessity of a new strategy: Vlado Kambovski, “*Organized Crime*”. Skopje: 2-August, 2005, 349-390.

²⁰⁷ Law on Amendment of the Law on Criminal Procedure, Official Gazette of RM 74/04, Refined text of the Law on Criminal Procedure, Official Gazette of RM 15/2005

penal procedure; resolution of property claims in the penal procedure, and modifications of the special procedures for application of confiscation measure as well as the provisions for international cooperation and cooperation with the international court instances.

Modifications are in the spirit of the goals of the Strategy for reform of the penal law of 2007. Objectives of the reform are: modernization of the criminal procedure and its compatibility with the European legislations; acceleration of the criminal procedure, and organizational and functional improvement of the public prosecution.

The Law on Criminal Procedure was modified again in 2008.²⁰⁸ Important modifications were made of the provisions regulating the special investigative measures. Namely, the possibility increased those measures to be used by the court in cases when there is reasonable suspicion that a crime is being prepared or perpetrated or has been perpetrated. Regarding the severity of crimes a dual approach was accepted: the first category includes crimes which hold a sentence of up to four years imprisonment, and crimes perpetrated by an organized group, gang or another form of criminal organization; the second category includes criminal acts classified by name.

In order to make the national penal law compatible with the European law and able to respond successfully to the challenge of the combat against the organized crime, the criminal procedure structure must be modified completely. This not only calls for modification of the structure of the procedure, but also of the powers and the organization of the main actors. Accordingly, the pre-criminal procedure will adapt to the modern European trends, where the police, public prosecution and courts will play significantly different role compared with the current. The institution “investigative judge” is abolished and replaced by “pre-criminal procedure judge” with significantly different function - instead of being an active investigator the judge will be only a controller of legality of the measures interfering with freedoms and rights as well as the legality of the collected evidence. Beside the extensive modifications in the legislation and the organization this calls for modification of the habits and the mentality of the national judges and prosecutors.

Special investigative measures on human rights in the European law – The Strasbourg Court of Human Rights recognizes that the special investigative measures are necessary instruments of the criminal prosecution organs in a modern democratic society and adequate means for crime prevention; however, if their application is not legally regulated a danger may occur of undermining or even devastation of democracy, with justification that it has been done to defend it. Therefore, the states are required to provide clear evidence about the necessity of application of such measures, and to create a legal frame that will provide appropriate and efficient protection against abuse. In this regard, the Court points out that various investigative techniques, such as surveillance of telephone calls and mail; telephone call processing (ingoing or outgoing calls made from a telephone); pager monitoring; use of secret wire-tapping devices and video surveillance are *prima facie* violations of the right to justness and require justification in compliance with article 8 (paragraph 2) of the European Convention of Human Rights. The same treatment applies to all other investigative techniques used for surveillance in police stations, working premises and, of course, homes.

The provision of article 8 paragraph 2 of the Convention permits a state to violate the general right to privacy, proclaimed in paragraph 1 of the same article, to prevent a crime or in interest of the national security. Jurisprudence of the Court in Strasbourg leads to a conclusion that the state “is for the most part capable of showing and justifying the goal” of the application of special investigative measures; however, it is more difficult to prove that interfering with a private life “was necessary in a democratic society”, and that it “was in

²⁰⁸Law on Criminal Procedure, Official Gazette of RM 83/08

compliance with the law". The state has to cumulatively satisfy both requirements in order to make its intervention compliant with the Convention.

Special investigative measures in the national law - Special investigative measures may be ordered for crimes which hold a sentence of up to four years imprisonment, and crimes which hold a sentence of up to five years imprisonment, when there is reasonable suspicion that a crime is being prepared or perpetrated or has been perpetrated by an organized group, gang or other form of criminal organization as well as crimes against the state, crimes against humanity and international law stipulated in the Criminal Act.

The Law on Penal Procedure determines the types of special investigative measures and their goal. According to the Law, they are taken when it is likely that their application will provide data and evidence, which are necessary for successful course of the criminal procedure, and could not be provided otherwise. The following investigative measures may be taken:

1. Surveillance and recording telephone and other electronic communications in a procedure determined by a special law
2. Surveillance and recording in a home, closed or fenced area belonging to said home or business premises marked as private, or a private vehicle and entrance into the same premises, for the purpose of creating conditions for surveillance of communications
3. Secret surveillance and recording persons and items by technical means outside a home or business premises marked as private
4. Secret insight and search in a computer system
5. Automatic, or other, search and comparison of personal data
6. Insight into realized telephone and other electronic communication
7. Simulated purchase of items
8. Simulated offering and receiving bribe
9. Controlled delivery and transportation of persons and items
10. Use of undercover persons for surveillance and collection of information or data
11. Simulated opening a bank account
12. Simulation of registration of legal entities or use of existing legal entities for collection of data

Duration of application of special investigative measure is determined by law and may last no longer than four months. Continuation of the measures and recording telephone and other electronic communication, surveillance and recording in a private home, closed or fenced area or in a vehicle and entrance into those premises for creating conditions for surveillance of communication, secret surveillance and recording persons and items by technical means, secret insight and search in a computer system, may be authorized by the judge of the pre-criminal procedure for no longer than another four months upon prior written request of the public prosecutor. A public prosecutor or a judicial police under control of a public prosecutor is by law the authorized organ for implementing special investigative measures. The special investigative measures terminate when the goals are achieved. Data, notifications, documents and items obtained by application of special investigative measures may be used as evidence in a criminal procedure.

Use/abuse of special investigative measures in practice - According to the aforementioned application of special investigative measures may be analyzed from the aspect of their use, but also from the aspect of their abuse, including the element of insufficient knowledge about the essence, basics and the manner of application of such measures, for the purpose of detection, clarification and proving criminal acts.

Key theses derive from this. First, **higher efficiency in defeating severe forms of crime is achieved and abuse of the special investigative measures is eliminated by their**

precise legal regulation as well as qualification, training and effective coordination among authorized organs for their implementation (public prosecution, court and police). On the other hand, the following theses extend the main thesis:

- beside legal regulation, in order to facilitate the work and to eliminate any possibility of abuse there should be a list of sub laws to further specify the contents, methodology and the manner of application of special investigative measure and

- precise legal frame to facilitate communication and coordination between the executive, judicial and legislative power, and the democratic control, especially in regard to observation of civil freedoms and human rights at application of the special investigative measures

We assert the following arguments in favor of the aforementioned placed theses:

Argument 1: Legal determination to application of the measures. According to the Law on Criminal Procedure the evidence obtained by application of special investigative measures will be acceptable solely if they have been used in a manner and by procedure stipulated in the Law. According to the Law on Criminal Procedure this evidence must be made available to the defendant and his defense counsel to build the defense, as basic segment of the principle of fair trial and equality of means in a criminal procedure. Namely, if there is reasonable suspicion that a crime is being prepared or being perpetrated or has been perpetrated, which holds a sentence of up to four years imprisonment or a crime is being prepared or has been perpetrated by an organized group, gang or other form of criminal organization, taking special investigative measures may be ordered to provide information and evidence. In this manner severe crimes may be intercepted and prevented, which could have severe consequences both for the state and the citizens of the Republic of Macedonia.²⁰⁹

Argument 2: Institutional authority. The public prosecutor is authorized in a pre-investigative procedure to order the application of special investigative measures under conditions and in a manner stipulated by law. "In a pre-investigative procedure the public prosecutor shall decide by a written order in response to a written and well explained proposal of the Ministry of Interior regarding the application of special investigative measures, that is, in cases when the Ministry does not have any knowledge as to the identity of a perpetrator of a crime, for special investigative measures stipulated in article 142-b paragraph 1 items 3 to 8 of the Law on Criminal Procedure. When a written and explained proposal of the Ministry of Interior exists, it should be considered that it is not sufficient only to claim that the Ministry has information about a crime being prepared or perpetrated and it does not have any other way to provide evidence. The fact that application of special Investigative measures interferes with privacy must always be considered; therefore, these measures must be the very last resort for providing evidence. During an investigation, in compliance with article 142-g paragraph 1 of the Law on Criminal Procedure, only an investigative judge may issue an order. The order for application of special investigative measures shall be implemented by the Ministry of Interior, Customs Office and the Financial Police".²¹⁰ Having in mind the fact that these measures remain the sole legally approved derogation of the fundamental human rights and freedoms, since their application violates individual's privacy, they must be used with high caution in order to disable arbitrariness and abuse.²¹¹

²⁰⁹ Available on www.sobranie.mk, (accessed on 14 May 2012). Shorthand report of session no. 146 of the Assembly of the Republic of Macedonia)

²¹⁰ Vilma Ruskovska and others. Handbook of special investigative measures-both domestic and international practice. Skopje: OBSE, 2010, 15.

²¹¹ Available on <http://www.mhc.org.mk/?Item ID=89F5D9C67BF512459C040C7FCE347736> (accessed on 14 May 2012)

Argument 3: The justification of application of special investigative measures stems from the characteristics of the organized crime. Characteristics of the organized crime such as high profitability, sophistication, organization, synchronization, coordination, internationalism, technical equipment and multi-specialization are very tightly connected with terrorism, money laundering, corruption, illegal trade, production and distribution of drugs, computer crimes, espionage and other crimes, which are grounds for application of special investigative measures.²¹²

Argument 4: Efficient combat against severe forms of crime. Application of special investigative measures is necessary for efficient combat against severe forms of crime, especially in cases involving organized crime, although with strict adherence to some principles: necessity of high level of protection of the human rights and freedoms as stipulated in the Constitution of the Republic of Macedonia; restrictiveness of the use of special investigative measures; strict adherence to the legal form, and supervision of their application²¹³.

Argument 5: General prevention of the society. Application of special investigative measures increases the hope of deterrence of potential perpetrators. This hope increased even more with application of the total capacity for surveillance of communications, because adoption of the Law on Surveillance of Communications increased the probability of greater efficiency in detecting and prosecuting perpetrators of crimes.

On the other hand, counter arguments impose the fact that **in our country there is absence of standard, democratic and parliamentary control, and partial public surveillance over implementation of special investigative measures.** This allows certain political entities and parties to use the special investigative measures for their own goals, which continuously and totally impairs the general impression of possible control over these activities. Therefore, it is necessary to refer to comparative analysis of existing laws and regulations in order to find out who, when and by which procedure may be authorized to request and/or approve application of special investigative measures. A well-defined legal framework should provide efficient surveillance mechanism that would control the application of such measures and eliminate using them solely for political goals. In this manner, the application of special investigative measures will eliminate the abuse at achieving the goals such as timely detection, surveillance, observation and documentation of perpetrators of severe crimes or prevention and disabling various illegal activities of individuals, group and organizations.²¹⁴

Therefore, the fact must be emphasized that insufficient knowledge of the organs applying the special investigative measures (lack of knowledge about the essence, the basics and the manner of application) as well as the weak democratic control of the state, caused their abuse for political and individual goals.

Conclusion

Worldwide experience is guidance for further legal specifying and correcting the application of special investigative measures, and developing the manners, methods and operational practice in application of the same by the authorized organs. Developing new experience and applying the existing positive experience of the states in establishing and operating the executive, judicial and legislative power will lead to appropriate use of special investigative measures through several phases. As we assert in the theses in favor of the use of special investigative measures, legal precision is achieved by adherence to the provisions

²¹²Vlado Kambovski. Organized Crime. Skopje: 2-August, 2005, 396.

²¹³Vilma Ruskovska and others. Handbook of special investigative measures-both domestic and international practice. Skopje: OBSE, 2010, 27.

²¹⁴Milan Milosevic. National Security System. Belgrade: Police Academy, 2001, 195.

of the Law on Criminal Procedure being the grounds for their use. Next, the Law on Surveillance of Communications stipulates adoption of sub laws to further regulate the application of the measures. The fact is that to this point such sub laws have not been adopted, although the Law foresees adoption of the same within three months of the date the Law has gone into effect. Therefore, the sub laws have to be adopted as soon as possible in order to prevent arbitrariness and abuse. In other words, the standard procedures for approval and implementing special investigative measures are insufficient and not precisely defined. Therefore, it is necessary to present a list of public state organs and institutions authorized to approve and/or apply special investigative measures. Also, it is necessary to further specify the information as to how long and according to which selection criteria may these measures apply, and which type of technical means and equipment may be used. If we refer to the aforementioned counter arguments, the Law clearly indicates to the necessary control mechanism in the form of a commission for supervision of the implementation of measures for surveillance of communications by the Ministry of interior and the Ministry of Defense. Such commission was established in the Assembly of the Republic of Macedonia; however, it has not issued a single report on its work.

All this complicates the establishing and functioning of a standard democratic and parliamentary control, and partial public supervision, over the entities implementing this measure. Therefore, necessary bodies should be defined as well as the manner in which they should be established; the bodies should work in the spirit of supervision and control over the implementation of the special investigative measures as well as the implementation of all control mechanisms related to observation of civil freedoms and human rights.

In addition to the aforementioned, the civil servants should adhere to a professional code of ethics in order to achieve high level of professionalism in applying the special investigative measures (precisely defined, standard procedures of approval and implementation) and eliminating abuse of the same. Part of this professional ethics should be observation of every individual's right to live, but also taking coercive measures only in cases when it is necessary to secure a legitimate goal, and the coercion must not be more intensive than the one absolutely necessary and approved by law.

It is our belief that the end should not justify the means at any cost, because a legitimate goal must stem from legal means used for its realization. There must be balance between the combat against the organized crime as the ultimate goal of the state and the obligation to observe the human rights.

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TIME OF GOODS DELIVERY, FULLFILMENT OF AN OBLIGATION BY SELLER

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Abstract

Contract parties have agreed the time of goods delivery based on the agreement that was reached between them. According to the legislation the time of goods delivery is determined in two ways: determination of the day (time), determination of date when the obligation is fulfilled. According to the first the day is determined by the agreement of the parties and this day is connected to a determined day or to a determined event.

Goods delivery is also done based on a precisely determined term based on the contract agreement and it has to be strict and respected by both parties.

Apart to this, there are cases when contract parties do not determine the time for goods delivery, and they determine the time after the contract was signed and regarding this there are three ways of delivery. Delivery is done 8 days after the contract is signed, but the Law on Obligations and other legislations determine an additional agreement to be signed between parties after the contract was signed. Delivery of goods on the determined day and time, means also the fulfillment of the contract therefore the fulfillment brings to a better development of trade and it doesn't create delays from both parties. When there are no delays on goods delivery on the determined time then there are also no casualties. All this has an impact on improving the circulation of goods and in way perfection by which it is contributed to the business perspectives and to the circulation of goods.

Keywords: Contract, time, delivery, fulfillment, contract parties

Introduction

Fulfillment of the obligation based on the contract is one of the main obligations that have to be fulfilled by a seller on the interest of buyer. All times when the contract is signed, and in most cases even before the contract is signed the contract parties have two key problems. The first, it could be said I would say the determination of time for delivery, whereas the other problem or said in other way the obligation of the seller is the determination of time for delivery of the contract subject.

It is very easy for the contracting parties if the time of fulfilling the obligation is put in the contract articles. The problem appears when the time is not determined by the parties in the contract; when contracting parties didn't contract the time of delivery, then the issue is: when the obligation is fulfilled? It can be fulfilled any time but it could not be fulfilled at all. If the seller doesn't deliver determined item it is then considered that he is late and by this he has damaged the buyer. These damages then the buyer requires to be compensated by seller. In order not to be in the delay then he should by all means determine the time of goods delivery and this is based on the theory of nature that is most spread and used by lawyers in different systems for these cases. Related to the time of goods delivery when the time is not determined by the contract there exist various theories. Our domestic legislation is poor in this issue and it doesn't go deep with this. Whereas common law have regulated this issue quite well. In some case laws determine the term of delivery of goods for 8 days always

after the contract is signed but this is used only in the urgent cases, because in the cases when the delivery is impossible (cases when the goods are to be produced)---it is quite difficult to determine such a short term.

Law on Obligation Relations (LMD) determines also the cases when the parties cannot in any way determine the time of delivery by contract or by non contracting agreement addressing the parties to the court so the court determine the time of goods delivery. Nonetheless goods have to be delivered in the determined time and if this is not done then there will be delays in the fulfillment of the obligation and this not only damages the contracting parties, but by this we would have delays in the circulation of goods in the market or circulation in general.

Regulating the term (time) of goods delivery by contract

Parties in most cases agree by their contract about the term (time) of goods delivery. Time of fulfillment can be detrimental in two ways: 1.) be detrimental the day (time) or 2.) by determining the term within which the obligation should be fulfilled.

Goods delivery in the determined time (day)

If parties by contract have determined the term of goods delivery, seller is obliged to deliver goods in that determined time. This is the rule that derives from the principle *pacta sunt servanda* and from the LMD as well as from the 1994 Albanian Civil Code.

Time of delivery could be determined by contract or it could be derived from the agreement of contracting parties. The moment of goods delivery is determined by contract if parties agreed on goods delivery in the determined time (example: May 02,0000).

Day of delivery is determined by the contract if the time is connected to an event that is expected to happen (example 20 days after the contract is signed) or if the usual terms are used. According to LMD saying the beginning of the month determines the first day of the month, the half of the month is considered the 15th of the month whereas the end of the month it is considered the last day of the month.²¹⁵

According to the legislation if the goal of parties or the nature of contract relationships do not determine something else then the rights and obligations will be taken from the existing law. This means this has to do with an additional norm that will find its execution only when in the contract relationship there is an emptiness. When using these notions we have to be careful because the general usances give a different meaning. The beginning of the month is considered the period from 01 to 10th of the month; middle of the month starts with the 11th of the month and ends on 20th of the respected month and finally the end of the month starts on 21st until the last day of the month.²¹⁶ This means that according to the General Usances the delivery of goods is done in the determined date and not in the determined day.

Thus if within the contract was determined that the delivery will be at the beginning of the months, in the middle or at the end of the month, then the beginning notes the first day of the month, middle notes the 15th of the month and the end notes the last day of the month.²¹⁷

Rules covered by the Usances are more flexible and they are more convenient for the needs of goods circulation on trade therefore in practice they will be more used. On the trade

²¹⁵Law on Obligations (LMD), art. 77 paragraph 4. (Kosovo Parliament, 10. 05.2012), Gazette. It is important to take into the consideration the LMD and General Usances in different ways determine the time of regular terms.

²¹⁶ See more, Usance nr . 82, "General Usances on goods trade" (Chamber of Commerce of Former Yugoslavia, nr.15/54), Beograd, 1954.

²¹⁷Law on obligations , art. 65 paragraph 4, (Kosovo Parliament, 10. 05.2012), Gazette.

contracts the notion the beginning of the month for the traders means the determined term but not precisely the term determined to be the first day of the month.

Situation when the term is not determined by contract is not similar with the delivery of goods in the determined term. Even if the term is not determined with the contract according to the calendaric day but it is determined by passing the time connecting this with an event, seller has no possibility to select the time when to deliver goods but is responsible to deliver it exactly that day.

Delivery on the determined term

Traders in practice often agree that the delivery means that the obligation should be fulfilled in the determined day. More often the term is determined to seller within which he has to do the goods delivery.

Such term is known is named framework term and it can be determined by the agreement of contract parties or it is in fact determined itself by the agreement.

LMD determines only one rule that regulates delivery by contract that is determined in the time period. When the goods delivery is contracted to be within the determined period and when it is not determined that which party has the right to determine the day of delivery within that period, this right belongs to seller, with the exception when the circumstances of the case appears that the determination of the date is given to the buyer. Against this the General Uzances are more detailed and they every day will be used in the certain cases and their implementation will come.²¹⁸

Framework term within which the obligation should be fulfilled is determined when parties in a calendaric way determine period of time (example: from January until May).

Against this the term of fulfillment is determined when it is connected to an event of the determined case. Based on this it is possible that parties expressly determine the event (example: term of ten days before the contract is concluded), or by using determined notions lead towards creating a case of the determined case (by coming of the rains, by flourishing of a determined flower, etc). If the term of delivery is determined by expressions urgent, quickly and by these expressions it means that the delivery should be done within 8 days from the contract closure²¹⁹. Expression on the contract as by opening the cruise, by passing the frost, by coming the water and similar expressions that the goods delivery should be done within 15 days according to official services that in the entire sea road that will be done in an open cruise or that it has ended without obstacles for cruise, without taking into the consideration if the road was navigational also before it was announced public²²⁰.

If we talk about goods delivery within a determined term, the start and the end can be determined or are determined by the contract. If by the contract the last term for fulfilling of the obligation is not determined we cannot talk of existence of the framework term (example goods delivery not before December).

When it is foreseen that the fulfillment of the obligation should be done in the framework term it is important to know that the contracting party is authorized to respect the term of delivery. Parties by agreement may overcome the day of delivery not stressing out that this is done based on the will of one party. This could be done with the clause "by the selection of buyer"²²¹. However when it is determined that the goods should be delivered within a determined period of time and it is not determined which party has the right to determine the term of delivery according to all theories and according to the legislation

²¹⁸ Id, art. 452.

²¹⁹ General Uzances on trade with goods, Uzance nr. 81.

²²⁰ Id, Uzance, nr. 85.

²²¹ Kapor & Carić, "Contracts on goods circulations", edition IX, Novi Sad, 1996, pg.100.

belongs to seller.²²² LMD and Uzanses determine that the determination of goods delivery belongs to seller because this is more useful from the fact that possibility is given to him to select the moment of delivery. This solution derives from the natural right on obligation of goods delivery respectively seller is party that should undertake various acts until the obligation fulfillment. There exist cases when the seller is authorised to determine term of goods delivery. This can be achieved when seller has the obligation to do the transportation of goods. Oppositely from LMD Uzanses do not foresee possibility for seller to determine the day of goods delivery. In my opinion this possibility that is given to seller by the law is much better because it doesn't favor seller but it gives to him more possibilities to take into the consideration all circumstances and to find the best possibility in relation to the concrete case. This solution is also in accordance with the international rules of sales.

Party that was authorised to determine the day within the contracted term about when the goods is to be delivered, can determine each day that belongs to the working day within this term.²²³

If the authorised party has not determined the day of delivery, then as the day of delivery will be considered to be the last day of goods delivery the day that is determined by contract between contracting parties from the moment of contract signature.

According to a theory that is indeed supported by LMD, if the authorised party has not determined the term of delivery and if this is not determined by contract, the authorised contracting party to determine the term of delivery can require court to decide the term of goods delivery.²²⁴ In my opinion article 315 of LMD cannot be implemented for some reasons. First, the mentioned article regulates the issue when the term of goods delivery is not at all determined whereas the authorised party do not determine but he delays or stagnation on determining of this term. The other party is not obliged to suffer stagnation or delay and he/she is obliged to remind the authorised party (for determining term) to determine the term of goods delivery.

If the framework term of goods delivery is contracted this means that the time of goods delivery is determined, apart of this it is not possible to apply the legal rule that regulates the situation when the place of fulfillment is not determined. Second, a distinction between delivery and the arrival of term for fulfillment of obligation.²²⁵

Obligation is counted to be obligation within the determined term that is contracted and the goods delivery should be respectively the seller can fulfill. However this comes in the last day, buyer since the last day by the good faith may require fulfillment whereas seller is obliged to do the delivery. Non delivery of goods leads toward delay of obligation fulfillment.

If we talk for his quantity of goods that cannot be delivered within a day, the authorised party should calculate that the goods delivery to be within a determined period of time when the entire goods are delivered within the contracted term.²²⁶ According to this

²²² General Uzanses on trade with goods, Uzanses nr.88, paragraph 1.

²²³ Id, Uzanses . nr. 87 paragrafi 2 & Perović & Stojanović, "Commentar on Law on Obligation Relations", book II, Kragujevac, Gornji Milanovac, 1980, pg. 53.

²²⁴ Perović & Stojanović, "Commentar on Law of Obligations", book II, Kragujevac, Gornji Milanovac, 1980, pg. 53; Blagojević & Krulj, "Commentar on Law on Obligation Relations," book I, Beograd, 1980, pg. 962.

²²⁵ Time of obligation fulfillment differs two moments: time of fulfillment by good faith when party requires fulfillment by the other party – arrival and the time within which obliged party can fulfill obligation – fulfillment of the obligation. Apart of this arrival of fulfillment should exist even at the same time when the obligation arrives to be fulfilled. This means that the arrival of fulfillment and the fulfillment of the obligation should be present at the same time. See more Schulze, "Bürgerliches Gesetzbuch – Handkommentar," 2. Auflage, Baden-Baden, 2002, pg. 255.

²²⁶ Id, Uzanses nr. 88, paragraf 3.

when the big quantity of goods, it is not enough that obligation starts to be fulfilled but it should be fulfilled within the determined term by contract.

Party that has the right to determine the contracted term when the obligation will be fulfilled, should inform the other party about the day of fulfillment well on time. Information should be clear about the job we talk about as well as the day on which the obligation is to be fulfilled. This information about fulfillment is named *preavizo*. Uzances in case of obligation fulfillment accept the theory of acceptance, information is considered fulfilled when the party that has ordered accepts.²²⁷ LMD does not foresee the obligation on information to the party but this is of course understandable.

Goods delivery on term according to the agreement

Contract of sale is considered plenipotentiary even when parties didn't agree about the time of goods delivery. When parties did not contract the time of goods delivery, there are three ways of determining the time on which the goods will arrive. In many countries of the world, if nothing else is contracted delivery should be done immediately.²²⁸ According to the other decision the fixed term is described within which the goods should be delivered. General Uzances contain rules for cases when the term is not determined with the contract and thus it is considered that the delivery has to be done within 8 days from the contract conclusion.²²⁹ Many theories, especially those from anglosaxon system foresee that when there is an absence of agreement between parties the delivery should be done within a term determined according to the agreement after the contract is concluded. This solution is foreseen also by LMD, that foresees that the seller is obliged to deliver goods according to the agreement between parties for goods delivery without taking into the consideration circumstances and without taking into the consideration the nature of the item (type).²³⁰ Term of goods delivery within 8 days is not possible to be respected always because there are cases when the goods to be delivered have to be produced and in this case term of 8 days is not valuable.

Regulation of goods delivery based on agreement of contracting parties is one of the most interesting phenomenon because it strengthens the agreement between parties, enables facilitations for contracting parties and serves the free circulation of goods.

Term by the agreement is valued in the report with the nature of item (goods) and other circumstances. Thus for example delivery of generic item in the small quantity can be done within 3 days. Taking into the consideration the termination of term or change of the term based on the agreement we should take into the consideration all circumstances as well as the interests of the contracting parties.

General Uzances for trade of goods foresee specific rules for case when parties did not cover by contract the term of delivery but they have foreseen that the buyer is obliged to oblige for packaging. Then seller is obliged to deliver goods immediately by passing the time for packing the goods.²³¹ Seller is obliged to determine precise term of goods delivery and is obliged to for this inform the other contracting party.

Conclusion

The main goal of both parties is delivery of goods from seller to buyer and by this the transfer of the ownership from seller to buyer. This because this is the mission of the contract. The fulfillment of the obligation by both parties is achieved when both parties fulfill

²²⁷ See more, General Uzance, Uzance nr 89, article 3.

²²⁸ German Civic Code, art. 271, paragraph 1.

²²⁹ General Uzances on trade with goods, Uzance . nr. 80 paragraph 2, and art 81.

²³⁰ Vizner & Bukljas, "Commentary on Law of Obligations", volume 3, Zagreb, 1979, pg. 1560.

²³¹ General Uzances on trade with goods, Uzance nr 94.

their obligations in determined time, in the determined place and based on the foreseen conditions by the contract. According to our legislation the rights and obligations of both parties are taxatively enumerated. Contract in addition to general conditions and specific conditions should fulfill also some other conditions among the other determination of the place and the time of goods delivery.

In some cases the place is determined without the determination of time and without the determination of the way of fulfillment of the obligation. Nondetermination of the time of goods delivery presents the formal lack in the contract.

Nondetermination of time presents an overlasting of the obligation fulfillment and at the same time additional engagement for contracting parties. As the additional engagement will be a new agreement in order to determine the time of obligation fulfillment that means obligation fulfillment and this even creates a contract annex or a new contract by which the time is determined.

Time of fulfillment can be determined by contract but this can be determined by the legislation and with the general usages. The time of goods delivery is calculated by date, it is also calculated by passing of the determined period time (after two months) but it is also connected to a determined event (snowing for example).

According to the usages date is determined precisely and it is calculated as from the start of the month: from 1 to 10, middle of the month from 10 to 20th and the end of the month that covers date from 20 to the end of the month. Civil legislation determines dates differently, the beginning of the month that is the 1st, the middle of the month the 15th and the end of the month that is 30 or 31st. Delivery of goods can happen also based on the events and this means that the delivery will be done after these event happen. When goods are to be delivered urgently then they should be delivered 8 days before the contract is signed. Delivery depends also from the nature of goods, because it cannot be delivered quickly if it has to be packed and transported. Law foresees cases when the time of goods delivery is not determined by contract and this can be determined by seller. Whereas general usages on goods trading do not foresee this. If we talk about big quantities that cannot be delivered within one day, the authorised party should calculate that the delivery of goods has to be in that determined period of time when the entire goods will be delivered (fulfillment of the obligation) within the term determined by the contract.

According to this when a big quantity is to be delivered it is not enough if the obligation starts to be fulfilled, but it will be fulfilled within the determined term by the contract.

According to a theory that is supported by LMD, if the authorised party did not determine term of goods delivery and if this is not determined by the contract, the authorised contracting party for determining the term of goods delivery can require court to decide about this.

Based on this we can conclude that the time of obligation fulfillment can be determined in various ways whereas determination by the contract presents avoiding of other agreements and it presents security for both parties based on the principle *pacta sunt servanda* – contract has by all means to be executed/fulfilled.

Determination of time by the law and when there is the lack of the law, by usages presents an extension of obligation fulfillment, even a norm of the law on obligation relationships that determines the time of goods delivery through a competent court.

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CRIME IN OPEN PUBLIC SPACES IN THE POST-SOVIET CITIES: LITHUANIAN CASE

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Abstract

From the spatial social point of view a city can be represented as a sequence of connected or disconnected open public spaces. Open public spaces (streets, squares, parks, yards etc.) can be treated as the social infrastructure of the city through which people move, where they meet, communicate and act. Even in ancient times open public spaces were used not only as people gathering places, fair or fiesta spaces, but also various shows and gambling took place on public spaces as well delinquent people were nailed to shame poles. The importance of public spaces for city dwellers and city guests is obvious. Human behavior in open public spaces can be described through movement in the spaces. The intensity and character of movement, assessed by using the space syntax method, enable us to identify the most easy/hardly accessible spaces (integration values), spaces which are the most/least likely to be passed through (choice values), and the most deep/shallow spaces (depth values). These and other social spatial characteristics of urban space are applied for the research of behaviour of city dwellers and city guests. This stage of the research revealed that some public spaces were safer than others. The authors seek to identify how urban spatial structure correlates with and impacts urban crime. As a research object ten largest Lithuanian cities were selected. All of them represent a Post-Soviet case of urban development. The results allow us to understand the dependencies of particular types of crime and spatial social structure of cities.

Keywords: Urban crime, spatial social structure, open public space, space syntax, correlation analysis

Introduction

Post-soviet city could be seen as the specific or unique phenomenon in the contexts of occidental urbanism. What are the essential spatial and social features of the post-soviet city? To give an answer to the above mentioned question the main stages of formation of this phenomenon should be analyzed. According to the political, economic, social conditions and employed spatial urban models, two historical periods should be identified. The first one covers the time line from 1954 to 1990 and could be described as formation and prosperity of the soviet city. It started with the adoption of the ideas of modernistic urbanism after Stalin's death and ended with the collapse of Soviet political block. The second period starts at 1990 and is influenced by the shift from state controlled economy to free market economy in Eastern European countries.

As it was mentioned above, the soviet urbanism employed and realized the ideas of modernistic urbanism. The following aspects could be pointed out as the essential spatial features of soviet cities:

- Mono-functional zoning: historical city centers turned into specialized districts with dominant administrative and official cultural functions; industrial zones separated from

housing areas; recreational zones; autonomous zone of transportation; multi-flat housing districts.

- Dominant morphotype of free standing multi-flat buildings in land plot and “divorce” of building and street.
- Unification of housing areas all over the Soviet Union because of the single planning standards, schemes and usage of pre-fabricated elements of construction.
- Separation of car and pedestrian traffic in space.
- Prohibition of single family housing, etc.

It is important to point out that because of state land property and state controlled economy the above mentioned features of modernistic urbanism were applied at the huge scales and in essence transformed earlier urban fabric. Even historical urban cores, because of destroyed land property patterns and creation of semi-public spaces inside the historical quarters, were influenced by modernistic standards at a high degree (Zaleckis & Matijosaitiene, 2012).

Soviet regime used urban planning as one of the tools to create specific – “socialist” way of life. Real results of the applied urban models were not always the same as planned ones, but, from the point of view of spatial determinism, the influence on powerscape or socioscape (Jacobs, 2004) of the cities was huge. Few dominant peculiarities of the soviet city life could be mentioned:

- Pendulous migration between “sleeping” districts and working places in the industrial zones and city center. As a result we can see regularly depopulated areas inside the city within 24 hours cycle. At the same time it could be seen as regularly decreased number of accidental observers in specific areas.
- Deep public spaces as a result of “divorce” between buildings and streets as a result of new morphotypes. As space syntax investigation in Kaunas Downtown demonstrated it was true not only for new modernistic districts but for historical urban parts too (Zaleckis & Matijosaitiene, 2012). One of the results of this transformation could be named as decrease of street culture and disintegration of public social life.
- Replacement of streets by roads because of the separated flows of transport. Street culture was affected in this case again.
- Loss of urban identity of new urban areas because of typical planning schemes and architectural elements. Because of the huge amount of new housing (e.g. in Kaunas more than 50 percent of inhabitants is living in the modernistic housing blocks). As a result the three main features of preferred urban environment from four were lost or weakened at the level of the city, e.g. legibility, complexity, mysteriousness (Zaleckis, 2005).
- Homogenization of the housing areas in both spatial-architectural and social terms and weak processes of gentrification. If the analogy with natural eco-systems is applied, homogeneity and lack of diversity could be seen as the signs of less adoptable to various changes neighborhood.
- Decrease of the density of inhabitants in the city center and, as a result, its transformation into mainly to transit user oriented urban environment, etc.

In 1990, together with the collapse of the Soviet block the third wave of globalization started according to Zygmunt Bauman (Bauman, 1998). Because of the wide cultural influences of globalization, it is convenient to identify the transformations of matterscapes and powerscapes of soviet cities after 1990 on the base of widely acknowledged, multidimensional phenomenon’s of the globalization.

The first phenomenon is called “landlord living in the capital” (Bauman, 1998). In the 16th century it was expressed in the movement of the rich land lords to the capital while losing social ties with local communities and increasing social differentiation in the cities. At

the end of the 20th century the same processes are repeated with the new power: gated communities, gentrification, second house phenomenon in the city center or suburban area, decrease of social integrity of local historical urban neighborhoods, etc.

Principle of panopticon as the basic model of society by Michel Foucault (Foucault, 1991). In the cities it could be observed as an increased amount of asymmetry in the cityscape. It is used as a tool to separate different social groups, e.g.: shopping malls as “black urban holes”, glass hills in the cityscape, etc. (Zaleckis, 2011). At the same time it is important to point out, that soviet multi-flat housing districts are in essence asymmetrical structures: huge houses with a lot of windows create the atmosphere of being “permanently” watched in the recreational areas between them. From another side, huge amount of observers and observed people transform the classical model of panopticon into asymmetric structure where everyone is a guard and a prisoner at the same time instead of structure with many prisoners and just few guards. Such spatial transformation creates more alienated local community than classical panopticon. In a result of globalization after 1990 the alienation of society was even more strengthened in post-soviet cities by the return of classical model of panopticon.

Death of social man is named as phenomenon of globalization by Richard Sennet (Sennet, 1977). At the cultural level it means the transformation of the city from the safe place in social terms into unsafe place. There is interesting coincidence between idea of Sennet and radical transformation of city culture at the magalopolitan stage of its development by Lewis Mumford (Mumford, 1961). At the spatial urban level death of social man means decreased role of public spaces as the catalyst of social interactions. Deep convex spaces of the soviet cities were quite favorable for above mentioned tendency before 1990 and are not changed after 1990. Big areas of suburban sprawl and development of the model of peripheral city (American, 2006) catalyzes social integration of the city even at the level of metropolitan region. Unpopularity and non-use of the concepts of New Urbanism in Lithuania creates situation when there are no urban spatial countermeasures against alienation of urban society used in city planning.

“End of geography” (Bauman, 1998) is understood as appearance of society where different social groups live at the different “speed”. At the same time it means different needs, possibilities and resources. As a result we can expect different mental city images or mindscapes for the different social groups, physical segregation, etc.

Hiperconsumation is the peculiarity of contemporary western society. The third wave of globalization brought it into post-soviet space. As a result we have commoditized urban and suburban areas, shopping spaces instead of public spaces, gated shopping areas, etc. Interesting phenomenon of gated shopping mall could be observed in Kaunas: brown field was developed into huge shopping mall in the city center, but the closed complex do not interacts with surrounding urban fabric in a positive way. It even destroys the social and cultural life in the main pedestrian axe of the downtown area – Laisves avenue.

Unification of space (Bauman, 1998) is one of the essential features of globalization since the beginning of Renaissance. New possibilities of construction technologies, World Wide Web and fast information, global trade network unify not only space itself, but a way of life and culture too. Thus unified soviet cities become even more unified in a result of the third wave of globalization.

Finally it could be concluded, that in post-soviet cities alienation of the society is continued and all three types of the cityscapes (mindscape, matterscape and power(socio)scape) are even more fragmented than before. Of course, city as organism cannot lose its integrity totally and is adapting itself to new conditions. Despite self-organizing potential of urban complex systems, the cultural, political, economic, social changes after the fall of the Iron Curtain happened much quicker than in Western Europe and

the possibility of society to react to those changes was too slow, e.g.: historical neighborhoods were destroyed but there was not enough time for new urban local communities to appear (except few cases of gentrification); urban sprawls outrun development of public infrastructure; commercial priorities in urban planning took over the social ones, etc.

The final question is: do the peculiarities of the post-soviet cities create the specific regularities of crime appearance in public spaces?

Main Text

As research objects open public spaces (streets, pedestrian paths, squares, parks, passings and other public spaces which are not inside a building and in which pedestrians move) in ten biggest Lithuanian cities were chosen:

- Vilnius the capital of Lithuania with the population of 535,091 inhabitants and the area of 401 sq. km (density 1334 inh/sq.km),
- Kaunas with the population of 355,586 inhabitants and the area of 157 sq. km (density 2264 inh/sq.km),
- Klaipeda with the population of 161,300 inhabitants and the area of 110 sq. km (density 1466 inh/sq.km),
- Panevezys with the population of 113,653 inhabitants and the area of 50 sq. km (density 2273 inh/sq.km),
- Siauliai with the population of 107,875 inhabitants and the area of 81 sq. km (density 1331 inh/sq.km),
- Alytus with the population of 68,304 inhabitants and the area of 40 sq. km (density 1707 inh/sq.km),
- Marijampole with the population of 47,244 inhabitants and the area of 20.5 sq. km (density 2304 inh/sq.km),
- Utena with the population of 32,483 inhabitants and the area of 15.1 sq. km (density 2151 inh/sq.km),
- Telsiai with the population of 30,000 inhabitants and the area of 16.4 sq. km (density 1829 inh/sq.km),
- Taurage with the population of 26,444 inhabitants and the area of 15.7 sq. km (density 1684 inh/sq.km).

Data. For all the research objects the data from registers of criminal acts according to the Code of Criminal (CC) was selected. For Kaunas city also the data about criminal acts according to the Code of Administrative Rights Violations (ARVC) was selected. Amongst a big number of crime types only crimes which happen in open public spaces more often were selected to be used for this research:

- Profanation of the national symbols;
- Crimes against human life;
- Crimes against human health;
- Crimes against human sexual freedom and immunity;
- Theft of motor vehicles;
- Theft from cars;
- Other thefts;
- Robbery.

The data on these criminal acts represent the offenses committed during 2010-2011 years in the researched cities.

The criminogenic situation in Lithuanian cities is not very good. Even the amount of registered crime is low in comparison with other European countries, the amount of latent

crime is very high. This is due to the fact that not all the victims of urban crime report the police about the committed offence especially if it is an offence under the Code of Administrative Rights Violations. In Lithuania the investigation of urban crime and its prevention is being conducted by the Institute of Law and some Lithuanian universities. However, in most cases they define just statistical situation and tendencies, without taking into account territorial coherences on a level of the whole city or its spatial properties.

Methods. Space syntax method was applied for the syntactic analysis of urban structure of researched cities. According to the method open public spaces are crossed by axial lines, thus, the axial maps were prepared. For all the research objects connectivity, control, global depth, fast choice, global integration and local integrations R2 and R3 maps were drawn and these syntactic characteristics were calculated. The axial maps consist of the “longest and fewest straight lines that go through all convex spaces and make all axial links” (Hillier et al., 1987; Topcu & Kubat 2007). The axial structure is one-dimensional and it “describes the degree to which any space extends linearly” (Topcu & Kubat, 2007). Axial structure propose us the information about where passengers might go in the system, hereby it is related to movement. The prepared axial maps are over-layered by the maps with various types of committed crimes.

The previous analysis of axial maps (Zaleckis & Matijosaitiene, 2013; Zaleckis et al., 2012) demonstrates some specific problems:

- A modern city in which pedestrian and vehicle flows are separated quite clearly and strongly functions as an integer of half-autonomic transport systems;
- The most part of streets which functions and are perceived by city dwellers as one spatial formation can not be presented as one axis due to the peculiarities of space syntax method;
- Administrative borders of cities often do not match the borders of the real urban system.

Due to the mentioned problems and the objective to model the environment as exactly as possible three corrections were applied to the traditional space syntax method:

- The axial map is drawn without axes which are unapproachable to pedestrians, also the map is added by axes which are used only by pedestrians and bicyclists and are unapproachable to vehicles;
- The borders of axial maps reflex the real integration of surrounding territories into the city, not only the administrative borders;

The conception of continuity lines by Figueiredo is used in this research (Figueiredo & Amorim, 2004, 2007). This concept allows us to link several axes into one formation.

Results. Correlation analysis revealed relations and strength of relations between various types of crimes and syntactic characteristics in all the cities. Pearson (it assesses the strength of the linear relationship between variables) and Spearman’s rho (it describes the strength of relation from point of view of monotony) correlation coefficients are calculated. Though, the values of Spearman’s rho are quite low – only weak and very weak relations. Therefore, only the values of Pearson correlation coefficient are analyzed in further research.

In all the cities except Vilnius and Kaunas significant moderate and strong relations were identified between some syntactic characteristics and some types of crime (Table 1). In Vilnius and Kaunas only weak and very weak relations appeared. Weak and very weak relations were eliminated from the further analysis of urban crime. As we can see from the Table 1 other thefts and connectivity are related almost in all the researched cities. Strong relations are identified between fast choice and other thefts in Marijampole and Utena, as well as between fast choice and robbery in Marijampole. It is also seen from the Table 1 that connectivity is responsible for the biggest part of crimes - 26.7% of all the possible cases of correlations, fast choice is responsible for 16.7% of all the possible cases of correlations, and

control is responsible for 5% of all the possible cases of correlations. Though, it would be wrong to state that these syntactic characteristics are responsible for crime in all the researched cities.

It is also worth to mention that the correlation values between all types of crimes and depth are negative. That means the higher is the value of global depth the lower is the value of crime types, and vice versa. For the other syntactic characteristics the higher is the characteristic the more crime is committed there. Other thefts and connectivity have moderate relations in 6 cities of 10 (60% of researched cities), other thefts and fast choice have strong and moderate relations in 40% of researched cities, robberies and connectivity have moderate relations in 40% of researched cities, crimes against human health and connectivity have moderate relations in 30% of researched cities. Though, these relations between syntactic characteristics and some types of crime are not a regularity for all the cities. In each city various types of crime are related to and dependent on different syntactic characteristics. Therefore, a certain crime type can be analyzed according to a certain syntactic characteristic in each city. For instance, thefts from cars in Klaipeda can be researched and predicted by the analysis of connectivity, thefts of motor vehicles in Siauliai can be researched and predicted by the analysis of connectivity and fast choice, etc.

In the case of Klaipeda city the most connected streets consist of major streets with high flows of transport and pedestrians, as well as some minor streets in Soviet-built districts with regularly located multi-flats houses. In Panevezys and Siauliai the most connected streets consist of major streets with high flows of transport and pedestrians, as well as the minor streets of a regular grid which are built up with low-rise housing. In Panevezys and Siauliai the most chosen streets consist of major streets. In Alytus and Marijampole the most connected streets consist of major streets with high flows of transport and pedestrians. In Utena and Taurage the most connected, controlled and chosen streets consist of the major streets with higher flows of transport and pedestrians. In Telsiai the most connected and fast chosen streets consist of major streets.

	Theft from cars	Theft of motor vehicles	Other thefts	Robbery	Crimes against human health	Crimes against human life
Connectivity	.545** in Klaipeda	.560** in Siauliai	.510** in Panevezys .515** in Siauliai .514** in Alytus .610** in Utena .578** in Telsiai .552** in Marijampole	.537** in Klaipeda .507** in Siauliai .565** in Taurage .527** in Marijampole	.540** in Siauliai .636** in Taurage .523** in Marijampole	
Control			.524** in Utena	.510** in Taurage	.558** in Taurage	
Fast choice		.553** in Siauliai	.529** in Panevezys .631** in Telsiai .789** in Utena .709** in Marijampole	.625** in Taurage .715** in Marijampole	.630** in Taurage .642** in Marijampole	.556** in Marijampole

** . Correlation is significant at the .01 level (2-tailed).

Table 1. Relations between syntactic characteristics of spaces and crime types - Pearson correlation coefficient values (strong relations are marked by grey colour)

The visual analysis of open public spaces which are the most vulnerable to the researched crime types in all ten cities reveals some generic features of these spaces (Fig. 1):

- The most of crimes happen on the main wide streets with mixed land use which are mostly surrounded by residential areas;
- Residential buildings face blind walls to open public spaces;
- There are no direct entrances from buildings to open public spaces;
- The systems of the most vulnerable to crime spaces are quite deep – the main streets are connected to buildings through at least 2-3 spaces.

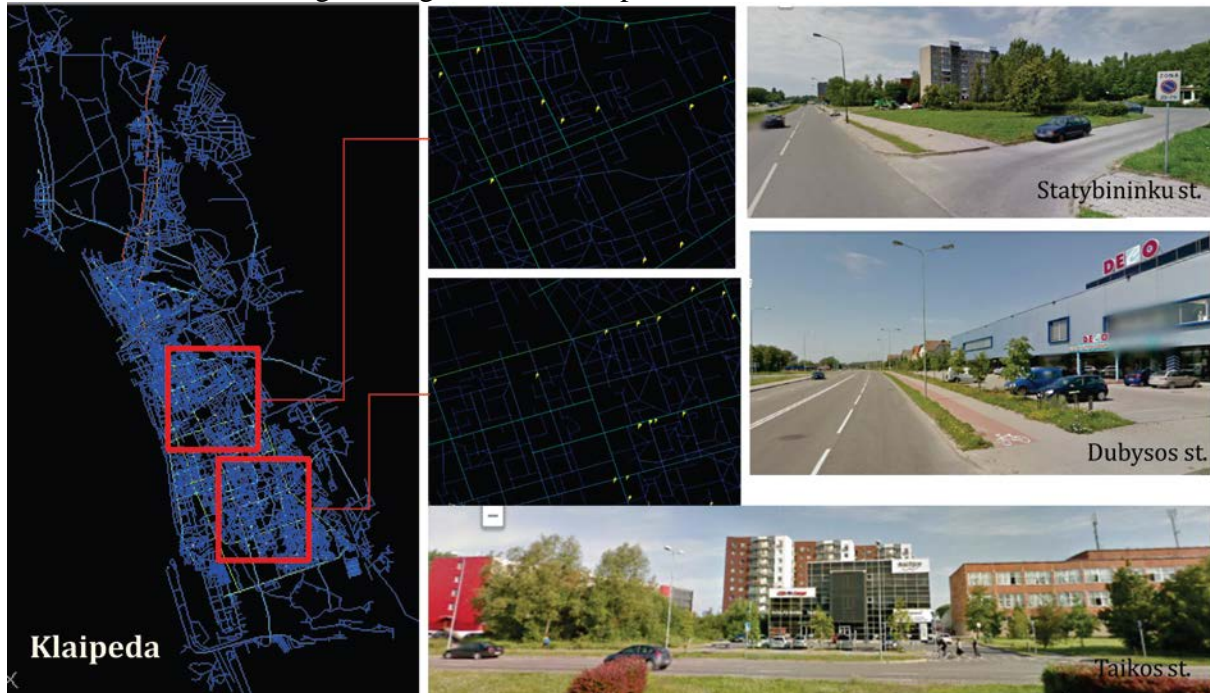


Fig. 1. Connectivity map with marked thefts from cars, and the most vulnerable to thefts from cars spaces in Klaipeda city

The comparative analysis of all the researched cities shows that according to the number of crimes per 100,000 inhabitants Kaunas is the most unsafe city according to the crimes against human sexual freedom and immunity, and also thefts from cars, Klaipeda is the most unsafe city according to the other thefts and robberies, Marijampole is the most unsafe city according to the crimes against human life and crimes against human health, Utena is the most unsafe city according to the thefts of motor vehicles. Siauliai is the most safe city according to almost all the crime types except thefts of motor vehicles, and Kaunas city is the most safe having in mind thefts of motor vehicles.

The analysis also reveals that the biggest number of crimes for one axis according to the crimes against human life is in Marijampole, according to the crimes against human health is again in Marijampole, according to the crimes against human sexual freedom and immunity Kaunas is the most unsafe city, according to the thefts of motor vehicles Siauliai is the most unsafe, according to the thefts from cars Kaunas is the most unsafe, according to the other thefts Panevezys is the most unsafe, and according to the robberies Klaipeda is the most unsafe. And the safest cities are: considering the crimes against human life – Vilnius and Taurage, considering the crimes against human health – Vilnius, considering the crimes against human sexual freedom and immunity – Klaipeda, considering the thefts of motor vehicles – Kaunas, considering the thefts from cars – Siauliai, considering other thefts – Vilnius, and considering robberies – again Vilnius.

	Crimes against human life	Crimes against human health	Crimes against human sexual freedom and immunity	Theft of motor vehicles	Theft from cars	Other thefts	Robbery
Vilnius							
Number of crimes per 100,000 inhabitants	2.80	49.90	8.41	16.07	72.14	60.92	27.66
Number of crimes for one axis	0.001	0.018	0.003	0.006	0.026	0.022	0.010
Kaunas							
Number of crimes per 100,000 inhabitants	0.56	69.74	79.87	0.84	280.94	134.14	102.93
Number of crimes for one axis	0.0002	0.024	0.028	0.000	0.097	0.046	0.036
Klaipeda							
Number of crimes per 100,000 inhabitants	5.58	101.67	3.72	16.12	83.69	713.58	363.30
Number of crimes for one axis	0.002	0.030	0.001	0.005	0.024	0.208	0.106
Panevezys							
Number of crimes per 100,000 inhabitants	9.68	81.83	7.92	54.55	91.51	424.09	94.15
Number of crimes for one axis	0.008	0.072	0.007	0.048	0.081	0.375	0.083
Siauliai							
Number of crimes per 100,000 inhabitants	0.46	17.61	0.46	35.97	1.21	4.63	14.37
Number of crimes for one axis	0.002	0.092	0.002	0.188	0.006	0.024	0.075
Alytus							
Number of crimes per 100,000 inhabitants	4.39	124.44	7.32	20.50	26.35	284.02	81.99
Number of crimes for one axis	0.002	0.063	0.004	0.010	0.013	0.143	0.041
Marijampole							
Number of crimes per 100,000 inhabitants	29.63	245.53	14.82	61.38	42.33	298.45	95.25
Number of crimes for one axis	0.012	0.101	0.006	0.025	0.017	0.123	0.039
Utena							
Number of crimes per 100,000 inhabitants	9.24	92.36	3.08	76.96	52.34	514.12	95.43
Number of crimes for one axis	0.005	0.047	0.002	0.039	0.027	0.261	0.048
Telsiai							
Number of crimes per 100,000 inhabitants	10	96.67	3.33	33.33	30.00	326.67	66.67
Number of crimes for one axis	0.005	0.045	0.002	0.016	0.014	0.153	0.031
Taurage							
Number of crimes per 100,000 inhabitants	3.78	204.21	11.34	60.51	60.51	548.33	71.85
Number of crimes for one axis	0.001	0.080	0.004	0.024	0.024	0.214	0.028

Table 2. Comparative analysis of the cities (black colour – the highest rates, grey colour – the lowest rates)

Conclusion

The research results reveal that the peculiarities of the post-Soviet cities do create the specific regularities of crime appearance in open public spaces. In all the researched cities except Vilnius and Kaunas significant moderate and strong correlations were found between connectivity, control, fast choice and such crimes as theft from cars, theft of motor vehicles, other thefts, robberies, crimes against human health and crimes against human life. Though, in each city various types of crime are related to and dependent on different syntactic characteristics.

The analysis of urban pattern in the researched cities let us conclude that in all the cases major streets with high flows of transport and pedestrians contribute to a higher crime. And minor streets create higher hazard for crime only in three cases: in Klaipeda in some Soviet-built districts with regularly located multi-flats houses, as well as in Panevezys and Siauliai where some minor streets of a regular grid are built up with low-rise housing. Peculiarities of these three cases have to be revealed in the further research.

The analysis of ten biggest Lithuanian cities reveals that the social spatial configuration in all the cities except Vilnius and Kaunas generates the hazard of some types of criminal offences:

- in Klaipeda connected spaces generate more thefts from cars and robberies,
- in Panevezys connected spaces and fast chosen spaces generate other thefts,
- in Siauliai connected spaces generate thefts of motor vehicles, other thefts, robberies and crimes against human health, and fast chosen spaces generate thefts of motor vehicles,
- in Alytus connected spaces generate other thefts,
- in Marijampole connected and fast chosen spaces generate other thefts, robberies and crimes against human health, and fast chosen spaces generate also crimes against human life,
- in Utena connected, controlled and fast chosen spaces generate other thefts,
- in Telsiai connected and fast chosen spaces generate other thefts,
- in Taurage connected, controlled and fast chosen spaces generate robberies and crimes against human health.

The comparison of the number of crimes committed in each city per 100,000 inhabitants and per one axis shows that the most unsafe cities are:

- from the point of view of crimes against human life and crimes against human health – Marijampole,
- from the point of view of crimes against human sexual freedom and immunity and theft from cars – Kaunas,
- from the point of view of theft of motor vehicles – Utena and Siauliai,
- from the point of view of other thefts – Klaipeda and Panevezys,
- from the point of view of robberies – Klaipeda.
- According to the visual analysis of the most crimed spaces the main proposals for creating safer cities are formulated:
 - more buildings located along a street should have entrances directly connected with the street (not through other spaces),
 - streets should be made more visible from surrounding buildings,
 - from the point of view of safety the greater attention should be paid to major streets with high flows of transport and pedestrians.

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THE IMPACT OF BRIKS FROM ECONOMIC, LEGAL AND POLITICAL ASPECT IN THE INTERNATIONAL COMMUNITY

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Abstract

The influence of the BRICS countries is continuously increasing. Economic growth of these countries allows them stronger international influence. If you take into account that even half of the world population lives in these countries, shows the power that this block carries. Although it is a relatively new group, attempts to consolidate its activities on economical, legal and political sphere are continuous.

Globalization and the current economic situation, enable BRICS countries to move current economic superpowers and ensure its dominance in the world.

BRICS will change the geopolitical balance? Will these countries, which are in continuous growth in recent years, be able to be leaders of modern times dictation's of economical and political future trends? Economic power always goes hand in hand with increased political influence. Are required internal political reforms in the BRICS countries to maintain continuity in economic development?

Keywords : Global financial crisis, economic growth, economic and political influence, internal political reform

Introduction

BRICS is an international political organization of leading emerging powers and the successor organization to the previous BRIC , lifted by the inclusion of South Africa in 2010. Current five countries are Brazil, Russia, India, China and South Africa²³². With the exception of Russia²³³, members of BRIC are developing countries that are considered new powers because of their large holdings and significant impact on regional and international developments and economic trends. Their lives almost half the world's population, with GDP of 13.6 trillion dollars²³⁴, and have a combined foreign reserves of 4 trillion²³⁵.

²³² <http://www.southafrica.info/global/brics/brics-080411.htm#.UMj7ROT7Jg0>

²³³ http://www.un.int/russia/new/MainRoot/docs/off_news/130109/newen2.htm

²³⁴ <http://www.imf.org/external/pubs/ft/weo/2011/02/weodata/weorept.aspx?sy=2009&ey=2016&scsm=1&ssd=1&sort=country&ds=.&br=1&c=223%2C924%2C922%2C199%2C534&s=NGDPD%2CNGDPDPC%2CPPPD%2CPPPPC&grp=0&a=&pr.x=101&pr.y=17>

²³⁵ <http://www.csmonitor.com/World/Global-Issues/2011/1018/Amid-BRICS-rise-and-Arab-Spring-a-new-global-order-forms>

President of China Hu Jintao²³⁶ said that BRICS countries are defenders and representatives of developing countries and are promoters of world peace²³⁷. However, some analysts say that there are significant disputed issues within the organization, especially disagreements between China and India on the status of Tibet.²³⁸

In September 2006, the Foreign Ministers of the four original members of the BRIC (Brazil, Russia, India and China) met in New York and start in on series of high level meetings. As BRICS the organization's members first met on May 16, 2008 in Yekaterinburg, Russia.²³⁹

The group holds an annual summit each year starting from 2009. Before South Africa joining, BRIC held two summits: in 2009 and 2010. The first summit of the five-members of BRICS group was held in 2011, and the last was held on March 29, 2012 in India. The theme of the 2012 summit was: Partnership of BRICS countries for global stability, security and prosperity. The leaders of BRICS countries discussed political, economical and social issues of mutual and international interest. The main goal of the summit was to find ways of strengthening cooperation, consultation and coordination between these countries to improve the quality of life of their citizens and the international community.

The total gross domestic product (GDP) of the group, with dynamic economic growth, is estimated at 13.7 trillion dollars, which is approximately equal to a quarter of global GDP. Members of the BRICS group, Brazil, Russia, India, China and South Africa, are 43 % of the total world population, participated in the global flow of direct foreign aid in 2012 with 11 %, and in world trade by 17 %.

Table 1. Features of the BRICS Member States for the period 2009-2011.

Economic categories	Year	Brazil	Russia	India	China	South Africa
GDP PPP	2011	\$2.324 trillion.	\$2.414 trillion	\$4.515 trillion.	\$11.29 trillion	\$562.2 billion.
	2010	\$2.262 trillion.	\$2.314 trillion	\$4.210 trillion.	\$10.34 trillion	\$545.1 billion
	2009	\$2.103 trillion.	\$2.219 trillion	\$3.806 trillion.	\$9.356 trillion	\$529.8 billion
GDP official exchange rate	2011	\$2.493 trillion.	\$1.850 trillion	\$1.676 trillion	\$6.989 trillion	\$408.1 billion.
GDP growth rate	2011	2.70%	4.30%	7.20%	9.20%	3.10%
	2010	7.50%	4.30%	10.60%	10.50%	2.90%
	2009	-0.30%	-7.80%	6.60%	9.20%	-1.50%
GDP per capita	2011	\$11.90	\$17.00	\$3.70	\$8.40	\$11.10
	2010	\$11.70	\$16.20	\$3.50	\$7.50	\$10.90
	2009	\$11.00	\$15.60	\$3.20	\$7.00	\$10.70
Population below poverty rate	2011	21.40%	13.10%	29.80%	13.40%	50%
labor force	2011	104.7 million	75.41 million.	487.6 million	795.5 million	17.66 million.
Unemployment rate	2011	6%	6%	9.80%	6.50%	24.90%
	2010	6.70%	6.70%	10%	6.10%	24.90%

Source: <https://www.cia.gov/library/publications/the-world-factbook/fields/2116.html>

²³⁶ Hu Jintao was born in China in 1942. He was the fourth generation leader of the Communist Party in China, General Secretary of the Communist Party from 2002-2012, chairman of the Central Military Commission from 2004-2012 and President of the People's Republic of China from 2003-2013.

²³⁷ <http://www.bdlive.co.za/articles/2012/03/28/brics-a-force-for-world-peace-says-china>

²³⁸ http://www.atimes.com/atimes/Global_Economy/ND03Dj01.html

²³⁹ http://archive.kremlin.ru/eng/articles/bric_1.shtml

On BRICS summit held in 2012, countries not only agreed to support the IMF, announced that in the future will provide loans in local currencies that are intended to lead economic growth in times of crisis and post-crisis period.

Experts believed that this move will help to reduce the cost of transactions and will strengthen those currencies worldwide, and will fend off the dollar as a reserve currency, at least in trade between BRICS member states. This idea was consistent with the interests of the global economy. The euro and dollar are no longer vested in the role of reserve currencies. Clearly, the world needs more reserve currencies. Russia and China for several years trade in rubles and yuan and the Russian plans are to expand local currency in trade with India. For its part, BRICS countries also announced their, so far only plans, to establish a joint development bank that would be considered a rival to the World Bank and the International Monetary Fund. If established, it will function as a credit agency and will provide funds to BRICS member states and their joint projects, but also for other countries. The purpose of creating this bank is not only for the benefit of BRICS members but also for the development of other countries beyond.

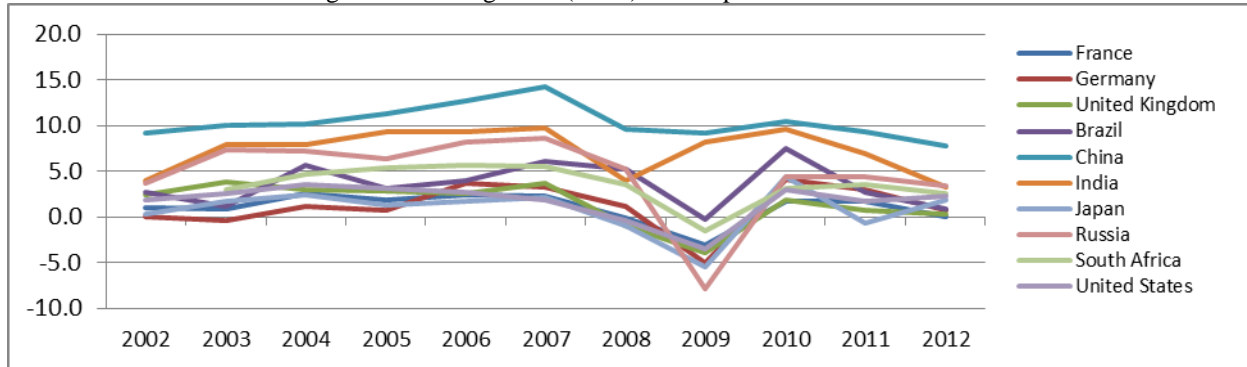
The leaders of Brazil, Russia, India, China and South Africa on the summit in Indian capital New Delhi concluded that in the future it is necessary to undertake activities aimed at their growing economic power is reflected through greater influence in financial institutions such as the International Monetary Fund and World Bank. The creation of a joint development bank and greater mutual trade, will influence to prevent the emergence of new global economic crises that may arise and flow in these economies.

BRICS remain drivers of global economic growth. The challenge on the last summit of leaders, was to decide on issues related not only to the future of BRICS, but for making the admission of new members, a permanent seat on the group and focus on several global political issues such as Syria, Iran and North Korea. They also discussed the measures needed to support the revival of the global economy, particularly the measures associated with the debt crisis in the EU

Before the summit, the Federation of Indian Chambers of Commerce and Industries announced a document for BRICS in which each economy of that group should make efforts to capitalize the potential, and also to extend their mutual cooperation beyond the geopolitical framework guided by the economic needs. The economic growth in the world is not coming from the developed countries of the West, who are struggling with the consequences of the global financial crisis. On long-term, experts remain optimistic that BRICS will be the driver of global growth.

The financial crisis started the process of true globalization and BRICS confirmed that this was more than possible. Globalization made many changes in the world economic power. On the account of the worldwide economical and political forces, the United States and the member states of the European Union, stand out China, Russia, India and Brazil. Economic growth in the last decade has enabled these countries to be under the little influence of financial crisis or not to be affected by it at all. Chart No. 1 shows trends of growth of GDP in the last decade. The difference in economic growth among countries, including BRICS, can be seen without a doubt.

Figure br1 GDP growth (in%) for the period 2002-2012



Source: World Bank www. worldbank.org

These countries have a rich natural resource, which separates them from the other countries. This is the foundation on which they based their rapid growth. Effective and efficient use of the resources gives these countries an economic advantage over the rest of the world. With the economic growth started the new trends in investment and expansion of transnational companies in this block. Transnational companies positioned USA as the leading economy last century. Their assets were bigger than the budgets developed countries. This deepened the economic dominance, US influence in the world and assisted in the implementation of US interests. This strategy today is applied by the BRICS countries. Transnational companies easily implement the economic dominance; in so doing they are realizing the basic goal of any company, profit. Globalization facilitates and accelerates this opportunity of dominance by the BRICS transnational companies. New technologies combined with the wealth of resources, become an easy way for expansion of TNC.

Negative economic growth after the financial crisis has led to incensement of unemployment. In such conditions, the TNC investment in a certain country are of great interest and importance, because it creates jobs, providing a positive bias towards TNC, and the country of origin of the company.

Economic development is the basis of the level of political influence in international relations. Countries with capital are powerful in two directions: on one hand can be pressed by the less powerful in decision-making, on the other hand, always have powerful instruments able to put pressure on countries that are less powerful to affect their decisions. Transnational companies such as Petrobras, Odebrecht, Embraer (Brazil); Lukoil JSC, Norilsk Nickel, Novoship Co. (Russia); NIIT Ltd., Usha Martin, Ranbaxy (India) China Ocean, Shipping Grp. National Offshore Oil, Corp.; National Cereals, Oils & Foodstuffs, Corp., Lenovo (China); Illovo Sugar, MTN, AngloGold Ltd. (South Africa), play an important role in the balance of power in international relations and on the impact of policy decisions on a global level. Today is more important to have a transnational company than a certain territory, because the economical and political benefits from it is most important for positioning the country in the global trends.

The significant economic growth of the BRICS countries will inevitable contribute to the political and social growth, as well as to increasing political culture by raising the awareness of the BRICS countries' citizens. How can countries with centralized government manage to deal in continuance with such large economic growth? Jim O'Neill, the creator of the term BRIC, thinks that the politics of Vladimir Putin has centralized Russia and therefore it is difficult to achieve the necessary progress²⁴⁰. This country is seriously stagnating in

²⁴⁰ <http://www.dw.de/%D0%B1%D1%80%D0%B8%D0%BA%D1%81-%D0%B7%D0%B5%D0%BC%D1%98%D0%B8%D1%82%D0%B5-%D1%87%D0%B5%D1%81%D1%82%D0%BE->

respect of inclusion of individual experts and stakeholders in policymaking, due to parochial political culture and clientelism. The high level of corruption²⁴¹ and bureaucratism has made India dependent on imported goods, even though they already have them. The PR of China needs economic reforms in respect of economic freedom, which will promote small and medium enterprises. The strikes in South Africa, almost every year, are causing setbacks in the economic sector and government. The positive reforms that this country is implementing refer to the institutional changes regarding strategic planning, whereby academic opinions are taken into consideration by the government while shaping public policies; nongovernmental organizations and interest groups are also successfully participating in policymaking. Brazil has the best prospect in respect of internal reforms, which mostly refer to social policies, as well as strengthening the civil sector in respect of joint public policy making.

It is evident that there is a need for political re-socialization and raising awareness among the political elite and the citizens regarding the decentralization and democratization of these societies. On the other hand, the neoliberal western societies are already facing the shortcomings of capitalism. Will the new world developments lead to a new system that will be a hybrid between the eastern and western values? The changes in political systems that refer to crucial segments must proceed in several phases, through which the economic development will become permanently sustainable and those changes would bring balance and dissemination of capital. Increased political culture among the population of the BRICS countries may, on one hand, have a positive influence on maintaining economic growth, but on the other hand, that always poses a threat for political elites. The will of the political elites is crucial for implementing these changes, it refers to their willingness to decentralize their power on several layers. Globalization is already imposing a need for different behavior of political elites, as well as of citizens. After achieving great economic growth, BRICS countries must inevitably engage in reforms within their internal political systems, because they have a direct influence on maintaining the economic growth and their power in international relations.

Conclusion

The plan of the International Monetary Fund (IMF) to collect 800 billion dollars for strengthening the crisis fund will depend on the fast developing BRICS countries, which are demanding greater voting power within IMF in return for the financial means that they will provide. IMF has managed to secure only part of the means, therefore the support from the BRICS countries is crucial for strengthening the Fund, because USA announced that is not able to and will not provide any means. China has so far been very restrained regarding that issue, as well as all the other member of the grouping BRICS, who are afraid that the means that they would provide will be used for saving the European countries, whose economies have suffered great turbulences and who were on the verge of bankruptcy.

In respect of the indebtedness of the USA, the PR of China in September 2009 became the largest creditor of the USA, thus replacing Japan who formerly held that position. However, we must inevitably paraphrase John Maynard Keynes, when the United States owes China tens of billions, that is America's problem. When it owes trillions, that is China's problem.²⁴²

In the last ten years, the BRICS countries have had an average growth of 28%, which today amounts 230 billion dollars per year. The goal is to raise that number up to 500 billion

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²⁴¹ <http://www.transparency.org/cpi2012/results>

²⁴² <http://www.mitpressjournals.org/doi/pdf/10.1162/isec.2009.34.2.7>

dollars until 2015. IMF has come close to the amount of 400 billion dollars, for the remaining financial means, the BRICS countries have the final word, and in a manner the faith of the European economies depends on them.

Due to the immense economic power of the BRICS countries, they are becoming a political factor and thereby create a balance of forces within the international relations. That will, on hand, change the BRICS countries themselves, on the other hand, it changes the relations of the current leading forces, the USA and EU toward BRICS and it also changes the perspectives regarding the possibility of an economic boom. With these new constellations of the relations within the globalised world, it is expected that the leading countries in the world will start creating the new world order.

Additionally to the economic and political influence that they have in international relations, the BRICS countries must turn toward internal reforms of the political system, in order to sustain and foster the current development. The problems of a centralized government, the lack of inclusion of the civil sector in public policy making, the great gap between the rich and poor must be gradually overcome through reforms which would be directly related to the increase of political socialization of citizens and democratization of political elites within the BRICS countries.

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FISCAL EQUALIZATION AND REGIONAL GROWTH

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Abstract

The year 2013 is already the ninth year of implementing fiscal decentralization in the Slovak Republic. The aim was to ensure independence as well as responsibility of subnational governments and improve the ability to finance their original competences from own sources. As decentralization leads to growth of imbalance intergovernmental transfers are the instruments used by central government to reduce fiscal disparities and fill the gap between the spending needs and fiscal capacity of some local authorities. Tax sharing system in Slovakia, is an important tool of horizontal fiscal imbalance equalisation. Despite the title, shared taxes play the role of unconditional grants if even they are formally labelled as local government own revenues under current legislation. In this paper we examine the allocation of personal income tax share as an instrument of regional policy and factors affecting inter-regional disparities in Slovakia. The paper presents some results of the research project VEGA1/0822/11 Redistribution of financial resources in the decentralized fiscal system in Slovakia.

Keywords: Fiscal decentralization, horizontal fiscal imbalance, regional growth, Gini coefficient, fiscal equalization

Introduction

New system of financing of the municipalities and higher territorial units (regional government) in Slovakia, has taken effect in 2005 following the further devolution of responsibilities from central to regional and local levels of government. Its basic principle was that the subnational governments would finance their „original“ competences from their own resources. The principle own sources of revenue are local taxes and non-tax revenue, that is why fiscal disparities have arisen due to differences between the revenue base of local/regional budgets, especially due to various fiscal capacity. There are also differences in the need for local public services, as well as in the cost to provide the same level of certain services between subnational governments. These differences are brought about by many factors (age and different social structures, populations, different environmental and economic conditions, etc.

Fiscal equalisation has to be primarily aimed at equalisation of region's possibilities to provide comparable level of goods and services regardless of the place where inhabitants of the state or EU live, it is not a “charitable contribution from richer to poorer (Buchanan, 1950, s. 596) and as Buchanan adds (1950, s. 596) “financial equalization is based on a firm principle in which it gives the opportunity to regions/states inhabitants with lower income possibilities right to obtain financial sources or order to ensure fiscal equality”. Intergovernmental transfers are used to reduce fiscal disparities and may be regarded as an instrument of regional policy and factors affecting inter-regional disparities. Intergovernmental grants and transfers remain an important source of finance for sub-national provision of public goods and services. The principal intergovernmental transfer in Slovakia

is the share of personal income tax, which is collected by the centre. In this paper we have examined the regional dimension of tax sharing and their impact on the development of the regions in Slovakia.

Decentralization and fiscal imbalance

Decentralization often leads to growth of fiscal imbalance because the optimal degree of decentralization is generally larger on the spending than on the revenue side. As a result, the lower levels of governments do not raise sufficient revenue to match expenditure responsibilities. This situation is referred to as vertical fiscal imbalance. The allocation of expenditure and revenue assignments in fiscally decentralized countries is also accompanied by the emergence of horizontal fiscal imbalances between local government budgets because of the different fiscal capacities and expenditure needs.

The existence of a fiscal gap at the subnational government level arising out of own-revenue and own-expenditure assignments is the basic rationale for a system of transfers. The proper system of intergovernmental transfers can correct inequities and inefficiencies caused by decentralization. There are numbers of methods to close the fiscal imbalances of subnational governments, some of which also reduce imbalances between jurisdictions (Ahmad, 1997). In practice, we may distinguish between systems of revenue sharing and intergovernmental grants.

The main mechanism for intergovernmental transfers is grants from central to local governments. A variety of unconditional (or general) grant systems are in use to address vertical imbalances. Provision of conditional (specific) block grants from the centre to subnational governments aims to financing certain services, such as primary education, social services and roads. Equalisation grants are used to address horizontal imbalances between local authorities.

Under the tax sharing arrangement subnational governments are automatically attributed a fixed percentage of the yields of certain national tax without any discretion or taxing power of subnational authorities. Moreover, central governments play a dominant role in determining the amount of revenue each sub-central unit receives from the shared source. It has therefore become common in the academic literature to interpret grants and tax sharing as equivalent tools of central fiscal control over sub-central tiers. We do not intend to discuss the differences between the two methods of transfers. Anyway, according to the purpose of this paper, it should be mentioned that resources emanating from tax sharing are thought to convey more power and autonomy to subnational government than intergovernmental grants. Also in a tax sharing system, subnational governments tend to bear more financial risk in terms of tax revenue losses or fluctuations than if their revenue was based on grants (Blöchliger and Petzold 2009).

Tax sharing arrangements may differ according to how tax revenue is distributed across individual jurisdictions, i.e. whether an individual subnational government share is closely related to what it generated on its territory or whether there is some in-built redistribution.

In the first case the revenue share of each sub-national government is strictly related to what it generates on its own territory. Tax share allocated to each region is proportional to what that region generated on its territory and there no horizontal redistribution or fiscal equalisation across regional/local governments. The other arrangement redistributes a fixed share of specific tax revenues to subnational governments on the principle of horizontal fiscal equalisation, levelling out differences in potential revenue raising capacity and/or needs. Fiscal equalisation arrangements are implemented indirectly via a vertical system financed by national tax revenues generated at the sub-national level.

Decentralization in Slovakia

Since 1989 the Slovak Republic has carried out a comprehensive reform of public administration, on which decentralisation has been a key element. The final target was to have a streamlined government, territorially divided in three layers: (a) State administration, with a central organisation and a deconcentrated one; (b) the regional layer; and (c) the local authorities. As a result, the Slovak Republic is divided into 8 regions and 2,890 municipalities (as at Dec. 31, 2012). Every level (state – region – municipality) has its own elected officials, distributed responsibilities and liabilities. The municipalities and regions are endowed with rule-making power. Within 2890 municipalities are 138 towns and cities where live 55 per cent of population. The vast majority of municipalities are very small, being based on village communities. Over two-thirds have a population of fewer than 1,000, and the range (in 2006) was from just eight people to 415,589 in the capital, Bratislava.

The present system of local government in Slovakia was established in 1990, when new legislation created a system of primary-level elected municipal bodies with legal identities and defined rights. The principle functions devolved to municipal governments were urban services, housing and physical infrastructure and utilities, together with some cultural, sporting and social services. Most of responsibilities for personal social services such as education, social welfare and services stayed with central government together with social insurance funds.

The argument, which has been most frequently used in the discussion concerning ongoing decentralisation process, was that higher degree of decentralisation could contribute to more efficient provision of services by matching expenditure more closely to local priorities and preferences. At the same time another tier—regional self-government—was envisioned. The proposed creation of a regional tier of self-government should have addressed the problem of large proportion of small municipalities with limited professional and financial capacity capabilities to manage some public services as well as the problem of services where economies of scale and scope exists and services with catchment area exceeding municipal jurisdictions. After the elections in December 2001, the governing bodies of the Regions were established and took up their functions. The autonomous regions started their activities in 2002.

Years 2002-2003 brought the next stage of devolution represented by a fundamental change of responsibilities. The core was the transfer of more than 400 powers from the state administration to municipalities, higher territorial units. The transfer implied not only the nominal or formal conveyance of the competences, but also of infrastructures, personnel and resources.

The transfer of executed competence from the public administration bodies to the municipalities and regional government was accompanied by a significant devolution of expenditure responsibilities from the centre to sub-national governments in the areas of education, social services, roads and health care, etc. Matching revenue resources to spending responsibilities was one the most crucial issues.

New system of financing of the municipalities and higher territorial units (regional government), has taken effect in 2005, the substance of which was to determine revenue collections of the regional government as well as to strengthen the independence and responsibility of local governments in deciding on the use of public funds for efficient sub-national service delivery.

Municipalities and regional government are responsible for performing their tasks with resources from their own budgets. For carrying out state administration tasks, they do acquire funds from the state budget. Assignment of expenditure responsibilities to local and regional governments has been also accompanied by the emergence of fiscal imbalances between sub-national government budgets.

The principal own sources of revenue available to local and regional governments since 1993 are local taxes and non-tax revenue. The current legislation provides Slovak municipalities with eight separate local taxes, which are employed to generate local revenue. Municipalities administer seven local taxes (property tax and six specific local taxes), rates of which and whether they are imposed, are discretionary. Local authorities have the power to offer concessions or waivers on rates of local taxes. The only local tax applicable on the regional level is the Motor Vehicle Tax, which is imposed on vehicles used for commercial purposes only. Non-tax revenue includes operating surpluses of public enterprises controlled by sub-national governments, fees and charges, sales, fines, property income.

However, own revenue cover only 30 percent of municipal current expenditure and even less than 20 per cent of regional current expenditure.

From a fiscal federalism perspective the high vertical fiscal imbalance has been (partially) resolved by conditional grants as well as mechanism of tax sharing.

There is a system of intergovernmental specific-purpose grants, to finance specific spending programs. These represent around one third of municipal budgets. The main grant is for education, allocated on a per pupil basis. Other earmarked transfers are provided for public housing, public transport, and social care.

The principal intergovernmental transfer is the share of personal income tax, which is collected by the centre. The legislation has stipulated the share of the aggregated personal income tax that was re-distributed from the state to respectively the regional government (23.5%) and the municipalities (70.3%). The remaining 6.2 per cent was kept by the state. Since 2012 the percentages of yield have been changed in favour of state – 65.4% municipalities, 21.9% regions, 12.7% state. The share for each subnational government is calculated on the basis of needs and former expenditures of the national government for devolved responsibilities. Sub-national government are free to use the revenue allocated, i.e. it is the unconditional revenue.

A share of the national personal income tax is distributed to the local and regional governments based on the principle of horizontal fiscal equalisation, levelling out differences in potential needs; i.e. the share for each SCG is calculated on the basis of needs and former expenditures of the national government for devolved responsibilities. Formulas used for calculating the tax re-distribution to a certain region/municipality are driven by population and population-related factors such as number of inhabitants, age structure, size, population density, etc.

Tax sharing of the personal income tax has been taken for the decisive equalisation component in intergovernmental fiscal relations. It is essential to eliminate vertical fiscal gap but it is also supposed to include a horizontal equalisation effect, which is deemed to set off the expenditure inequalities.

There are sharp regional differences across Slovak regions. The eastern regions have a much higher incidence of poverty, as economic activity is heavily concentrated in the west, particularly around the capital, Bratislava. Disparities are usually measured by regional GDP as an indicator of economic performance in a particular territory. GDP per capita can be assumed to be a good indicator of revenue raising capacity (Blöchliger et al. 2007, p.26). To illustrate regional disparities in table 1 we provide regional GDP and unemployment rate indicators in 2010.

Table 1 Regional GDP and unemployment rate in 2010

Region	% of regional GDP on total GDP	regional GDP per capital (in EUR)	unemployment rate
Region of Bratislava	27,78	29 241	5,4
Region of Trnava	11,64	13 634	9,4

Region of Trenčín	9,77	10 744	7,9
Region of Nitra	10,79	10 078	13,9
Region of Žilina	11,39	10 746	12,5
Region of Banská Bystrica	8,89	8 974	15,5
Region of Prešov	8,42	6 861	18,5
Region of Košice	11,33	9 581	16,9
TOTAL	100	12 131	100

Source: Statistical Office of Slovak Republic

In our research through the quantification of inter-regional redistribution of shared tax to local and regional government budgets, we have assessed the redistributive effect of tax sharing in terms of their impact on reducing the horizontal fiscal imbalance.

Personal income tax redistribution

As mentioned above a fixed share (93.8%) of personal income tax collected in regions was redistributed to subnational governments taking a number of need criteria into account. In our research we have looked at the amount of personal income tax collected in different regions and the sum of revenue from PIT share distributed to municipal and regional government budgets in the respected region. Some of the results and findings are presented in the figures and table below.

In the table 2 below personal income tax collected in particular region as well as tax-shared revenues in municipalities and self-governing regions (summed) are shown. Personal income tax collected in comparison with revenues from shared tax differs mostly in the region of Bratislava where the coefficient is around 20%. In regions of Trnava, Trenčín, Žilina, Nitra, Košice and Banská Bystrica the ratio values range from 112%-168%. However, in the region of Prešov collected taxes in the year 2010 achieved value 63.4 million EUR, revenues of this region (counted revenues of municipalities and self-governing regions) exceeded 203.2 million EUR (the ratio achieved value of 320%).

Table 2 Personal income tax and tax sharing revenue in regions

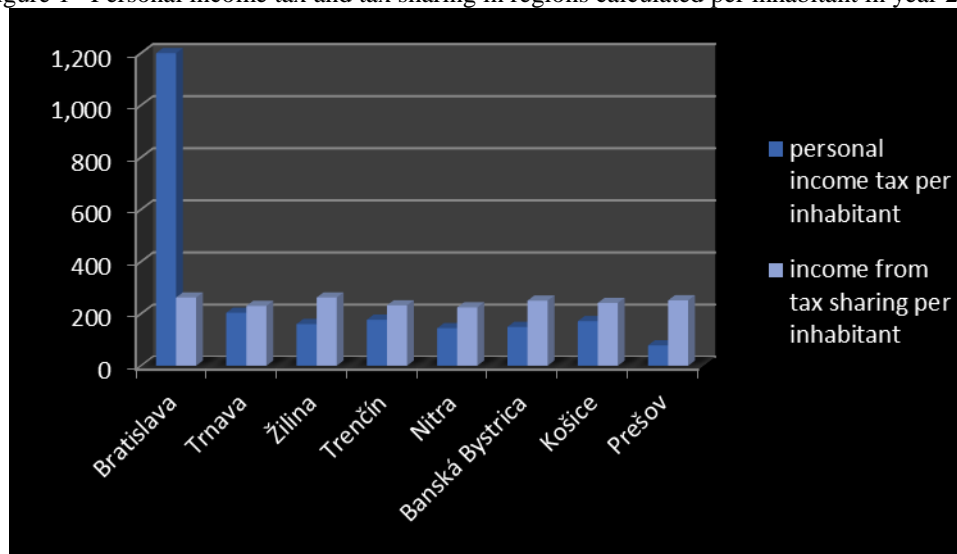
Region		2007	2008	2009	2010
Bratislava	personal income tax collected	707 031 693	830 989 148	791 473 827	754 231 524
	revenue from tax sharing	173 992 347	211 639 792	200 528 965	164 800 934
	% tax sharing revenue on personal income tax	24,61%	25,47%	25,34%	21,85%
Trnava	personal income tax	132 215 394	154 608 147	135 916 888	114 744 469
	revenue from tax sharing	137 393 480	164 895 519	154 981 107	129 406 745
	% tax sharing revenue on personal income tax	103,92%	106,65%	114,03%	112,78%
Trenčín	personal income tax	130 112 382	152 624 159	130 202 900	106 003 796
	revenue from tax sharing	153 949 401	181 935 379	170 189 031	138 857 999
	% tax sharing revenue on personal income tax	118,32%	119,20%	130,71%	130,99%
Nitra	personal income tax	113 490 405	136 426 738	122 217 521	101 833 368
	revenue from tax sharing	176 743 004	208 159 079	195 059 475	158 213 533

	% tax sharing revenue on personal income tax	155,73%	152,58%	159,60%	155,37%
Žilina	personal income tax	133 892 054	158 598 474	131 554 756	111 919 871
	revenue from tax sharing	189 014 496	226 774 201	218 429 955	182 796 310
	% tax sharing revenue on personal income tax	141,17%	142,99%	166,04%	163,33%
Banská Bystrica	personal income tax	106 400 658	127 583 780	111 424 285	97 374 988
	revenue from tax sharing	179 834 011	211 461 060	197 549 661	163 262 467
	% tax sharing revenue on personal income tax	169,02%	165,74%	177,29%	167,66%
Košice	personal income tax	153 980 685	179 860 340	149 848 903	133 460 236
	revenue from tax sharing	205 528 300	242 935 384	227 420 742	187 973 779
	% tax sharing revenue on personal income tax	133,48%	135,07%	151,77%	140,85%
Prešov	personal income tax	82 231 872	101 450 489	84 121 635	63 409 816
	revenue from tax sharing	220 249 187	261 378 364	246 336 352	203 153 855
	% tax sharing revenue on personal income tax	267,84%	257,64%	292,83%	320,38%
TOTAL personal income tax		1 559 355 143	1 842 141 275	1 656 760 715	1 482 978 068
TOTAL personal income tax sharing		1 436 704 226	1 709 178 778	1 610 495 288	1 328 465 622

Source: National Tax Office

Tax collection per capita in comparison with revenue from tax sharing in particular region calculated per one inhabitant is shown in the figure 1. The highest tax collection per inhabitant is in Bratislava region, followed by other regions where the situation is much more comparable. The worst situation is in region of Prešov where collected tax per inhabitant was only 78 EUR compared with revenue from shared tax more than 250 EUR. The figure shows that the redistribution has major effect on „poor“ regions as region of Prešov, followed by other regions where the coefficient reflecting the difference between tax collecting and real revenue from tax sharing is more than 1 (100%).

Figure 1 Personal income tax and tax sharing in regions calculated per inhabitant in year 2010



Source: National Tax Office

To sum up, the region of Bratislava is the region with the highest rate of urbanisation and the lowest unemployment rate together producing the highest regional GDP in Slovakia. This region is the main contributor to the fiscal equalization via personal income tax sharing. On the other hand the region of Prešov has produced the lowest GDP in comparison with other regions; also its GDP per capita has been the lowest. With the highest unemployment rate its collected personal income tax was only around one third of the average tax collection in all Slovak regions (when we abstract from tax collecting in the region of Bratislava, tax collecting in the region of Prešov was around the 60% of the average of all other higher territorial units). This region is the main receiver of the system, although all other regions belong to this category.

Fiscal decentralisation and economic growth in regions

Revealing the possible relationship between fiscal decentralisation and regional growth is an important issue in countries with centralized systems as well as for the countries with decentralized. Authors dealing with this topic have tried to determine the correlation between these two variables in different countries (developing, developed or just at particular states) and to find out which factors are significant or if there does not exist any relationship between these two variables (Table 3).

Table 3 Relationship between fiscal decentralization and regional growth

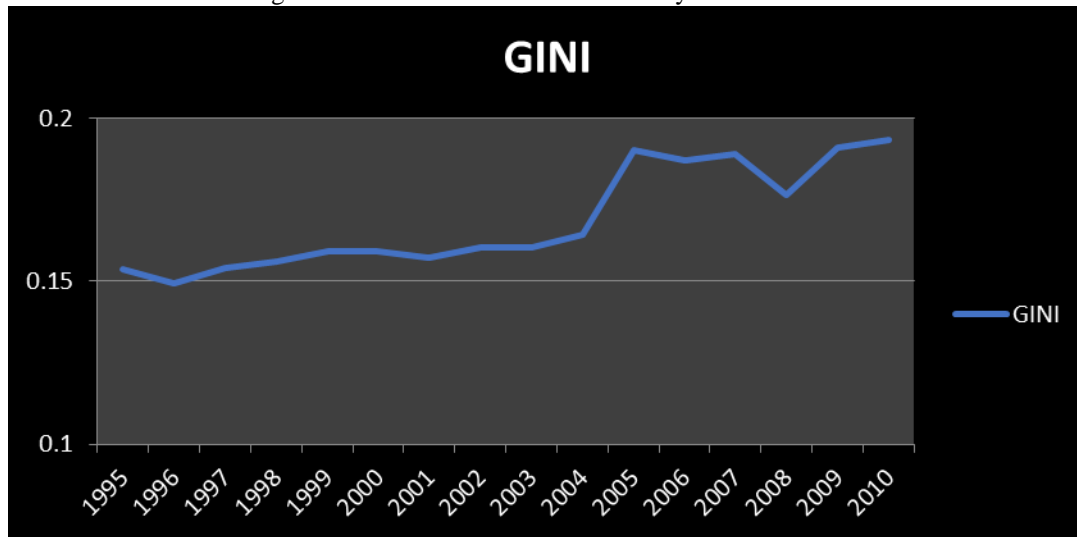
Author/Authors	The country observed	Relationship
Akai, Sakata (2002, p. 104)	USA	- „fiscal decentralization contributes to economic growth, this paper suggests that recent moves toward fiscal decentralization by developed countries may stimulate their economic growth“ - 95% significance level
Breuss, Eller (2004, p.11)	21 OECD countries	- „survey showed that there is no unambiguous, automatic, relationship between decentralisation and growth“
Davoodi, Zou (1997, p. 255)	Developed as well as developing countries	- „developed countries are on average more decentralized than developing countries (33% vs. 20%) and tend to have a higher per capita GDP growth rate (2% vs. 1.6%)“ - „we find a negative relationship for developing countries and the world, and none for developed countries“
Jílek (2008, p. 13)	Czech republic	- „transfer revenues of higher territorial units have implicitly redistributive character and their influence on the regions is asymmetric“
Shahdani, Komijani, Vafa, Fard (2012, p. 79)	Iran	- “there is a statistically significant direct relationship between expenditure decentralization and and growth per capita GDP“ „ there is a negative and near significant relationship between revenue decentralization and income distribution between over 2001-2008“
Siničáková (2010, p. 899)	Developing countries Developed countries	- „non-significant or negative relationship“ - „statistically significant correlation“
Thornton (2006, p. 68)	19 OECD countries	- “when revenue decentralization is measured by only those own-revenues over which sub-national governments have full discretion, fiscal decentralization does not appear to effect economic growth in mid to high income countries”
Zhang, Zou (1998, p. 236)	China	- „the negative association between fiscal decentralization and provincial economic growth has been found to be consistently significant and robust in China“
Bodman, Heaton a Hodge (2009, p. 7)	Australia	- „the impact of fiscal decentralisation in the Australian context is not straightforward, but that there is some support for positive effects of Australia’s large vertical fiscal imbalance, centralisation of taxation powers and decentralised expenditure patterns“

Rodríguez-Pose, Kroijer (2009, p. 29)	16 countries of middle and east Europe	- „expenditure at, and transfers to, the subnational level have had negative correlation with national growth rates in CEE, while locally imposed taxation has achieved some mildly positive economic benefits over time“
Xie, Davoodi, Zou (1998, p. 238)	USA	- „we find that the existing spending shares for local and state governments are consistent with growth maximization“

Source: own work.

When determining the impact of the new system of subnational financing and horizontal fiscal equalization on regional development and assessing their effects on regional disparities the suitable indicator of regional development measuring has to be found. Despite criticism we decided to work with the regional GDP/ regional GDP calculated per capita. The Gini index is a measure of inequality among all regions of a given country, the value 1 stands for the absolute inequality and the value 0 for absolute equality. We observed the regional GDP generated in Slovak regions in 1995- 2010 via Gini coefficient. As shown in Figure 2 a considerable change from the year 2005 was registered.

Figure 2 Gini coefficient in Slovakia in years 1995-2010



Source: own work

Despite the value of Gini coefficient has increased after the year 2005, to confirm the unambiguously negative effect of the fiscal decentralisation process on the horizontal balance many other factors have to be considered (not only the correlation).

Conclusion

The process of fiscal decentralization could be seen as application of the “firm conditions” to the subnational governments, when each local/regional government is responsible for the financing of its responsibilities on the one side but it also has enough fiscal resources to ensure adequate funding of services. Setting up the extent of decentralized revenues reflecting the extent of decentralized expenditure is a sensitive issue that has to take into account demographic, social, geographical and economic conditions of the particular region. The horizontal fiscal equalisation is based on the solidarity principle and tax sharing arrangement taking a number of need criteria into account. Measuring interregional imbalance by the Gini coefficient showed a visible change since the year 2005 when new system of subnational governments has been applied. Anyway, further analysis would be needed to examine this relation more thoroughly.

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THE VIOLENCE - AN ELEMENT OF VIOLENT CRIMINALITY OR A WAY OF MODERN LIVING

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Abstract

The use of force in any form, against another person, against someone else's or their own personal property is the mutual element of the criminological classification of the violent crime as one of the severest types of incriminated human behaviours. However, modern lifestyle and the dynamics of people and events suggest constant embedding of the violence and its emergent types in everyday life and in all spheres of the individual's life in society. Hence the subject of this paper is violence and the forms in which it can occur, i.e. its importance as an element of violent crime on one hand, and its importance as a way of acting and living, on the other. This leads to the assumption that violence due to the modern lifestyle is no longer just an element of violent crime, but it is becoming more and more widely spread lifestyle. Therefore, the aim of this paper is to point out and emphasize that collective consciousness should not and must not subjugate to the belief that it is normal to tolerate violence and to accept it as inevitable segment of modern living. In this sense, in order to realise the goal of the paper and to validate the assumption that has been set, it is necessary to analyse the current situation regarding the use of violence, not only when committing criminal offenses, but also in everyday life and community functioning.

Keywords: Violence, crimes, criminality, socio-pathological phenomena

Introduction

Violent crime is one of the severest types of crime, whose basic element for criminological classification is using force or manifesting any kind of violence directed against people or property. Namely, the point is that it is the severest kind of crime, i.e. it is the severest kind of criminalised human behaviour, because it is threatening or destroying the life and physical integrity, freedom and moral equality, the normal functioning of the family, homicide attempts in order to acquire property and goods etc. Therefore, punitive sanctions that sanction violence in all national legislations are the heaviest and strictest. Mankind has always seen the use of force as behaviour contrary to generally accepted norms and standards of behaviour and that is why it has always condemned it. Even when the conviction has been drawn later, usually after large global, regional and local wars, and when those who manifested it, had been guided and led by the darkest ideologies, violence has been defined as a timeless evil and a manifestation of the animalistic behaviour in human beings. But can we, nowadays, talk about violence merely as a determining element of violent crime? On the contrary, violent behaviour today, under the circumstances of modern life, is embedded in everyday life, encompassing almost all areas of the life of an individual in the society. Therefore, it is necessary to remove the veil of mist from the eyes and mind of the disorientated, exhausted, modern man in the eyes of the events and situations filled with violence. Hence, we will elaborate the violence as a destructive phenomenon from a broadly extensive aspect as an intensive and continuous social phenomenon, and not only as an action

of enforcing the criminal offenses - violations or more extensively from a legal phenomenon. Thus, does it becomes more certain that our society is already violent and can, in such a setting, a healthy family be preserved as the nucleus of society, in order to develop a rational and creative young people who will not resort to violence in general, provide normal conduct of public order with significantly reduced intensity and severity of violent acts?!

Main text

It is difficult to define violence, primarily because a variety of contents are summed up to that term, therefore its core comes down either extremely narrow or in a far too broad framework for a phenomenological observation. Therefore, defining the violence is difficult, because it is often synonymous with a wide range of terms, such as crime, abuse, harassment, torture, terror, abuse of power etc.

According to the World Health Organization, violence is any intentional use of physical or psychological force or power, which can be in the form of threat or involve the use of force, against oneself, another person or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, disorders in development, or deprivation.²⁴³ Furthermore, violence is insolent and unscrupulous use of physical force, unlawfully threatening the integrity of the individual and other public goods and social values. At the same time, the essential feature of violence is the affinity towards tormenting and impudence without a reasonable grounding forcing someone else to endure such behaviour that highly offends their dignity or threatens their physical integrity.²⁴⁴

Due to its topicality, violence is subject of studying, analysing and defining numerous scientific disciplines, especially sociology, criminology, law and psychology. Thus, sociology regards violence as coercion in the broadest sense, criminology regards it the most destructive form of human behaviour, the laws as an unlawful use of force, and psychology as a manifestation of aggression.

In literature several typologies of violence are found, and accordingly there are: self-directed violence, interpersonal violence (violence directed against others) and collective violence. Self-directed violence is a violence in which the perpetrator and victim is the same person, which means that the individuals inflicts an injury, pain or damage to themselves. Interpersonal violence refers to violence between individuals and it can take place within the family, within the community and between intimate partners. Collective violence refers to violence committed by larger groups of individuals and can be subdivided into social, political and economic violence.²⁴⁵

Generally, violence can be expressed physically or mentally. Physical violence involves the use of force which inflicts physical pain i.e. injury. This form of violence often leads to minor or severe injuries whose ultimate effect could be death. Psychological violence means a form of violence that violates the dignity, feelings, generally the integrity of one person. It consists of manifesting torture, humiliation, insults, threats, blackmail etc., whereupon in the individual who is faced with such a situation arise specific consequences such as loss of confidence, loss of self esteem, retreat into oneself, fear, as well as health problems, especially the occurrence of cardiovascular, psychosomatic and other malignant diseases. According to WHO, there is also sexual violence, which is a special form of violence that can be realized through sexual harassment, sexual abuse and sexual exploitation.

Violent behaviour consists of two components: aggression and aggressive behaviour. Aggression can be understood as a psychological state of readiness for action, while

²⁴³ <http://www.who.int/topics/violence/en/>.

²⁴⁴ Boshkovic, M., *Social Pathology*, Faculty of Law in Novi Sad, Novi Sad, 2007 p. 66.

²⁴⁵ <http://www.who.int/violenceprevention/approach/definition/en/>.

aggressive behaviour is the act of manifesting the aggression itself. If we determine the components of violence like this, then we can conclude that aggression and aggressive behaviour are common features of all offenses with elements of violence.²⁴⁶

The roots, that is to say the causes, of violence are numerous and varied. Depending on the starting point of view of the theoretical conceptions in literature, there are different accounts of where the violence originates and why it is manifested. Consequently, some authors believe that violence is hereditary, which means that it comes primarily from genetics or the character of the individual. Proponents of psychological theories suggest the violence is associated with personality structure, so it is often stated the opinion that violence occurs as a consequence of some frustration due to the inability of a person to achieve their desires and needs, and at that moment the person is under increasing internal, psychological pressure, to behave violently. The internal conflict that occurs in a person leads to aggression and aggressive behaviour. Likewise, interesting is the fact that violent behaviour can occur as a result of stress experienced due to participation in armed conflicts, fights or wars.

For another group of authors, the starting point is that violence arises as a result of external influences. This means that the causes of violence do not lay in human nature, but that the acquired elements of aggression induced by social relations within what individuals and social groups acquire experiential knowledge of the needs and benefits of violence.²⁴⁷ In that sense, violence can be acquired, accepted as a way of life or a recognisable style of behaviour, or it arises as a result of learning, especially when a person as a victim of violence, learns the violent behaviour as the only way to defend. If violence is used to defend some of their own values, i.e. to defend and protect their own life or physical integrity, then it is called benign aggression, while if used for inflicting harm or injury to another, it is a malignant aggression. Violent behaviour can be a result of abnormal conditions in the family, so if a parent is prone to violent behaviour, then it is very likely that some of the children would manifest such a behaviour, which is justified by the theory of learning and imitating.

The latest researches, locate the reasons for violence in the information the media presents, hence it is rightly to believe that violence becomes an integral element of modern living and recognisable style of behaviour of individuals.

Given that violence is a mutual feature of multiple offenses, in criminology there is a classification of these deeds in a specific type of crime, known as a violent crime. Crime of violence or violent crime is defined as an extreme form of expressing aggression. This type of crime involves those criminal activities that by means of physical or psychological coercion, i.e. by use of force or threat, violate or threaten the person's integrity.²⁴⁸

Thus, the most distinctive kinds of offenses with elements of violence are grouped as follows: traditional violent crime which includes: offenses against life and body known as blood offences, offenses against sexual freedom and sexual morality known as sexual offenses, and offenses of domestic violence. There is a dilemma whether robbery and banditry should be part of these types of crime, due to the fact that, the way how they are committed require use of force. In this sense, according to the criminological classification they fall into the violent crime, but according to the criminal law classification are systematised in the group of property offenses because their ultimate goal and motivation is realisation of illegal profit.

This type of crime is the severest type of crime and according to the volume and distribution usually comes in second place, right after the offenses of property. This crime is characterised by use of force, coercion, aggression while performing that attack, damaging or destroying another life and bodily integrity or another person's property. That is why the

²⁴⁶ Sulejmanov, Z., *Criminology*, Grafohartija, Skopje, 2009 p. 215.

²⁴⁷ Boshkovic, M., *Criminology*, Faculty of Law in Novi Sad, Novi Sad, 2007 p. 266.

²⁴⁸ Konstantinovich-Vilich, S., Nikolich-Ristanovich, V., *Criminology*, CPPF, Niš, 2003 p. 119.

violent behaviour as a component of violent crime is physical activity that is manifested as attacking the life and body, property, freedom and rights or value of another person.²⁴⁹

In the Republic of Macedonia in the period from 2003 to 2012, offenses against life and body, according to reported adult offenders show significant growth. For offenses against sexual freedom and sexual morality there is a fluctuation, so in the first two years these acts are increasing, then decreasing, then increasing again, so that in 2012 there is an increase in comparison to 2011. There are same fluctuations in other offences with elements of violence.²⁵⁰

Domestic violence arises today as a very frequent occurrence, which causes enormous consequences on the individual / victim and on society overall. According to criminological classification, it belongs to the group of violent crime, whereas in criminal law, it is treated as aggravating circumstance in committing a criminal offense whose means of execution is exactly the violence.

Domestic violence can be defined as the abuse of power in relationships based on inequality within a family community, and it is defined as a set of behaviours in order to establish control over the other through force, intimidation and manipulation.²⁵¹ Given this negative phenomenon is becoming an integral part of society, it cannot be treated as a private family problem, on the contrary, it should be understood as a serious social problem that requires intervention by the community and professional services .

In Macedonian legislation, domestic violence is defined by the Family Law as behaviour of a family member who by using force, threatening and intimidation, inflicts bodily injuries, emotional or sexual abuse, and material, sexual or labour exploitation of another family member.²⁵² Moreover, as domestic violence is considered behaviour made: by one spouse against the other spouse living or having lived in marriage or illegitimate community, or in any kind of community as a family or if they have child, between brothers and sisters, half-brothers and half-sisters; against a child and against older family members; and people - family members whose legal capacity is partially or completely taken away.

Considering the fact that the deeds included in the violent crime (blood offenses and sexual offenses) more often occurring within the family, the Criminal Code of the Republic of Macedonia in 2004 incriminated the domestic violence, so that the domestic violence implies brutal insulting, threatening the safety, physical injury, sexual or other psychological or physical violence that induces a feeling of insecurity, threat or fear toward the other spouse, parents or children or other people living in married or illegitimate or mutual household, as well as against the former spouse, or people who have child or are in close personal relationship.²⁵³ The definition of domestic violence contained in the Criminal Code sets out the types of domestic violence, acts of execution, the already caused consequence, the status of the offender and the object of protection. So, the Macedonian criminal law considers the sexual, psychological and physical violence - as forms of domestic violence. Hence crimes involving domestic violence are deployed in different chapters of the Criminal Code on the basis of different objects of protection (Chapter XIV - Crimes against life and body; Chapter XV - Crimes against freedoms and rights of man and citizens; Chapter XIX - crimes against sexual freedom and sexual morality).²⁵⁴

²⁴⁹ Velkova, T., Introduction to Criminology (Authorised lectures), 2nd August, S, Stip, 2009 p. 77.

²⁵⁰ Crime Perpetrators in 2012, State Statistical Office of the Republic of Macedonia, Skopje, 2012.

²⁵¹ Guide for treatment of occupational structures in protection against domestic violence in the criminal justice system, available at <http://www.zdruzenska.org.mk/documents/397/final-Vodic-kaznenopraven%20sistem.pdf>.

²⁵² Family Law of the Republic of Macedonia, Official Gazette of RM of 22.12.2008 (revised text).

²⁵³ A. 122 of the Criminal Code of the Republic of Macedonia, consolidated text available on <http://www.pravo.org.mk/documentDetail.php?id=233>

²⁵⁴ See: Criminal Code of the Republic of Macedonia, consolidated text available on <http://www.pravo.org.mk/documentDetail.php?id=233>

The most reliable indicators of the scope and nature of domestic violence in the Republic of Macedonia are contained in the records of the centres for social work and police authorities, as state organs that have closest contact with the issues. Based on these indicators, last year (2012) in the Republic of Macedonia the first extensive research of domestic violence was conducted by Skopje BRIMA, along with the support of UNDP, whose results were the basis for the creation of the National Strategy for Prevention and protection against Domestic violence from 2012-2015. This national strategy is the second organizational planning document of the Ministry of Labour and Social Policy, as most competent ministerial departments to coordinate overall activities for the prevention of domestic violence. The first such strategy was adopted in 2008 and covered the period from 2008-2011.

According to the results of this research, the total number of registered cases (number of committed crimes, misdemeanours and received complaints) of domestic violence by the MOI in Macedonia from 2008-2011, has seen continuous growth.²⁵⁵ It is particularly important to note that in this period there is a continuous growth of the most severe form of domestic violence crimes and an increase of 215 crimes, or about 56 %, which is a worrying tendency. With regard to the offences there is a slight decline, whereas regarding the complaints, despite some stagnation in the third year, there is still a growth by about 30%. We can denote that the officially registered indications represent only a fraction of cases actually made of domestic violence due to the fact that it is a specific kind of violence with a high amount of dark figure. At the same time, statistics are broken down by gender of victim and perpetrator, relationship between perpetrator and victim, type of offense and the offense according to place of report. In this context it is obvious that such offenders that are reported are predominantly male, whereas female participation as the perpetrators is symbolic when compared to men. On the other hand, quite contrary the offenders, the sexual structure of the victims suggests that dominate victims of reported domestic violence are women, and as the perpetrators there is male domination.²⁵⁶

Another national study, "Prevalence of abuse of the elderly", conducted by the Institute for Sociological, Political and Juridical Research in Skopje in 2011, with the support of the World Health Organization aimed to investigate the phenomenon of violence and abuse of the elderly and to enable identification of the prevalence of domestic violence and abuse against the elderly, to identify dominant forms of violence and abuse of the elderly and to identify the perpetrators. The survey is the first of its kind in the country and is inspired by the identification of elderly abuse as a health problem in the National Report on Violence and Health.²⁵⁷ If we analyze violence against the elderly in the country, the problem is even more explicit. With these indicators, the victims would be enabled to recognize their own right to a life without violence, and the perpetrators would recognize their own patterns of behaviour and consequences.

However, what makes the situation alarming is not just the enforcement of violence in committing the offenses, but the fact that violence is manifested on the street, at work, on the stadiums, schools, clubs, and even in families. It has become an integral part of the time we live in, denoting a kind of belonging towards the particular style, fashion or habit.

One of the main features of modern violence is its continuity and massiveness, because it causes problems and deepens the personality and severely destructs the social relations. The conclusion of these primary features can be derived most simply: modern

²⁵⁵ Source: www.moi.gov.mk.

²⁵⁶ National Strategy for the Prevention and Protection against Domestic Violence 2012-2015, available at http://www.mtsp.gov.mk/WBStorage/Files/nasilstvo_strategija_mkd.pdf.

²⁵⁷ Report on Violence and Health in Macedonia and prevention manual. (2006), Ministry of Health of the Republic of Macedonia, Skopje.

human being does not have to cross the threshold of their home, and is already constantly exposed to listening and watching the scenes of shootings, injuries, murder and various other violent acts coming through the television, unfortunately not as filmed scenes, but as a report of the informative programs for tragic events and developments caused by violence throughout the world. It has been estimated that television programs are filled exactly with such content most of time. In terms of film programs this percentage is even higher. In fact, violent scenes have been increasing each year from 1985 to 2012. Observed by category, violence is in slight decline in films marked with G (films that everyone can see) and PG (parental advice is recommended because it may contain scenes not suitable for children). The scope of violence in films marked with R which the youth under 17 years can only watch accompanied by a parent, has not changed. In the category of films PG -13, violence is on the rise, so much so that in 2009 it was present more than in those marked with R.²⁵⁸

The reality does not lag far behind. There is almost no daily news on the local and national television that does not inform about the latest cases of the most severe kind of violence, including the latest gruesome cases of cannibalism. Recognizing the negative impact, the attempts of the community through mass media to put the violence under control are symbolic, even when it comes to protecting minors from such content. Thus, despite the references of the harmfulness of the negative content on the integrity of the person, not only the on children, but on adults as well, the exposure of the modern man to violence at home is continuing and diurnal. On the other hand, the media are the ones that should have a major role in the fight against violence and should re-educate or prevent hate speech and thus help overcome the violation of fundamental rights and freedoms.²⁵⁹

Furthermore, participation in traffic, regardless the role, driver, passenger or pedestrian, the exposure to violent acts, further increases. In our region, it is rare to calmly and safely pass the pedestrian crossing, or to engage in traffic. The dynamics on the road are accompanied by violence manifested as brake squeaking profanities, fights, accidents in which one does not have to participate. It is enough just to be a witness in order to feel the strong and "passionate" violence of the environment.

Even at the work places and institutions associated with execution of the activities and tasks, it is not better for the businessman and the citizen. Constantly and often encounters such barriers and endure violence of most diverse of kinds: psychological torture of colleagues and mobbing by superiors, pushing and threats counters, administration arrogance, co-workers' lies and frauds. And just as you thought you would find salvation at home, modern businessman in his own home welcomes mail notices for bills already paid, or debts for new accounts never been made, noise in the neighbourhood, repeatedly ringing of the mobile phone and "fantastic" requests from relatives, friends, acquaintances. Following the media content once again, filled with violence, and on top of that some unrealistic and unfounded requests of a member of the immediate family definitely are "the last straw".

The massiveness and continuity of the violence is directly related to health. In particular it alludes to the fact that in addition to the immediate physical injuries, victims can suffer from many psychological problems and behavioural problems such as depression, excessive alcohol use, anxiety and suicidal thoughts, as well as reproductive health problems such as are unwanted pregnancies, sexually transmitted diseases and loss of sexual function.²⁶⁰ The psychological consequences for the individual are the extremely expressed feelings of tension, nervousness, irritability, anxiety as negative feelings. Actually, whether the dynamics cause violence or violence causes dynamics is difficult to answer. The overall

²⁵⁸ <http://mk.voanews.com/content/voa-macedonian-violence-in-the-movies-tripled-in-us/1792312.html>.

²⁵⁹ Trajanovski g., Chausidis T., Belichanec R., The Media, Hate Speech and Marginalized Communities, Guide for the media, available at <http://coalition.org.mk/wp-content/uploads/2008/10/final-mediumi.pdf>.

²⁶⁰ World Report on Violence and Health, World Health Organization, Geneva, 2002, p. 9.

condition is the result of a complex interaction between dynamics and violence as features of the modern lifestyle. Due to the fact that it is a constant, continuous existence under such circumstances, we conclude the daily accumulation of negative feelings and situations, and that means multiplication of the harmful consequences of violence could have two major outbound directions, non violent people become violent in order to create a defence mechanism and to easily bear the consequences, or the accumulated negative emotions and difficult situations reflect on the personal and physical integrity of the common man and citizen and lead to disruption of his physical and mental health. What solution one would accept, or rather how does one respond, mostly depends on the structure of the personality. To be exact, whether one would undergo the transformation from non violator to violator, or by enduring the constant violence would endanger their health, depends on the complexity of the inner context of mutually intertwined psychological characteristics and psychological processes in each person separately, of possible latent predisposition to deviant behaviour, as well as on the intensity of the accumulated aggression as readiness, force charge of manifestation of any kind. In both cases, the conflict comes to strong feelings in each individual, often without the sense of the reason, thereby reacts recklessly and stressfully.

This transformation of the person which is a result of living in an environment of continuous violence happens on a massive scale, and inevitably leads to regressive social change and the creation of new social relations. The violence turns into a constant, permanent extreme unscrupulousness towards the others and somebody else's rights and interests that reproduces itself, that is to say violence begets more violence. As far as these areas are considered, another fact seems to be noticeable - twisted genesis of unscrupulousness: by manifesting the unscrupulousness – unscrupulous behaviour as if by that they want to verify their identity, and to give importance to themselves. The reasons for the unscrupulousness lie in the ultimately frustrated condition of a large group of people - a large part of the population who are more often unable to realize their own interests and status in society, behave unscrupulously in order to recoup, i.e. to compensate for their own inferiority. Simply, a huge part of the population, seek affirmation of the fact that they are here and that they are subject to certain events by imposing the kind of behaviour on others and everywhere around themselves, where they live, move and work .

That is why the relationship between diseases and the society burdened by violence is causative-consecutive, i.e. causal, so, contemporary violence is denoted as a socio-pathological phenomenon that tragically exacerbates social reality to the extent of social disorganization. The important feature of the violence – unscrupulousness towards another suggests a deep crisis of values which underpin every civilized social system. By that, instead of respecting and behaving in accordance with the generally accepted values, disobeying reigns in the society, specifically the erosion of many values and human virtues. Thus, the values "experience transformation" in highlighted vices. Receiving the enormous scale on these human virtues caused directly affect other pathological phenomena that also more and more intensively multiply, as a result of the deep value crisis.

On the behaviour of the juvenile population and the youth in general, violence has a more specific etiology. Besides the well-known and accepted characteristics of people under biological (medical), psychological and social growth, development and growing up (maturation), the modern youth is loaded with a specificity: diametrically opposed level of intellectual (cognitive) components of personality and their social maturity. Today's youth have the infinite informational environment and incomparably greater number of skills in the use of technological advances. At the same time, on the account of this expressively high level of cognitive ability, social component in their development is "abortive", the sense of responsibility for their own actions and behaviour blunt, and value system eroded even before its creation. In other words, the intellectual level of the adolescents and their level of social

maturity and adaptation are now in total variance. Thus, violent behaviour and other forms of pressure seem to become fashion in daily communication with inconceivably strange patterns of manifestation. Young people in general are massively burdened with insatiable thirst for possession of material goods and luxuries. In most cases the insatiable desire and drive, become an enormous obstacle to have a humble and dignified life and work. The urge to imitate the rich and famous amid the significantly small real possibilities of the family, creates painfully aggressive manifestations, primarily within the family. Such feelings among the youth are reinforced with scenes and scandals seen by using the "social" networks. In other words, there are more young violators, young delinquents and juveniles who become perpetrators of crimes from a very early age. There has been a growth and complexity of some of the severest forms of socio-pathological phenomena, especially drug addiction, alcoholism and prostitution.

The fact that there are registered 60 incidents of physical violence, in recent years in schools in Macedonia is frightening. We are witnessing the constant fights between the students, who are mostly motivated by interethnic intolerance, physical fights between students in the secondary schools in Tetovo, and the memories are still fresh of the unseen rampage of the young boys in the Chemistry School in Skopje, or the homicide of the secondary school graduate Muhammad Jashari in Skopje. Not to mention the frequent fights on the public transport buses, especially in the suburbs and villages around Skopje.²⁶¹

The violent behaviour during sporting events is not lagging behind either. Starting from profanities, hails between fan groups, and ending with violating the inventory of sports fields or fights. Therefore, spurred by numerous incidents that occurred on the playing fields in the country, especially in international competitions, the Football Federation of Macedonia prepared a strategy to prevent violence at football stadiums across the country. As strategic objectives for realising the strategy have been set: raising and changing the public awareness, implementation of the existing law on violence and indecent behaviour at sporting events (as well as seriously changing it and amending it) and implementing regulations of FIFA and UEFA in relation to the violence on football pitches.

In order to realise the prepared document planned are: organizing public debates, making posters, flyers, manuals, composing an anthem for the fight against violence, thematic organisation of educational seminars for sports professionals, workshops, setting up billboards to fight violence on every match, printing T-shirts, hats and scarves with clear messages against violence introduction - delivering one lesson in the curriculum of the primary and secondary schools about the need to prevent violence at sporting events, and media promotion.²⁶²

Conclusion

The elemental analysis of social relations, suggest the conclusion that violence gets massive, pathological proportions and continuously gravely endanger the normal way of life and social development. By that it has gained a disposition of massive socio-pathological phenomenon, whose consequences lead to disfiguring and degradation of the human being, endangering their health and peace of mind and disorganization of the social processes.

We have concluded that constant, continuous existence in a violent environment, leads to daily accumulation of negative feelings and situations which means multiplying the harmful effects of violence could have two major outbound directions: non violent people become violent in order to create a defence mechanism and to easily bear the consequences, or the accumulated negative emotions and difficult situations reflect on the personal and

²⁶¹ <http://www.dw.de>

²⁶² <http://www.netpress.com.mk/mk/vest.asp?id=46887&kategorija=8>

physical integrity of the common man and citizen and lead to disruption of his physical and mental health. What solution one would accept, or rather how does one respond, mostly depends on the structure of the personality. To be exact, whether one would undergo the transformation from non violator to violator, or by enduring the constant violence would endanger their health, depends on the complexity of the inner context of mutually intertwined psychological characteristics and psychological processes in each person separately, as well as on the intensity of the accumulated aggressiveness as readiness – charge for manifesting the force of any kind.

In search of the necessary "third option" for overcoming - neutralising the violence as an everyday way of life, social reaction must start from the prevention of domestic violence and youth violence among in the current, times of tense crisis.

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EFFECTS OF SOCIAL NETWORKS MANAGING ON WORKING CAREER

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Abstract

This work is about the co-evolution of intra-organizational networks and organizational structures and behaviors, in the context of the introduction of an innovation. A number of network studies, especially those concerned with the role of social capital in organizational settings, has focused on those actors who are most important in shaping the structural features of the network. We focus on one such actors, the broker, that is the one whose ties connect otherwise disconnected sets of network nodes. Our aim is assessing the mechanisms through which the broker legitimizes himself in his own role. In fact, existing studies mainly document the consequences of the broker network position, but do not analyze the mechanisms through which this position is acquired vis a vis the other actors in the network.

In this work we address both the organizational and the individual levels of analysis. At the organizational level we analyze the evolution of intra-organizational networks in the context of an important organizational change. At the individual level we analyze how personal attributes and behaviors co-evolve with the networks, as a consequence of the actors learning processes. We will focus on one specific network member who is shown to improve his own understanding of how to perform the informal role of the broker. We will see that such informal role will be turned into a formal organizational position by the end of the period observed in this study.

Keywords: Organizational networks, evolution, brokerage, social capital

Who is the broker?

A number of organizational researchers adopted a network perspective and addressed issues related to the unfolding, development and reproduction of organizational networks. According to this perspective, social structure can be defined as a general configuration of relations that unfolds from the routine dyadic interactions of actors who enact specific roles (Boissevain and Mitchell, 1973; Burt, 1980, 1982). Social structural change emerges from these dyadic interactions, while actors' behaviors are better understood as related to their location within social structure. The role an actor performs may depend on his competences, and he may exploits his role and competences in order to enhance his own visibility and attractiveness for other actors. At the same time, easy recognition of the competences of an actor reduces the search costs of other actors, and by consequence increases their interest in crediting him a specific role and in connecting to him in such a way that endows him of a specific location in social structure. Some researchers (Walker, Kogut & Shan, 1997; Gulati & Gargiulo, 1999) stated that past ties somehow are the basis for future ties and the network evolves on persistence of structure factors. In this sense persistence is a "structural property" (Giddens, 1984) by which interactions are reproduced over time and across actors.

Burt (1992) introduced the concept of broker, defined as the actor that benefits from bridging a structural hole in the network. A structural hole is defined in terms of the absence of ties among actors in a network, and the broker is the actor through whom otherwise disconnected actors are indirectly connected. Actors that fill structural holes enjoy information and control benefits. Information benefits in particular arise from access to more heterogeneous sources of knowledge; not every actor is equally well placed to fulfill this knowledge broker role, as different network positions offer different opportunities for individuals to access a variety of knowledge sources (Burt, 1992; Tsai, 2001; Rodan & Galunic, 2004; Ahuja, 2000a). Such knowledge brokers are central employees that act as a link-pin between two or more employees and make the transfer of knowledge possible (Ibarra & Andrews, 1993; Fleming & Waguespack, 2007).

Pollock, Porac and Wade (2004) introduced the concept of the “architect” broker, in order to explain the determinants of the strategic choices undertaken for building and managing networks in the context of a competitive business. Pollock et al. state that, in building his business network, the broker tends to prefer long or short-term strategies according to the amount of social resources possessed, the degree of dependence on the specific business as a source of profits, and other exogenous conditions. The more the social resources possessed, the more flexible tends to be the construction and the management of the network. The larger the dependence for profits from a specific business, the more the network is built by balancing short and long run considerations.

We intend to contribute to the study of the evolution of networks as defined by Doreian and Stokman (1994) through the longitudinal study of a case of technological implementation. According to these two authors, in fact, a substantial difference exists between dynamic and evolutionary studies of a network. The first focus on the qualitative or quantitative characterization of change or stability, sequentially, simultaneity or cyclicity of the phenomenon under study (Monge and Dalman, 1996). Goal of the dynamic approach is, therefore, that of providing a sophisticated description of the changes that took place in the network. On the contrary, the evolutionary approach follows the further end of understanding the mechanisms that determine the change across time. In particular, we regard the broker network position as interactively emergent both from the strategic behavior of the broker, and also from him being granted of such role by the other network actors. Recent study (Soda & Zaheer, 2008) has demonstrated that high-performing network actors may be better positioned to create superior network structures for themselves which in turn perpetuate superior performance. We try to point out the characteristics an actor must possess in order to credit himself as a broker in an informal network, by focusing on a specific member of the network we analyze.

This study addresses both the organizational and the individual levels of analysis, in that the broker’s attributes and strategies will be assessed in the context of the structural changes that occur at the organizational level. We will show that ownership of specific technological competences and endowment of the legitimacy associated to a formal organizational position, are not sufficient conditions for an actor to acquire/be-granted-of a broker role. This depends also on the amount of relational capital accumulated through past interactions, and on the network capabilities he possesses.

Relational capital, human capital and network capabilities

Relational or social capital is composed of two main social resources: the reputation of reliability and competence an actor is endowed with (Burt, 2000, Benjamin and Poldolny, 1999; Bromiley, 1993), and the acquaintanceship or familiarity with other actors gained through past interactions (Granovetter, 1985; Larson, 1992; Uzzi, 1996).

Social capital has been defined also in terms of a cognitive perspective, as associated to similarities in actors' cognitive schemes and systems of meanings (Nahapiet & Goshal, 1998). In fact, actors need to invest in reciprocal learning and understanding, in order to be able to communicate effectively with others who possess different languages (broadly defined) and systems of meanings. It is worth noting that this investment creates an asset, because it enables an actor to access information and social resources that otherwise would be out of reach.

Bourdieu and Wacquant define social capital as “*the sum of the resources, actual or virtual, that accrue to an individual or a group by virtue of possessing a durable network of more or less institutionalised relationships of mutual acquaintance and recognition*” (Bourdieu and Wacquant, 1992, page 119). Social capital carries potential value because it provides to actors an opportunity to access information and resources in their social network. According to Burt (2000) social capital is linked to the opportunities an actor is given by his position in the network: “*...social structure is a kind of social capital that can create for certain individuals or groups a competitive advantage in pursuing their ends. Better connecting people enjoy higher returns.*” (Burt, 2000; 2003.) In this sense the broker has access to more social capital the more structural holes he constructs and manages and, in turn, he can re-configure profitable social structure of future network. Thus, the more social capital an actor possesses, the more likely he is to benefit from the value of his own “human capital”. High network centrality frees the actor from dependence on a specific source of support and enables him to access to a wider range of resources. Further, to the extent to which the actor mediates the indirect contact among otherwise disconnected actors, he enjoys the (information and control) benefits of the brokerage position.

Bourdieu (1980) and Coleman (1990) assert that a network tends to reproduce itself on the heritage of past relations and therefore, it follows, on the ability of individuals to preserve their own social capital. If this is the case, social capital accrues to an individual not only by holding an organizational position that enables him to trigger network contacts both within and outside the organization, but mainly through the reputation and legitimacy inherited from his relational history. Several authors have associated a central network position with greater power. Cook and Emerson (1978) hold power to be an attribute of an actor network position, which can be recognized to affect an actor's behaviours even though he is not aware of neither his network position or associated power. According to this approach, centrality generates power as a function of greater access to information and, more general, by enhancing decision making autonomy.

Social capital is counterpart to “human capital”. Coleman (1988) defines human capital as the sum of competences and capabilities that characterize a person. Burt (1992) states that human capital is connected to individual capabilities. Ibarra (1993), in a study of the determinants of innovative roles, states that personal attributes like experience, seniority and level of education, are important sources of power that affect the possibility of undertaking an innovation. Related in particular to the implementation of technological innovations, is the fact that individual attributes may translate into greater ease in accessing to social resources. Zenger and Lawrence (1989) believe that seniority can substitute formal role, in that it fosters the presumption that an actor is legitimated by the organization and knows how to manage his own way within it.

Human capital is a basic requisite of the broker in order to secure organizational legitimacy; in turn, human capital and organizational legitimacy together allow him to be trusted by other network actors and keep a central network position. Among the components of human capital that we believe important in this respect are the abilities of listening to others and problem solving, helpfulness and communicative skills. Equally important are network capabilities, that could be broadly described as the ability to identify valuable

opportunities inside the network, and to exploit them by leveraging ties with other actors. To give an example, finding the person who possesses a specific piece of knowledge is often difficult within a multi-unit organization (Szulanski, 2003; Hansen, 1999; Hansen & Haas, 2001); such ability is not common among members of an organization, but can be found in those very skilled managers who achieve the fastest careers; “*managers with networks rich in structural holes tend to be promoted faster and they tend to reach their current rank earlier*” (Burt, 1992).

We may summarize this discussion in the following *proposition (1)*: *An actor holds a broker network position in part as an outcome of his own strategic behaviour, but also as the effect of that actor being endowed of such role by the other actors. The chances of the broker to legitimate himself in such role are positively related to (i) the social resources inherited by past interactions and (ii) to his own personal competences and networking capabilities.*

Specific competences and organizational legitimacy

Ibarra (1993) states that holding a formal organizational position (which is usually associated to holding power and responsibility, and access to a number of resources) is an indicator of the actor's network centrality in the implementation of an innovation. In a similar fashion, Baldrige and Burnham (1975) maintain that the higher is the hierarchical rank of organizational members, the more likely they are to be successful as innovators. Often however, actors who hold a formal organizational position but are marginal to informal interactions do not play a significant role in promoting the innovation.

Formal position endows an actor with organizational legitimacy, and especially in highly formalized contexts this legitimacy is clearly important in orienting interactions and communication processes. It goes without saying, for instance, that in order to deal with a reporting problem about a specific organizational unit, one would not turn to an external collaborator or a “stageur” for asking clarifications and additional information, even if he knew that it is the latter that looks after this on informal grounds. In part then, communications and interactions among organization members are dictated by formal organizational structure.

However, even though formal organizational design is decided in order to cope with day-by-day organizational activities, it is drawn in advance of their actual performance and, to a greater or lesser extent, it has to be adapted in an ad-hoc fashion to the actual flow of events and activities. This is even more true in the context of the organizational changes usually implied by the introduction of important innovations, when it is harder to then usual to assess which organizational design will fit best new and partly unknown activities. Informal organizational networks reflect the ad-hoc arrangements and solutions that always are needed to complement, and sometimes substitute, formal organizational design. Informal networks provide insight into the general ways “things are getting done” within the organization, often bypassing and sometimes undermining formal communication processes. Informal networks are credited of providing faster information flows, and of allowing knowledge and information to flow in both vertical and horizontal fashions, which increases the overall flexibility of the organization (Cross et Al, 2002).

A degree of organizational legitimacy, at least that implied by formal organizational membership, is usually needed for an actor to be regarded as a legitimated participant to organizational interactions and communication processes. At times however, and we will show this to be the case of this study, informal status can even substitute organizational membership as a base for participating to organizational interactions and communications. In other words, the informal the status an actor is given by past collaborations with organizational members, that endow him with their trust and with a positive reputation of problem solving capabilities, can make of him a member de facto of the collective effort

undertaken within the organization, even despite the lack of any organizational affiliation. In fact, Krackardt (1992) points out holds that two people who do not know each other may develop reciprocal trust in part as a consequence of both trusting the same third person. Shared trust in a third party is therefore seen as a proxy of mutual. Thus, the role of one such actor can be expected to translate into a central, and possibly a brokerage position in the informal network mainly composed of organizational members.

To summarize we state our last *proposition (2)*: *Informal status is a sufficient condition for endowing an actor with a key (broker) position within an organizational network.*

Data and Methods

Empirical setting

The empirical context of this research is a small Italian university with about 10,000 students, 2,550 employees and approximately 500 teaching staff members, including both permanently-employed and on-contract professors, in the academic year 2003/2004. In this as in the other Italian universities, the introduction in 1999 of a new law by the Italian Government raised the problem of the restructuring of teaching activities, with a substantial increase of the number of educational paths offered. In this context the governing bodies of the university started a number of administrative, organizational and technological innovations. We focus on one such technological innovations, the introduction of a new information system, that had also broad administrative and organizational consequences.

We analyze the organizational network composed of the persons involved in the project of development and implementation of the new information system. The project consisted of three distinct phases. The first lasted about eight months and ended on October 14th, 2002, with the presentation of the basic design of the system. This first phase involved 14 actors that were formally designated among members of several organizational units: faculties, information technology centre and students secretariat. In the performance of their activities, the 14 officially designated project members activated further contacts. The actors that on the whole have contributed to the development of the phase have been 37.

During the first phase the original objectives were redefined and the scope of the new information system broadened. While originally the main goal was the optimization of the spaces for the didactic activity, soon it became clear that the new system could be exploited also for further ends. These were identified in the following: restructuring the information system that supported didactic activities in general; providing information for supporting decision making at different organizational levels, including broad strategic decisions; decreasing administrative costs without affecting the quality of services.

These new directions of the project were further elaborated and refined during the second and longest phase of the project, aimed at the set up of the data archives needed by the system, and its experimentation. The second phase begun right after the end of the first and was ended 16 months later, on March 14th 2004. In this phase, the original group of official project participants was enlarged to 25 people, who activated further informal contacts for a total of 41 actors involved. The majority of them had also participated to the first phase.

The third and last phase begun with the deliberation of the Academic Senate on February 12th, 2004 which approved regulations concerning the scheduling, organization and performance of didactic activities. This triggered the process of actual implementation of the information system in all the faculties, and started the redaction of a further document concerned with the redefinition of administrative procedures and restructuring of several organizational processes, and with the allocation of functions and responsibilities. The third phase officially involved 31 people, who activated further contacts for a total of 45 actors involved.

Data collection and coding

Data were collected by participant observation, interviews, and through submission of sociometric questionnaires, across all three phases of the project. None of the authors of the present paper participated directly to the activities observed, however one of project participants has been involved in the first stages of the research and contributed, together with the first author, to the redaction of a first draft of the present paper. For each phase all the persons who were actually involved in the project were identified; the names of those participants who were not officially designated were elicited from official participants. For each of the three phases a sociometric questionnaire was submitted to all the actors involved in the project (whether formally or not).

The questionnaire presented a list of all the persons involved in each phase and asked with whom among them the interviewee had interacted with (without distinction among face to face, phone or e-mail contact) for discussing issues related to the project. The questionnaire asked to specify separately the interactions related to four distinct types of issues (two categories related to administrative and organizational subjects - a. organizational and procedural, and b. related to regulations- and two concerned with technical subjects -c. technical constraints and d. related to technology operation), and to specify for each the frequency of contact. At the same time the questionnaire was submitted to each actor, an interview was conducted in order to further explore and clarify salient facts that the participant researcher had noticed. The results of the questionnaire and the interviews were coded and analyzed by a researcher who was not involved in any of the project activities.

Methods

We built distinct relational matrices for each project phase and content of interaction (type of issue discussed), by coding the frequency of contact each person reported with any other. We analyze the three relational matrices (networks), one per project phase, obtained by conflating the four relational contents into a single one through a union operation. Interaction was coded as present or absent, without distinction of frequency. In other words i sends a tie to j in the network observed for a given phase of the project, if i reported that during that phase he discussed with j (at least once in a semester) about at least one of the four general topics.

We first present a description of the networks based on graphical representations and on structural indices at both the network and individual actors levels. We then report qualitative evidences that emerged from the interviews of the network members and from direct observation of the project activities, and conclude by presenting the estimation of stochastic models of the evolution of the network across the three phases.

Network descriptive

We report graphical representations of the network in each phase. This is effective and intuitive for describing general structural features, but implies an ambiguity because which structural features are made evident depends on the geometrical location of the nodes in the picture. Layout algorithms, that compute the set of nodes' coordinates that best fits a number of criteria, overcome this arbitrariness and help reveal the structure of the network. There may not exist a unique set of coordinates which is optimal according to the criteria to be matched, and the iterative nature of the layout algorithms implies that the locations of nodes vary on repeated runs of the layout algorithm. The layouts of the pictures presented were found to be very stable on repeated runs in their general appearance, changes from run to run consisted at most in very small adjustments or in the rotation of the most central part of the network.. The software we used is *NetDraw* (Borgatti, 2002).

We used the most common layout criterion, that might be roughly described as that of making the geometrical distance in the picture among two nodes proportional to their graph theoretic distance, that is the minimum number of lines that should be crossed in order to move ideally from one node to the other across the network ties. One implication of the graph theoretic distance criterion is that the nodes that are best connected tend to be located at the centre of the picture. How well a node is connected in the network may be assessed in different ways, in fact many node level centrality indexes exist that grasp different aspects. We will discuss a few of these below, however this distinction, though very important, does not greatly affect the layout of nodes in graphical representations

For each phase we also computed indices at both the network and the individual actors levels. At the network level, *density* expresses the extent to which actors interact with each other, and is computed as the ratio of the number of ties to its maximum possible value²⁶³. Network *centralization* expresses how interaction is distributed among network actors, and measures the extent to which a few actors are very well connected (high centrality) while a majority is marginal (low centrality). While this is true in general, centralization is computed on the base of node level centrality scores, it is then contingent upon the specification of the node level centrality index. The centralization index is computed by summing the differences between the greatest observed centrality and all centrality scores, and taking the ratio of this sum to its maximum possible value.

We will compute two types of node level centrality indexes (and associated network level centralizations) (Freeman, 1979). An actor *degree* centrality is the number of others he interacts with in the network; if a distinction is made between tie sender and receiver, degree centrality splits in *outdegree* (number of others an actor sends a tie to) and *indegree* (number of others an actor receives a tie from). *Betweenness* centrality measures the extent to which an actor is located over the shortest chains of contacts (geodesics) that connect other actors. It is then a measure of how important is an actor as broker of the (indirect) contact among others, or in other words a measure of the extent to which an actor fills the gaps (structural holes) due to the lack of ties among other actors.

While any network tie may affect the *betweenness* score of an actor, the *constraint* index (Burt, 1992) focuses on his network neighborhood, his *ego-network*. The ego network of a given focal actor (*ego*) is composed of the other actors he is connected to and the ties among them. The constraint index is a measure of the extent to which the network contacts of the focal actor are tied to each other, and is inversely related to the presence of structural holes in his network neighbourhood.

Evolution of the network

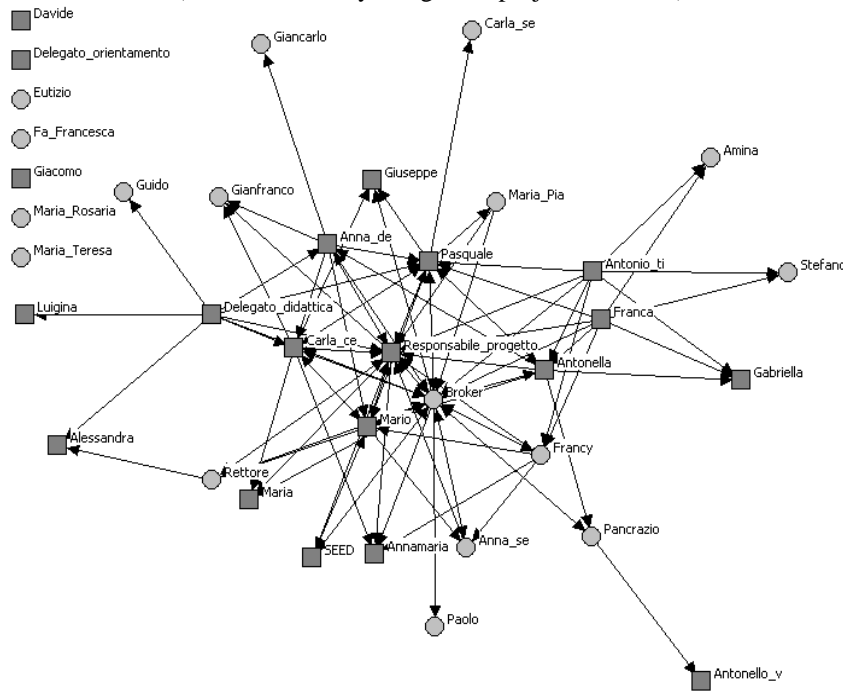
Interviews with actors of the project network focused on motives orienting individual choices of partners of interaction. Somewhat in a similar fashion, the stochastic models of network evolution that we present are based on the estimation and testing of the actors structure of preferences, which directs their choices of the contacts to send a new tie to or withdraw an old tie from.

We model the evolution of the network across the three phases based on these actor-oriented models of network change (Snijders 2005a, 2005b, 1996). These simulation based models allow estimation and testing of parameters associated with the dynamical tendencies of the network. We will estimate structural effects which quantify the general tendency of the actors to reciprocate ties (reciprocity) and their tendency to cluster in internally dense network subgroups (transitive closure). We will then add to the model the interactions that

²⁶³ This is $n(n-1)$ in a network that includes n actors, if a distinction is made among the tie from actor i to actor j and that from j to i .

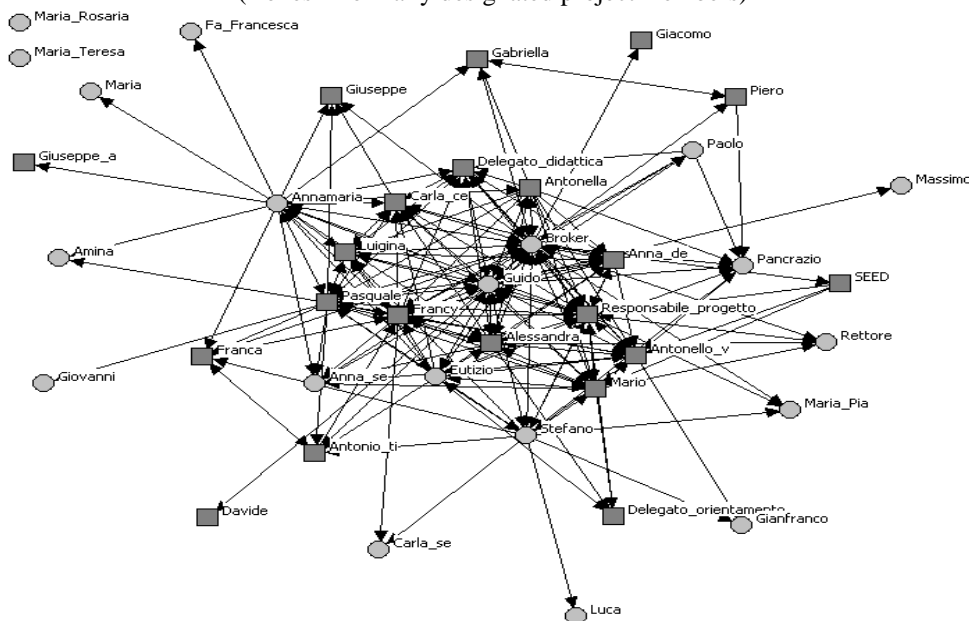
capture the differential between the general network dynamics and the evolution of the ties that involve a specific network actor, the *broker*.

Figure 1- Interactions among project participants - Phase 1
(Boxes = formally designated project members)



Transitive closure is exemplified in Figure 2; this structural tendency implies the dashed tie shown in the right side to directly connects the two nodes only indirectly connected in the left side. The stronger the tendency to transitive closure, the more the network is articulated in subgroups whose members are all tied each other, while no ties exist between members of different groups. In terms of the ego networks of Figure 1, perfect transitive closure would imply that all network contacts of a given node are directly tied each other, with absence of structural holes, null betweenness and high constraint scores for the focal actor.

Figure 2- Interactions among project participants - Phase 2
(Boxes = formally designated project members)



not play the same role in the network as a whole, as testified by their null scores on betweenness. This depends on the fact that they are not reported as partners of interaction by any other actor in the network (in-degree = 0), that is no tie is directed toward them. It follows that they are not located on any chain of contacts that indirectly connect other actors, since these chains in a directed network must involve ties with concordant orientation. Guido, who is peripheral in phase 1, gains a prominent role in phase 2 (Figure 2), while Antonello enters the network in phase 3 in a very central position (Figure 3). Nobody however equals Broker, who quickly increases his importance in the network, as shown by the improvement of all network indices across the three phases.

Table 4 documents some structural tendencies that characterize the evolution of the network across the three phases. Parameters estimates 1 and 2 measure simply the amount of network change in period 1 (phase 1-2) and period 2 (phase 2-3). Parameters 3 and 4 are included in order to account for the distribution of actors out-degrees while assessing more complex structural effects. All four effects do not deserve further comments.

Reciprocity (5) shows a significant tendency for the reporting of interactions to be reciprocated by actors on both sides. Next three effects (6, 7 and 8) express in slightly different ways the structural tendency to transitive closure, of the greatest importance in the study of networks. This is the tendency of actors to cluster in densely knit and mutually exclusive subgroups, and of structural holes to disappear from the network. It can be noted that this tendency exists in the network as a whole, as shown by the positive and significant estimates of parameters 6 and 7.

Estimates 9 through 12 are dummies that control for some actor level characteristics. It is shown some evidence that administrative employees, one of the three job categories we distinguished, were more reluctant at participating to interactions than IT technicians (these were the reference category; Academics, the third category, did not show any significant effect on any model and the effect was not included in the models we are reporting). Estimate 11 shows that official members of the innovation project were preferred target of interactions, while estimate 12 shows they did not initiated interactions more often than average (effect not significant).

Table 4
Model of project network evolution – Phases 1-3
(* significant at .05 level)

	controls	model 1	model 2	model 3
1. constant network rate (period 1)	35.74* (8.12)	44.12 (23.15)	44.33* (13.60)	44.22* (12.64)
2. constant network rate (period 2)	16.37* (2.04)	17.87* (2.55)	18.23* (3.11)	18.23* (2.76)
3. outdegree (density)	-1.38* (0.21)	-1.78* (0.28)	-1.81* (0.28)	-1.85* (0.23)
4. 1/(outdegrees + 1)	6.04* (0.74)	5.34* (0.68)	5.24* (0.73)	5.19* (0.62)
5. reciprocity	1.42* (0.16)	1.59* (0.15)	1.58* (0.15)	1.58* (0.14)
6. transitive triplets	0.04* (0.01)	0.04* (0.01)	0.04* (0.01)	0.04* (0.01)
7. (direct and indirect) ties	0.33 (0.19)	0.60* (0.26)	0.62* (0.23)	0.66* (0.23)
8. balance	-0.27 (0.30)	-0.23 (0.33)	-0.11 (0.36)	-0.03 (0.35)
9. Employees ego	-0.22* (0.11)	-0.16 (0.10)	-0.16 (0.10)	-0.15 (0.12)
10. Employees identity	0.08 (0.13)	0.19 (0.13)	0.20 (0.14)	0.21 (0.13)
11. Project alter	0.27* (0.08)	0.23* (0.09)	0.22* (0.09)	0.21* (0.09)
12. Project ego	-0.07 (0.09)	-0.01 (0.12)	0.00 (0.10)	0.01 (0.09)
13. int. Broker ego × reciprocity		13.321 (fixed)	13.321 (fixed)	13.321 (fixed)
14. int. Broker ego × transitive triplets		0.0761 (0.06)		
15. int. Broker ego × (direct and indirect) ties			0.7743 (0.45)	
16. int. Broker ego × balance				-0.89* (0.36)

Next are presented the effects that isolate the specific contribution to network transitive closure of the ties sent by Broker; these are interactions among the dummy for this actor and effects 5, 6, 7 and 8. Interaction with reciprocity was included as a control, but it gave estimation problems; since it was shown to be large in many estimates, it was fixed at a large value in order to assess effects 14, 15 and 16. These show that the tendency toward network closure that holds for the network does not hold for Broker: interactions of this actor are not bounded within cohesive subgroups, as shown by the positive and significant estimate of effect 16 (and the near significant effect 15).

How happens that Broker, nor a member of the project or employed at the University, was found in such a key network location since the beginning? Did this depend on organizational legitimacy, like being designated as coordinator, this location would have been occupied by *Responsabile_progetto*. At least, in order to take a de facto coordinating role Broker had to be already familiar to and trusted by other actors, and endowed with some other kind of legitimacy. We hold the present case shows that Broker establishes and extends his own role incrementally, by exploiting and developing further the social resources he was already endowed with.

Interviews shed some light over this somewhat anomalous circumstance. Actors were asked about the motives of their first interaction with Broker. It is quite evident from the interviews that Broker, though relatively young, had a positive reputation because he was found reliable and trustworthy in his voluntary active participation in prior projects. Guido also tried to take a coordinating role and actively involves in interactions with project members; in the second phase he sharply increased his outdegrees (from 0 to 19) and indegrees (from 1 to 14). This is interesting to note because he is a direct competitor of Broker. Like the latter, Guido didn't hold a position in the University and wanted to get in. He was aware that the innovation project could be an important chance for building a good reputation and tried to develop good relations with others. He didn't succeed, and the reasons seems that he didn't have the same network capabilities, coordinating and personal skills of Broker.

Other clues can be obtained by looking at the reasons "why one would look for organizational or technical support from somebody who does not belong to the project". Two main types of motivation emerged from the answers, those related to the history and type of interaction, that might be labelled "social", and others more specifically related to characteristics of the person, defined as "personal". Based on all the interviews we reconstructed some specific characteristics of Broker, which might be generalized to any person who performs a brokerage role in a network like the one we observe. Especially recurrent were the ideas of effective problem solving, understanding of the organizational system and internal communications, the ability to obtain relevant information by tapping the right sources, to leverage the right contacts to get things done. Many stated that the broker "*... is very resolute and prompt to collaboration in solving problems, and has excellent communicative capabilities*", "*... can't imagine how difficult it is to get the information you look for ... never know who to ask, who could be a reliable source ...*". These are *network capabilities*.

On the other hand, it is interesting to note the evolution of the role of *Delegato_didattica*, the delegate for teaching operations. This formal role was important for coordinating flows of information needed for the implementation of the IT system. The university Rector, who understood the growing importance of Broker in the informal management of the project but could not formally invest him of this role since he was not employed at the university, decided to give full power of managing the project to *Delegato_didattica*. In spite of this, even though he was held a competent and trustworthy

person, he was listened to only on normative aspects and didn't take a leading position. Broker kept being identified with the innovation project itself. Even though in the first phase he had only little more power of the formal project leader, *Responsabile_progetto*, his role grew from phase to phase until the *Responsabile_progetto* manager himself decided to turn it into a formal position by means of a consulting contract. This changed the formal design of the innovation project to match the actual, though informal, system.

Discussion and implications

Organizational implications of innovation include the simultaneous change of both relational and non relational aspects of the organizational roles of the actors. Among the first are both formal and informal networks (information exchange, reporting ...); among the latter are actors objectives and competences. At the same time the innovation process itself is affected by existing networks and individual capabilities. It is argued, for instance, that the informal communication network is of key importance for the inter-unit process of knowledge transfer (Maurer I., Ebers M., 2006; Cross et al., 2002). The present work is consistent with these ideas, but focuses also on the interplay between network and actor levels of analysis.

It is shown how individual characteristics shape informal networks, by looking at how personal competences affect the network role of actors that are key to the innovation process. While much of the debate about social capital has focused on the translation of this idea in network structural terms, this work sheds some light on the processes through which a given structural position is acquired. We try to bridge social and human capital by exploring the personal capabilities that allow an actor to be a legitimate (though only informally at the beginning) occupant of a brokerage network position within an intra-organizational network.

At the network level it is also shown that the informal network may affect the evolution of the formal one, depending on the strategies of the actors. From a managerial perspective, this points to a way of improving innovation processes, that always involve the interplay of formal and informal roles. In this respect, most effective seems to be the role of actors who merge formal legitimacy and informal status, by maintaining non-redundant relations in both formal and informal networks.

While we believe that the implications of this study may be generalized, one limitation of this work might be found in the specificity of the Italian university organization that served as our empirical setting. The direction of research we pursue in this work, by addressing both the effects and the generative mechanisms of intra-organizational networks, and the interplay between emergent and projected organizational structures and behaviours, may narrow the gap between network studies of organizations and concrete organizational practice. This could contribute to the construction of the network theory of organization (Salancik, 1995) that is needed to improve the design of organizations.

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CONSUMER CREDIT IN EUROPEAN UNION

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Abstract

Modalities of consumer's protection at consumer's lending in European Union Member States are provided with a special directive of the European Parliament and the Council (Directive 2008/48/EZ of the consumer credit agreements). Although this area has been regulated in European Union by the directives since 1987 (Directive 87/102/EEC), for the economic crisis it was increasingly coming to the fore that the consumer, as a weaker agreement party, was not protected enough. The directive 2008/48/EC on consumer credit is based on the principle of maximum harmonization and regulates the minimum legislative framework for each of the member states. Republic of Croatia has become a member of the European Union. As the youngest of the Member States, Republic of Croatia was obliged to adjust its national legislation concerning the protection of consumers when signing a credit agreement with *acquis communautaire*, following is the Republic of Serbia on its European path, therefore Directive 2008/48/EZ about consumer purchase credit is being analyzed in this paper, as well as Serbian and Croatian legal regulations in this field.

Keywords: Consumer credit, the European Union, regulatory framework

Introduction to Consumer Credit in the EU Member States

Consumer credit is a companion and an integral part of the modern society and also one of the most significant financial services in modern economies. As such, consumer credit has a number of economic, legal and social aspects. By improving production and consumption, consumer credit has contributed to raising the standard of living and economic prosperity of the society. The highest percentage of consumer loans in the structure of private consumption and gross domestic product was recorded in the most developed countries (Jovanić, 2004;10). European Union has been trying to establish equal level of consumer protection²⁶⁴ among Member States²⁶⁵. The economic crisis and the instability of the financial market have recently brought to many new ways of consumers' crediting (Petrić, 2007;539, Čulinović-Herc, 2005;176)²⁶⁶, whereby differences in the regulations of consumers protection among Member States of the European Union came to the fore as a bad impact to the common market within its borders (Weatherill, 2005). Aiming to further

²⁶⁴ The notion of consumer is defined in Art. 3. (a) of Directive 2008/48/EC. „Consumer means a natural person who, in transactions covered by this Directive, is acting for purposes which are outside his trade, business or profession“/ consumer is a natural person who contracts consumer credit agreement with target which cannot be attributed to his professional or business activities”.

²⁶⁵ Fundament is Art. 153. Treaty on European Union: “Consumer protection aims to protect the health, safety and economic interests of consumers, and promotes the consumer's right to information, education and organizing in order to safeguard common interests.”

²⁶⁶ Art. 5. Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, OJ L 133/66

harmonization of the legal frameworks in this area and to strengthen business competitiveness, the European Parliament and the Council have brought a new legal framework for consumer credit in the Member States of the European Union²⁶⁷. By this directive, European Union amended 800 billion EUR worth market and enabled all the consumers from European Union to have the same rights in respect of credit arrangements and gave them the ability to compare credit terms all over the common market (Loos, 2008).

Directive 2008/48/EZ of the European Parliament and of the Council of 23rd April 2008 about the consumer credit contracts²⁶⁸ is effective from 11th June 2008 and by its adoption Directive 87/102/EEC²⁶⁹ was repealed; it referred to the approximation of laws, regulations and administrative provisions of the Member States concerning consumer credit of 22nd December 1986 (hereinafter: Directive 87/102/EEC)²⁷⁰. Member States were obliged to implement new directive into their legislations within two years (till 12th May 2010) with the aim of responsible lending and consumers' financial protection and strengthening of consumers' trust²⁷¹. Directive has brought numerous changes related to consumers' protection and it also stipulates the obligation to publish regulations by which its provisions are implemented into a specific national law.

As the newest Member State, Republic of Croatia equalized its legal framework in this area with the EU acquis²⁷² by the adoption of the Consumer Credit Law²⁷³. Consumer protection in the Republic of Croatia was realized for the first time in 2003 by the adoption of the former Consumer Protection Act (Official Gazette, No. 96/03)²⁷⁴ and all subsequent amendments in legislative framework that have gone in the direction of harmonization with the *acquis communautaire*.

²⁶⁷ Basis for the adoption of Directive 2008/48/EC of the European Parliament and of the Council on consumer credit contract is Art. 95., Treaty on European Union: "... Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,..." Art. 1. Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, OJ L 133/66

²⁶⁸ *Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC*, OJ L 133/66

²⁶⁹ *Council Directive of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit (87/102/EEC)*, OJ L 42

²⁷⁰ The negotiations within the Council focused on five areas; the first includes standardized information that all advertising credit agreement must contain. The second is reduced to standardized information any preliminary loan agreement and loan agreement should include, the third refers to the conditions for termination of the contract, the fourth to repayment of the loan before the agreed term and the right to compensation for the lender, and the last one, the fifth, refers to calculation of the annual interest rate.

Any advertisement or announcement of the credit agreement that include the interest rate and the cost of the credit should clearly and concisely offer the consumer the following information: the total value of the loan, the interest rate, length of loan, the total amount to be paid after the repayment of loans, and in case of loans with deferred payment and the price for cash payment, and the amount of any advance payment.

It should be kept in mind when considering these facts that interest rates on consumer loans in the EU range from six percent in Finland to 12 percent in Portugal.

²⁷¹ Art. 8. *Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC*, OJ L 133/67.

²⁷² By signing the Stabilization and Association Agreement with the Community and its Member States on 29th September 2001, the Republic of Croatia has taken the responsibility to harmonize consumer law standards that exist in the community.

²⁷³ Official Gazette of Republic of Croatia 75/09, 112/12.

²⁷⁴ After it followed the new Consumer Protection Act (Official Gazette 79/07, 125/07, 79/09, 89/09, 133/09, 78/12, 56/13, into which were implemented provisions on European directives – especially Directive 87/102/EEC. More about other implemented directives see in: Pošćić, Ana, Protection in the Croatian Legislation – Good or Bad Example of the Legislation, Law and Taxes, 2004., No 9, p. 81-85, p. 84 and Čulinović-Herc, Edita, op. cit. bilj.2, p. 177.

In Republic of Serbia, consumer protection has been regulated by the Consumer Protection Act from 2005²⁷⁵ and the applicable Consumer Protection Law was passed five years later²⁷⁶. Namely, based on the Law of ratification of the Stabilization and Association Agreement between the European Communities and their Member States, on one side and Republic of Serbia on the other²⁷⁷, have committed to work together to align the standards of consumer protection in the Republic of Serbia with the European Union and is provided for this purpose and is their interest that the parties provide: a policy of active consumer protection in line with the *acquis communautaire*, including the increase of information and development of independent organizations; harmonization of consumer protection legislation in Serbia on that in force in the European Union; effective legal protection for consumers in order to improve the quality of consumer goods and maintain appropriate safety standards; monitoring of rules by competent authorities and providing access justice in case of dispute and exchange of information on dangerous products. The above solutions can affect consumers' ability to make the best choices in business and commercial transactions with vendors and service providers that will provide the best education in the field of consumer rights for them, immediate and timely legal assistance and effective judicial and non-judicial protection. In order to implement Directive 2008/48/EC on consumer credit contract, the Law on the protection of consumer financial services²⁷⁸ has been brought and came into force on 04.06.2011. and shall apply from 05.12.2011. except the Article 38 Paragraph 5 of the Law which applies from 01.01.2012. In the future, the legislation of the Republic of Serbia in the field expects a higher level of harmonization with the *acquis communautaire*, as well as the enactment of the Consumer Credit Act and its recent amendments, the legislation of the Republic of Croatia fully implemented Directive 2008/48/EC on consumer contracts credit, which is the alignment of the Croatian national legal framework of consumer protection legislation in the European Union, at least theoretically, and complete.

Directive 2008/48/EC on Consumer Credit Contracts

As mentioned earlier, the Directive 2008/48/EC of the European Parliament and of the Council of 23rd April 2008 on consumer credit contracts (hereinafter: Directive 2008/48/EC) has been in force since 11th June 2008 and Member States were obliged to implement it in their legislation within two years, till 12th May 2010²⁷⁹. Directive 2008/48/EZ abolished Directive 87/102/EEC of 22nd December 1986. and brought many novelties into consumer credit matter. Apart from the fact that the Directive 2008/48/EC, unlike the previous one, is based on the principle of the maximum harmonization²⁸⁰ it is necessary to emphasize the introduction of credit intermediary as an entirely new subject of consumer credit. According to the definition adopted by the Directive 2008/48/EC of the Art. 2. (f), the credit intermediary is a natural person or legal entity who does not act as a lender in the market and within his professional or business activities conducted for a specific counter value²⁸¹, represents or offers credit agreements to consumers or helps them over aforementioned preparatory actions which preceded the conclusion of the contract or concludes credit agreements with consumers²⁸². Besides that, directive 2008/48/EC

²⁷⁵ Official Gazette of the Republic of Serbia No. 79/2005.

²⁷⁶ Official Gazette of the Republic of Serbia No. 73/2010.

²⁷⁷ Official Gazette of the Republic of Serbia no. 83/2008.

²⁷⁸ Official Gazette of the Republic of Serbia No. 36/2011.

²⁷⁹ Art. 27., Directive 2008/48/EC

²⁸⁰ Directive 87/102/EEC was based on the principle of minimum harmonization

²⁸¹ That counter value can consist not only of a financial commitment but also of any other contractual economic benefit.

²⁸² Art. 3.(f) Directive 2008/48/EZ „ *Credit intermediary means a natural or legal person who is not acting as a creditor and who, in the course of his trade, business or profession, for a fee, which may take a pecuniary form*

introduces the obligation to inform the consumers in the pre-contractual²⁸³ and contractual stages, the obligation to assess the consumer's creditworthiness²⁸⁴, consumer's right to cancel the loan agreement concluded for an indefinite period, and the right to terminate the loan agreement. Consumer information is the basic obligation of the creditor, with the purpose of achieving a greater degree of equalization of the parties (Foster, 2010). The purpose of the Directive adoption was essentially informing consumer about the consumer contract, thus eliminating consumer's misconceptions regarding the advantages and disadvantages the individual creditor offers in his contractual provisions²⁸⁵. Information is provided to consumer in another durable medium²⁸⁶ using the form from Annex II, directive entitled "European Standard Information for Consumer Loans". For other information, the creditor may provide the consumer in a separate document²⁸⁷.

Fields of application

Directive 2008/48/EC refers to the loan agreements which were defined as agreements whereby a creditor grants or promises to grant a credit to consumers in the form of deferred payment, loan or other similar financial aid (Wilhelmsson, 2004;317, Howells/Reiner Schulze, 2009, Micklitz, 2009; 53, 71), with the exception of agreements on permanent service or delivery of goods of the same species he consumer pays in installments during the provision of services or delivery of goods²⁸⁸. In Art. 2 (a-l) Directive 2008/48/EC explicitly states which contracts are excluded from its application²⁸⁹ and further, in Art. 3. lists contracts partially excluded from the application. There are primary credit agreements in the form of the possible exceeding the balance on current account (Article 3 (d), and the credit agreement in the form of tacit overdraft balance on current account (Article 3 (e)). As noted above, Member States must ensure lenders credit rating consumers when entering loan agreement (Van Boom, 2009). They should have access to information or receive directly from customers or from the database. The information in the database must be available to the other Member States of the European Union²⁹⁰. The information are crucial for the

*or any other agreed form of financial consideration: (i) presents or offers credit agreements to consumers; (ii) assists consumers by undertaking preparatory work in respect of credit agreements other than as referred to in (i); or (iii) concludes credit agreements with consumers on behalf of the creditor*²⁸³

²⁸³ Art. 5 and 6 Directive 2008/48/EC

²⁸⁴ Art. 8 Directive 2008/48/EC

²⁸⁵ Article 6 Directive 2008/48/EC

²⁸⁶ The concept of continuous medium is defined in Art. 3 (m) of Directive 2008/48/EC as any instrument which enables consumer's personal storage so it is available for future use during the period that corresponds to the purpose of the information and which allows the unchanged reproduction of stored data.

²⁸⁷ Article 5 Directive 2008/48/EC

²⁸⁸ Art. 3. (c) Directive 2008/48/EZ

²⁸⁹ Completely excluded are: the loan agreements, where the claim is secured by a mortgage or other similar collateral means which is usually contracted with real estates in Member States, or the right to property; the loan agreements intended for acquisition or retention of ownership of real property or an existing or planned building; the loan agreement, in which the total amount of the loan is less than 200 or greater than 75 000 euros; lease agreements and lease obligations when acquiring ownership is not provided in the treaty or a separate contract; loan agreements interest-free and loan contracts with maturity up to 3 months in which the borrower arises only negligible costs; loan agreements which are for free deferred payment of existing debt; loan agreement the employer approves as his secondary activity to his employees according to legislative regulations and in general interest allocated to a limited number of customers, whether at a lower interest rate than the market or without interest or under other conditions; loan agreements concluded with investment company within the meaning of Art. 4 of Directive 2004/39/EZ on market's and financial instruments or with a credit institution within the meaning of Art. 4 of Directive 2006/48/EC; credit agreement as a result of a court settlement or settlement before any other legally authorized body; loan agreements where the consumers must give the creditor a thing to pledge to insurance claims and where the responsibility is strictly limited to the pledged asset.

²⁹⁰ Art. 6. 1. Directive 2008/48/EZ

creditor when deciding whether to approve a loan (Article 8 of Directive 2008/48/EC). The loan agreement must be drawn up on a durable medium; each of the parties must be given a copy of the contract (Wilhelmsson, 2008; 227).

Special Rights of Consumers

In order to achieve a higher level of consumer protection, Directive 2008/48/EZ regulates some specific consumer rights such as:

a) *The right to cancel the loan agreement for an indefinite period*

- The consumer is free at any time and without any obligations to cancel the loan agreement concluded for an indefinite period, unless the parties agreed the notice period which should not be longer than a month²⁹¹.

b) *The right to terminate the loan agreement*

- The consumer has the right to terminate the loan agreement within 14 calendar days without giving a reason. Period of fourteen days starts on the date of the loan agreement or the date when the consumer was delivered the contract terms and information according to Art. 10 Directive 2008/48/EZ if that day occurred after the day of signing²⁹².

c) *Related Agreements*

- Related loan agreement²⁹³ is an agreement in which the loan serves solely for financing delivery contract of certain goods or the provision of certain services, and objectively speaking, the two contracts constitute a single economic entity²⁹⁴.

d) *Early Repayment*²⁹⁵

- The consumer has the right at any time to fulfill their obligations from the loan agreement partially or entirely, whereby they become eligible for the reduction of the total cost of the loan which consists of interest and costs of the remaining duration of the contract. Assuming that the pre-payment followed in a period which is fixed NCS, the creditor has the right to demand a fair and objectively adequate compensation for possible costs directly linked to early repayment of the loan (Faure, 2008; 441)

e) *The Transfer of Rights*

When the creditor transfers their rights from the contract or transfers 'loan agreement', creditor retains all the objections he had to the first provider of credit, including the objection of compensation if the objection is allowed in the law of Member State²⁹⁶. Directive 2008/48/EC promotes the amicable solving of consumer's disputes occurring in consumer's

²⁹¹ Art. 13 Directive 2008/48/EZ

²⁹² According to Art. 14 Directive 2008/48/EC consumer may be entitled to terminate the agreement achieved in a way that allows him proving according the national law; notice of termination, which should be promptly sent on paper or another durable medium and be available to the creditor or be available to him; after termination, the creditor must, without delay and no later than 30 days after sending the statement of termination return the loan and the interest of the loan amount calculated from the date of the beginning of the day to repay the loan.

²⁹³ Article. 3 (n) of Directive 2008/48/EC

²⁹⁴ Single economic unit exists when the supplier or provider of goods finances the loan themselves in favor of the consumer, or when the lender is funded by the third party in the preparation or conclusion of the loan agreement and uses the cooperation of the supplier of goods or provider or services or when the certain goods or a service is expressly stated in the loan agreement.

²⁹⁵ Article 16, Paragraph 1, Directive 2008/48/EZ – During the negotiations, the issue of the loan repayment before the agreed terms emerged as a major stumbling block. Achieved compromise solution gives creditors a limited right to compensation for early loan repayment in the amount of 0.5 to 1 percent of the loan amount prepaid. This benefit, however, applies only at fixed interest rates in cases where the benchmark rate is lower in the period of early repayment than at the time of the loan agreement conclusion. Moreover, the EU Member States may restrict the bank's request for compensation in cases when the amount of the repayment period of 12 months exceeds the maximum limit of 10 000 euros.

²⁹⁶ Art. 17, paragraph 1 Directive 2008/48/EC

credit contract, stipulating that Member States must ensure the existence of consumer's disputes resolutions (Micklitz, 2009; 66-67, Poncibò, 2009; 357, Faure, 2008; 443).

The ultimate goal of this provision is actually a trend, which is promoted by Directive 2008/48/EC, to facilitate cooperation between all bodies, in order to increase the share of cross-border loans, and to contribute to a cross-border dispute resolutions (Micklitz, Reich 2009; 481).

Definition and regulation of consumer credit in Serbia and Croatia

In the Republic of Serbia it is provided by Article 5, Paragraph 13 of the applicable Consumer Protection Act that "financial services are banking and credit services, insurance and pension insurance services related to pension funds, investments and payment services", but *lex specialis* called The Law on Protection of Financial Services was only passed in 2011²⁹⁷. Previous Law on Consumer Protection²⁹⁸ contained provisions that provide the basic elements for a contract of consumer credit. Article 29 from the previous Law on Consumer Protection of the Republic of Serbia regulated that the provider of the consumer credit shall, prior to the conclusion of the contract, inform the consumer, in written form, about the highest amount of consumer loans, the annual interest rate and the terms of its possible change, the cost of credit charged at the time of the contract conclusion and terms of their possible change, as well as the conditions and procedure for contract termination. The provisions of Article 30 of the Law provides that any consumer credit contract must include: the name and price of a product or service that is the subject of the contract; the total amount, repayment period, the number and amount of monthly loan installments, interest rate, method of securing the repayment of loans and the terms for contract termination; amount of the annual interest rate and terms of its possible change; conditions and ways of the loan repayment before the agreed term and other elements, in accordance with the Law, as the provider of the consumer credit cannot charge consumer an extra cost that is not in the contract. Provisions from the Article 31 from the Law have provided that any product payment in monthly installments can be arranged in a manner and under conditions proscribed by the Law. Advertising of consumer credit was not thoroughly defined by the Law on Advertising, except that, like any other message, it must be truthful, complete and defined in accordance with the law, good business practices of loyal competition and professional ethics. The method of calculation and publication of the effective interest rate on the loans is regulated by the National Bank of Serbia.

The current Law on the Protection of Financial Service applies only to natural persons who are users of financial services for purposes other than their intended business or other commercial activity²⁹⁹. Such limitation is based on the principle of contract law that requires appropriate level of attention from parties in legal matters, depending on the type of contractual relationship in question, so that the legal transactions between commercial entities require attention of a good businessman – which implies a higher degree of attention in relation to the level of attention of natural person who enters into contractual relationship in order to meet their non-business needs³⁰⁰. The law provides, starting from basic principles of contract law, right to equal treatment with the provider of financial service, the right of the user to the determination or determinability of contractual obligation, determination and determinability of contractual obligations, precise criteria for the precision of cash contractual obligations, as well as precision of the floating interest rates in a manner that their height

²⁹⁷ <http://www.politika.rs/rubrike/Ekonomija/Potrosacki-krediti-ispali-iz-zakona.lt.html>, access 13.08.2013.

²⁹⁸ Official Gazette of the Republic of Serbia no. 79/2005.

²⁹⁹ Article 2, Paragraph 1, item 9, Law on the Protection of Financial Services

³⁰⁰ Article 18, Paragraph 1, Law of Obligations, "Fig. SFRY", no. 29/78, 39/85, 45/89 - Decision USJ and 57/89, "Official Gazette", no. 31/93 and "Official Gazette", no. 1/2003 - Constitutional Charter.

related to reference elements that are officially published, ban on referral business policy provider in terms of the essential elements of the contract, the obligation that the bank and the provider of leasing are obliged to advertise credit and deposit services where the advertisement message includes an interest rate or any other numerical data related to cost revenues, through representative examples which include: the amount of the effective interest rate, which should be written so it can be visible from the other elements; currency; contracting period; indexing criteria; total amount and all the expenses. The law prohibits providers of financial services when advertising to use expressions which describe credit or leasing free if the credit or leasing approval is conditioned by the conclusion of another contract or is subject to anything that creates obligation to the user. The user has the right to withdraw from the loan agreement, agreement on overdraft, issuance and use of credit cards, leasing contracts and financial negotiations – within 14 days of the conclusion of the contract, without giving any reasons for withdrawal. In the loan agreement that is secured by a mortgage, as well as contracts whose object is purchase, or financing the purchase of real estate, the user can cancel the contract provided that he has started using the credit or finances. The user has the right at any time, entirely or partially, to carry out their obligations provided by the loan agreement. In this case, the user has the right to reduce the total credit cost by the amount of interests and charges for the remaining period of the contract; and the bank, in the cases determined by law, may contract fee for early repayment and only if the fixed nominal interest rate has been determined for the early repayment period. The exceptions are the credit agreements which are the subjects of the real estate purchase. Also, contract must include data about an interest paid by the bank, bank interest rate for interest calculation, with information whether it is fixed or variable and if it is variable – there must be some elements whose change affects the change in interest rates, periods when the bank will change them, as well as the method applied for the interest calculation. Also, the novelty in consumer protection field is that bank is allowed to assign one contract to one bank only.

Consumer credit contracts are regulated in the Republic of Croatia by the Consumer Credit Act³⁰¹, which was passed in 2009. Prior Republic of Croatia, Republic of Slovenia regulated this field by the law on its European way³⁰². The term consumer credit defines Law, stating that it is a “legal transaction by which one party agrees to make available to the other a certain amount of cash for a fixed or indefinite period of time, for any purposes or purposes set forth, and the other contracting party assumes the obligation to pay the agreed interest, or the agreed fees and to return the used amount of money on time as well as any other legal transaction, which is economically equal to this legal work³⁰³. The Republic of Croatia implemented Directive 2008/48/EC into its national legislation³⁰⁴. Except the consumer credit contract³⁰⁵, this Law regulates information and loan agreement rights³⁰⁶,

³⁰¹ Official Gazette 75/09, 112/12

³⁰² Slovenian law on consumer credits from 2000 was actually regulating credit agreement forms such as deferred payment of goods and services, loans, especially cash credits and overdrafts on current accounts, as well as other financial arrangements that have the same purpose as a loan in economic terms. This law defined the obligations prior to conclusion of credit agreement, the content of the contract, conditions for contract termination, and conditions for repayment before the agreed term, as well as mathematical equation for calculating the effective interest rate method. Slovenian law was dictating terms for credit mediation and responsibilities for the control of credit institutions. This regulation was also defining the required content for advertising of credit arrangement, so that every advertisement must contain representing and clear example of calculation of the total cost of the loan.

³⁰³ Art. 2 par. 15 Law on Consumer Credit.

³⁰⁴ Art. 1 Law on Consumer Credit

³⁰⁵ In terms of the consumer credit: "The loan agreement is a contract in which the lender approves or promises to grant consumer credit in the form of deferred payment, loan or other similar financial settlement, unless the contract of providing continuous service or product delivery to the same species when a consumer pays for such services or products during their entire delivery in the form of a meal." (Article 2, Item 3.) cf. art. 1021. Law on

where borrower presents a consumer who takes a loan under the terms and for the purposes prescribed by the law³⁰⁷. Misuse of certain provisions of the Consumer Credit Law made Croatian legislator to amend the current law, which should prevent such abuses in the future³⁰⁸. The amendments to the Act revoked the exemption from the Act for loans of less than HRK 1,500.00 and the exemption for loans on collateral pledge ensuring consumer protection in these credit relationships. The Draft Law on Amendments to the Law on Consumer Credit Act states that, in practice these exceptions were misused, which guaranteed loan value less than HRK 1500 and the collateral loan without the approval of the Ministry of Finance and were approving multiple loans lower than HRK 1500 on usurious terms to the consumer. The same practice was present at granting of pledge³⁰⁹. These Amendments abolished these exemptions and since they are in accordance with the principle of maximum harmonization of the Law and in full compliance with the provisions of Directive 2008/48/EC provisions of the obligation to assess credit worthiness of the consumer³¹⁰ have been taken and mandatory licensing of all providers of consumer credit³¹¹ was introduced. Also, creditor is bound to define parameters which will change the variable interest rate³¹² and is obliged, in accordance with the provisions of Directive 2008/48/EC, prior to the conclusion of the loan agreement, to warn consumer of the risks, clearly and unequivocally³¹³. If the creditor is going to change the interest rate in the loan agreement that is in progress, he will be able to do so only with the consent of the consumer whose loans are in process³¹⁴. Furthermore, the Law regulates the effective interest rate which must not exceed the limit of the interest rate stipulated in the Law of Obligations³¹⁵ which provides consumer protection of usurious interest rates and various fees³¹⁶. Accordingly, consumer

Obligations (Official Gazette 35/05, 41/08, 125/11). “ By the Credit Agreement bank obliges the borrower to make available a certain amount of cash for a fixed or indefinite period of time, for any purposes or purposes not identified, and the user commits to pay the bank the contractual interest rate and to return the used amount of money on time and the way it was agreed.”

³⁰⁶ In terms of the Consumer Credit: A consumer is a natural person who, in transaction covered by this law operates outside business activity or self-employment (Art. 2, p. 1), while Art. 5, p. 1 of the Consumer Protection Act of the Republic of Serbia stipulates that “the consumer is exclusively a natural person who obtains market goods or services for purposes other than their intended business or other commercial activity.”

³⁰⁷ Art. 1 Law on Consumer Credit

³⁰⁸ As a misuse in the Draft Law on Amendments to Law on Consumer Credit (PZ 147) is said to be increasing number of creditors, offering consumer loans with extremely adverse conditions making use of the specific provisions of the former Act on Consumer Credit according to which they are not obliged to obtain authorization to provide a service of consumer credit from the Ministry of Finances assembling such loan agreements which are not subjects of the provisions of the Law. The legislator further states that creditors were offering loans to consumers with high interest rates which consumers were not able to pay after some period of time, which brought them to the great financial burden and finally to the edge of existence; Available at: <http://www.sabor.hr/Default.aspx?art=49547>, access 02.08.2013..

³⁰⁹ PZ 147, page 3. Available at: <http://www.sabor.hr/Default.aspx?art=49547>, access 02.08.2013.

³¹⁰ Art. 8 Of the Consumer Credit

³¹¹ Approval for the provision on the consumer credit issued by the Ministry of Finance within 60 days of request receipt and for a period of 3 years; Art. 21, p. 3. Conditions which credit providers must meet for giving service of lending to consumers are prescribed more detailed in the Regulations on Approval for the Provision of Consumer Credit which came into force on January, 28th 2010. Credit institutions, credit unions and leasing companies are exempted from this provision because they also approved by Croatian National Bank (HNB) and Croatian Agency for Supervision of Financial Services (HANFA).

³¹² Art. 11, p 2, Law on the Consumer Credit: The parameters may be, for example, reference interest rate (EURIBOR, LIBOR), the Consumer Price Index and the like, changes which do not depend on the will of a Contracting Party.

³¹³ Art. 11a (4). Law on Consumer Credit

³¹⁴ Art. 11a (6) of the Consumer Credit.

³¹⁵ Art. 20a of the Consumer Credit

³¹⁶ In this regard, the provisions from Art. 44-48 of the current Law on Consumer Protection of the Republic of Serbia regulate the protection of consumers in exercising their rights under contracts that contain unfair contract

lending, provided by creditors, others than credit institutions, credit unions and leasing companies, must be solely dedicated crediting and cannot be the main activity of the creditor, but these loans are given for the purpose of performing basic activities of the creditor (e.g. sale of goods and services), and all entities that will grant consumer loans or interfere with their approval, must obtain an operating license issued by the Ministry of Finance³¹⁷. Harmonization of the legal framework for the protection of the consumers at the conclusion of consumer loans with the EU *acquis*, introduced so-called credit intermediary into Croatian legal system who is in the law, as well as in Directive 2008/48/EZ, defined as natural person or legal entity that is not a creditor and who, in scope of his activities or leisure occupations and on the basis of power of attorney of the creditor, for compensation in money or other agreed financial form: presents or offers credit agreements to consumers, pursuing other preparatory work for consumers related to the loan agreement or enter into credit agreements with consumers on behalf of creditors³¹⁸. Credit intermediaries are obliged, in advertising or in a document for the consumer to specify the scope of their authority, especially whether they work with the number of creditors or as an independent broker; specify the amount of compensation, if any, consumer is obliged to pay for his services, or to agree a fee with the consumer in writing or another durable medium before the conclusion of the contract and finally to tell the creditor the amount of compensation, if any, which the consumer is required to pay with a credit intermediary for his services for the purpose of calculating the EIR. Monitoring of the implementation of the Law is governed by the economic powers of inspectors to act in cases of provision of services at consumer lending and brokerage in consumer credit without the approval of the Ministry of Finance³¹⁹. In this case, inspector's decision, without delay, prohibits the provision of consumer credit and seals the business premises of the creditor³²⁰. In accordance with the provisions of Directive 2008/48/EC Croatian legislator encourages alternative dispute resolution³²¹. In all disputes between consumers and creditors, which arise in the application of the provisions of the Law, may file a motion for mediation Conciliation Centre of the Croatian Chamber³²² of Commerce; a deal that closes in conciliation proceedings before the Conciliation Centre of the Croatian Chamber of Commerce has an executive title.

Conclusion

European Union has been emphasizing for many years consumer protection as one of the most important segments, which requires special attention. In order to create increased consumer protection and greater transparency of consumer loans at the unique European market, Directive 2008/48/EC was adopted. New legislative framework, adapted to changes on the financial market, has brought a number of innovations in the field of consumer protection among the Member States. Except that, unlike the previous Directive 87/102/EEC, based on the principle of maximum harmonization, and regulates the minimum legislative framework for each of the Member States, the Directive 2008/48/EC on consumer credit contract in a matter of consumer lending introduces a number of novelties. The introduction

terms and therefore are void under the law, as well as after provisions of Article 8 and Article 26 paragraphs from 1 to 3 Law on the Protection of Financial Services.

³¹⁷ Art. 21a (1) and (2) Law on the Consumer Credit

³¹⁸ Art. 2 (6) of the Consumer Credit Law

³¹⁹ Supervision in the implementation of the Law on Consumer Protection of the Republic of Serbia is regulated by the Art. 148 of the Law

³²⁰ Art. 23a (2) Law of the Consumer Credit

³²¹ Out of court settlement of consumer disputes is governed by Art. 132 of the current Law on Consumer Protection of the Republic of Serbia and article 40-50 of the Law on Protection of Financial Services.

³²² Mediation is conducted in accordance with the Rules of Conciliation of the Croatian Chamber of Economy (Art. 24, p. 2 of the Law on Consumer Credit)

of credit intermediaries as an entirely new entity in consumer lending, the need to inform consumers in the pre-contractual and contractual stages and obligation to conduct assessment of creditworthiness of consumers are some of the important ones that we emphasized. The first concrete steps in the approximation of the laws of the Republic of Croatia to the European Union regulations on consumer credit contract were made in 2003, when the Consumer Protection Act was enacted. This Law implemented provisions of Directive 87/102/EEZ into Croatian national legislation. Adoption and entry into force of Directive 2008/48/EC of the European Parliament and the Council of 23 April 2008 about the consumer credit contracts, the Croatian legislator is facing a new challenge further harmonization of positive legislation in the field of consumer protection with the EU acquis. Directive 2008/48/EC underlines the obligation of Member States to take care of responsible lending and protect the financial interests of consumers, as well as amendments to the existing legislative framework with a goal to further protect consumer users of consumer credit. Namely, the turbulent developments in the financial market, further need to ensure a high level of consumer protection appeared, as well as weaker contracting party, in order to strengthen consumer confidence. In addition, it is needed to ensure that the areas of consumer credit lending movement take to offer optimal conditions for both parties – both creditor and consumer. According to that, in Republic of Croatia was adopted Consumer Credit Law and its recent amendments expanded the scope of its application in order to further strengthen consumer protection in the consumer credit business. In Republic of Serbia, Directive 87/102/EEC has been implemented in the previous Law on Consumer Protection containing provisions that provide the basic elements for concluding contract of consumer credit. The current Consumer Protection Law stipulates that financial services are banking and credit services, insurance and pension insurance services related to pension funds, investments and payment services, but the *lex specialis* named Law on Protection of Financial Service adopted in 2011 has implemented Directive 2008/48/EZ into national law. Significant changes have been introduced into Europe, and thus the Serbian and Croatian law consumer credit Directive 2008/48/EC, should provide positive results in protecting consumers, but, as always, time is the best indicator of whether this will actually come true.

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THE FINANCIAL CRIME IN REPUBLIC OF MACEDONIA APSTRACT

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Abstract

The economic crime as a system of groupings of types of criminal acts with similar characteristics in modern conditions is characterized by a rich and diverse criminal phenomenology, adaptable to all stadiums of the development of society. The financial crime is part of the economic crime which is rapidly evolving and expanding causing huge material damage, as that undermines the foundations of the functioning of any country, especially some that ten years ago transited from contract in a trading economy, what is case of the Republic of Macedonia.

The article presents observations of the current situation with financial crime in the Republic of Macedonia, which highlight the specifics regarding the actions of all subjects included in the fight against this difficult and complex phenomenon. It's rightfully to point out the need for specialized treatment of financial crime in managing financial investigations as well as criminal operating items. For this purpose are applied modern criminality tools and methods derived primarily from the bosom of conspiratorial police and judicial instruments and methods provided by the Law of the Financial Police. Resolved financial crime in the country is not a reflection of reality, given that this area is with extremely high "dark number".

Keywords: Economic crime, financial crime, financial investigations, "dark number"

Introductory remarks

When we are talking about financial crime we always have in mind the fact that he is an integral part of economic crime. Economic crime includes "different actions of violation of the law in performing of market activities by physical or legal entities, which causes harmful effects on the system of economic relations or other market entities (physical or legal entities) in their business relations or as a consumer of goods and services."³²³

Financial crime as typically non-violent crime is performed by offenders who have great ability and professionally knowledge of the financial area. Financial crime has a destructive effect on the national and world economy.³²⁴ He is a typical example of the non-violent and "silent crime" which such as cancer affects all modern societies, which tend to be dealt with in the projected, long-term specialized criminalist and wider social strategy. This

³²³ Kambovski V, Organiziran kriminal, Skopje,2005, page 79

³²⁴ See more: Angeleski M., Ekonomska kriminalistika, Skopje, 2013

crime is dynamic and adaptable, and with all the vehemence erodes the functioning of the financial blood stream or the economic system as a whole and includes several legislative Incriminations which in different countries are differently named.

The financial crime in Republic of Macedonia

Considering the conception of the new Criminal code of the Republic of Macedonia, on the criminal legal protection of the economic relations, the term financial crime primarily include incriminations contained in the head 25 (Crimes against public finances, payment and commerce) and head 30 (Crimes against official duty).

The global analysis of the current situation regarding the scope and dynamics of the solved financial crime in the Republic of Macedonia shows no particular consistency. In the period 2002 - 2012 average of 615 perpetrators are reported and 907 perpetrators of Crimes against official duty. (Presented in table 1)

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Crimes against public finances, payment and commerce	759	490	632	580	599	569	596	543	620	472	285
Crimes against official duty	489	685	846	957	773	930	1112	1061	1067	825	317

Table 1: The reported perpetrators according to the groups of criminal acts³²⁵

The data of the State Statistical Office for the period 2007 to 2012 show that the number of the persons accused for Crimes against public finances, payment and commerce, decreases, with the exception of 2011. In contrast to them, the number of the persons accused for Crimes against official duty, in this period mainly increases. You can observe that the highest percentage of accused persons are found guilty, while an insignificant number of accused persons are not found guilty, no matter it is stopped procedure, exemption or rejection of the accusation. Displayed statistics obviously show that in the case law, safety measures are almost completely neglected. (Presented in table 2)

Table 2: Accused adults according to the crime and the type of the decision

	Year	Total accused persons	Guilty	Not found guilty			Security measures
				Procedure stopped	Free od accusation	The accusation is rejected	
Crimes against public finances, payment and commerce	2007	365	268	47	13	37	/
	2008	312	251	20	20	20	/
	2009	266	204	19	21	22	/
	2010	263	203	27	10	23	/
	2011	308	240	30	17	21	1
	2012	285	212	43	15	15	/
Crimes against official duty	2007	256	153	42	38	23	/
	2008	291	175	46	38	32	/
	2009	343	167	93	43	40	/
	2010	262	142	54	37	29	/
	2011	365	133	104	87	41	/
	2012	317	150	86	41	40	/

³²⁵ <http://www.stat.gov.mk/Publikacii/2.4.12.09.pdf>

For evaluating the effects of the fight against financial crime essential mean have insights that refer of the proportion between the number of the convicted persons and the implementation of the measures confiscation of the property and deprivation of objects. (Presented in table 3) For a period of six years 2004-2009 the number of persons convicted for Financial Crime generally increases. This increase is followed by pronouncing of an insignificant number of measures of the confiscation of the property which is almost constantly reduced.

The measure seizure cases have common applications in a growing number of criminal offenses. From 2004 to 2007, this measure is often pronounced, and in 2008 with the slight decrease of convicts, to reduce the number of measures imposed seizure cases in 2009 to increase again.³²⁶

Year	2004	2005	2006	2007	2008	2009
Total convicted	8097	8845	9280	9639	9503	9801
Deprivation items	503	357	537	712	633	963
Confiscation	91	80	30	0	18	30

Table 3. Convicted adults under imposed security measures, imposed confiscation of property³²⁷.

The available data from the Bureau of Statistics for the period of 4 years (2007-2010) of surface discharge of interesting observations about the ratio groupings of financial crimes against the number of measures imposed confiscation of property and seizure of items. (Presented in table 4)

Year	2007			2008			2009			2010		
	Total	confiscation	seized items	Total	confiscation	seized items	Total	confiscation	seized items	Total	confiscation	seized items
Crimes against public finances, payment and commerce	268	/	43	251	7	53	204	6	61	203	8	39
Crimes against official duty	153	/	8	175	/	7	167	4	4	142	3	13

Table 4. Convicts who have been pronounced confiscation or seizure items.

These official statistics show that in crimes against public finances, payment and commerce, the number of convicted offenders observed decline on account of the fact that in 2007 not pronounced any measure of confiscation and the next years have seen a slight increase in the number its pronouncing. The pronouncing of the measure providing for temporary seizure of items and are noted growing number of its application. Given the fact that these crimes are big financial gains conclusion that these measures are underrepresented in judicial practice.

In 2007 and 2008 has not been given any confiscation in relation to criminal offenses against official duty. In the following two years, 2009 and 2010 (when the number of sentenced in a mild decline), imposed unexceptional number of measures for confiscation.

Analysis of cases conducted by the courts in the Republic of Macedonia in 2010 and 2011³²⁸ shows that insignificantly apply these measures. The total of 154 observed cases

³²⁶See: Goceva E. Master Thesis: financial investigations and confiscation of proceeds of crime, page.107

³²⁷ www.stat.gov.mk statistical review 2.4.8.07 (594), statistical review 2.4.9.11 (631), statistical review 2.4.10.12(665), statistical review 2.4.11.15 (698)

corrupt about 174 crimes that are acted upon in 2010 only 6 cases (4%) is a decision for or provide temporary seizure, while in 97 cases (63%) are not adopted solutions implementing some of the measures for providing or subtraction.³²⁹

Out of 174 monitored cases covered by 194 offenses, who acted in 14 courts in the country, only 8 cases (5%) of a decision on temporary seizure or securing property, while in 87 cases (50%) are not submitted solutions for implementing some of the measures for providing or subtracting from the received data and there is little use of temporary security measures and confiscation of objects and property.³³⁰ The notion of providing temporary objects and properties implied timed freezing, seizure or blocking of funds, bank accounts, financial transactions or criminal proceeds that are associated specifically with certain crime, so such objects or property to be available during of the criminal proceedings. Although this is one of the newer procedural means (together with the special investigative measures have enriched judicial instruments for the purpose of combating organized crime), confirming the notion that the effects of case law regarding this minor.

Financial investigations are conducted in parallel with criminal proceedings, and they reveal income from crime, determines one's movable and immovable property should be seized temporarily, in order to create the conditions, such property afterwards finally confiscated. The effects come to the particular expression if the function model of practice teamwork that involves handling of several specialized officials of several state organs that are responsible for conducting financial investigations and conducting operational criminal cases.

To deal with this kind of crime, it takes highly trained and professional cadres that carried out financial investigations using sophisticated methods resulting from the bosom of the Criminal Procedure Act, the law on Financial Police and other statutory regulations. Undoubtedly the special investigative measures greatly facilitate the fight with heavy forms of economic crime, but we should not neglect the importance of operational tactical measures and investigations as instrumentalism for initial detection of this type of crime.

Pursuant to statutory indirect methods of proving financial crime stipulated in the Law on Financial Police, specialized officials mostly used: the method of proving the property, the method of proof of net worth and the bank deposits method, while the percentage margin methods and special items are at least used.³³¹

Empirical studies show that officials specialized in dealing with financial crime generally rely on trigger special investigative measures, the practice of which the most common are: inspect and search a computer system, simulated opening bank accounts and registering simulated legal entities.³³² This shows that the Macedonian criminal practices give absolute preference to use the conspiratorial instruments, although material traces remain on company records can innovate, processed and evaluated by the public and police through transparent instruments or criminal activities.

Concluding remarks

Economic crime is evolving in several areas thus causing huge negative effects are devastating damage inflicted economic system. Financial crime is one of the most difficult

³²⁸ http://www.all4fairtrials.org.mk/Main_files/Korupcija_2011_mkd.pdf

³²⁹ www.all4fairtrials.org.mk/Main_files/Korupcija%20Izvestaj%202010%20MKD%20-%20Slamkov.pdf

* The research is part of the "Program for monitoring of court cases relating to corruption" prepared by the Coalition "All for Fair Trials", with the help of the European Union

³³⁰ http://www.all4fairtrials.org.mk/Main_files/Korupcija_2011_mkd.pdf

³³¹ This situation is empirically confirmed by two recent studies, which rely on a survey of about 50 specialists employed by the Ministry of Interior and the Financial Police.. See: Goceva E., *ibid.*, page.121-142, Kuzmanoska M., *ibid.*, page 130-140

³³² See more: Goceva E., *ibid.*; Kuzmanoska M., *ibid.*;

forms of economic crime that carried perpetrators have legitimate properties in society arising from the performance of office, employment or properties acquired under any law.

From the official data of the State Statistical Office can be concluded that in the period 2002-2012, the prevalence of known financial crime in the country has seen some inconstancy seen the number of reported and convicted offenders committed crimes against public finances, payment trade and commerce and crimes against official duty. The pronouncing of security measures is not a characteristic of this period and almost is not represented.

Apart from safety measures, the measures for the confiscation and seizure cases are more common, but not to the extent that correspond to the number of defendants.

Specialized officials in conducting financial investigations commonly used three indirect methods: the method of proving the property, the method of proof of net worth and the bank deposits method.

Contemporary inevitable tool to combat financial crime (indeed with any other form of organized crime) impose special investigative measures, in Macedonian legislation introduced in 2004 by amending the existing Law on Criminal Procedure. Police practice shows, and this is confirmed by the latest police empirical research that when dealing with financial crimes in the country, workers often implemented the following three special investigative measures: inspect and search a computer system, simulated opening bank accounts and registering simulated legal entities.

There is no doubt that the fight against financial crime as an unconventional form of organized economic crime should lead specialized personnel with a university degree (criminal and economic), which should constantly upgrade their knowledge to improve its capacity to deal with this phenomenon.

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NEW STANDARDS IN EU CONSUMER RIGHTS PROTECTION? THE NEW DIRECTIVE 2011/83/EU

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Abstract

In recent years, consumer law has come more and more into the focus of legislation within the EU. One of the EU's key objectives, completing the final stage of the internal market, is to place consumer rights in the centre of it. Following the adaption of various consumer law measures for some decades, the EU had undertaken a thorough review of its consumer *acquis*. After years of consultations, the Consumer Rights Directive 2011/83/EU, which was supposed to set new standards of consumer protection, came into force and will have to be implemented by the Member States by 13 December 2013.

Renouncing its principal practice of minimum harmonisation in the area of consumer law, i.e. allowing Member States on the basis of Directives to adopt more protective rules, the EU legislator now turned to a targeted full harmonisation approach by means of the Consumer Rights Directive, aiming at increasing the consumer protection across the EU by bringing together the currently distinct laws for distance selling and off-premises contracts as well as other types of consumer contracts in a single instrument.

The article briefly introduces the background of the Directive and discusses the shift in means of harmonisation concepts. Then it analyses the scope, concepts and content of the Directive, which mainly brings considerable reforms in the areas of information requirements and the right of withdrawal. Taking into account the Directive's improvements and shortcomings, it concludes the need for further harmonisation and a uniform and universally applicable set of European consumer rights.

Keywords: Consumer rights protection, EU, harmonisation

Introduction

The new Consumer Rights Directive 2011/83/EU³³³ (hereafter: CRD), which was published on 22 November 2011 and came into force on 12 December 2011, has to be implemented in national law by the EU Member States by 13 December 2013. Its objective is to increase consumer protection across the EU by bringing together the currently distinct national laws for distance selling and off-premises contracts as well as other types of consumer contracts in a single instrument. According to the Directive's aim, a real business-to-consumer (B2C) internal market shall be achieved, striking the right balance between a high level of consumer protection and the competitiveness of enterprises.³³⁴

By 13 June 2014, the Consumer Rights Directive (CRD) will replace the current Directive 97/7/EC on the protection of consumers in respect of distance contracts (*Distance Selling Directive*)³³⁵ and the current Directive 85/577/EEC to protect consumers in respect of contracts negotiated away from business premises (*Doorstep Selling Directive*)³³⁶. The

³³³ OJ 2011 L 304/64.

³³⁴ See: Recitals 4-6 CRD.

³³⁵ OJ 1997 L 144/19.

³³⁶ OJ 1985 L 372/31.

following Directives will be partly amended but remain in force for the remaining parts: Directive 1999/44/EC on certain aspects of the sale of consumer goods and associated guarantees³³⁷ and Directive 93/13/EEC on unfair terms in consumer contracts³³⁸.

With its more systematic approach and its conceptual about-turn from minimum standard harmonisation to full harmonisation, the new Directive on Consumer Rights is supposed to be a milestone in the development of the EU consumer law. However, it is doubtful, whether the new Directive will meet the needs and challenges of an up-to-date consumer rights protection, which further economic and technical developments of present and future times will entail.

This essay will attempt to evaluate the new Consumer Rights Directive by scrutinizing its aim and realization in terms of content. It starts with the history of the Directive and discusses its new approach of targeted full harmonisation. After that, the scope and the concepts of the Directive will be explained. Then, the main content of the Directive will be examined, systematically subdivided into the reforms in the areas of information requirements and the right of withdrawal. Finally, the Directive as a whole will be evaluated accordingly.

Development of the Consumer Rights Directive

The beginning of harmonising European Consumer Law goes back to the early 1980s. After the ideas of US consumer protection were inherited by the European Economic Community (EEC) and slowly developed in its Member States, the Commission widened its priorities to achieve a “Common Market” which should later become the “Internal Market”. Previously, in accordance with the classical notion of free trade, the increase of life quality was dependent on the promotion of a European policy laying its focus on production and distribution. Consumer welfare and higher standards of living were quasi automatic by-products of market freedoms when certain conditions were fulfilled.³³⁹ Only with the Single European Act³⁴⁰ from 1987, the objective of achieving the Single European Market in terms of free movement of persons, goods, services and capital was established in Art. 8a EEC (now: Art. 26 TFEU). The newly added Art. 100a EEC (now: Art. 114 TFEU) granted the Council of Ministers (CoM) in cooperation with the European Parliament (EP) extensive powers to enact “measures” establishing and improving the functioning of the internal market. From that point on, consumer policy in the triple sense of freedom of choice, legitimate expectations and protection of legal interests played an increased role in the realization of the internal market.³⁴¹

In short time intervals, several Directives on consumer protection were enacted. In the field of consumer contract law, the relevant Directives are: Doorstep Selling Directive 85/577/EEC³⁴², Consumer Credit Directive 87/102/EEC³⁴³, Package Travel Directive 90/314/EEC³⁴⁴, Unfair Terms in Consumer Contracts Directive 93/13/EEC³⁴⁵, Distance Selling Directive 97/7/EC³⁴⁶, Consumer Sales Directive 1999/44/EC³⁴⁷ and Service Directive

³³⁷ OJ 1999 L 171/12.

³³⁸ OJ 1993 L 95/29.

³³⁹ Bourgoignie, Thierry: *Consumer law, common markets, and Federalism in Europe and the United States*, Berlin 1986, p. 200; Reich, Norbert: *Economic Law, Consumer Interests and EU Integration*, in: Micklitz, Hans-Wolfgang/ Reich, Norbert/ Rott, Peter: *Understanding EU Consumer Law*, Antwerp 2009, p. 9.

³⁴⁰ OJ 1987 L 169/1.

³⁴¹ Reich, p. 12.

³⁴² OJ 1985 L 372/31.

³⁴³ OJ 1987 L 42/48.

³⁴⁴ OJ 1990 L 158/59.

³⁴⁵ OJ 1993 L 95/29.

³⁴⁶ OJ 1997 L 144/19.

2006/123/EC³⁴⁸. All these Directives followed a minimum harmonisation approach which led to an approximation of the national laws by allowing different approaches in the Member States, provided that the Directive's basic threshold of protection was maintained. And all of the Directives were based on the basic consensus that the consumer, as weaker party in a contract, had to be protected by legal instruments.³⁴⁹

According to Art. 114 III TFEU, a high level of consumer protection shall be provided within the EU. Choosing Art. 114 TFEU instead of Art. 169 TFEU as legal basis for consumer protection measures, the objective of Chapter 3 TFEU was highlighted, namely the "approximation of [national]³⁵⁰ laws" (in the area of consumer law), which leaves national law effectively not untouched.³⁵¹ However, having predominantly used the minimum harmonisation approach in consumer Directives for various reasons, the EU-wide standards of consumer protection still differ and cause barriers in the internal market. Therefore, the Commission carried out a review of the consumer *acquis*³⁵², comprising eight Directives: Doorstep Selling Directive 85/577/EEC, Package Travel Directive 90/314/EEC, Unfair Terms in Consumer Contracts Directive 93/13/EEC, Timeshare Directive 94/47/EC³⁵³, Distance Selling Directive 97/7/EC, Price Indication Directive 98/6/EC³⁵⁴, Injunctions Directive 98/27/EC³⁵⁵ and Consumer Sales Directive 1999/44/EC. A comparative analysis of these Directives resulted in the Consumer Law Compendium³⁵⁶ and a database³⁵⁷. However, these results as well as the results of the Study Group on a European Civil Code and the Research Group on EC Private Law (Acquis Group), which had published a Draft Common Frame of Reference³⁵⁸ (DCFR) were not taken into account drafting the proposed Directive on Consumer Rights.³⁵⁹ Instead, the final Proposal for a Directive on Consumer Rights³⁶⁰ encompassed only four of the previously reviewed Directives, namely the Distance Selling Directive, the Doorstep Selling Directive, the Unfair Terms in Consumer Contracts Directive and the Consumer Sales Directive. And finally, this proposal was once again cut to half, so that only the Distance Selling Directive and the Doorstep Selling Directive are included in the final version of the Consumer Rights Directive, which came into force on 12 December 2011.

Targeted full harmonisation to have confident consumers

Designing a new Directive on Consumer Rights, the EU legislator was motivated by the fact that cross-border sales are not taking off either in distant selling (particularly via the

³⁴⁷ OJ 1999 L 171/12.

³⁴⁸ OJ 2006 L 376/36.

³⁴⁹ Heining, C-481/99 [2001] ECR I-9945, para 38; Micklitz, Hans-Wolfgang: *The targeted full harmonisation approach: looking behind the curtain*, in: Howells, Geraint/ Schulze, Reiner: *Modernising and Harmonising Consumer Contract Law*, Munich 2009, pp. 47, 83; Reich, p. 46; Tonner, Klaus/ Fangerow, Kathleen: *Directive 2011/83/EU on consumer rights: a new approach in European consumer law?*, in: EUVR (2012) 2, p. 69.

³⁵⁰ Addition by the author.

³⁵¹ Tonner/ Fangerow, S. 77; Twigg-Flesner, Christian: "Time to do the job properly" – *The case for a new approach to EU consumer legislation*, in: *Journal of Consumer Policy* (2010) 33, p. 357.

³⁵² Green Paper on the Review of the Consumer Acquis, COM (2006) 744 final.

³⁵³ OJ 1994 L 280/83.

³⁵⁴ OJ 1998 L 80/27.

³⁵⁵ OJ 1998 L 166/51.

³⁵⁶ Available online under:

http://ec.europa.eu/consumers/rights/docs/consumer_law_compendium_comparative_analysis_en_final.pdf.

³⁵⁷ Accessible online under: <http://www.eu-consumer-law.org/index.html>.

³⁵⁸ Bar, Christian von/ Clive, Eric/ Schulte-Nölke, Hans (Ed.): *Principles, Definitions and Model Rules of European Private Law – Draft Common Frame of Reference (DCFR)*, Outline Edition, Munich 2009.

³⁵⁹ Nordhausen Scholes, Annette: *Information Requirements*, in: Howells, Geraint/ Schulze, Reiner (Ed.), *Modernising and Harmonising Consumer Contract Law*, Munich 2009, p. 215.

³⁶⁰ COM (2008) 614 final.

internet) or direct selling (particularly in the utilities service sector) and that, on that account, consumers do not sufficiently benefit from the internal market yet.³⁶¹ By considerably increasing the legal certainty for both consumers and traders, disproportionate fragmentation should be eliminated and consumer confidence should be strengthened.³⁶² Therefore, in the new CRD, the EU legislator, renouncing its minimum harmonisation policy being practised in nearly all of the former Consumer Law Directives, opted for harmonisation of the consumer rights at a maximum level in most respects.³⁶³

Minimum harmonisation has been used in the area of consumer protection in the past as a compromise because Member States' legislation already existed or had recently been adopted and these Member States were not yet prepared to accept a binding common standard of consumer rights protection.³⁶⁴ The minimum standard principle reduced the differences in national legislation by opposing a lower or zero protection, while allowing advanced Member States to maintain their higher protection standards or to provide better protection measures in the harmonised areas.³⁶⁵ In this way, the average standard of consumer rights protection in the EU was raised. The Court of Justice of the EU (hereafter: CJEU) also accepted the minimum harmonisation approach, but set in its *Tobacco Advertising* judgment³⁶⁶ and its *Gysbrechts* judgment³⁶⁷ limits to its minimum protection clauses under aspects of the internal market and the proportionality criteria.³⁶⁸

Full harmonisation was only targeted in a few recent Directives, namely in the Distance Marketing of Financial Services Directive 2002/65/EC³⁶⁹, the Unfair Commercial Practices Directive 2005/29/EC³⁷⁰, the Consumer Credit Directive 2008/48/EC³⁷¹ and the Timeshare Directive 2008/122/EC³⁷². The full harmonisation principle, which was introduced in the Consumer Policy Strategy 2002-2006³⁷³ and more clearly stated in the Consumer Policy Strategy 2007-2013³⁷⁴, aimed not only at the an approximation but full unification of the consumer law in the Member States. However, even full harmonisation Directives do not lead to the same law in different Member States as each Member State fills the framework of the Directive in its own way, corresponding with the prevailing specific traditions and features of its own national law body. Consequently, full harmonisation still leaves fields for autonomous national law.³⁷⁵

In spite of strong criticism,³⁷⁶ the EU legislator established the full harmonisation principle in Art. 4 CRD which requires Member States not to "maintain or introduce, in their

³⁶¹ See: Recital 5 CRD.

³⁶² Recital 6-7 CRD.

³⁶³ According to recitals 2 & 13 CRD, Member States remain competent to maintain or adopt national rules in relation to certain aspects of the CRD, such as information duties for other contracts than distance or off-premises contracts (Art. 5 IV CRD), pre-contractual information duties for distance or off-premises contracts (Art. 6 VIII CRD) and the applicability of an off-premises contract threshold (Art. 7 IV CRD), or beyond the scope of the CRD.

³⁶⁴ Tonner/ Fangerow, p. 74.

³⁶⁵ Howells, Geraint/ Reich, Norbert: *The current limits of European harmonisation in consumer contract law*, in: ERA Forum (2011) 12, p. 41; Reich, p. 40.

³⁶⁶ *Germany vs EP and Council*, C-376/98 [2000] ECR I-8419 at paras 103-105.

³⁶⁷ *Gysbrechts*, C-205/07 [2008] ECR I-9947 at para 60.

³⁶⁸ Howells/ Reich, p. 48.

³⁶⁹ OJ 2002 L 271/16.

³⁷⁰ OJ 2005 L 149/22.

³⁷¹ OJ 2008 L 133/66.

³⁷² OJ 2009 L 33/10.

³⁷³ COM (2002) 208.

³⁷⁴ COM (2007) 99.

³⁷⁵ Tonner/ Fangerow, p. 75.

³⁷⁶ See for a collection of these criticisms addressed to the full harmonisation approach in this area: Faure, Michael: *Towards a Maximum Harmonization of Consumer Contract Law?!?*, in: Maastricht Journal 2008/4,

national law, provisions diverging from those laid down in this Directive, including more or less stringent provisions to ensure a different level of consumer protection, unless otherwise provided for in this Directive". This full harmonisation approach may be particularly appreciated by small and medium sized enterprises which do not have sufficient in-house legal teams to give advice on the different national laws in the Member States and whose cross-border sales activities may be only in small quantities which do not justify modifying their contracts, products or packaging according to the new markets.³⁷⁷ However, it can be considered that full harmonisation *per se* does not inevitably have to be the best and most appropriate solution for guaranteeing the highest level of consumer rights protection and for enhancing the consumer confidence. Of course, an extended transposition of EU law concepts encourages an "Europeanisation" of Civil law in the Member States and makes it become similar. But it remains doubtful, whether particular rules in private law, such as the remedies for breach of contract, limitation periods and notification periods actually create trade barriers or distort competition to the extent, that their full harmonisation is necessary.³⁷⁸ Because the maximum harmonisation approach entails the danger of setting minimum standards as a maximum demand, which *de facto* decreases the level of the consumer protection. For example, in some Member States with high standards of consumer protection some consumer friendly rights or remedies can be removed or new hurdles can be created for accessing the courts, if the newly set full harmonisation complies with the former minimum standards.³⁷⁹ In this case, the Consumer Rights Directive's full harmonisation approach would rather disappoint than raise consumer confidence.

To avoid a decrease in consumer protections standards, the CRD does not practise full harmonisation in an absolute sense. By leaving some matters, such as additional pre-contractual information requirements for distance, off-premises and other contracts explicitly in the hands of the Member States, and by leaving the consequences of a breach of the pre-contractual information requirements – with exception of extending the right of withdrawal – to the Member States, it rather follows the principle of targeted full harmonisation. This means that full harmonisation does not cover all fields of the Directive, but leaves room for Member States to adopt or maintain autonomous regulations for problems which are not

pp. 440; Micklitz, Hans-Wolfgang/ Reich, Norbert: *Crónica de una muerte anunciada: The Commission Proposal for a 'Directive on Consumer Rights'*, in: CMLRev 2009, p. 471; Rott, Peter/ Terryn Evelyne: *The proposal for a Directive on consumer rights: no single set of rules*, in: ZEuP 2009, p. 456; Smits, Jan M.: *Full Harmonization of Consumer Law? A Critique on the Draft Directive on Consumer Rights*, in: European Review of Private Law, 2010, Vol. 18, pp. 5-14; Tonner, Klaus/ Tamm, Marina: *Der Vorschlag für eine Richtlinie über Verbraucherrechte und seine Auswirkungen auf das nationale Verbraucherrecht*, in: JZ 2009, p. 277; Twigg-Flesner, Christian/ Metcalfe, Daniel: *The Proposed Consumer Rights Directive – less haste, more thought?*, in: European Review of Contract Law 2009, p. 368; Wilhelmsson, Thomas: *Full harmonisation of consumer law?*, in: ZEuP 2008, p. 225.

³⁷⁷ Howells, Geraint/ Schulze, Reiner: *Overview of the Proposed Consumer Rights Directive*, in: Howells, Geraint/ Schulze, Reiner (Ed.): *Modernising and Harmonising Consumer Contact Law*, Munich 2009, p. 6.

³⁷⁸ *Alsthom Atlantique vs Sulzer*, C-339/89 [1991] ECR I-107.

³⁷⁹ For example, according to § 355 III 3 BGB (German Civil Code) the right to withdraw from a contract has no time limit if the consumer is not properly informed about his right to withdrawal. This provision was adopted to the German Civil Code after the CJEU ruled in Case 481/99 (*Heininger/Bayerische Hypo- und Vereinsbank AG*) ECR 2001 I-09945, that an unlimited right to withdrawal follows from the Doorstep Selling Directive. After this CJEU decision, the German legislator did not only grant the unlimited right to withdrawal to doorstep selling transactions, but to all cases of consumer contracts in which a right to withdrawal exists, such as consumer credit or distance selling contracts. However, according to Art. 10 I CRD the right to withdraw expires after 12 months from the end of the initial withdrawal period in case the trader has not provided the consumer with the information of his right of withdrawal. Implementing the CRD based on the full harmonisation principle, the German legislator is now forced to repeal § 355 III 3 BGB. This means a clear curtailment of the to date more extensive consumer protection.

addressed or covered by the Directive.³⁸⁰ This approach is in perfect harmony with the shared competence of the EU and its Member States in the field of consumer protection pursuant to Art. 4 II f TFEU and the principles of sincere cooperation (Art. 4 III TEU) and subsidiarity (Art. 5 III TEU).

Scope of the Consumer Rights Directive

The original proposal for a CRD aimed to consist of the Distance Selling Directive, the Doorstep Selling Directive, the Consumer Sales Directive and the Unfair Terms Directive.³⁸¹ However, during the legislative process, this purpose was considerably curtailed. This resulted in a CRD, which only includes the former Distance Selling Directive and the Doorstep Selling Directive, plus some general provisions on pre-contractual information duties.

According to Art. 1 I CRD, the Directive shall apply to “any contract concluded between a trader and a consumer”, including off-premises contracts and those concluded by distance means. Beyond that, it also applies to the provision of utilities such as water, gas, electricity or district heating. However, the CRD does not apply to a number of contracts listed in Art. 1 III CRD, including contracts for social services, healthcare, gambling, financial services, immovable property, rental of accommodation, construction or sale of land and buildings and passenger transport services.

Concepts of the Consumer Rights Directive

For the purpose of the Directive, the main concepts and contract types are defined in Art. 2 CRD: A consumer is, according to Art. 2 I CRD, any natural person who is acting for purposes which are outside his trade, business, craft or profession. The Directive here uses the general core definition of the “consumer” which appears in several Directives in similar wording. However, it misses the opportunity to additionally provide a more specific terminology of the consumer in certain areas also covered by the CRD, such as in the sectors of telecommunication and energy. Especially in the telecommunication sector, encompassing e.g. the use of mobile (smart)phones and the internet, the term “user” instead of “consumer” is commonly used, the same as “customer” in the energy sector.³⁸²

The counterpart of the consumer, the trader, is defined in Art. 2 II CRD as any natural or legal person acting for purposes relating to his trade, business, craft or profession in respect of the particular contract.

The contracts, covered by the CRD, can either be sales contracts, service contracts, distance contracts, off-premises contracts or ancillary contracts. According to Art. 2 V CRD, a sales contract is any contract under which the trader transfers the ownership of goods to the consumer who, on his part, pays the price for the purchased goods. In contrast to that, a service contract is any contract under which the consumer pays the trader for a supplied service (Art. 2 VI CRD). A distance contract pursuant to Art. 2 VII CRD, is broadly any contract concluded between a trader and a consumer entirely by means such as internet, telephone, fax etc., where the parties are not at any stage physically present at the same place. An off-premises contract is a contract concluded between a trader and consumer at a location which is not the trader’s business premises (Art. 2 VIII CRD). According to Art. 2 XV CRD, an ancillary contract is a contract in which a third person plays an intermediary role in the

³⁸⁰ Tonner/ Fangerow, p. 78.

³⁸¹ COM (2008) 614 final.

³⁸² See: Framework Directive for Electronic Communication Networks and Services (OJ 2002 L 108/33), Electricity Directive 2009/72/EC (OJ 2009 L 211/55) and Natural Gas Directive 2009/73/EC (OJ 2009 L 211/94).

consumer's acquisition of goods or services supplied by the trader or a third party related to a distance or off-premises contract.

Being aware of the controversial case of so-called dual purpose contracts which cannot explicitly be distinguished from trade or business contracts as they belong to the professional as well as to the private sphere of at least one of the parties at the same time, the EU legislator offered some interpretation guidelines. In accordance with the narrow interpretation of the CJEU in *Johann Gruber*³⁸³ recital 17 CRD contains the consideration that in case of a dual purpose contract where "the trade purpose is so limited as not to be predominant in the overall context of the contract, that person should also be considered as a consumer".

Main content of the Consumer Rights Directive

Beyond providing a high level of harmonisation by implementing the principle of full harmonisation, the CRD brings considerable reforms in the areas of information requirements and the right of withdrawal. These new information requirements and amended rights of withdrawal will replace the still existing Distance Selling Directive and Doorstep Selling Directive, which will formally be repealed by 13 June 2014 (Art. 31 CRD). The key features will be highlighted briefly as follows:

Information requirements

The CRD relies on the information approach which had been followed in all contract-related Directives.³⁸⁴ It starts out from the premise that a consumer, who is provided with all the available information, will make an informed choice. At the same time, an informed consumer is considered to be a confident consumer, who is able and willing to exercise his choice within the internal market, regardless of national borders.³⁸⁵ In order to reach this goal, the CRD introduces several pre-contractual information duties which have to be fulfilled by the trader in order to better protect the consumer and to enable him to consider all relevant facts before concluding a contract. These can be summed up as follows:

a) Product and service information

Arts. 5 & 6 CRD include prescribed information which the trader has to provide the consumer in respect of the offered good and service and in respect of himself or his business in advance before the contract is being concluded. The required information will vary according to whether the contract is a distance or off-premises contract. Without regard to the type of contract, all required information has to be given in a clear and comprehensible manner. In case of distance and off-premises contracts, enhanced information must be provided.

Art. 5 CRD includes a list of information requirements for contracts other than distance or off-premises contracts, which is not exclusive and which encompasses e.g. information about the main characteristics of the goods or service, the identity of the trader, the total price or the arrangements for payment, delivery and performance. The non-exclusiveness of the list is an exemption from the full harmonisation principle and enables the Member States to introduce additional information duties.

Art. 6 CRD enhances the pre-contractual information duties for traders for distance or off-premises contracts to a total number of 20.³⁸⁶ Beyond the main characteristics of the

³⁸³ See: *Johann Gruber vs Bay Wa AG*, C-464/01[2005] ECR 2005 I-00439.

³⁸⁴ See: Reich, pp. 21-26, 45, 46.

³⁸⁵ Nordhausen Scholes, p. 216.

³⁸⁶ In comparison, the Distance Selling Directive in its Art. 4 I only includes a number of nine pre-contractual information requirements, whereas the Doorstep Selling Directive does not separately mention any pre-

goods or service, the identity of the trader, the total price and the arrangements for payment, delivery and performance, the trader also has to inform the consumer about his geographical address, his place of business, the cost of using means of distance communication, the details of exercising the right of withdrawal and various technical details of the contract or the purchased goods or service, e.g. the interoperability of digital content with hardware or software being used by the consumer. In addition to that, Arts. 7 & 8 CRD determine formal (information) requirements for off-premises contracts (Art. 7 CRD) and distance contracts (Art. 8 CRD). Listing 20 information duties for the trader in cases of distance and off-premises contracts, and still giving the Member States the opportunity to impose additional information requirements,³⁸⁷ on the one hand provides the consumer with all necessary information before concluding a contract. On the other hand, the large amount of information to be read and understood by the consumer also might confuse him and deter him from checking the relevant information carefully.³⁸⁸

b) Increased price transparency

For any kind of contract, according to Art. 5 I c and 6 I e CRD, traders have to disclose the total cost of the product or service, as well as any extra fees. This will especially strengthen the rights of online shoppers who will not have to pay a charge or other cost if they were not properly informed before they placed an order.

c) Clear information on associated costs in case of returning goods

In cases where the trader wants the consumer to bear the cost of returning goods after he changed his mind and withdraws from the contract, he has to clearly inform the consumer about that beforehand, otherwise the trader has to pay for the return himself (Art. 6 I h, 14 I 3 CRD). According to recital 36 CRD, in cases of goods purchased online or by other means of distance selling, the traders must clearly give at least an estimate of the maximum costs of returning bulky goods (e.g. furniture), before the purchase.

d) Elimination of hidden charges and costs on the internet

The CRD also protects the consumer against “cost traps” in the internet, e.g. when fraudsters try to trick people into paying for declared or expected “free” services, such as horoscopes, recipes or any forms of downloads. According to Art. 8 II CRD, a consumer has to explicitly confirm that he understands that a charge applies for a service before he may become liable for that charge.

e) Ban of pre-ticked boxes on websites

Currently, consumers are often forced to untick so-called “pre-ticked” boxes when purchasing a service on websites, which offer them an additional service bearing a charge, such as travel insurances or service packages. Art. 22 CRD prohibits additional services in online shopping, which are offered through so-called ‘pre-ticked’ boxes.

contractual information duties for the trader. Just according to Art. 4 Doorstep Selling Directive, the trader is required to “give consumers written notice of their right of cancellation within the period laid down in Article 5 [which is dated between the offer or the conclusion of the contract]*, together with the name and address of a person against whom it can be exercised”. *Addition by the author

³⁸⁷ Art. 6 VIII CRD.

³⁸⁸ Wendlandt, Bettina: *EC Directives for Self-Employed Commercial Agents and on Time-Sharing – Apples, Oranges and the Core of the Information Overload Problem*, in: Howells, Geraint/ Janssen, André/ Schulze, Reiner (Ed.): *Information Rights and Obligations*, Aldershot 2005, pp. 76, 74.

f) Information on digital content

Information on digital content will have to be clearer, including regarding its compatibility with hardware and software (Art. 5 I g, 6 I s CRD) and the application of any technical protection measures (Art. 5 I h, 6 I r CRD), such as any limit on the consumer's right to make copies of its content.

g) Ban of the surcharges for the use of credit cards and hotlines

Art. 19 CRD prohibits traders to charge consumers more for paying by any means of payment (especially credit card payment) than what it actually costs the trader to offer such means of payment. Traders, who operate telephone hotlines allowing the consumer to contact them in relation to the contract, will be prohibited to charge more than the basic telephone rate for the telephone calls (Art. 21 CRD).

2.) Right of withdrawal

The purpose of the right of withdrawal is the protection of the consumer from making rash decisions.³⁸⁹ Within a relatively short cooling-off period, the consumer may ponder on his decision to conclude a contract, sometimes even if the contract already has been performed by the parties. The CRD strengthens the consumer rights also in the case of withdrawal and clarifies the prevailing rights and duties, without disregarding the interests of the trader.

a) Extension of the withdrawal period (cooling-off period)

According to Art. 9 I CRD, the current 7-days-period under which consumers can withdraw from a distance or off-premises contract is extended to 14 calendar days. In cases of a service contract, it will start at the day of the conclusion of the contract (Art. 9 II a), in cases of sales contracts, from the moment the consumer receives the goods (Art. 9 II b). In certain circumstances, the cooling-off period will be extended, e.g. to 12 months, if the seller has not clearly informed the consumer about his right of withdrawal (Art. 10 I CRD) or to 14 additional days, if the trader provided the consumer with the required information within 12 months from the start of the regular withdrawal period (Art. 10 II CRD). The right of withdrawal will also be extended to circumstances including solicited visits or online auctions, if the counterpart is a professional trader.

Exemptions from the right of withdrawal are listed in Art. 16 CRD, including e.g. service contracts after the service has been fully performed (e.g. music or video downloads from the internet up until the point at which the downloading process begins), supply of goods which were personalised or made according to the consumer's specifications or are liable to deteriorate or expire rapidly (e.g. food).

b) Introduction of an EU-wide model withdrawal form

According to Art 11 I CRD, if a consumer changes his mind and wishes to withdraw from a distance or off-premises contract, he can use a harmonised model withdrawal form for consumers, which is provided in Annex I (B) of the CRD. Nevertheless, pursuant to recital 44 CRD, the consumer is still free to withdraw in his own words using any means of communication.

c) Enhanced refund rights

In order to accelerate the withdrawal process, Art. 13 I CRD imposes on the trader a duty to reimburse all payments received from the consumer, including the delivery costs,

³⁸⁹ Loos, Marco: *Rights of Withdrawal*, in: Howells, Geraint/ Schulze, Reiner (Ed.), *Modernising and Harmonising Consumer Contract Law*, Munich 2009, p. 239.

within 14 days of the consumer withdrawing from the contract. As a countermove, according to Art. 14 I CRD, the consumer is obliged to send back or hand over the goods no later than 14 days from the day he communicated his decision to withdraw to the trader. In order to guarantee restitution with simultaneous performance, Art. 13 III CRD gives the trader the right to “withhold the reimbursement until he has received the goods back, or until the consumer has supplied evidence of having sent back the goods”. In general, the trader will bear the risk for any damage to goods during transportation, as long as the consumer does not take possession of the goods (Art. 20 CRD).

Conclusion

The landscape of EU consumer law is currently a colourful combination of EU-based and national Member State’s law. Where the EU legislator had been active in forms of Directives, the Member States have reached at least common minimum standards in consumer protection. In the areas in which the EU legislator had remained passive to date, the Member States were able to fill the gap with their own national laws. With regard to the Distance Selling Directive and the Doorstep Selling Directive, which will be repealed by the new CRD as of 13 June 2014, nowadays 27 national rules on distance and doorstep selling exist.³⁹⁰ Against the background of this current legal situation, the CRD’s targeted full harmonisation approach is generally to be welcomed.

Following the principle of targeted full harmonisation, the CRD only explicitly leaves some matters, such as additional pre-contractual information requirements for distance, off-premises and other contracts in the hands of the Member States. However, by leaving the consequences of a breach of the pre-contractual information requirements – with exception of extending the right of withdrawal in that case – to the Member States, the CRD comes short of reaching its goal of full harmonisation. Because, if a breach of providing the consumer the required information leads to a claim of damages in one Member State and to nullity in another Member State, the gap of different standards of consumer protection is rather deepened than shortened.³⁹¹ Beyond that, as has been shown above, in some cases, the full harmonisation approach even leads to decreasing the consumer protection standards in some Member States, in favour of creating uniform standards and enhancing legal security for the traders.

Of course, the new CRD improves the situation of consumers in the areas of distance selling and off-premises contracts (formerly known as doorstep contracts), especially with regard to their information and withdrawal rights. Firstly, it enables the consumer to make a well informed decision whether to purchase a good or service from a particular trader or not. Secondly, it extends the cooling-off period and clearly determines with which rights and duties for both contracting parties the consumer can exercise his right of withdrawal.

Therefore, the new CRD shall neither be underestimated nor overvalued. On the one hand, it only merges two former Directives under the roof of a single Directive and missed the opportunity to unite more Directives which had been under review. For instance, it could have included a list of unfair contract terms or established a uniform cooling-off period for all kinds of contracts. On the other hand, executing the step of simplifying and merging

³⁹⁰ After Croatia’s accession to the EU on 1 July 2013 even 28.

³⁹¹ See also: Grynbaum, Luc: *Precontractual information duties: the foreseeable failure of full harmonisation*, in: Schulte-Nölke, Hans/ Tichy, Lubos (Ed.): *Perspectives for European Consumer Law. Towards a Directive on consumer rights*, Munich 2010, p. 11; Gsell, Beate/ Schellhase, Hans Martin: *Vollharmonisiertes Verbraucher-kreditrecht – ein Vorbild für die weitere europäische Angleichung des Verbrauchervertragsrechts?*, in: JZ 2009, pp. 23; Loos, Marco: *Full harmonisation as a regulatory concept and its consequences for the national legal orders. The example of the Consumer rights directive*, in: Stürner, Michael (Ed.): *Vollharmonisierung im Europäischen Verbraucherrecht?*, München 2010, p. 67; Rott/ Terryn, p. 459.

previously fragmented rules into uniform rules in a single regulatory framework, the CRD can serve as a role model for future legislation on EU level. In this sense, it could be seen as a first step and integral part to a common European Contract Law for (at least) civil and commercial cross-border transactions, no matter if it can be realized by amending the Treaty, using the instrument of a Regulation or continuing the practice of (full harmonisation) Directives. Only by providing a uniform and universally applicable set of consumer rights for all EU Member States, will the consumer actually be placed in the centre of the internal market, as has been set as the general objective by the Proposal for a Regulation of the European Parliament and of the Council on a consumer programme 2014-2020³⁹². The aim is that the consumer will not be hesitant to participate in cross-border distance transactions. However, it remains questionable, if any harmonising EU law measures will succeed in bringing cross-border transactions up to the same level as domestic ones. Because of many consumers as well as traders, obstacles of greater significance to cross-border trade are differences in language, cultural attitudes and habits, practical regulations of labelling and packaging, technical standards and court procedure.

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³⁹² COM (2011) 707 final.

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VISITOR MANAGEMENT A SINEQUANON FOR DEVELOPMENT OF FESTIVAL TOURISM IN ABUJA: GEOGRAPHICAL INFORMATION SYSTEM IS APPROACH

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Abstract

This study discusses how geographic information system technology could serve as bases for visitors' management in the development of festival tourism in ABUJA. GIS functionality was used to create digital spatial database for tourist site, hotels, hospital, police station and road network for tourist (visitors) movement within ABUJA. The study involved the design of spatial database for various entities identified in the study area. Geometric data was acquired from satellite imagery through digitizing and the imagery updated through hand-held GPS receiver while attribute data were acquired through social survey. ARCGIS 9.3 was used for database creation where attribute tables were linked with geometric data. Various spatial operations were performed and these include Buffering, Spatial query and Network Analysis (best routes, alternative route and closest facility) to efficiently map tourist (visitors) movement in ABUJA. ArcGIS9.3 provides greater support in giving information about tourist sites and solving routs directions finding problems. The study was concluded by recommending various ways in applying GIS to promptly identify cultural and tourism sites, managing tourist (visitors) movement and solving directions finding problems for visitors' management in festival tourism development in ABUJA.

Keywords: Gis, festival, tourism, tourist site, routes

Introduction

Tourism has emerged as one of the world's major's socio-economic sectors, and has been steadily expanding at an average rate of about 4-5 percent annually during the latter half of the 20th century. The combination of domestic and international tourism is now acknowledged as comprising the world's largest industry. In 1995, tourism globally generated an estimated united state dollars of 3.4 trillion in gross output contributing 10.9 per cent of the world's gross domestic production (GDP), creating employment for about 212 million people and producing united state dollars of 637 billion in government tax revenues.(Guide for Local Authorities on developing sustainable tourism 2001)

The need for the growth of prosperous tourism industry as instrument to sustain jobs and the local economy in the federal capital territory-Abuja cannot be over emphasized. Similarly, environmental and social pressure from increased numbers of visitors could undermine the quality of life and resources on which the industry itself depends or based on, it is for this reason that the understanding of effective visitor management becomes imperative. Visitors are major spenders and therefore very important to tourism development. Visitor expenditure provides jobs in all sorts of sizes of businesses from large to the very small business in our economy, hence, that we manage visitors effectively such that they have quality and memorable experience in Abuja as a destination which will encourage repeat

purchase and recommendations to their friends is essential for long term tourism development. Abuja officially became Nigeria's capital in December 1991, following relocation from the former capital Lagos. It is one of Africa's few purpose built cities (Jibril, 2006; BBC, 2007; Adama, 2007). The City was designed to serve as a model to other Nigerian cities in the way utilities and services are managed.

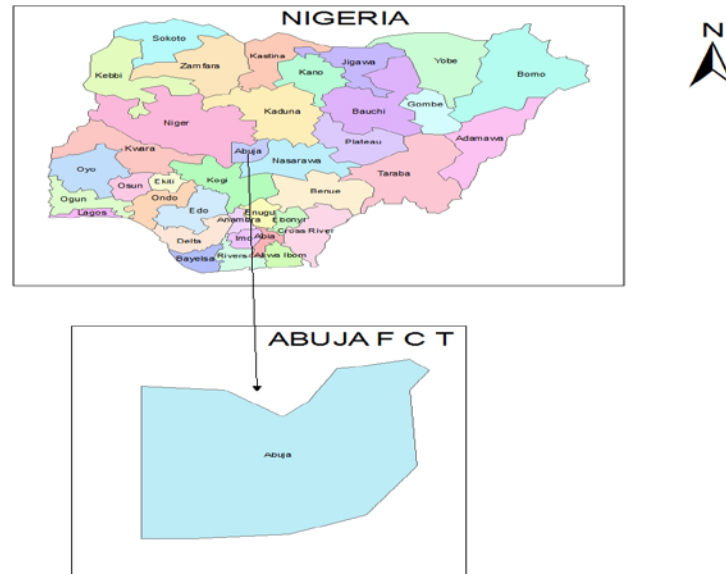


FIG.1 DIAGRAM OF THE STUDY AREA

Concept of visitors

World tourism organization (WTO), the major intergovernmental body concerned with tourism, has led the way in establishing a set of definitions for general use. In 1991, the W.T.O and the government of Canada organized an international conference on travel and tourism statistic in Ottawa, Canada, which were officially adopted by the United Nations statistical commission in 1995 as a set of resolutions and recommendations relating to tourism concept, definitions and classification and explain the various types of visitors. (International tourism: a Global perspective 1997)

International visitors:- Any person who travels to a country other than that in which he/her usual residence and outside his/her usual environment for a period not exceeding 12 months and whose main purpose of visit is other than the exercise of an activity remunerated from within the country visited.

Domestic visitors: - any person is residing in a country that travels to a place within the country and outside his/her usual environment for a period not exceeding 12 months and whose main purpose of visit is other than the exercises of an activity remunerated within the place visited.

Overnight visitors: - any visitor who stays at least one night in collective or private accommodation in the place visited

Same day visitors (excursionists):- visitor who does not spend night in a collective or private accommodation in the place visited.

Visitor: - any person travelling to a place other than that of his/her usual environment for less than 12 consecutive months and whose main purpose of travel is not to work for pay in the place visited.

Festival: as defined by Getz (1991) are "themed public celebration which extends leisure and cultural opportunities beyond every day experiences and choice" these imply the fascination of culture such as traditional dances, masquerades, traditional wrestling traditional cultural events. e.t.c. this constitute fascinating manifestation of our culture which are in high demand by tourist. Bryden (1973), in Okoli (2007) Argued that from early times, tourism has

mainly been motivated by culture, such that people travel to foreign countries with the aim to observe alien culture, visit museums, art galleries for collection of works of arts, visit traditional community to experience festival and cultural events. Festival tourism do imply the practices by which local cultural heritage are been organised optimally for socio-economic benefit of the society.

Visitor service: Visitor service is all about looking after visitors so well that they want to return: visitors comes first (Peter. 2004) Tourism organization cannot survive without visitor judging from the W. T. O. definition of tourism. Giving excellent visitor services plays an important part in helping organization to keep their customers and attract new ones. Once you have got customers you have to look after them. Why? Because unhappy customers don't come back as such there is no repeat purchase. If customers are upset by poor service, for example from a grumpy receptionist or poor facilities, e.g. dirty toilets, they will take their custom elsewhere. And where will they go? To your nearest competitor

Problems of visitors management in Abuja

Since the movement of capital of the Nigeria from Lagos to Abuja in 1991 there was a corresponding growth of the population, the unprecedented in flow of people created the following challenges for managing visitors in: - Heavy traffic congestion to and fro from tourism destination, Lack of adequate parking space for vehicle as a result of increase traffic are major problem in most tourism areas in the city, Air pollution as a result of excessive use of combustion electric generators, vehicles, uncontrolled construction sites, creates air pollution and Lack of define carry capacity

Visitors management in Abuja: The survival of tourism industry

Visitor management is the adequate planning; control and organization of visitor activities to ensure that visitor are manage in such a way as so best meet the need of those who live, work and visit within the said areas or destination. The plan is to manage, and the co-ordination of all way as so best meet the needs of those who live, work and visit within the said areas or destination. The plan is to manage, and the co-ordination of all involve with the visitor, with all interests to communicate a sense of stewardship in all visitors, welcome them and fulfil their expectations. Work in all visitors, welcome them and fulfil their expectations. Work in partnership with industry to provide value for money, high quality, environmentally aware services and facilities. This will improve the quality of services provided by the host to visitors.

Visitor management that put first visitor and community need, if carefully planned developed and managed. Visitors can bring substantial benefit to local host. Developed and developing countries regard the development of tourism cautiously putting in place the best ways or methods to efficiently manage their visitors as an instrument for the survival of her tourism industries. One concept that has achieved great prominence in this regard is sustainable tourism management. World Tourism Organization definition of sustainable management in tourism as "the tourism that meet the needs of present tourists and the host regions while protecting and enhancing opportunities for the future" (W.T.O, 1999) the current WTO conceptual definition of sustainable tourism is as follow: "Sustainable tourism development guidelines and management practices are applicable to all forms of tourism in all types of destination, including mass tourism and the various niche tourism segments. Sustainability principles refer to the environmental, economic and socio-cultural aspects of tourism development and a suitable balance" (WTO 2004)

Effective visitors management technique

A number of management technique have emerged in recent decades to enable visitor’s managers to effectively plan, control and organized visitors such that visitor we get the best value for the visit and be of benefit to the host too.

- Visitors carrying capacity has a dimension that includes the management of the visitor’s satisfaction in relation to visitor’s numbers at a place vis a vis infrastructure
 - Ensure that destination clearly identified entry locations. With display maps or plans to inform visitors of the layout of the place to inform their current locations relative to major points of interest.
 - Ensure that visitor movement patterns are continuous or in a one way circulation system to avoid returning visitors competing with those waking or climbing to the attraction
 - Ensure that there is directional signage and barriers, or defined walkway to control the movement of visitors especially in busy periods
 - Ensure to improve the quality of experience of residents and visitors alike by providing the infrastructure required to support local businesses involved in tourism.
 - Ensure Accommodation Guide will contain only quality assured (Q A) properties. A campaign to encourage quality scheme will be encouraged
 - Ensure maintains of quality infrastructure in accommodation, attractions, shops and restaurants this will determine how comfortable the visitor will be and how effective they can be manage
 - Ensure effective visitor information centre through effective use of marketing, introduction of public relations campaign and I C T
 - Provide ample areas for interpretation at visitor centre placed at points that do not disturb the flow of visitors
 - Ensure adequate security is available all the time

All the above elements can be capture at a goal in single GIS platform for the effectively management of visitors for festival tourism.

Geographic information system: is an information system which has the capability to handle spatially distributed data, relate them to other numerical or descriptive data, and present the data visually on a map, reports, chart etc. the ultimate goal of Geographic information system is to create relationship among spatial features or entities and convert data into meaningful information needed to support decision taken in solving location problems and making optimum use of the location by small/medium enterprises for maximum profit. Geographic information system provide the opportunity to better understand geographical influences on tourism business and therefore allows tourism planning, development and management to be tailored to suite the individual needs of each destination. The overall fact is that GIS technology is an essential and effective decision support system for visitors’ management in Abuja.

Table: 2 Tourism issues and gps applications

Function capabilities of a GIS	GIS Basic	Questions	Tourism Application
Data entry, storage and manipulation	Location	What is at	Tourism
Map production	Condition	Where is it	Identify most suitable location for development
Database integration management	Trend	What has changed	Measure tourism impacts
Data queries and searches	Routing	Which is the best route	Visitor management / flows
Spatial analysis	Pattern	What is the pattern	Analyse relationships associated with resources use
Spatial modeling Decision support	Modeling	What if.....	Assess potential impacts of tourism development

Source: modified after Bahaire and Elliot –White 1999, p.259

GIS is an integrated assembly of computer hardware, software, geographic data and personnel designed to efficiently acquire, store, manipulate, retrieve, analyze, display and report all forms of geographically referenced information geared towards a particular set of purposes (Burrough, 1986, Kapetsky, and Travaglia, 1995). Another scholar (Benharden, 1992) Stated in a clear term that one of the newly developed technology, which have important components of any approach to global problem solving is the GIS developed about 30 years back.

ESRI went further to define GIS as a computer-based tool for mapping and analyzing things that exist and events that happen on earth. GIS technology integrates common database operations such as query and statistical analysis with the unique visualization and geographic analysis benefits offered by maps. A processes spatial information and designed for data management, mapping and spatial and non spatial analysis (Berry, 1987). Santanu Dutta (2006) gave a comprehensive definition of the acronym GIS thus:

“A system for input, storage, manipulates and output of geographic information. A practical instance of a GIS combines software with hardware, data, a user, etc. to solve a problem to support decision, and help planning. A Geographic Information System is a computer-based tool for mapping and analyzing geographic entities that are spatially referenced to earth.”

Santhkumar and Mathew (1998), further stated the unique ability of GIS to combine system of hardware, software, data, people, organizations and institutional arrangements for collecting, storing, analysis and disseminating information about areas of the earth distinguish GIS from other information systems and make it valuable to a wide range of public and private enterprises for explaining events, predicting outcome and planning. Based on the definitions of the above various scholars, for the purpose of this study, GIS will be seen as

“An integrated computer system for decision marking in managing expected events, that have the capability to acquire geospatial and attribute data, store, manipulate, process, retrieve, analyze and present information for solving complex spatial problems.”

It is apparent that GIS serves as tool that can simultaneously integrate various dataset and present instantaneous information for decision taking in an up coming event.

The above are necessary for taken accurate decision in festival tourism management. As such, the process by which people, moves from one geographic landscape (hotel) to another (tourism sites) an essentially movement in geographic space and an important aspect of coverage of Geographic Information System. GIS technology is applied in transportation – tracking, navigating, routing and scheduling logistics from one geographical location to another (Berry, 1987). Selecting the best route through an area is one of the oldest spatial problems. But lately, this problem has been solved with the use of GIS technology. Geographic information system and festival tourism share a common characteristic, in that both cut across the boundaries of disciplines and areas of application. Given that all festival tourism activities are spatial in nature and must take place in space and in a location the potential of GIS technology to resolve or solve festival tourism spatial problems becomes very significant.

Scores of scholars have affirm, as mention early in the study the effectiveness of GIS technology in managing, analyzing, and displaying large volumes of divers data pertinent to a lot of local and region planning activities. Festival tourism industry is highly dependent on the environmental resources. It is also a phenomenon which in the event of lack of proper planning and management is likely to erode its environmental base. Hence, the efficiency of festival tourism management will be greatly enhanced by GIS application. GIS technologies which are pertinent in tourism management are identify and its application in ABUJA.

GIS technology represents position of real word data in one of the two models

VECTOR MODEL And RASTER MODEL

The vector data model provides precise positioning of features which are resented in three formats

- 1, POINT symbol, (Recorded of simple x,y coordinate)
- 2, Line symbol, (Recorded series of x,y coordinate)
- 3, Polygons (Recorded closed loop of x,y coordinate)

Raster system is limited to 2.5 D reality of geographic space is see as non empty space composed of tiling of area units with each unit having a certain location value.

Festival tourism destinations can be represented in GIS environment by points, lines, and polygons since tourism destination are characterized by three different landscape features: Point features (tourism attractions) Line features (linear pattern i.e roads,) Polygons features (Heritage site,). This location attribute are necessary to a Geographic Information System.

There is no doubt that GIS possesses significant potential as decision support system for visitors management in festival tourism. Tourism site specification information about sources of visitors origin and destination, travel motivation, spatial patterns of recreation and tourism use, visitor expenditure patterns, level of use and impacts and sustainability of tourism site for recreation/ tourism development, numbers of hotels, hotel rooms available in the city and the type of services, all of which are easily implemented in the GIS arena. The fact remain that GIS technology is an essential and effective for visitors management in festival tourism.

Methodology

Spatial database is the central force of GIS technology, according to Kufoniyi (1998) described GIS data modelling as process by which the real world entities and their interrelationship are analyzed and modelled in such a way that maximum benefit are derived while utilized a minimum numbers of data. Reality refers to phenomena as they actually exist, including all aspects which may or may not be perceived by individuals. The view of reality is the mental abstraction of reality for a particular application (user requirements) or group of applications (Kufoniyi, 1998). In this study reality refers to road network, Police station, Hospitals, Abuja boundaries, Hotels, Tourism site and Recreation places within the study area.

Database design phase

1. Conceptual design phases
2. Logical design phases
3. Physical design phases

Conceptual design

Conceptual design is the arrangement of a human conceptualization of reality, how the view of reality will be presented in a simplified manner but still accommodate the information requirement for successful implementation of the project at hand. Abstraction of reality is the first step to be addressed before designing and creating a database. For this study, the reality stands as the spatial arrangement of tourism site in other to see their spatial relationship with other factors that interact with tourism, such as road, hotels, hospital, banks, recreation, parks, gardens, police post, etc. The vector data model was adopted for the representation of the complex reality in this study. The vector data model represents the real word using points, line and polygons or area. The complex reality in this study will be represented as follows using vector data mode;

POINT: Tourist Sites, Hotels, Cultural centre, Sport houses.

LINE: Roads, rives or any liner feature

Polygons or Area: Boundary

This study considered the following entities: Tourism sites, Hotels, Recreation Park, Hospitals, Police station Arts and Culture Centre and Roads.

Database creation

Abuja imagery from IKONOS was geo-reference and used for this study. It was digitized on-screen using ARCGIS 9.3 version. Following the design phase, the database was created and populated in ARCGIS 9.3 environment. Polygon, Line and Point layers were created respectively for Tourism site, Hospitals, Recreation centre, Hotels, police station and Roads data. These form individual relations which were then populated with their attribute values.

Database implementation involves the following steps:

- ❖ Hardware and software based on data to be stored and the format
- ❖ Physical database creation, to input data into the database
- ❖ Lastly, the graphical display of the spatial data context of the database.

Discussion of findings

There is wide range of functions for data analysis in GIS platform, which distinguishes it from other information system. GIS capabilities among others includes spatial analysis, measurements techniques, spatial search, attribute queries, proximity analysis, buffering operations and analysis of models of surface and network analysis. The following spatial analysis was carried out in this research: Spatial Search, Network analysis (Finding the best route and closest facility for tourist in Abuja), Buffering to determine tourism facility with a define radius using the recommended criteria. Spatial search was used to test the database created by looking for certain attributes within Abuja, which is logical and systematically defined. The database towards answers generic questions of what is where and where is what.

Single criterion query is the analysis of the database stating one condition for the search from the database prepared for the study, while the multiple criteria combine more than one field to generate result. The variants of query (selection) involved are, Query by Attribute, Query by Location, and Query by use.

Query Syntax : `SELECT* WHERE "TRMSITE_NAME"`

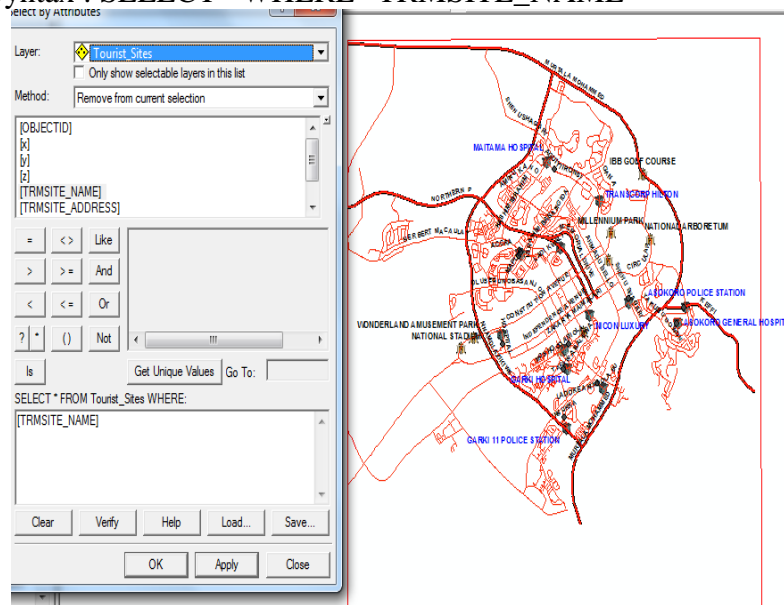


FIG 4.4 Query of tourist site location

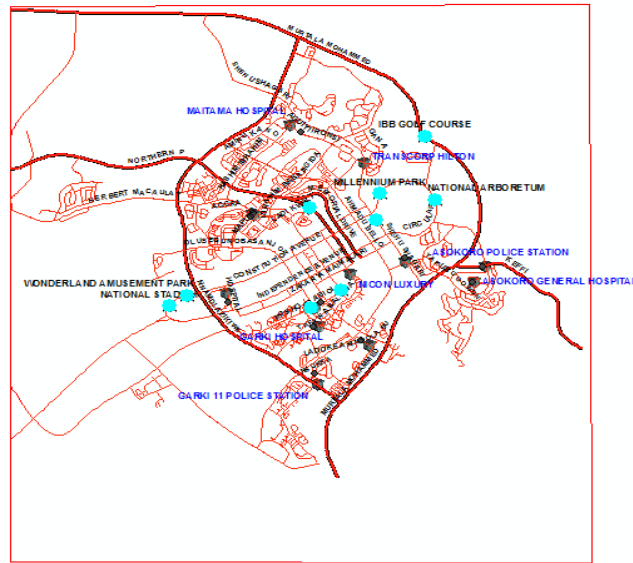


FIG 4.5 Result of query (tourist site)

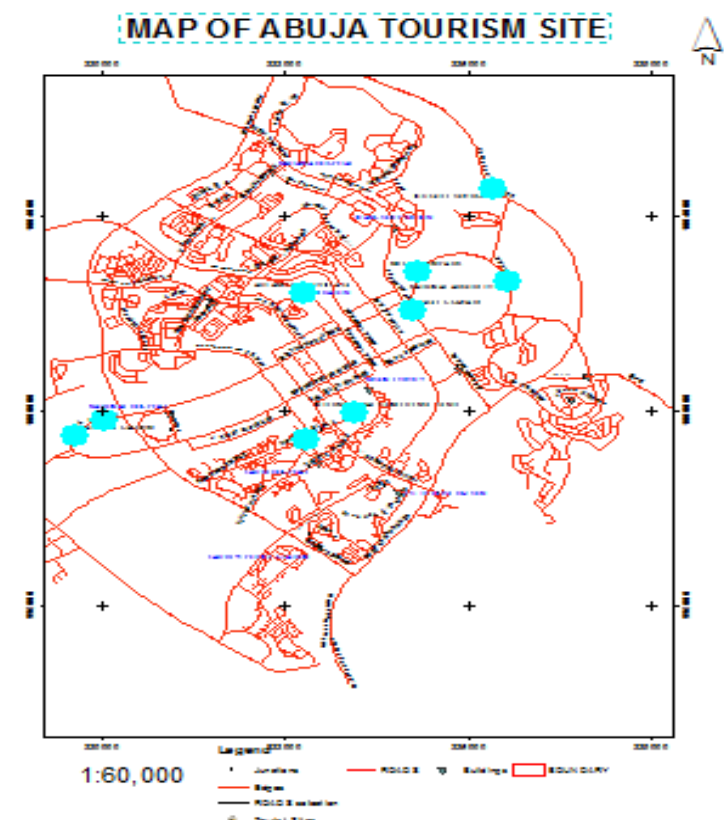


Figure 4.6 Abuja tourist site map

Network analysis

A network is a set of interconnected lines linking up a set of features through which resources can flow. Network with appropriate attributes can be used directly for finding shortest path and measuring accessibility to closest facility. A network can also assist in solving location problems, and transportation planning for tourist.

Analysis 1: SHORTEST ROUTE

Shortest route finds the path with the minimum cumulative impedance between nodes on a network. It can be used for movement of tourist. Below in figure 4.12 show the shortest route between sheraton hotel at point 1 and national stadium at point 2.

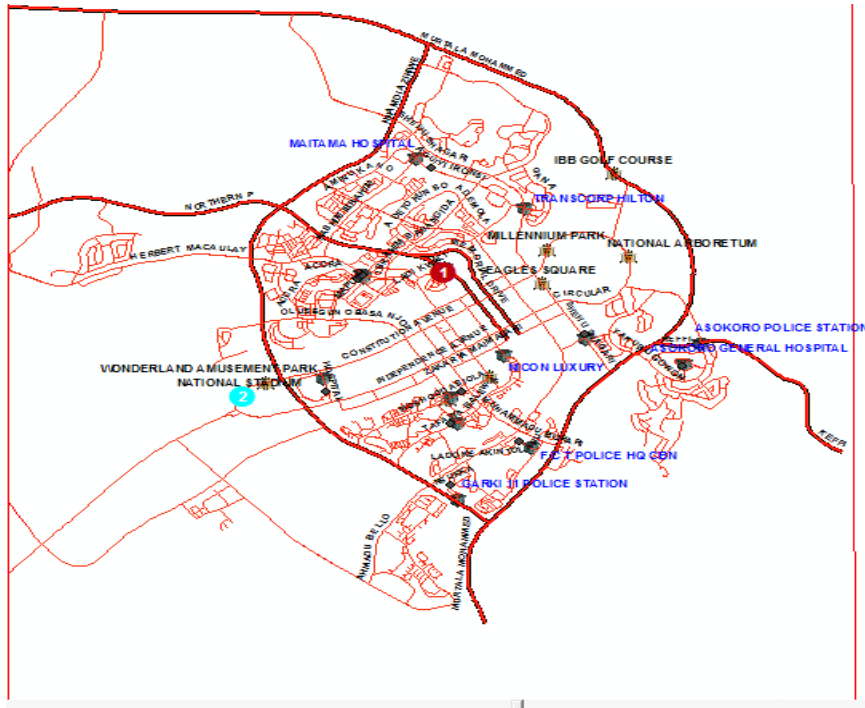


Figure 4.10: Point 1 Sheraton hotel and point 2 National stadium

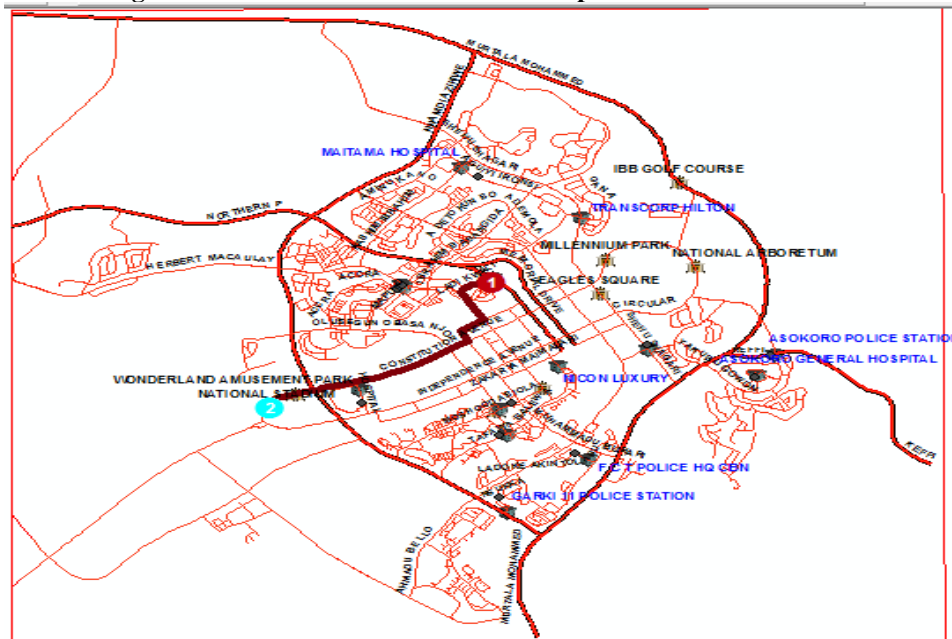


Figure 4.11 Shortest route from sheraton hotel to national stadium

Route: SHERATON HOTEL - NATIONAL STADIUM		5.8 km
1:	Start at SHERATON HOTEL	
2:	Go northwest toward LADI KWALI	< 0.1 km
3:	Turn left on LADI KWALI	0.5 km
4:	Turn left on HERBERT MACAULAY	0.7 km
5:	Turn right on SAMUEL ADEMULEGUN	0.5 km
6:	Turn left on MUHAMMADU BUHARI	0.3 km
7:	Turn right on CONSTITUTION AVENUE	2.8 km
8:	Continue on NATIONAL STADIUM	0.9 km
9:	Finish at NATIONAL STADIUM, on the left	
Total distance:		5.8 km

Figure 4.12 Shortest route result from sheraton hotel to national stadium

ANALYSIS 2: ALTERNATIVE ROUTE

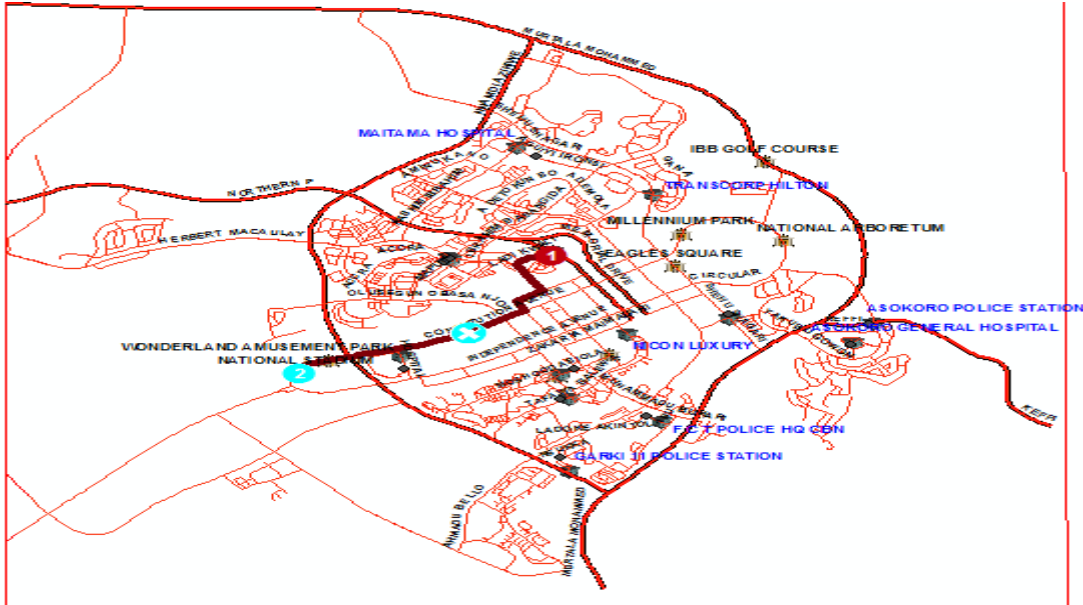


FIGURE 4.13 ALTERNATIVE ROUTE FROM SHARATON HOTEL TO NATIONAL STADIUM WITH BARRIERS AT CONSTITUTIONAL AVENUE

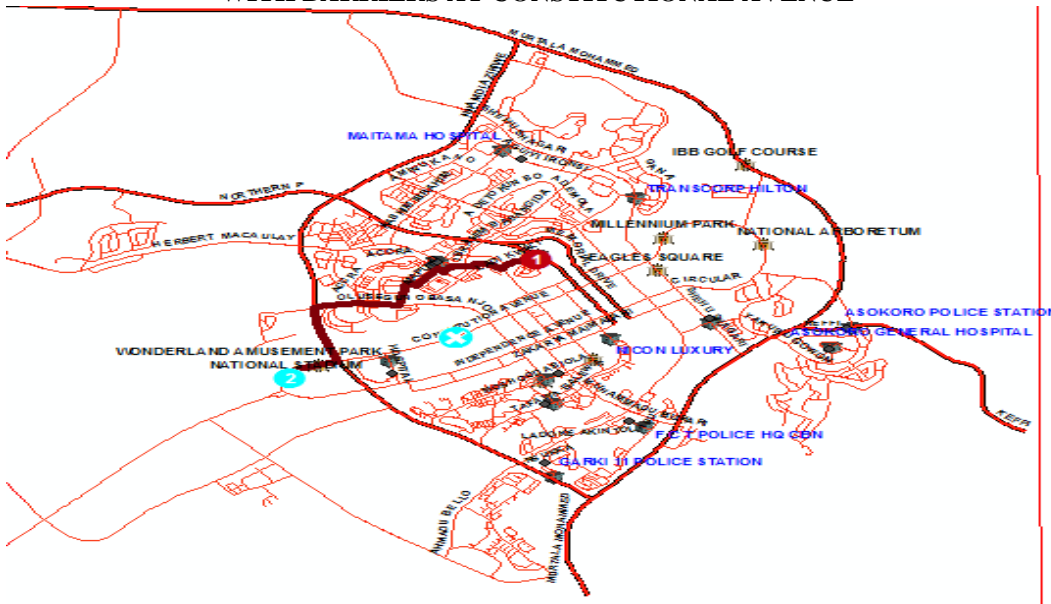


FIGURE 4.14 ALTERNATIVE ROUTE RESULT FROM SHARATON HOTEL TO NATIONAL STADIUM WITH BARRIERS AT CONSTITUTIONAL AVENUE

[-]	Route: SHERATON HOTEL - NATIONAL STADIUM	6.4 km
1:	Start at SHERATON HOTEL	
2:	Go northwest toward LADI KWALI	< 0.1 km
3:	Turn left on LADI KWALI	0.5 km
4:	Turn right on HERBERT MACAULAY	0.4 km
5:	Turn left	< 0.1 km
6:	Turn right	0.5 km
7:	Turn right	0.1 km
8:	Turn left on MAPUTO	0.5 km
9:	Turn right	0.1 km
10:	Turn left on SUL TAN ABUBAKAR	0.5 km
11:	Turn right on OLUSEGUN OBASANJO	1.3 km
12:	Turn left on NNAMDI AZIKIWE	1.3 km
13:	Turn right on NATIONAL STADIUM	0.9 km
14:	Finish at NATIONAL STADIUM, on the left	
	Total distance: 6.4 km	

FIGURE 4.15 ALTERNATIVE ROUTE RESULT FROM SHARATON HOTEL TO NATIONAL STADIUM WITH BARRIERS AT CONSTITUTIONAL AVENUE

ANALYSIS 2: ALTERNATIVE ROUTE

The shortest route from Sheraton hotel at Ladi Kwali to National Stadium at National Stadium road for event tourism for tourist is 5.8 km through constitutional avenue to national stadium road. Why the alternative route from Sheraton hotel at Ladi Kwali to National Stadium at National Stadium road is 6.4 km through Olusengu Obasanjo, Nnamdi Azikiwe if there are barriers in constitutional avenue that is the shortest route from Sheraton.

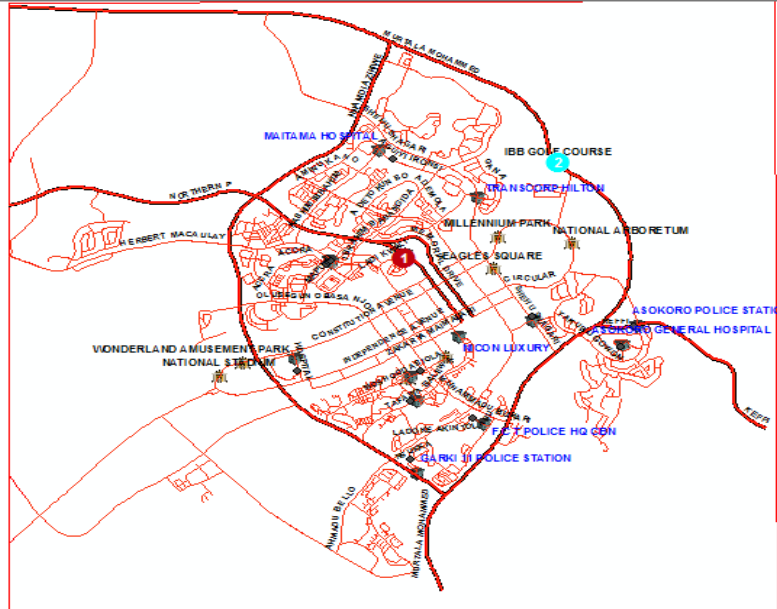
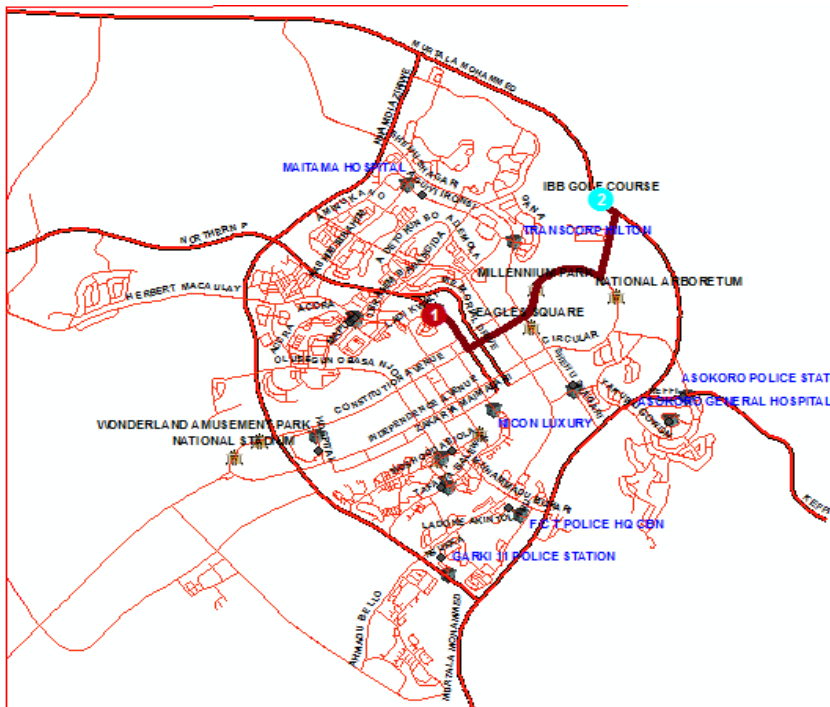


FIGURE 4.16 POINT 1 SHERATON HOTEL AND POINT 2 IBB GOLF COURT

FIGURE 4.17 SHORTEST ROUTE FROM SHERATON HOTEL TO IBB GOLF COURT



Route: SHERATON HOTEL - IBB GOLF COURSE	6.1 km
1: Start at SHERATON HOTEL	
2: Go northwest toward LADI KWALI	< 0.1 km
3: Turn right on LADI KWALI	0.1 km
4: Turn right on MEMORIAL DRIVE	1 km
5: Turn left on CONSTITUTION AVENUE	0.7 km
6: Continue on CONSTITUTION	0.5 km
7: Bear left on CIRCULAR	2 km
8: Make sharp left	1.3 km
9: Turn left on MURTALA MOHAMMED	0.4 km
10: Finish at IBB GOLF COURSE, on the right	
Total distance: 6.1 km	

FIGURE 4.18 SHORTEST ROUTE RESULT FROM SHERATON HOTEL TO IBB GOLF COURT

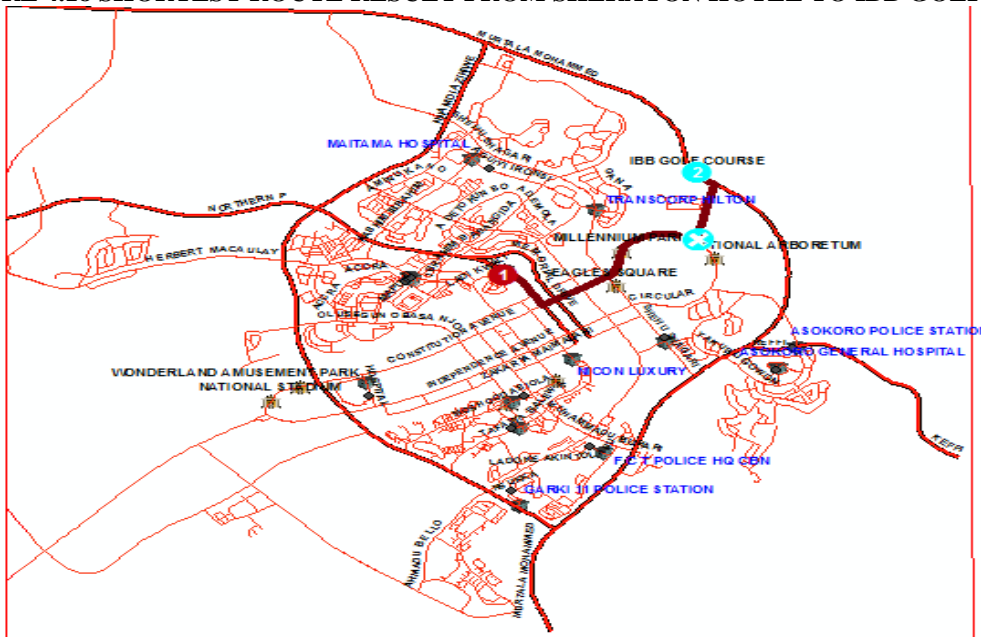


FIGURE 4.19 ALTERATIVE ROUTE FROM SHARATON HOTEL TO IBB WITH BARRIERS AT CIRCULAR ROAD

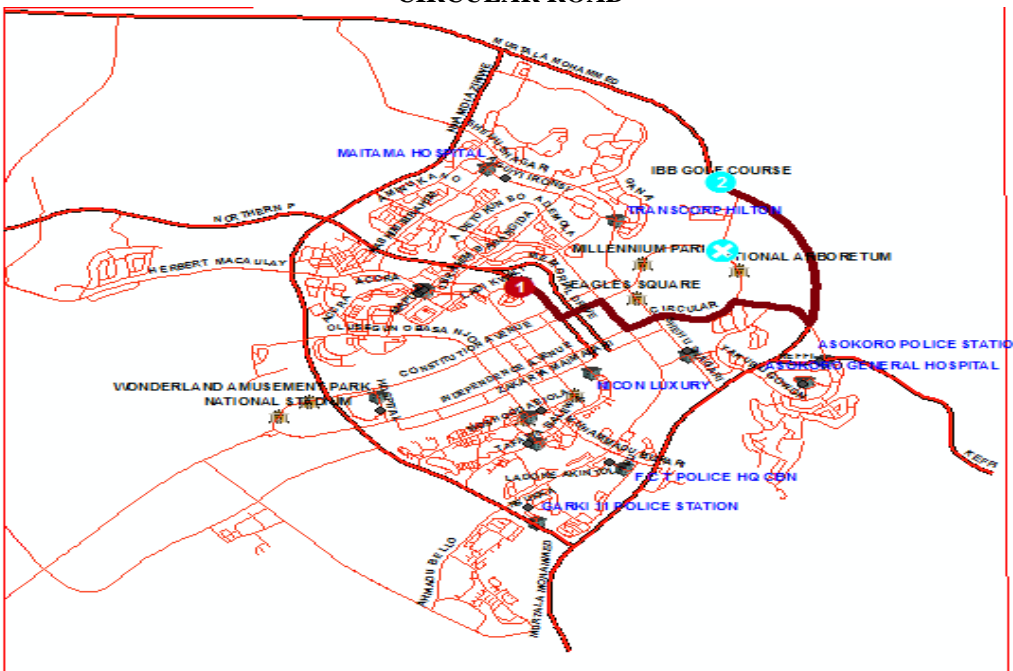


FIGURE 4.20 ALTERATIVE ROUTE FROM SHARATON HOTEL TO IBB WITH BARRIERS AT CIRCULAR ROAD

Route: SHERATON HOTEL - IBB GOLF COURSE		9.5 km
1:	Start at SHERATON HOTEL	
2:	Go northwest toward LADI KWALI	< 0.1 km
3:	Turn right on LADI KWALI	0.1 km
4:	Turn right on MEMORIAL DRIVE	1 km
5:	Turn left on CONSTITUTION AVENUE	0.7 km
6:	Turn right on AHMADU BELLO	0.7 km
7:	Turn left on INDEPENDENCE AVENUE	0.5 km
8:	Bear right on CIRCULAR	1.4 km
9:	Turn right on YAKUBU GOWON	1.3 km
10:	Make sharp left on MURTALA MOHAMMED	3.7 km
11:	Finish at IBB GOLF COURSE, on the right	
Total distance: 9.5 km		

FIG 2.21 ALTERNATIVE ROUTE RESULT FROM SHARATON HOTEL TO IBB WITH BARRIERS AT CIRCULAR ROAD

The shortest route for tourist from Sheraton hotel at Ladi Kwali through Circular to IIB Golf Course at Murtala Mohammed is 6.1 km. While the alternative route for tourist from Sheraton hotel at Ladi Kwali to IIB Golf Course at Murtala Mohammed if there are barries at Circular is 9.5 km through Independence avenue, Yakubu Gowon, Murtala Mohammed.

TABLE 6: SHOWING DIFFERENCE BETWEEN ROUTES

From	To	Shortest	Alternative	Difference	Remarks
Sheraton Hotel	National stadium	5.6KM	6.4 KM	0.8KM	
Sheraton Hotel	IBB Golf Course	6.1KM	9.5KM	3.4KM	

ANALYSIS 3: CLOSEST FACILITY

Closest facility is a network analysis that is used to determine facilities closest to you from a current location or to any location on the network for example from a tourism site to nearest police station. Below in Figure 4.24 is the analysis showing a tourist site NATIONAL

ARBORETUM located at 43 Circular road, the closest police station is the LOUISE EDET COMMAND HQ located at 20 Shehu Shagari, with a total distance of 2.5 km .

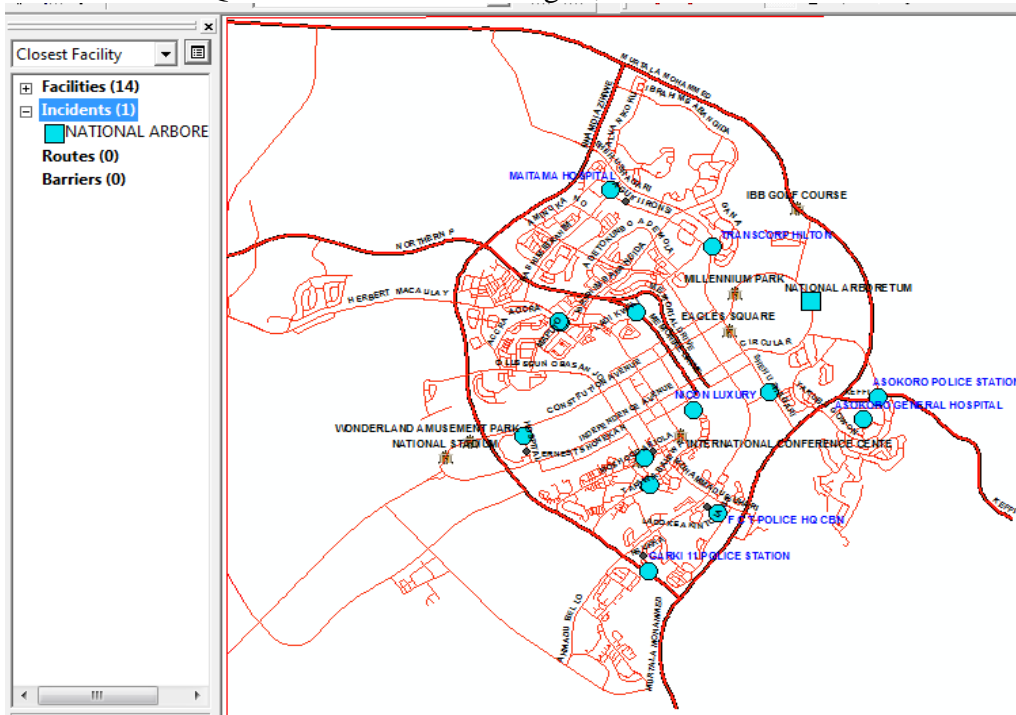


Figure.4.22 Analysis of the closest police station from a tourist site (NATIONAL ARBORETUM).

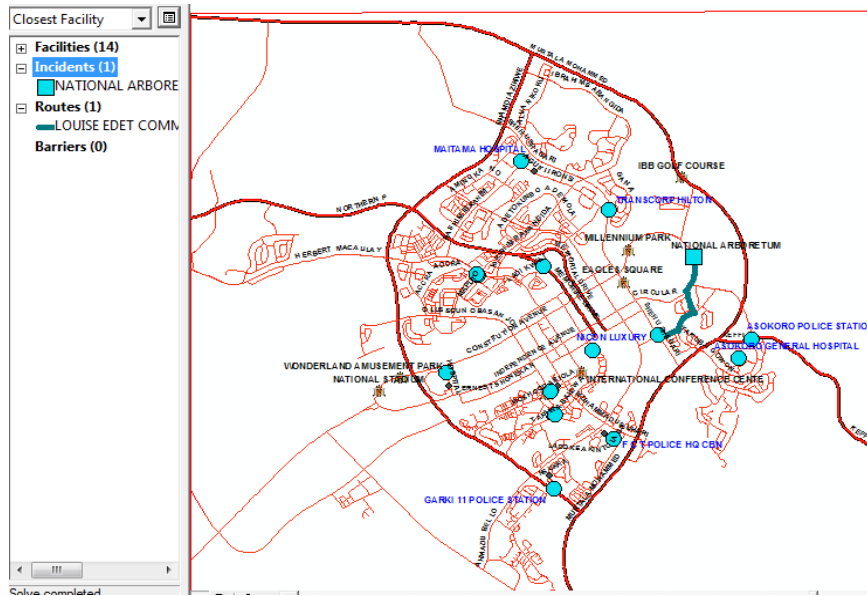


Figure.4.23 Result of the closest police station from a tourist site (NATIONAL ARBORETUM).

Route: NATIONAL ARBORETUM - LOUISE EDET COMMAND HQ		2.6 km
1:	Start at NATIONAL ARBORETUM	
2:	Go south on CIRCULAR toward YAKUBU GOWON	0.9 km
3:	Turn left	0.5 km
4:	Turn right on YAKUBU GOWON	0.6 km
5:	Turn right	0.4 km
6:	Turn right on SHEHU SHAGARI	0.1 km
7:	Finish at LOUISE EDET COMMAND HQ	
Total distance: 2.6 km		

Figure.4.24 Result of the closest police station from a tourist site (NATIONAL ARBORETUM).

ANALYSIS 4: BUFFERING

In consideration of the distance of facilities such as police station, hospital, etc to tourist site so as to enhance confidence on the tourism destination it is encouraged that tourist should not travel more than 1 hour before having access to hospital or police station. One important spatial operation in GIS is the determination of spatial proximity or nearness to various geographic features. Using the above criterion in the Arc GIS software, 2 KM was buffer from a tourist site ABUJA ARTS AND CULTURE located at 61memoria drive.

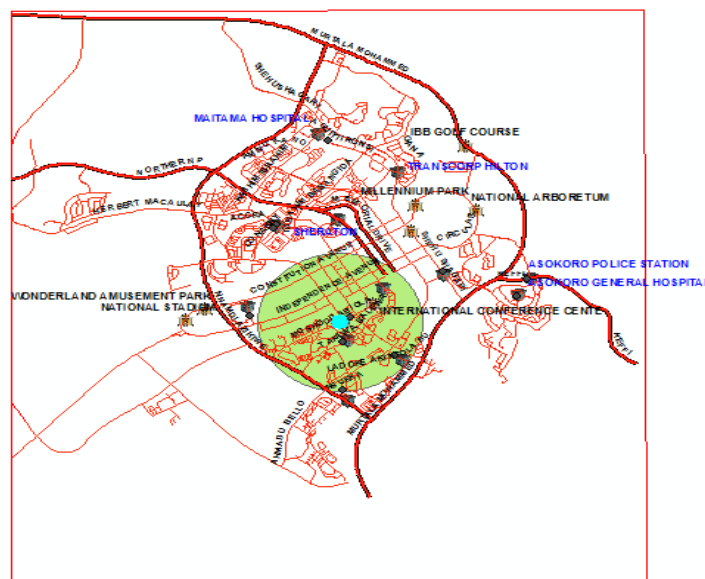


FIGURE 4.25: BUFFERING RESULT SHOWNIG TOURISM FACILITY THAT FALL WITHIN 2 KM OF ABUJA ART AND CUTURE

From the above buffering analysis, facilities that fall within the define parameter is said to be within the buffer zone that have met the above recommendation, the tourist facilities that fall within the buffer zone, are police station CBN at 19 zaria, area 10 police station at 8 moshood abiola, louise edet police hq at 20 shehu shagari and garki general hospital at 12 tafawa belewa.

The GIS analysis carry out in this project will enable tourist to access information on the closest facility, query the hospitality database to get information on the type of tourist sites, services that are available for visitors, proximity to tourist facility, distance from the hotel, best route and alternative. This will enhance the value of abuja as tourism destination, increase patronage and make information about abuja hospitality facilities easily available, economical and time saving, as tourism information is access from the tourism database. Moreover the hospitality database will serve as a spatial decision support system for policy formation and decision making.

All the analysed result generated in this study can be diagrammatically/ graphically view on the computer system, internet, printed in hardcopy or store in a CD/DVD depends on the users' specification.

Conclusion

The reason for repeat purchase is nothing other than the level of confidence the host has been able to instil in the visitors, the level of understanding the host has been able to exhibit and these two words confidence and understanding cannot be created without planning consciousness and tactfully. The level of understanding and satisfaction of visitors varies and depends again on various factor which are infrastructure, visitor information, environment, social, psychological, religious, culture, and previous experience. For effective visitor management and repeat purchase host community must be able to inter-marry these various factors to their own advantage using the GIS platform.

The study started with the design of spatial database as a decision support system for festival tourism management. The entities in the study area were identified and vector data model was employed, satellite imagery of the project site was geo-referenced and digitized in ARCGIS 9.3 while the imagery data was updated with hand-held GPS. Attribute data for the site was collected through social survey. Spatial database was created in ARCGIS 9.3 where attribute table was linked with geometric data. Various spatial operations such as spatial query, best or shortest route and closest facilities were performed and results were presented.

Spatial database of digital road network for decision support in festival tourism management has been created. It is now possible to manipulate the database to answer basic question using GIS technology. Moreover, maps or plan or report can now be produced at will when required. The database is capable of capturing the tourism site, closest location of tourism facilities, closest Hospital and the best shortest route from tourist hotel to the closest tourist site, police station or hospital.

Recommendations

The tourism industry is very important economically and visitors' management is a vital part, because visitor activity touches nearly every aspect of the daily life in the Abuja city. The key to good visitor's management is by providing warm welcome to visitor and high quality of planned facility and services for visitor so as to make visitor enjoy their visit and get value of their money. Adapting and evolving approach to ensure that the needs and demands of visitor are achieve in other to encourage repeat purchase

Integrity of the database should be ensured at all times, thus care must be taken while inserting data and updating the database. A hardcopy should always be printed at regular interval and examined for any entry errors. This is very important for efficient tourist

management, there are lots of benefits that are derivable from GIS technology in supporting decision making in hospitality management, I therefore recommend based on the finding of this study that:

- The government should properly document all the tourist sites in Abuja and develop a functional festival tourism database using GIS technology to better enhance visitors experience and stay in Abuja as a tourist destination.
- Detailed information about festival tourism activities should be easily available for visitors via, internet, printed in hardcopy or store in a CD/DVD and accessible from the Abuja tourism database.
- The festival tourism database should be made to cover the road network of Abuja and updated from time to time in other to capture new developing areas with the facilities that are present.

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INTELLIGENCE PROPERTIES AND EMOTIONAL INTELLIGENCE IN THE STRUCTURE OF PERSONALITY AS FACTORS OF PERSONAL/ PROFESSIONAL ACHIEVEMENT

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Abstract

The paper presents partial results of an interdisciplinary research project into business – academia relationships, named “Methods and Principles Applied in the Preparation of Structure and Content of Subject Disciplines Promoting the Development of Knowledge of Economics and Business Skills of Students Pursuing Non-economics Study Programmes of the Level II of Higher Education (KEGA 006EU-4/2013) carried out at the University of Economics in Bratislava”. The present paper deals with the role of emotional intelligence and intelligence properties in the structure of personality as a significant factor of success at work. These two components are described and analysed from the aspect of employer entities and that of educational institutions. Theoretical part of the paper draws on research in economics, management education, and psychology in English-speaking countries as well as in Slovakia and the Czech lands. While respondents of the questionnaire survey who represent business/employer entities give their opinions of what kind of personality properties they expect from successful job applicants, respondents from educational institutions express their ideas of the kind of properties that should be developed in their students to make them employable after completing their studies. The aim of the paper is to suggest – on the basis of analysis respondents’ answers – to educational institutions in Slovakia ways of striking a balance between developing their learners’ intelligence properties and developing their emotional intelligence so that their future graduates have a good chance to succeed on the labour market.

Keywords: Personality structure, intelligence property, emotional intelligence (EI)

Introduction

An individual needs a set of hard and soft skills for the performance of their job. Hard skills are often referred to as the professional know-how and considered to be of a priority importance in the process of planning, recruitment and deployment of human resources in a business. However, in many working positions nowadays hard skills are not enough and also soft skills and personality features are getting to the forefront.

Work performance is subject to permanent intellectualisation, and this phenomenon necessitates not only an increase in one’s qualifications but also development of personality properties; these properties are evolving throughout one’s entire life. Present-day employer entities place increasingly strict requirements on their employees and job applicants. Success

at work does not depend only on how well employees or job applicants have mastered some techniques or new technologies and to what extent they are able to keep pace with the most recent trends: employees as well as management of organisations have to master a wide range of knowledge, skills and competences, which make their holders permanently employable and enable employer entities to gain a competitive edge.

Employer entities that provide tangible but also intangible products have to meet demanding criteria of economic competition, which makes them carefully monitor benefits of each individual in each position. Anticipated effects are dependent on a particular position. Changes in conditions of work performance and increase in job requirements place higher demands also on educational processes, which take place during initial and also further education. More than ever, is the importance of lifelong education getting to the forefront; and this kind of education is expected to continue during one's lifetime. However, what matters here is the individual's readiness and willingness to learn during their life. This results in an increased importance of such educational activities that are not formally organised. These activities include all processes of autonomous learning, i.e. learning in the course of work performance (in-company learning), in team work, etc. The current strategy of education and European Union legislation has adjusted to this course of development, which signals an innovative and favourable change in the learning strategy. Apart from formal and informal education, informal learning is gaining in importance in lifelong learning. Informal learning may be described as the process of acquiring knowledge, skills and attitudes, and other important characteristics which shape the individual's personality. Human personality may be described as a summary of inherited and under pressure of education and society acquired properties, abilities and skills and the quality of psychic processes which manage man's action and behaviour in specific situations, and at the same time assumptions for behaviour and action in the future.

An individual's performance, manifestations and manners of behaviour in the work process depend from the **personality structure**. Personality structure relates to mutual relations of individual components, making up the personality, e.g. abilities, character, temperament, volitive dispositions, adjustment mechanism, psychic processes, which together with the central nervous system create a particular/specific type of personality. The study of structure of personality is important not only in terms of realisation of personal activities in an enterprise, but also for the development of counselling in education and career. The choice of a suitable field of study and the level of initial education are decisive factors for lifelong success and smooth career path.

The aim of the paper is to focus on the presentation of selected significant factors of success at work from the perspective of employer entities, while the conclusion from this research could become a starting framework in designing educational strategies in primary, secondary and tertiary education. The present research is carried out within the project KEGA No. 006 EU-4/2013 – "Methods and principles applied in the preparation of structure and content of course/subject disciplines supporting the development of economic knowledge and business skills in non-economic study programmes of the second cycle of higher education". Assumptions for success in higher education include: previous levels of education and factors of shaping a personality, e.g. biological factors, social and cultural factors, situational factors, and factors of self-shaping activities, which are connected with a individual's free decision about what kind of external environment influences will be permitted to operate, and which ones will be respected.

Fundamental Concepts: personality structure elements as basis of job orientation

Personality is a sum of inherited and under the pressure of education acquired traits/features, abilities, skills and qualities of psychic processes, which regulate human action

and behaviour in specific situations and at the same time create assumptions for their behaviour and action in the future. Employers in knowledge-based society realise that their employees and managers need to achieve adequate qualifications, but more than ever before, there are significant combinations of individual dimensions that make up the structure of personality.

The role of structure is to identify what tendencies in human behaviour that are permanent and independent of changing situation/circumstances. The shaping of personality is determined by three factors: genetically innate dispositions, social and cultural influences, and learning. Nowadays, the study of personality structure is not only a subject of psychological researches which focus on determining the elements and components that make up the personality and serve as the basis of characteristics of personality typology. At the same time, it is also applied in the evaluation of personality structure in terms of developing one's future career, and its findings are applied in counselling as well as in the selection of formal education in accordance with expected future career opportunities. The study of personality structure also penetrates in the practice of employer entities and significantly influences human resources management: knowledge and experience are directly applied in the processes of planning, projecting and implementation of further professional education of employees, in the preparation of career plans and succession plans for key working positions.

Characteristics and definition of personality are accompanied with numerous pitfalls. Since it is not possible to render a rigorous definition of personality, personality needs to be defined from various aspects and it is the subject of several theories. For instance, within the scientific discipline of "The Psychology of Personality", personality is explored as a specific subject discipline (Szarková, 2005, p. 58) and is defined as a concrete individual, who has specific, characteristic and psychic and physical features, which are reflected in every individual's activity. Psychology views every human being as personality, and that is why each human being needs to be approached from this aspects (Provazník, 1997, p. 81). Personality is a unique and relatively stable pattern of behaviour, thinking, and emotions displayed by the individual (Buss, Cantor, 1989). Personality represents an individual whole of man's spiritual life, which forms the essence (of personality) together with the entity's body and the environment (Alexy, Boroš, Sivák, 2004, p. 124; Atkinson 2003; Fürst 1997).

General features/properties of personality may be defined on the basis of the above introductory ideas. It is the differences between individuals that identify a personality, while each personality, being unique and unrepeatable, is a set of constituting and psychological elements, which together make up a whole. As it appears to be relatively stable, it enables us to anticipate human behaviour in a particular situation; however, at the same time the personality is part of a continuous development process, where changes in environment call forth conditions for internal adaptation.

An important factor of success at work is a combination of employee's physical and psychic skills. Physical properties of an individual consist of anatomic-physiological properties, physique and specific physical conditions – power of muscles; figure size, coordination of movements, ability to work in heights, etc., which is needed in the case of particular job positions. In psychological analysis of factors affecting employee output and performance an important role is played by performance factors, which may be either direct or indirect ones, namely: stability of work performance, rate of accidents, absence, fluctuation, changes in quality of psychic states (mood, emotional pressure, fatigue, stress, psychic load, frustration, and the like) in the course of performing some working activity (Szarková, M.: *Psychológia*. Bratislava: Publishing House: Ekonóm, 2000, s. 75, ISBN 80-225-1093-9). **Structure of personality** is made up from a set of features which influence an

employee's behaviour in specific situations. Features of character and temperament express a relatively permanent mode of behaviour.

Features of character represent a set of all properties, i.e. both positive and negative ones, the basics of which are developed during the third year of our life. These features are manifested in a child's behaviour and action around the tenth year. The older an individual is, the more features of character come to the surface and fully affect the individual's working life. In a somewhat simplified form, these features may be divided into two groups, namely:

- *Activating features of personality's character*, which reflect man's relation to activities performed by him. They involve the power of will to be active and include industriousness, perseverance, ambitiousness, readiness, initiative, self-reliance, consistency, prudence, sense of discipline, etc.
- *Humanitarian features of character*, which express man's relation to the world and determine their fundamental value orientation, relation to other people and to themselves (attitudes, morale, conscientiousness). This group includes integrity, sincerity, honesty, tolerance, morality, kindness, generosity, accommodating approach, responsibility, considerateness, faithfulness, loyalty, dignity, etc.
- *Temperamental features* express dynamic features of personality, as e.g. speed of thinking, action, responding to external stimuli as well as internal experiencing. The aim of an individual's personality analysis is to reveal predictable behaviour at work and standard and work stress situations, as well as in interpersonal relations which are significant for group work or team work.

The following characteristics and properties are considered the most important elements of personality structure for the performance of work activity: a) performance characteristics, b) relationship – attitudinal properties, c) activating – motivation properties, d) self-regulatory properties; e) dynamic properties; f) volitive properties, g) intelligence properties, and h) emotional intelligence.

The focus of the paper is on the two last types of properties.

Intelligence properties represent a set of rational abilities, ability to solve problems and circumstances accompanied by some indefiniteness. Intelligence is understood as the ability to extract relevant data from a given amount of information based on observation. It also includes thinking, perception, intuition and memory.

Emotional intelligence is along with intellectual/ rational intelligence, the second component of general intelligence. It represents an all-round ability to solve emotional problems, monitoring ability and ability to master/control one's own and other people's feelings and use them as a regulating instrument of thought activity, as well as behaviour and action.

In view of the scope of the problems studied under the present research, in the analytical part of research results the focus will be on personality's intelligence properties and emotional intelligence, as these are the subject of interest on the part of employer entities in connection with planning, deployment, education, and development of human resources.

Methods and Procedures of Analysis: empirical analysis of employer entities' requirements placed on employees

An employee's job performance depends from achieved level of qualifications and other personality properties, which affect work performance. Contemporary changing conditions of job performance and intellectualisation of jobs makes those personality properties get into the forefront, while their development is a long-term and demanding process based on internal dispositions of an individual affected by conditions and quality of environment influencing the individual in the course of their entire life and of their own development. It is mainly formal education which should ensure the formation of individual

elements making up the structure of personality, which, in turn, is followed by further education within the system of lifelong education. If we want to analyse factors of success at work we need to describe and define the requirements related to personality assumptions which employer entities place on individuals, as these are important not only in the course of job performance but are also important for education itself and in results achieved.

Research Methodology: description of the sample of respondents (employer and non-employer Entities)

The research is carried out in view of complex relationships between demand and supply on the job market and also the existence of long-term and increasing disproportions. The aim is to reveal demands of business and non-business entities for separate elements of personality structure to ensure the performance of specific working activities, and in this way provide basic information to educational entities on how to provide for education, and what elements of learners' personality structure need to be developed. We analyse opinions of institutions of market for formal education (divided into primary, secondary and tertiary education, since it is the very elements of personality structure that in many cases develop permanently and continuously; for this reason, the process of education has to be continuous. However, it is not our ambition in this paper to evaluate results and opinions of employer entities of qualification readiness of graduates.

Under the present research we monitored opinions of respondents selected as a) representatives of business and non-business entities within selected branches of the national economy of the Slovak Republic in accordance with the Industry classification of economic activities; b) selected school establishments belonging to the group of primary, secondary and tertiary level of education. The selection of businesses was made by deliberate choice in order to ensure some proportionality.

The research sample was made up from employer entities of 14 industries which were represented by 105 businesses of various size and 80 school establishments of various levels. Our aim was to describe the spectrum of employer entities in terms of: size composition – classification into microbusinesses, small, medium-sized and large businesses (where the criterion for classification was the number of employees); proprietary relations – state, cooperative and private; sources of capital – foreign, Slovak, mixed; methods of financing – contributory, budgetary and other; area of business – production, offer of services, and other; place of business residence – within the territory of the Slovak Republic; and educational establishments (in terms of level of education: primary education (20 respondents), secondary education (30 respondents, and tertiary (30 respondents); proprietary relations – public, state, and private institutions; study orientation; spatial localisation of an educational institution within the Slovak Republic's territory.

Under the project we tried to involve a wide range of typical representatives of economic life and educational institutions in Slovakia. We approached either workers of personnel sections, sections/units for education or managers in charge. In the case of small and medium-size enterprises and micro-enterprises we addressed their owners. In the case of educational establishments our focus was on teaching staff and non-academic departments for study.

The entire survey was carried out by means of the questionnaire method. The primary data collection was done by means of questionnaires, distributed in person and electronically. Four types of questionnaire were designed, namely: one type for employee entities and three groups of questionnaires for each level of education. The reason for choosing the questionnaire method was to obtain a great deal of data with relative ease. The questionnaire was made up from two basic parts: namely, the information part containing basic data about a respondent, and a specialised part containing elements of personality structure. The

following classes of requirements of employee entities in specific elements of personality structure were explored: performance characteristics, relationship – attitudinal properties, activating – motivation properties, self-regulatory properties, dynamic properties, volitive features, intelligence features/properties, and emotional intelligence (see: Chapter 1).

In order to identify the requirements related to each element of personality structure, we carried out a survey into satisfaction with their achieved level as reflected in the results in separate levels of education. Educational institutions were inquired which elements of personality structure had been included in their educational aims, and what was their scope. With regard to the scope of the problems involved – as mentioned in the introduction—the focus of the present paper is on the presentation of results pertaining to intelligence properties and emotional intelligence.

Intelligence properties as factors of success at work

This subchapter deals with three concepts of intelligence properties, namely: intelligence, perception, and intuition. These features/properties play an important role in job performance.

Intelligence is defined as the ability to learn from experience, think about and solve new problems, adjust, use symbols, reason, evaluate and orientate in new situations (Stern, W.: available at www.server.sk/zaujímavosti/veda). In general, intelligence is understood as the basis of every human behaviour and action, as an assumption of one's adjustment to surrounding environment, acquiring experience and knowledge, communication with other people (Průcha, Veteška, 2012, p. 133). In the past, people realised that the level of intelligence varied from person to person. The first experiments in measuring intelligence by means of reaction times (speed at which a person reacts to some sense stimulus) were made in the 19th century. In the year 1905 the French psychologist Alfred Binet jointly with his co-worker Theodor Simon worked out the scale of intelligence (the Binet-Simon intelligence scale), in order to differentiate between less capable children from the more capable ones. This scale has become a basis for developing intelligence and psychodiagnostic tests. The change in the Binet-Simon's scale was published in 1916 by an American psychologist Lewis Madison Terman, who suggested to measure an individual's intelligence as *intelligence quotient* (IQ). The intelligence quotient (IQ) expresses the level of intelligence capabilities, and the term was coined by the German psychologist Wiliam Stern. A Stanford University Professor Lewis Madison Terman (<http://casopis.mensa.cz/veda/historia>) introduced a standardised classification of intelligence, which is used until today. This classification by IQ degrees depicts the ratio of mental age (human rational level) and physical (chronological) age. Intelligence properties include: thinking, perceiving, intuition, and memory. However, H. Gardner's concept of *multiple intelligences* (1983) suggests that the phenomenon of intelligence is much more complex: Gardner identifies as many as eight types of intelligence, namely: linguistic intelligence, logical-mathematical intelligence, spatial intelligence, bodily-kinesthetic intelligence, musical intelligence, interpersonal. Intelligence, intrapersonal intelligence, and natural intelligence. This approach has significant implications both for learning and teaching and our attitudes to employee development. (http://www.institute-4learning.comcom/multiple_intelligences.php)

Thinking as intelligence property

Thinking concludes human cognition process. There are two typical characteristics of thinking, namely: it is a process of mediated/transferred and method of cognition. Thinking is a generalised cognition (owing to thought operations); it is capable of finding essential features and relations between them, which may be expressed in specific terms. It is

dependent on immediate real-life, because it works with signs and symbols. When considering the various aspects of thinking, it may be divided into several kinds:

Concrete thinking – rests in meaningful manipulation with objects, perceptions or their notions; it is going on in the form of subordinating of some concrete situation to some general scheme. It is the process of understanding relationships between objects, which are given in the perception field of a thinker. *Abstract (notional) thinking* is carried out on the basis notions or concepts that are usually represented in a verbal form and are the product of higher forms of generalisation and abstraction. These forms reflect essential features/properties of objects or phenomena. *Re-active thinking* directly relates to some stimulus from the external environment, and thus is inserted between the perception and a motoric response to it. Perception as a stimulus to thinking may be also very complex.

Spontaneous thinking is dependent on and regulated from the organism's interior, e.g. affected by biological or other needs. *Unintentional thinking* arises spontaneously, without the the intention to think and focus on some aim. Thoughts arise without a thinking person making efforts to think. *Deliberative thinking* is a will-stimulated and regulated thinking with tendential calling out some chain of associations and their gearing towards a particular aim. *Intuitive thinking* – in this type of thinking separate stages of continual thinking are getting below the threshold of consciousness, so that new findings arise through a difficult-to-identify succession of associations. *Creative thinking* – is characteristic of a high degree of inspiration, untraditional approaches to problems, sensitive links between individual aspects of phenomena and situations, as well as of the capability to use them in new associations and relations. Creative thinking suppresses the routine and habitual work stereotypes in thinking. *Discursive thinking* is a type of thinking which proceeds in the form of clear-cut, logically regulated choice of chains of associations. In this process verdicts or judgements are created. *Convergent thinking* leads to a single right answer or to the cognition of the best answers of several possible options. *Divergent thinking* is a kind of multidirectional thinking, in which a variety of answers or solutions are generated, while it discloses or creates something novel. *Strategic thinking* – is connected with the ability to foresee the development and origin of some new phenomena and situations in work activity. *Philosophical thinking* is thinking generating philosophical notions and manipulating with them. *Logical thinking* is the highest developmental form of thinking, other than the thinking dependent from a given activity. Logical thinking is correct inferencing according to formal logic laws. *Artistic thinking* is visual thinking in arts, thinking in pictures that are characteristic of generalisation via the unique, concrete, and the sensory-visual. One kind of artistic thinking is for instance musical thinking. *Syncretised thinking* is a form of childish or primitive thinking. *Magic thinking* also occurs in children and aborigines and is fixed in myths and fairytales. Its characteristic feature is it is considerably affected by emotions and affectus. In this type of thinking there is no difference between virtual reality and real-life.

Tab. 1 Requirements of employer entities related to types of thinking in %

Selected types of thinking	Requirements in working process related to types of thinking according to type of job performance						
	Ancillary and preparatory jobs	Blue-collar jobs	Ser-vice jobs	Administrative tasks	Technical jobs	Creative and development jobs	Managerial jobs
Concrete thinking	100	100	91	93	91	100	100
Abstract thinking	3	10	80	92	85	100	100
Re-active thinking	65	50	50	65	86	100	100
Spontaneous thinking	32	65	95	14	57	29	100
Deliberate thinking	93	82	65	69	100	100	100

Intuitive thinking	-	-	-	21	61	65	100
Creative thinking	-	-	-	45	70	100	100
Discursive thinking	-	-	41	94	100	100	100
Convergent thinking	-	-	-	83	100	100	91
Divergent thinking	-	-	-	65	100	100	100
Strategic thinking	-	-	-	3	4	83	100
Logical thinking	-	-	-	65	93	100	94
Philosophical thinking	-	-	-	21	30	94	81
Artistic thinking	-	-	-	14	17	10	25

Source: research results

The aim of Table 1 is to find out on the basis of respondents' representing employee entities the need of individual types of thinking for the performance of a given job. Respondents were able to choose from 14 options several useful types of thinking for a given type of work. As is obvious from the results of research, it can be stated that administrative, professional, creative, and developmental tasks as well as managerial tasks require all the selected types of thinking, only representation of their applicability in percentage according to opinions of respondents varies. Auxiliary and preparatory tasks and manual workers' jobs require concrete, abstract, reactive, spontaneous, and deliberate thinking. In the case of service jobs respondents gave their opinions about the need for discursive thinking. The types of thinking that are being developed by school institutions within formal education are given in Table 2.

Tab. 2 Types of thinking developed by school education (according to educational institutions) by levels of education in %)

Selected types of thinking	Levels of education						
	Primary education	Secondary education			Tertiary education		
		Apprentice ship	Vocational education	General second-ary (gymnasium; "gram-mar schools")	Huma-nities	Science education	Tech-nical education
Concrete thinking	100	100	100	100	100	100	100
Abstract thinking	100	80	70	100	100	100	100
Re-active thinking	-	-	-	-	20	-	-
Spontaneous thinking	60	70	20	30	30	-	-
Deliberate thinking	85	100	90	90	100	100	100
Intuitive thinking	-	60	20	30	80	70	80
Creative thinking	-	-	30	40	60	70	70
Discursive thinking	-	-	-	-	-	70	80
Convergent thinking	-	-	-	-	40	60	60
Divergent thinking	-	-	-	-	-	-	-
Strategic thinking	-	-	-	-	-	-	-
Logical thinking	90	-	50	60	70	90	100
Philosophical thinking	-	-	-	-	80	70	80
Artistic thinking	100	20	30	50	40	10	-

Source: research results

In our research 80 respondents of school establishments were addressed: 20 respondents from primary education, 30 respondents from secondary schools, 30 respondents from tertiary level of education (with 10 respondents in each subgroup). Similarly as in the case of employer entities, respondents from schools were able to choose from selected types of thinking those that were being developed in their opinion within education.

Perception, intuition and memory as intelligence properties

Perception is one of the basic functions owing to which we are able to learn the world surrounding us by means of our senses. Sense organs perceive stimuli coming from the surrounding. These are immediately processed on the level of nervous system results in the perception, which is the basic component of our cognition. It is owing to perceiving stimuli and their properties that we are able to learn. Perception is the basic condition for the development of higher psychic functions, e.g. thinking/thought and speech.

Intuition is the ability to fast understand, estimate and decide, while decision making is not mediated by any reflecting, even though it is connected with the feeling of clarity and certainty, it is not supported with any reasoning. Intuition may be a conditioned experience, and it plays an important role in fast decision making under pressure of time, as well as in arts or in every creative activity. Intuition may contradict a rational problem solving, but it is often intuition that suggests one the right answer. After eyesight, smell, taste, feel, and hearing, intuition is an unwritten/ hidden human “sixth sense”. (Bradyová, 2012, p. 208).

Memory serves for storing past events, memories, and things we have learned. It is a dynamic process, which involves the process of committing into memory, retrieval (reproduction and recognition) and preserving information. There exist several kinds of memory differentiated in terms of coding and durability, namely: sensory memory, short-term memory, and long-term memory.

Emotional Intelligence

Long-term researches carried out in business and non-business entities have attested that employees a rising importance to non-material aspects of work at the end of the 20th and beginning 21st centuries. This is also connected with the application of holistic approach to human resources management. Holistic approach started to take ground in human resource management (HRM) by the end of the nineties in connection with research implemented by American psychologists Ch. Corneau–Kirschner and L. Wah (1999), and with corporate strategies focused on customer orientation (Szarková, M. Personálny marketing a personálny manažment (Personnel Marketing and Personnel Management), House “Ekonom”, 2013, s 64). When applying these strategies, employee emotions were found to play a crucial role in within the company and at the same time to affect a business’s relationship to customers. Frequently, barriers to business success are identified with emotional personality barriers of employees; and it is also these barriers that affect intra-company climate and act as obstacles to creative and innovating ideas. Employee performance in organisation is influenced by psychic and physical health, emotional balance, capability of managing stress and psychic load. Performance of each individual at work necessitates personality integrity in work relationships, communication skills, teamworking abilities, positive and active approach, creative ideas, and understanding for the implementation of principles of business ethics and business’s objectives. When performing separate working activities in the work process a significant role is played also by the feeling of confidence, self-awareness and self-control, and the capability to win other people’s respect (while the latter is continually proportionate to considerateness and adherence to principles of action).

Emotional intelligence and personal and professional achievement

Emotional intelligence (EI) stands for the way we understand our emotions but also those of other people as well as other people's feelings and sensations and mastering our own feelings by deliberate choice of words and actions, in order to achieve desirable result (Wilding, 2010, 14 p.). The concept of emotional intelligence was used by psychologists for the first time in the year 1990 to describe several emotional features: empathy, expressing and understanding feelings, controlling one's mood, independence, flexibility, being popular with peers, ability to solve interpersonal relations, perseverance, friendliness, kindness, and willingness. In the Foreword to the 10th edition of his "Emotional Intelligence" David Goleman (1995) quotes one of the participants of his trainings, a head of research in head-hunting, whose words leave no doubts about the importance of EI "Executive managers are hired for their intellect and business experience and are hired because of shortage of emotional intelligence." IQ and technical knowledge, on the other hand, stand for much more powerful indicators of excellent properties in lower positions in practice. (David Goleman, 1995) However, IQ and EI are far from being clear-cut types. (Goleman, 1995, p.49) IQ and EI contain differing but not contradictory properties; there exists IQ test but not an EI test. At the time of writing his work on EI Goleman commented on the research into EI components, e.g. abilities to recognise emotional states from people's faces on the video. The importance of emotional intelligence on an intra-personal level is obvious from J. Mayer's classification of people into three classes according to emotional intelligence: a) self-aware people: self-confident people who are aware of their moods; b) self-absorbed (people in the captivity of their own emotions; c) accepting people: those who are aware of their moods but accept them and have no wish to change anything about them (Goleman, 1995, s. 52).

In order to render a close description of emotional intelligence, we selected features of intelligence listed in Table 4 "Features of emotional intelligence", which offers their theoretical classification. The importance ascribed to specific EI properties is laid out in Table 5.

Tab. 4 Structure of emotional intelligence

Properties of emotional intelligence				
Self-awareness	Self-control	Motivation	Empathy	Social skills
Emotional self-awareness	Reliability	Ambitiousness	Understanding	Ability to influence
Realistic self-awareness	Flexibility	Loyalty	Ability to stimulate personal growth of other people	Ability to communicate
Self-confidence	Flexibility	Initiative	Orientation to people	Leadership ability
	Ability to innovate	Optimism	Effort for developing and making use of diversity	Willingness to change
			Monitoring trends and sense of entity's policy	Networking ability
				Ability to co-operate
				Team-working ability

Description of respondents

Emotional intelligence has to be explored in selected groups of employees, which may be created on the basis of several criteria, and which stand for differing levels of given features, e.g.: groups based on gender (men, women); age groups (seniors, young

employees); professional groups (managers, accountants, technical workers and other professional groups); groups of key employees; groups of temporary (short-term) employees in atypical work places; groups of socially disadvantaged employees; groups of medically disadvantaged employees; and groups of employees working on leasing contracts.

Table 5 presents respondents' opinions from 105 employer entities for five basic groups of features of emotional intelligence in selected working activities, namely: employees in ancillary and preparatory jobs, employees in blue-collar jobs, employees in clerical jobs, employees in creative and development jobs, managerial jobs. Table 5 lists features from each group which has obtained more than 50% preference in respondents' answers.

Tab. 5 **Minimum needs for individual properties of emotional intelligence according to respondents' opinions in employer entities**

	Properties of emotional intelligence				
Professional groups of employees	Self-awareness	Self-control	Motivation	Empathy	Social skills
Employees in ancillary and preparatory jobs		Reliability, Conscientiousness	Initiative		Ability to cooperate
Employees in blue-collar jobs	Self-confidence	Reliability, conscientiousness, ability to innovate	Loyalty and initiative	Monitoring trends and sense of organization's policy	Willingness/readiness for changes, ability to cooperate
Employees in clerical jobs	Self-confidence	Reliability and conscientiousness, flexibility	Loyalty, initiative and optimism	Orientation to people, effort for developing and using diversity, monitoring trends and sense of organisation's policy	Communication ability, willingness to change, ability to establish networks Ability to cooperate
Employees in creative and development jobs	Realistic self-awareness and self-confidence	Conscientiousness, flexibility and ability to innovate	Ambitiousness, loyalty and initiative	Ability to stimulate personal growth of other people, effort developing and using diversity	Ability to communicate, willingness to change, ability to cooperate, teamworking ability
Managerial jobs	Realistic self-awareness and self-confidence	Reliability, Conscientiousness, flexibility	Loyalty, initiative and optimism	Understanding, ability to stimulate personal growth of other people, people-orientation, effort for developing diversity, monitoring trends	Ability to influence, communication ability, leadership ability, willingness/readiness to change, and ability to establish networks

Source: research results

Respondents' opinions indicate that graduates from separate levels of education display an inadequate development of individual properties of emotional intelligence. Majority of properties are not developed by corresponding levels of education at all. Graduates lack self-confidence, reliability, conscientiousness, flexibility; they have not the right motivation, enthusiasm for work; they do not display signs of empathy, interest in cooperation; and they are not capable of creating links. The only thing that is being developed on an average stage is the ability to communicate. Table 6 presents the evaluation of those properties of emotional intelligence, which achieve respondents' responses in figures (from 80 opinions of school institutions) over 75% incidence in educational activities in separate levels of education.

Tab. 6 **Properties of emotional intelligence developed as priority in educational activities at separate levels of education**

Level of education	Features of emotional intelligence				
	Self-awareness	Self-control	Motivation	Empathy	Social skills
Primary education	Emotional self-awareness	Develop reliability and conscientiousness	Shaping optimistic attitude	Understanding	Communication ability
Secondary education	Support realistic self-awareness and self-confidence	Developing flexibility	Support initiative	Understanding	Communication ability and ability to cooperate
Tertiary education	In education, self-awareness is not specifically developed; Students are inadequately self-confident	Flexibility is developed	Optimistic attitude and initiative are developing, ambitiousness is missing	Understanding	Ability to influence, communication ability, networking ability, teamworking ability

Answers in Table 6 indicate that all types of emotional intelligence properties are being developed through educational activities, even though this table lists the types of EI which may be found in the upper quartile in terms of frequency in primary, secondary and also in tertiary education. School establishments think that the development of individual EI properties of are being adequately developed, and their quality is high; however, much less optimistic responses have been obtained from employees of apprentice schools, who need to try hard to instil in their learners' conscientiousness and reliability. By contrast, statements of employer entities are far from being so optimistic.

According to respondents from enterprises, a high level of learners' *self-awareness* and *self-confidence* is not so much the result of education but rather by that of family conditions, just as feelings of certainty that learners and students draw from the family environment. On the other hand, graduates display considerable drawbacks in:

interpersonal skills, namely in establishing contacts, in creating links, abilities to cooperate and develop cooperation especially in situations on a horizontal level, teamworking ability, delegating competences, ability to influence, etc.; leadership skills as manifested in the ability to accept leadership, in the responsibility for results and in adequate charisma, ambitiousness, initiative, and optimism enabled to fulfil even difficult aims; and willingness to prepare, support, and carry out the process of uninterrupted changes; and loyalty to employer entity.

Although there are various creative methods in education, which promote the ability to cooperate and working in teams, as well as supporting the development of communication skills, e.g. case studies, role playing, or various simulation methods, they are not adequately

applied in teaching process. For this reason desirable results cannot be obtained. The kind of didactic approach to teaching that is frequently practised does not promote the development of emotional intelligence properties, i.e. those properties which are crucial to the development of dynamic and creative human resources.

Discussion about Results

Every individual should be able to identify emotions, use, understand and control them adequately not only in work process but also in interpersonal relationships. The following are considered significant emotional skills: self-confidence, reliability and conscientiousness, loyalty and optimism, understanding and orientation to people, ability to communicate, willingness to changes at work, willingness to cooperate, and teamworking ability.

Although formal education in the Slovak Republic is a highly complex system in terms of its organizational structure, it secures links in education and creates conditions for systematic approach in education, the research carried out indicates disproportions between how education is secured and the needs of economic practice.

According to respondents in our research, the learners' high level of self-confidence is shaped by family background and feelings of security provided to them by the family environment (in which learners are protected by caring parental hands in all areas, without even having to show the slightest effort and initiative) rather than being the result of education. This contradicts Goleman's statement about the loss of traditional transfer of emotional intelligence in everyday contact between children and parents. (Goleman, 1995, Foreword to the tenth edition).

Graduates have been found to display considerable shortcomings, e.g. in:

- Interpersonal skills mainly in establishing contacts, in creating links; abilities to cooperate, developing cooperation mainly in situations on horizontal level; abilities to work in teams, delegating competences, capability to influence, etc.
- Leadership skills which are manifested in the ability to accept leadership, responsibility for results, as well as in an adequate charisma, honesty, ambitiousness, initiative and optimism, which would enable to fulfil even the most difficult targets;
- Willingness to prepare, promote and carry out the process of uninterrupted changes;
- Low motivation level, resulting from an inadequately developed interests aspirations and satisfying needs on various levels;
 - Loyalty to employer entity;
 - Low level of flexibility.
- Level of intelligence properties depends on the type of school from which the student graduated: schools of technical type enable a greater development of some types of thinking, which is significant in practice and employability of these graduates is higher;
- Formal education inadequately develops individuals' abilities and talent, which in turn, is also reflected in wrong choice of their future work career;
- It is often stated that graduates have inadequate features of character and moral habits;
- Personal aims, aspirations, interests are oriented mainly to the area of fast obtaining finances as soon as possible, while at the same time spending the minimum of one's own energy, wisdom, creativity, and resourcefulness, while speculating often prevails over serious action;

- Frequently practised and preferred didactic approaches in teaching do not enable the development of emotional intelligence to the extent that is needed for dynamic and creative human resources to develop.

Conclusion

Research results confirm the relevance of Goleman's statement about EI properties, namely that self-awareness, mastering destructive emotions and empathy should be considered in the course of hiring, in promoting, especially to managerial positions. (Goleman, 1995)

The following summary of ideas expressed by members of economic practice could serve as suitable and reasonable recommendations to educational institutions:

- schools **should focus** on developing types of thinking needed for practice and for practice, namely for creative thinking, discursive, convergent, divergent, and strategic thinking, which is important for the performance of some jobs;
- schools **should support** individual properties, namely independence/autonomy flexibility, smartness, consistency, perseverance, initiative, as well as critical approach on the basis of self-cognition (knowing oneself);
- creativity, which is especially important for practice and is an assumption for healthy intuition **needs to be developed** in graduates;
- schools tend to continue preferring memorising practices in education, although they are trying to support long-term storing of knowledge; on the other hand, however, emotions **have to be incorporated** in learning and theoretical knowledge needs to be linked with practical application;
- graduates may have a high-standard theoretical knowledge, but they are not able to adequately apply the knowledge in practice in low, and it difficult to use their theoretical knowledge in various situations;
- in order to improve practical skills of secondary school graduates and those from higher education institutions, it would be **useful to extend excursions and internships in companies** in compliance with the field of study.

The present paper contains selected significant moments recorded by the survey carried out in employer entities. The rate of objectivity of all of these opinions would increase if there had been presented opinions of individual higher educational institutions, which will be presented in other papers and publications.

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SOME RECENT CHANGES IN TEACHING ENGLISH AS A FOREIGN LANGUAGE IN THE HIGH SCHOOLS OF ELBASAN

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Abstract

In the past decade all the Albanian Education has undergone a period of significant change, in terms of new developments. These developments are almost entirely due to the fact that methods and methodologies changed rapidly their way of being used by the teachers and textbooks, as well.

The process of changes in the Albanian Education System has touched even the English Language Curriculum. Despite other factors which seem to be main ones in reshaping the curriculum, a great emphasis is given even to the modernization of classroom environment and to the modernization of methods within themselves, as well. Teachers and institutions can influence the student's willingness to learn through the way they organize the lesson: from teacher-centered to student-centered; from passive teaching to an active one; from an authoritarian environment to a positive one. Methods play a major role in the way our students acquire the foreign language, too. That is why certain methods tend to change within themselves, such as the example of the creation of Pimsleur method.

Keywords: Teaching English as a foreign language, positive environment, audio-lingual, Pimsleur method.

Introduction

The turbulent transition from a centralized socialist system to a market economy in the 1990s was accompanied by an immediate opening of Albania to the outside world. This confusion also brought about a social and intellectual liberation, a change in mental outlook, and freedom from the weight of dictatorship and the totalitarian mindset. The transformation from collectivized property to private property and the birth of political and cultural pluralism constituted a novel changeable within Albanian society. Then, communication with the world was the main constituent for change, both in a positive and negative sense. A predisposition towards direct contact with Western languages and cultures, interpreted as a sign of the "Europeanization" of Albania, led to the eager desire to learn foreign languages and English predominated.

"English has been equal to the French language during the dictatorship."³⁹³ The number of the pupils who learned these two languages in school has been relatively the same. The next language in great importance to be learned has been Russian, but everything changed in 1991.

"The foreign languages which predominated were: English, French, Italian and German."³⁹⁴ Nowadays, all the schools teach English. Up to the year 2006, the majority of

³⁹³ Kulla, Ndricim. "Anglishtja dhe reformixmi i saj i vertete ne shkollat tona".
http://www.mash.gov.al/shqiperia_anglofone.htm

³⁹⁴ Nurellari, Adri. "Anglishtja ne shkolla si stimuluese e zhvillimit".
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schools in Albania implemented the teaching of English in the 5th grade, but “English has become officially applied to the 3rd and 4th grade school curriculum in the academic year 2007-2008”³⁹⁵ Not only the foreign languages have risen in importance in everyday life and in school curriculum, but a great importance is paid even to the way of teaching and learning them. The methodology used is taking another direction, in which the interest of the teaching methods is put to the developing of new ideas and concepts with decentralized objectives by the students.

As a result, changes have occurred from the organization of classroom up to the methods used in the textbooks and by the teachers, too.

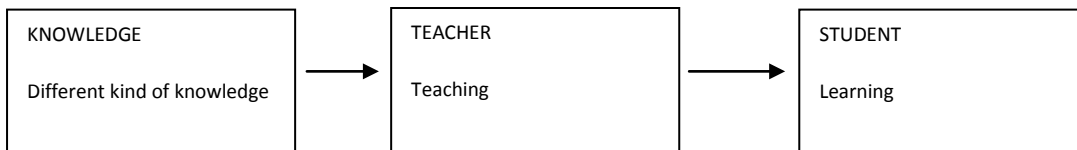
Main Text

It should be taken in consideration that the evolution of methods has been influenced a lot by the modernization of classroom environment. It is no more a teacher centered classroom nowadays, but the focus is on the student. Also, methods have undergone changes within themselves. To get a clear idea about this, it will be described further the way how one of the best traditional methods, Audio-Lingual Method has changed into the Pimsleur Method. These two topics, the modernization of classroom environment and the modernization of the methods within themselves, are analyzed below.

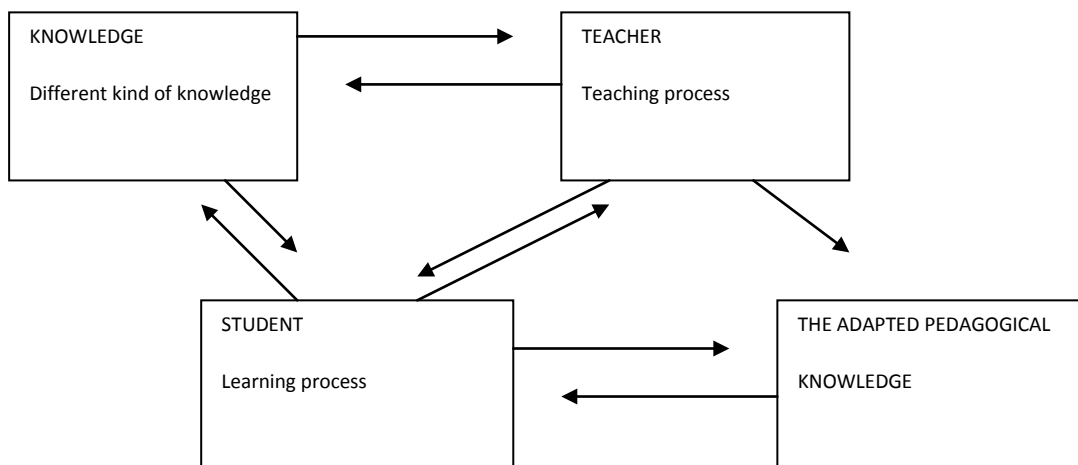
**Modernization of classroom environment:
From teacher centered to student centered**

The model of teaching in the traditional classroom, teacher-centered:

--KNOWLEDGE



The model of teaching in the nowadays classroom, student-centered:



396

³⁹⁵ Pollo, Genc “Për të konkurruar në tregun global të punës duhet anglishtja” <http://www.mash.gov.al/LAJMET%20E%20DITES/konf%20me%20gazetaret%209%20mars.htm> Tirane, 9 march 2007

³⁹⁶ Gjokutaj, Mimoza and Ladi Shahini. “Mësimdhënia me në qendër nxënësin”. Tiranë: Geer, 2005. (page 19-20)

Arrows show the relation between the new information taken and the role of the teacher and student in the classroom. This relation is not cooperative in the first scheme, while in the second one it is cooperative and students, teachers and knowledge are seen as having their own importance. Thus, “the teacher’s and learner’s roles must always be seen in relation to each other.”³⁹⁷

This simple scheme makes it easier to understand how the role of the teacher and the role of the students have changed in the classroom.

“The process of teaching is considered as a process which mixes up the art and the science”³⁹⁸

Therefore, when it is considered as art, it relies on the teacher’s work, intuition and the professionalism which the lesson hour is organized. This is worthy to make the curricula more usable, flexible and vivid. No school curricula can be lively without art, intuition or action on the part of the teacher.

On the other hand, when the teaching process is considered as a science it relies on the way the textbooks are organized and the standards and objectives that are put in order to be met.

Both these are two important factors: the way the teacher organizes the lesson according to the methods he/she uses and the way the textbooks are created.

Today, there is no more a passive teaching, but an active one.

The teacher does not explain anymore from the beginning till the end of the lesson, but just gives directions, instructions and orientates.

The student does not only listen but he/she is even included in every activity in classroom.

The teacher does not only make questions or ask students one by one, but students can make questions to each other.

The teacher is not the only who speaks anymore, but the teacher discusses, debates and exchanges ideas with the students.

The teacher is not the only one who evaluates, but students are included in self- or peer-assessment, too.

The teacher does not command anymore, but just manages, organizes the classroom.

As it can be seen, the time has come when the focus of the classroom is the student, not the teacher. To make this sound true, the authors of the textbooks have given their contribution while composing these texts. It is confirmed that the slogan “teaching for learning”⁴⁰⁰ is accurate. So, the lesson is not constructed in the way that the teacher says what he/she has to say, what he/she has planned, but it should be taken in consideration the quality of the students’ learning.

This concept is enriched more with the didactic saying “less knowledge and more strategies”⁴⁰¹. The authors of the textbooks in the past have had as a main principle the giving of as many knowledge and concepts as possible. This mania let very little free place for the inclusion of the practical use of these knowledge and concepts.

³⁹⁷ Richards, Jack and David Nunan. “Second language Teacher Education”. 1990. United Kingdom: Cambridge University Press, 1997. (page 82)

³⁹⁸ Gjokutaj, Mimoza and Ladi Shahini. “Mësimdhënia me në qendër nxënësin”. Tiranë: Geer, 2005 (page 19)

³⁹⁹ See appendix 2, “Classroom Interaction”

⁴⁰⁰ Gjokutaj, Mimoza and Ladi Shahini. “Mësimdhënia me në qendër nxënësin”. Tiranë: Geer, 2005. (page 12)

⁴⁰¹ Harmer, Jeremy. “The Practice of English Language Teaching”. England: Pearson Education Limited, 2007. (page 112)

Nowadays, the textbooks refer to many forms, strategies and techniques to realize the learning process in the best way possible.

For example, the students had just to read the text and retell it, without giving personal opinions and ideas about it. They were not involved in critical thinking and did not see the practical part of it. But, now students have the possibility not only to receive information but even give their own and support or contradict the new one they receive.

From an Authoritarian environment to Positive reinforcement

When we refer to the traditional classroom during communist time, we may visualize in our minds the strict teacher and the students being in a high affective filter state. According to Stephen Krashen, the first who dealt with this problem “the lower the affective filter, the better will the learner acquire the foreign language”⁴⁰². In this case, we come to contradiction with the posture of the strict teacher, sometimes even with a stick in her hands. “Thinking disturbances in the classroom are the primary sources of anxiety”⁴⁰³

Creating a positive environment is one of the focal points of the modern classroom. “Factors of motivation, interpersonal acceptance and self-esteem can enhance or limit the speed and levels of second language learned.”⁴⁰⁴ The teacher plays an important role in this part. Usually students pick up the teacher’s feelings and attitudes, and if it is exhibited pleasure and enthusiasm during teaching, students will be stimulated and show their willingness to this approach by being attentive and giving good responses.

This procedure may take some additional time each day to create a sense of familiarity and community within the group. Students come from different families with great diversity in their abilities to interact and get along with others. It is the teacher’s duty to guide them to see their class as a family away from home. “Teachers are now aware of this and they give positive responses to cooperation, but even stimulate them to be conscious that each of them has a value, they are all worthy.”⁴⁰⁵

Students are helped to be supportive by the sensitive input. As a result, even the shy students or those less accepted because of discipline problems feel to be paid attention. “Success and satisfaction are key factors in sustaining motivation.”⁴⁰⁶ According to the teachers I have interviewed⁴⁰⁷ for this case study, positive reinforcement is very much preferred to negative consequences of misbehaviors. Some of the reinforcements the teachers use are:

- Teacher praises students time after time. They are very personal.
- Teacher uses non verbal approval, such as a smile, a pat on the back, a hug.
- Teacher gives each student the privilege of being the leader of the raw in turns.
- Teacher organizes a class party for something special done well by the class.
- Teacher gives free time for game activities.
- Teacher calls parents at home to tell about a good experience of the student.
- Teacher puts extra points or stars on a chart for certain activities.
- Teacher gives special classroom award.

All these help teachers and students collaborate harmoniously with each other and create a positive environment in the classroom. “Where the feelings of the learner are ‘positive’, we might say that she is more ‘open’ to input. Her filter is clean and language

⁴⁰² www.The_affective_filter-hypothesis.htm

⁴⁰³ “Strategies for coping with language anxiety”. ELT Journal. Volume 58/3. UK: Oxford University Press. July, 2004. (page 259)

⁴⁰⁴ Tafani, Vilma. “Language Teaching and Learning Methodology”. Tiranë: SHBLU, 2003. (page 72)

⁴⁰⁵ See appendix 2, “Classroom Interaction”

⁴⁰⁶ Willis, Jane. “A Framework for Task-Based Learning”. Birmingham: Longman, 1996. (page 14)

⁴⁰⁷ See appendix 1, “Methodology Survey”

passes easily through it.”⁴⁰⁸ The desire of the student to learn is enhanced and the teacher teaches with great aspiration.

Modernization of methods

From Audio-lingual Method to Pimsleur Method

Except from having new methods in the curriculum of teaching and learning foreign languages, there are even changes of the traditional methods. “New ideas do not just spring out of thin air: they often come out of old ideas”.⁴⁰⁹ Therefore, the traditional methods are still used and they have a great impact in the learning process, but there have occurred changes in the way of using them. Let’s take an example by showing how the audio-lingual method has turned into Pimsleur method⁴¹⁰.

According to Audio-Lingual method, language courses should be based on the principle of repetition, in order to create communicative competence in learners. Teachers drummed words into the students' minds over and over, as if the mind were a record whose grooves wore deeper with repetition. However, neurophysiologists tell us that, on the contrary, “simple and unchallenging repetition has a hypnotic, even dulling effect on the learning process.”⁴¹¹ But, in the long run of time, the words being repeated would lose their meaning. Dr. Pimsleur discovered that “learning accelerates when there is an “input/output” system of interaction”⁴¹² in which students receive information and then are asked to retrieve and use it. As a result, it was created the method of Dr. Pimsleur, which is widely used nowadays, just like a substitution of the Audio-Lingual one.

Memory is a very important aspect in learning a foreign language. Yet before Dr. Pimsleur's work, no one had explored more effective ways for building language memory. In his research, Dr. Pimsleur discovered how long students remembered new information and at what intervals they needed to be reminded of it. If reminded too soon or too late, they failed to retain the information. This discovery enabled him to create a schedule of exactly when and how the information should be reintroduced.

Suppose one learns a new word. He/she tells himself/herself to remember it, but after five minutes the word can't be recalled. If this student had been reminded of it after five seconds, he/she probably would have remembered it for maybe a minute. Then the student would have needed another reminder. “Each time the student is reminded, he/she will remember the word longer than he/she did the time before. The intervals between reminders become longer and longer, until the student eventually remembers the word without being reminded at all.”⁴¹³

But, how can this be achieved? It is known that if the new vocabulary taken in a certain lesson is used again and again, all the students will remember it very well. This of course is impossible, as new vocabulary is added on the next days, so the volume of the vocabulary to be remembered prevents recalling it everyday.

The vocabulary of a given lesson is studied at a given time. Then, it may fade from use in the class until it reappears later on a test, and the student is graded on whether he remembers it. If the vocabulary is remembered, the student is praised, as it is thought that

⁴⁰⁸ Johnson, Keith. “An Introduction to Foreign Language Learning and Teaching.” London: Longman, 2001. (page 94)

⁴⁰⁹ Ibid (page 38)

⁴¹⁰ See appendix 3

⁴¹¹ Adams, Frank. “Resources for Teaching and Learning English”. Cd. April, 2008.

⁴¹² “The Pimsleur Method”. <http://www.pimsleur-language.com/method.htm>

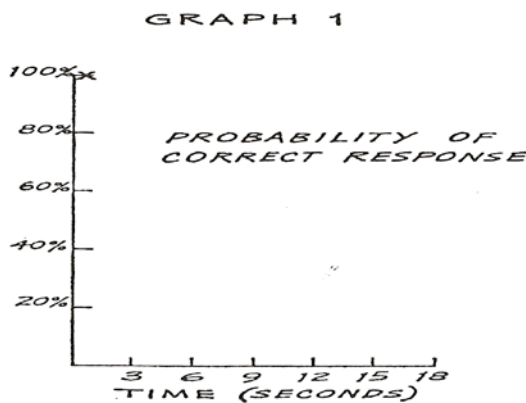
⁴¹³ “Pimsleur language learning system” http://en.wikipedia.org/wiki/Pimsleur_language_learning_system

he/she has studied it at home. But, “not all students have the same ability to remember new words.”⁴¹⁴ Even the textbooks do not aid them in this task.

Yet, there is much the teacher can do to help the students to remember. Between the impossible extreme of repeating all the vocabulary every day, and the undesirable but common practice of hardly repeating it at all, there is a pattern of repetitions which is enough to raise the student’s memory level, yet, without consuming too much class time.

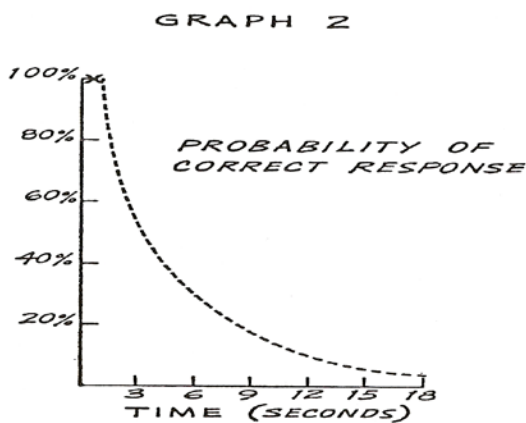
Let’s take an example with one of the primary words learned to students of English as a foreign language (usually for the elementary students of English, who come in high school without having learned a foreign language before). It is “excuse me”. If the student was asked to recall this word one second after he/she learned it, it would be done with 100% certainty. This can be shown in the graph below. X indicates the probability of responding correctly about the word learned, if the teacher asks the student. It is 100% sure of responding correctly.

Graph 1⁴¹⁵



But as seconds move on, the probability of remembering “excuse me” will decrease rapidly, particularly as students will be busy learning other new words. This rapid decrease may be shown by a dotted line as in the graph 2.

Graph 2⁴¹⁶



If the word is not repeated again, it will disappear from the student’s memory. But, the teacher may be aware of this danger, and ask the student again “Do you remember how to excuse yourself in English?” and, the student is going to try to give the right answer, even if the probability of having a good chance to remember it is 60%. Although the student does not

⁴¹⁴ Krashen, Stephen and Tracy Terrel. “Hypothesis to Language Acquisition and Learning.” Pergamon press, 1987. (page 19)

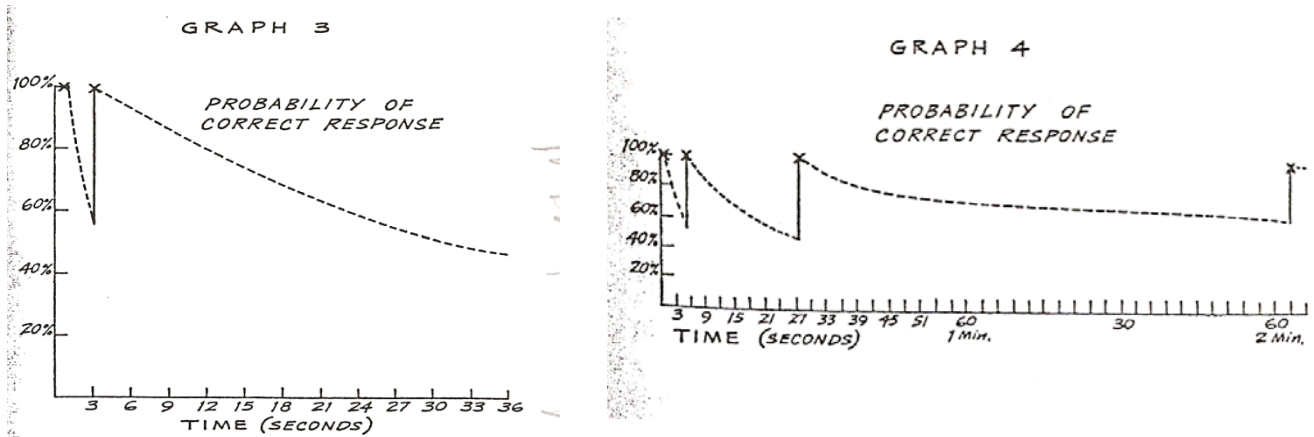
⁴¹⁵ Adams, Frank. “Resources for Teaching and Learning English”. Cd. April, 2008

⁴¹⁶ Ibid.

respond correctly, he/she will be reminded of the good answer. At that moment, his/her knowledge of the word is back up to 100%.

If this process is repeated time after time, the students will be remembering for longer periods each time. "This is the keystone upon which to build foreign language materials."⁴¹⁷

Graph 3 and 4⁴¹⁸



That is why the teacher should recall the item very frequently right after it is first presented.

Subsequently, a student should be reminded of new information at the exact intervals where maximum retention takes place. Each time the memory begins to fade, the student will be asked to recall the word. Through this powerful method, the student progresses from short-term to long-term memory without being aware of it, while avoiding the monotonous repetition used in traditional language courses.

Just like the audio-lingual method, "the Pimsleur Method centers around the mastery in understanding and speaking the foreign language."⁴¹⁹ Students will be working on their vocabulary, grammar, and pronunciation all at once, while also learning phrases that have practical use in daily life. It has been said that language is primarily speech. With this concept in mind, Dr. Pimsleur created his language programs on audio because he knew that students of languages would "learn better with their ears, not their eyes."⁴²⁰ This is achieved through the system that enables the student to learn grammar, vocabulary, and pronunciation in a natural and exciting way, created by Pimsleur.

He aims to teach students to understand and to speak the essential elements of the new language in a relatively short time. During each half-hour lesson, students will actually converse in pairs, using the type of language used in social life. This way of teaching and learning through presenting dialogue relieves students of most common learning problems.

Conclusion

As a conclusion, while reshaping the curriculum it should be considered that similar to the high schools of Elbasan, the process of teaching and learning English as a Foreign Language at the present time is one of the most important school objectives for our students. History has caused main changes to the process of teaching, beginning with the modernization of the classroom environment. The student centered classroom and the

<http://www.pimsleurmethod.com>

⁴¹⁸ Adams, Frank. "Resources for Teaching and Learning English". Cd. April, 2008

⁴¹⁹ "The Pimsleur Method". <http://www.pimsleur-language.com/method.htm>

⁴²⁰ "Pimsleur Method: Authorized Pimsleur Dealer" <http://www.pimsleurmethod.com>

positive atmosphere created in it, is associated with the innovations brought by the methods of teaching. However, “teaching English is a difficult task, but a rewarding one”⁴²¹

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Appendices

Appendix 1: Survey “Methodology”

Grammar translation (traditional method)

- Translating target language to native language
- Finding information in a passage, making inferences and relating to personal experience
- Finding antonyms or synonyms for words or set of words
- Learning spelling/sound patterns for words or set of words
- Understanding grammar rules and their exceptions, then applying them to new examples
- Filling in gaps in sentences with new words or items of a particular grammar type

⁴²¹ Asher, James. “Learning Another Language Through Actions: Total Physical Response.” 1977. California: Sky Oaks, 2003. (page 6, chapter 2)

Memorizing vocabulary lists, grammatical rules and grammatical paradigms
 Students create sentences to illustrate they know the meaning and use of new words
 Students write about a topic using the target language

2. Natural method (traditional method)

Focus more on communicative competence rather than on grammatical perfection
 Students have a warm, affective atmosphere in class
 Students create with the language at all times
 Students acquire language rather than learn it
 Receptive skills (listening/reading), precede productive skills (speaking/writing)
 Motivation and understanding is enhanced from activity and games
 Mother tongue is not used
 Students do not learn grammatical rules, but acquire them through communication
 It is a big focus on vocabulary, which is rapidly extended
 Affective rather than cognitive factors are primary in language learning

3. Communicative Language Teaching (traditional method)

Meaning is of primary importance and contextualization is a basic principle
 Students use dialogs a lot, but they do not memorize them
 Effective communication is sought
 Native language and translation can be used when needed
 Communicative competence is the desired goal
 Fluency is the primary goal
 Classroom language learning is linked to language activation outside the classroom
 There are used authentic texts into the learning situation
 Drilling may occur, but not peripherally

4. Task Based Learning (alternative method)

The class activities have a perceived purpose and a clear outcome, a task
 The demand on thinking made by the activity is just above the level which learners can meet without help
 The teacher asks the students time after time if a particular answer is right
 The teacher switches to yes/no questions instead of wh-questions
 The teacher reformulates the students' answers
 Students use authentic materials for activities such as Speaking or Listening
 Students are invited to make observations about the day's lesson and what they have learned
 Students receive feedback on their level of success in completing the task

5. Suggestopedia (alternative method)

Students are in a comfortable physical environment that does not "feel" like a normal classroom. They have soft cushioned seating and cheerful lighting.
 Students first absorb information from the environment than from the material to be attended
 Students are asked to close their eyes and visualize scenes and events, to encourage creativity
 Students pretend temporarily that they are someone else and role-play
 Teacher uses classical instrumental music in background during the lesson hour
 Students are encouraged to be child-like
 Vocabulary is read, then listened to with music.
 Students always review the previous days material the next day.
 Students do creative exercises to activate the learned material.
 Errors are tolerated

Materials are read dramatically (with great emotion).

6. TPR (alternative method)

The teacher directs and students act in response
 Listening and physical response skills are emphasized over oral production
 Use of commands requiring physical actions (Do this, do that.)
 Students direct the teacher and each other
 Students are not required to speak until they feel naturally ready or confident enough to do so
 Spoken language is emphasized over written language
 Humor is used during the lesson when possible
 Review is done by creative recombination of the words and grammar concepts.

Teachers interviewed

Ciftja, Ermelinda "Mahir Domi"
 Myftarai, Najada "Kostandin Kristoforidhi"
 Pepa, Olda "Vasil kamami"
 Shopi, Fatma "Vasil Kamami"
 Sula, Sofie "Mahmud & Ali Cungu"

Note: *teachers would put a number from 0-3 according to the use of each feature of the methods.*

0 – not at all
 1 – slightly
 2 – very much
 3 – completely



Appendix 2: Survey "Classroom Interaction"

Teacher asks a display question (question she knows the answer).
 Teacher asks a referential question (a question she does not know the answer)
 Teacher explains a grammatical point.
 Teacher explains meaning of a vocabulary item.
 Teacher explains functional point.
 Teacher explains point relating to the content (theme/topic) of the lesson.
 Teacher gives instructions, directions.
 Teacher praises.
 Teacher criticizes.
 Learner asks a question.
 Learner answers questions.
 Learner talks to another learner.
 Period of silence or confusion.

Note: *Students had to put a plus (+) if the above mentioned situation occurred often in their class, and a minus (-) if it occurred rarely.*

(87 students of the primary school and 128 students of the secondary school were asked to fill this questionnaire.)

Appendix 3: An example from Pimsleur Method

Unit 5.2	
Sara:	 Çfarë bëre të dielën? <i>What did you do on Sunday?</i>
Xheni:	 Vizitova kushëririn tim Artanin dhe luajtëm tenis së bashku. <i>I visited my cousin Artan and we played tennis together.</i>
Sara:	 Po në orën 10 të mëngjesit ku ishe? <i>And where were you at 10 o'clock in the morning?</i>
Xheni:	 U përpoqa të të telefonoja, por nuk u përgjigje <i>I tried to call you, but you didn't answer.</i>
Sara:	 Në atë orë po ndihmoja babain në kopsht, po mbillnim ca qepë. <i>At that time I was helping my host father in the garden, we were planting some bulbs.</i>
Sara:	 Po ju si e kaluat paraditen? <i>And how did you spend the morning?</i>
Xheni:	 Unë ndoqa emisionin: "Jeta në planetin tonë". <i>I attended the programe "Life in our planet."</i>
Xheni:	 Në cilin kanal? <i>On which channel?</i>
Sara:	 Sepse edhe unë isha e interesuar për ta parë këtë emision. <i>Because I was interested to watch this program, too.</i>
Xheni:	 Tek Top Channel. <i>At Top Channel.</i>
Xheni:	 Sa keq që nuk e pashë! <i>What a pity that I didn't watch it!</i>

CONTINUOUS IMPROVEMENT IN THE UNIVERSITY TEACHING: THE TEM MODEL

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Abstract

The developed research suggests an experimental model for the evaluation of university teaching: the *Teaching Evaluation Model* (TEM) based on principles and methods of quality. This latter choice as objective of the developed work (continuous improvement of the quality of teaching), and therefore as a "method of operation" (the Deming Cycle). The application of the TEM model takes place in 4 stages: lesson planning (plan), implementing (do), student learning assessment (check 1), teacher self-assessment (check 2), definition and implementation of corrective actions. Continuous improvement of each lesson and quality improvement of a university course represents the main outcome of the TEM model.

Keywords: Teaching quality, Deming cycle, self-evaluation, continuous improvement, accounting

Introduction

The aim of the work is the constant searching for "quality of education" that is inextricably linked to the careful and responsive listening to the needs "of the customer," according to his satisfaction. In this regard, the Deming Cycle (PDCA), represented one significant methodological choice. In particular, TEM, retraces the cycle Plan, Do, Check, Act of Deming, through a system of schemes of design/ management, didactical evaluation/self-evaluation, aimed at analyzing and improving every single lesson. The teacher after having planned his own educational intervention (Plan) realizes the lesson (Do) and at the end of the same administered to learners an evaluation questionnaire (objective test - Check 1).

The obtained results allow the teacher to identify possible problems, seek the causes which generate them through a teacher self-assessment questionnaire (Check 2) and define the corrective actions to be implemented already in the next lesson (Act). The cycle is repeated in all the lessons of the course offering to the teacher the opportunity to assess the level of learning of each student and the class as a whole (homogeneity - heterogeneity) - acting consequently in order to improve the educational activity. The TEM model, in this sense, allows the teacher to standardize "the good practices" to constantly improve all processes and try the path of innovation, building and maintaining a wealth of formalized **experiences which, therefore, can be estimated, compared and improved. The work is divided** into multiple phases, the first aspect analyzed concerns the analysis of the international literature, with reference to issues related to the evaluation of the teacher as a function of didactical self-evaluation and in view of the quality of teaching. The following is a presentation of the model and of its peculiarities. An analysis of the TEM model qualifying aspects is also provided, its main strengths and weaknesses. Finally, we propose an application example of the model to a university (undergraduate) course in Accounting.

Theoretical background and supporting literature

Although it is not possible to say that there is a direct relationship between teaching and learning – as for the contextual nature of learning as for the complex nature of the teaching & learning relationship - we need to reflect about the implications related to educational and evaluating praxis of quality and quality learning – and the other way around (Van Erbst, Paterson, Langworthy, Costelo, and Jones 2001). The assessment represents an important tool for research, reflection and study on the possibilities of improving which are feasible in the teaching activity. The international scientific literature clearly shows the great attention to the issue of evaluation, in particular appears the large number of tools for the assessment of teaching by the students⁴²². Although there are many reasons that favor the use of evaluations by the students (Scriven 1995), many authors emphasize the "secondary importance" of this kind of evaluation (Romainville, and Boxus 1998; Feldman 1986) and they turn increasing attention to the involvement of several actors in the evaluation processes: teachers, faculty, single universities (Brennan and Cetra...). Also appears the need to consider the effective teaching towards the students' learning, therefore able to create a deep learning, essential skills (Ramsden 1998; Stephenson 1992; Peelo and Wareham 2002; Entwistle and Tait 1990) - ultimately the ability to meet the needs of the "customers" (students).

The quality of the teaching processes is the result of a constant commitment of the teacher in the analysis of the didactical processes carried out (Shoulders C.D., and Hicks S.A., 2008), in their improvement that begins "by listening" to the learners - of their skills, ability and motivation to learn - and consolidates in the experience gained through the constant pursuit of an effective model of teaching (Angelo and Cross 1993). The constant and close to the needs "of the customer" listening - which in the TEM models results in a continuous process of design, evaluation / self-evaluation of teaching - is a crucial process for the "customer satisfaction" and the professional growth of the teacher .

The proposed model (TEM) is part of a consolidated context of studies, of northern European tradition (Entwistle and Ramsden 1983; Marton and Salio 1976), revived by Australian researchers (Prosser, Ramsden, Trigwell and Martin 2003) which considers teaching and learning in a close connection (Trigwell and Martin 2003). In particular, the TEM rises as a proposal of a personal "method-tool" , of the teacher (but sharable and comparable among different subjects), useful for the purpose of the reflection, research and improvement of the teaching activities developed and to develop. In short, the model allows the teacher, starting from his conception of teaching, then by the "style" of teaching that goes with it, to constantly improve his approach to teaching by a "deep cultural renewal" in the views he has of teaching itself⁴²³. The aim of the model is the constant improvement of the quality of teaching through a tool which reduces the gap between the "real model" of teaching applied by each teacher - in the context of place and time in which he shows his professionalism - and the ideal - the most effective – (Pozo-Munoz, Rebelloso-Pacheco and Fernandez-Ramirez 2000) feasible in that precise context.

⁴²² A study about research conducted about the teacher evaluation, performed by students from year 1924 to year 1998, has been published by Aleamoni L.M., 1999, *Student rating meths versus research facts from 1924 to 1998*, Journal of Personnel Evaluation in Education, 13 (2): 153-166.

⁴²³ About what has been just observed, some authors have elaborated some indicators about the teacher's regarding teaching concept and the following approach: D.Kember, and K.P.Kwan, 2002, *Lecturers' approaches to teaching nad their relationship to conceptions of good teaching*, *Instructional Science*, 28 (5): 469-490. About the possibilities of improvement of the didactical as a consequence process of a renovation of the concepts of the teacher about teaching refer to: A.Ho, D.Watkins, and M.Kelly, 2001, *The conceptual change approach to improving teaching and learning: An evaluation of a Hong Kong staff development programme*, *Higher Education*, 42(2):143-169.

The TEM model is based on the concept of complexity of the quality of teaching, so on the need of a multidimensional approach to teaching (Casej, Gentile and Bigger 1997; Roche and Marsh 2000): a systemic approach. As noted the model begins with the skills, experiences and representations that the individual teacher has of the didactic action (Ramsden 1992; Samuelowicz and Bain 1992; Trigwell et al 1994; Gow and Kember 1996) linked to the context of place and time in which this is achieved. It is on this basis that we develop a process to improve the teaching activity which is dedicated to a constant reflection and analysis of the performed processes and to the produced results (learning), on the causes of the identified problems and the improvements which can be implemented by the same teacher, according to his environment (Ramsden 1992). The comparison between what was planned - the ideal model - and the produced results (learning) - the real model - represents the cycle crossed by the TEM model in the pursuit of the education quality. The model ("ideal") of teaching is therefore the result of a research and experimentation of the teacher personally that begins with his characteristics and personal circumstances of education to move towards a just ideal model that respects the context of place and time where the teacher expresses his professionalism. The background of knowledge accumulated as a result of an activity of continuous improvement and innovation is the basis from which to start for the constant improvement processes which are individual and collective as well - thanks to the confrontation between the best (and the worse) teaching practices highlighted by the teachers over time.

As noted by some authors (Samuelowicz and Bain 1992; Trigwell et al. 1994), the research effort should be directed to "inform" especially those who teach on the prospects and possibilities of teaching which are feasible. Infuse, the style of teaching is the result of the composition of a number of variables (Lueddeke 2003) among which we want to underline: perception of teaching, discipline, professional training, years of teaching. The years of teaching can become a competitive advantage in terms of teaching style, when the "discipline" is the choice that transforms the "perception of teaching" in "professional training". In this sense, the TEM model represents a "form of discipline" in the design and implementation of the educational action that aspires to the quality of teaching. The professionalism of the teacher is the result of those interactions which can be made between the personal wealth of knowledge that each teacher has matured and the experience gained in the course of teaching (Beijaard, Meeijer and Verloop 2004). The TEM model lays his foundation on an ongoing process of reflection and self-evaluation (Cooper and Olson 1996), that, integrated into a specified working model, encourages precisely the professional growth of the teacher (in this sense stimulating improvement and innovation).

The international literature is full of studies focusing on the opportunities resulting from a self-rating process of the teacher (Kyriakides and Campell 2004; MacBeath 1999; Nevo 1995; Petegem 2005). Some authors underline the importance of self-evaluation in the process of training and professional growth of the teacher (Airasian and Gullickson 1997; Stronge and Ostrander 1997). For the purposes of self-assessment - in particular about the distinction between self-evaluation carried out according to the experience of the course, then personal and the institutional instead of instead linked to the faculty and to the qualitative change - some authors consider as related the two purposes (Arreola 2000), others see in the first one the premise to the second one (Selding 1999). The TEM model is closer to this latter trend of thought, as noted, in fact, self-evaluation (in the context of the TEM model) represents primarily a personal tool for reflection and research just related to the experience of the course in order to reach the improvement of the quality of teaching (Kane, Sandrotto and Heath 2004). It has to be noted, at the same time, the usefulness of the achieved results also for institutional purposes, as a promoter of qualitative change in universities. In this sense, the Australian universities show a great deal of attention to the issue of teaching

evaluation, as the attention to the students and their learning, so to their full satisfaction, coincides with the concept of evaluation itself. It should be noted in particular how, the evaluation processes of teaching based on learners, are accompanied by subsequent self-evaluation processes of the teacher, created primarily through the use of the *teaching portfolio*. Even in the Asian context, in the American and the Canadian, the attention on learning generated in learners, hence on the quality of teaching is in the foreground. In particular, innovation, in teaching and in learning processes, is promoted and incentive procedures are claimed to do so. A nearly identical situation for Europe (Great Britain in particular) which focuses on the dissemination of those successful practices (*good practices*) in teaching in order to raise the quality level of the education offer in the universities. Thus although if it is reached a broad discussion on the topic of self-evaluation (Lyhns 1998; Selding 1999; Zubizarreta 1999), very limited appears instead the international literature on the evaluation of the teacher on the basis of didactical self-evaluation and in view of teaching quality. The TEM model is placed in this particular area of research. Far from being an exhaustive and unlimited answer, the proposed model offers to the teacher the chance to observe and evaluate his own learning path through the lens of quality with a view to continuous improvement.

The TEM model

The TEM model consists of a system of schemes of design, management, evaluation, self-evaluation that produces, over time, the PDCA cycle.

Insert here fig. 1

The TEM model is designed to allow the teacher to plan his own educational intervention, the implementation of what was planned, the evaluation of the produced results, in terms of learning generated and the address of the next lesson toward to overcoming of the detected problems (improvement, innovation). In order to present in detail the process followed by the TEM model, we propose the following schemes of analysis (fig. 2, 3, 4) which allow a clearer and more complete interpretation of the model itself.

In particular, the figure n. 2 represents the synthesis of the first two phases: Plan and Do (the same pattern will be subsequently used for the phase Act).

The planning phase is one in which the teacher sets the aims of each intervention and the more appropriate teaching strategies.

Insert here fig. 2

Plan Phase

Plan phase is represented by project paper which teacher uses in order to define critical moments of the lesson. Some key words: “Who”, “What”, “When”, “Where”, “How”, “Why”⁴²⁴ represent the reference points of project paper and of each scheme that compose the TEM model.

“Who” (students): the teacher designs his didactic intervention noting initially and subsequently monitoring the learning features of students: prior knowledge, learning ability, motivation, homogeneity / heterogeneity, number of students.

In sum, these learning characteristics represent the reference point that the teacher must verify the design of any educational intervention. Define the learning characteristics of students (who) are identified topics (what), the most appropriate instructional strategies (how). So the teacher calls time (when) and place of presentation of the same (where). The motivation (why) represents a further aspect to be considered in the design phase. At

⁴²⁴ With these “key words” it is meant to identify and summarize the critical aspects of a didactical intervention. They represent in the end an adaptation of the Deming cycle to the university teaching.

beginning of the course, entrance tests are the first form of observation of the characteristics of student learning. The monitoring is carried out with the phase check 1 when the teacher at the end of each lesson administer to the learners a few test item in order to verify the level of learning product.

The scheme (fig 2) presents three main sections: the first related to the definition of the aims, the second one shows the lesson in different phases and the last one and the last part that includes the definition of corrective actions to be implemented.

The first section of the diagram is shown in figure n. 3 that remarks the aim of the lesson and the reference module, in addition to the general indications of the course in progress.

Insert Here Figure n. 3 – The teaching design scheme: section related to objectives

The macro-design, made before the beginning of the course, allowed to precisely defining its general and specific aims. As noted, in the diagram are shown only the objectives of the lesson in progress and the reference module, the goal is to guide the intentions of each lesson on the customer (the learner) without disregarding the overall purposes of the course (modules)⁴²⁵. The second section of the schematic design (Fig. 4) has the articulation of lesson phases.

In the first column (fig.3) the teacher must indicate the objectives of the lesson and in relation to specify them (next column) subject matter, the characteristics of student learning, teaching methods and tools chosen, times and places for carrying out the lesson.

Insert Here Figure n. 4 – The Scheme of Teaching design: section related to teaching strategy

The design stage allows the teacher to define the purpose of the lesson according to the students and their "reactions" to the solicitations caused by the teacher - in terms of teaching strategies (methods, tools, motivation, and so on). The aims of the lesson are thus divided into "phases" which are planned according to the specific topics to cover (what) and measured according to the needs of the students and to the level of homogeneity that is shown by this latter as a group (who). These are the foundations on which it is necessary to define the best "combination" of methods (as), tools (how), times (when) and place (where) for carrying out the lesson - in order to reach its effectiveness. The motivation (why) is an indispensable reference without which a big part of the work of design, management and evaluation would get lost. It's necessary to plan on which stage/s to pay proper attention to this aspect (yes / no) with precise interventions.

Referring to Figure 2 (in bold) you can see that the first objective (phase), after the presentation of the lesson is the repetition/reinforcement of the previous lesson. About this are specified: the argument to summarize, the "Who", therefore, the number of students, homogeneity / heterogeneity in learning (probed by the verification test of the previous lesson), more appropriate methods and tools and necessary specific times. The same process is repeated for the other targets.

It is included in the end, an additional mandatory stage in the design, as the summary of the same lesson and the advance of the next lesson (fig. 4 in bold) and so completed the design phase of the lesson by the teacher who has to worry about time to activate the second phase of the PDCA cycle: the phase Do.

It is important to foresee always at the last moment of the lesson a repetition phase of the same one and an anticipation of the next educational intervention.

Insert Here Figure n. 5 – Phase 1: Plan

⁴²⁵ The same aims will be a key reference in the phase Check 1 in order to verify the learning level of the learners. The reference to the hierarchy of objectives of Bloom allows an easy verification of the purposes of the lesson in the verification tests which are administered at the end of the teaching intervention. The result of the test will allow to define the achievement of objectives themselves and the terms of the design of the next lesson.

Phase Do

The next step (Do), is expressed during the lesson in the classroom according to the design scheme (Fig. 6). Although the design phase is a basic moment for the effectiveness of the teaching intervention, the implementation timing is not strictly bound to a default scheme. The reference must always be the learner and his "reactions", in terms of learning, to the stimulations of the teacher. The planning scheme represents a general reference, "a pattern guide" made up in regarding to the level of student learning through "the best combination of actual variables. The feedback that the teacher receives from every educational intervention allows him to review already in the meantime (though not in a general way) the impact of the chosen teaching strategies choices and to adopt the required modifications to the general scheme if necessary. The next evaluation stage (check) will complete the reference framework of the teacher in terms of generated learning. At this point the teacher can evaluate the global results of the teaching activity which has been just delivered, identify the encountered problems and activate the most appropriate actions in order to overcome these problems (improvement).

Insert Here Figure n. 6 – Phase 2: Do

Phase Check

The heart of the model is constituted by the phase Check.

In each educational intervention, the teacher performs the Check phase (1). In particular, at the end of every teaching intervention, the teacher administered a questionnaire to the students (objective tests) of a few items based on the general and partial purposes which are defined in the design scheme. The aim is to assess the learning level that is generated in the learners individually and as a whole (total number of students). Each objective defined in the design phase presents the evaluation questionnaire (check 1) a few items related to the Assessment of the objective.

The verification step (regarding which more will be said later) therefore allows to specify if the individual lesson objectives have been achieved or if they should be faced again (Yes / No). Check phase is crucial in order to begin the PDCA cycle, as it lets identify the "problems" which are emerged during the verification test (Check 1) and reflect on the causes that generate them (Check 2). Phase Act, finally, allows the formalization and implementation of the solutions which are adopted by the teacher to face the occurred problems.

Insert Here Figure n. 7 – Phase 3.1 – Check 1

This phase, Check 1, gives the startup to the next research activity about the causes of any emerged "problems" (Check 2). In particular, the collected information offers the teacher the opportunity to define exactly which lesson objectives have been achieved and which are not.

In order to find the causes of these problems the teacher fill out the self-assessment questionnaire. This questionnaire gives the teacher the opportunity to trace the main stages (critical) of the lesson trying to identify likely causes of ineffectiveness of the lesson. These cases, for example, could result from inappropriate teaching strategies (how), the complexity of the subject addressed (what) or a lack of consideration of the learning characteristics of learners (who).

This latter directs the teacher in identifying the causes of the possible "problems" which are identified in the assessment phase and in the definition of corrective actions to be implemented.

Insert Here Figure n. 8 – The self-rating questionnaire

The self-assessment questionnaire is built on the basis of the "critical points" of the previous schemes (who, what, how, and so on...). Each of them is characterized by a set of

aspects to think about in order to identify the causes of the problems which are encountered in the evaluation phase of the learners.

The self-evaluation scheme, far from being an exhaustive overview of the variables which influence the learning process is, as noted, a tool that stimulates and directs the reflection and then the action that aimed at the improvement. Many researchers provide specific studies on the variables which influence the learning process and especially on those which enable the achievement of an ideal teaching model. The self-assessment questionnaire is structured on the basis of the mentioned studies, but it is "modeled" on the experience that is gained by the single teachers, through the constant use of the time instrument, in their context - and by the comparison with the colleagues. Ultimately, it is a tool that fits the reference context according to the results which are achieved by the teachers, in terms of the learning level that is generated among the learners. It is tool that stimulates the personal and collegial research for always increasing professional levels. Through this period of reflection, therefore, of self-assessment, we give the start to the following corrective actions to be implemented already in the next lesson. The possible improvement that is seen in the following lessons will confirm to the teacher that he is moving in the right direction: listening to the customer and to his satisfaction.

The self-assessment questionnaire does not represent an exact formula that should be used for the solution of educational problems. As often observed, the aim is to encourage and facilitate reflective practices in the teacher after each lesson. Compared to the several examples available in the literature (Heywood 2000; Kremer-Hayon 1993) - of useful tools for these practices - the proposed questionnaire represents a summary of the aspects which are considered the most significant for the purposes of an effective teaching activity. Various researchers have examined this issue, some of them by offering some references which have to be considered by the teacher in the process of self-evaluation (Heywood 2000; Kremer-Hayon 1993; Selding 1999). The questionnaire suggested in the TEM model, differs from the others mainly due to the contextual and dynamic aspect that characterizes it, so because of the peculiarity to be adapted to the "time and place" of progress of the teaching activity.

As noted, the questionnaire involves the teacher in reflective and self- evaluation processes referred to the just ended class, in order to inform him about the possible reasons of the "mistakes" which have appeared in the didactical process. In addition, this tool allows guiding the improvement process, through the design of the educational interventions (corrective action) to be implemented right after (next lesson). It is still emphasized the usefulness of the questionnaire as a tool for reflection for the teacher that can and should be developed (enriched with additional points of discussion - questions) according to the professional growth that he achieves in time. The reference is to the teacher, as an individual and as part of a larger work group (colleagues), according to his working environment. Ultimately, it is exactly the context of place and time the one that defines the dynamic aspect of this tool. As you can see from the self-assessment questionnaire, the teacher is guided through a process of analysis of the most important points of the just ended lesson. The key words, also in this "worksheet", allow to summarize the main aspects which have to be considered for the quality of teaching⁴²⁶.

Insert Here Figure n. 9 – Phase 3.2 – Check 2

⁴²⁶ The self- evaluation questionnaire has been created according to those aspects of the teaching quality which are explained in the section 3.2. It is impossible to think of considering all the aspects which influence and vinctuate the teaching activity. But it is impossible to decide to reflect about those aspects which mainly vinctuate and influence the didactical action in order to activate a knowledge and analysis process of the same one which allow in time extending and deeping the analysis of the variables which influence the process itself. This is what is meant as "path toward the quality"

Phase Act

The phase Act is basically the definition of corrective actions to be implemented in order to overcome the problems encountered during check. The worksheet plan/do provide a last scheme (fig. 10) the teacher must complete in order to plan the most appropriate strategies.

In this case the teacher indicate aims/phases (or the phase) which have shown "problems", briefly identifying the causes which generated them and finally defining the corrective actions that he will be implement already in the next lesson (phase ACT).

In particular, the *Act* phase, on the basis of the evidences which are supplied by the evaluation and self-evaluation process, nourishes and sustains the path of the teacher on the path of improvement. At this stage, the watchword is, therefore, always trying new teaching strategies which can represent an effective way to the improvement.

Therefore, it is necessary to standardize always those "practices" which have determined a positive effect in terms of the solution to the encountered problems (effective learning) and try the innovation. The standardization is not a point of arrival, but an intermediate step toward a constant quest for quality. Pursuing increasing levels of quality in the implemented processes drives to innovation. Ultimately, the teacher is made aware of the characteristics and limitations of the processes in progress, therefore, of the opportunities for the personal and professional growth which they can pose.

Figure 10 shows two consecutive lessons in which the corrective actions (act stage) represent the connection in terms of improvement between the two educational interventions. In particular, in Lecture n.2 (Fig. 10) the corrective actions which will be defined by the teacher will find place in the initial design of the next lesson (lesson n. 3).

As shown in the figure the teacher after stating the objectives that need to be addressed again in the next lesson specifies the corresponding topics. In the column "problems," the teacher indicates the test questions that have failed. Among the reasons the teacher must indicate what has emerged from the self-assessment questionnaire that is, if the problem was due to who, what, how, when, where, why. In summary must specify which "critical" can be attributed to the learning problem detected. Corrective actions consist in the definition by the teacher of actions aimed at overcoming these problems.

Phase Act does not represent a final and conclusive solution regarding the problems which have emerged in the Check Phase. You need to consider this time as an experimental phase that tends to the solution of the problem, but from which not always the effect you want derives. The teacher acts according to its wealth of experience and competences that is limited to the conditions of place and time in which it operates. In this context, he must look for increasing levels of quality of education through continuous improvement and innovation. Insert Here Figure n. 10 – The corrective actions

So the teacher can "standardize" those teaching strategies which receive more feedback on the learning of the students enriching them in the time of the innovations through "the (formalized) experience in construction." The teacher will have, therefore, the ability to plan and implement new teaching strategies which are defined on the basis of the information that is gathered in the phase check and of the information that is provided by ACT stage. So Deming Cycle is over and again started, crossing, in this sense, the path to Quality. This aspect is particularly important regarding to the effectiveness of the application of TEM model. The systematic observation, analysis and solution to the problems which have been encountered in the lessons that follow one another in time allow the creation of a rich and unique archive of knowledge about the implemented improvements. A system of "construction of experience" that is free from default and pre-formed paths, but closely linked to the teacher, to his professional and personal abilities (in continuous enrichment) and to the context of time and place in which he made his commitment to teaching. In addition, the

comparison of the results, which have been produced by the same teacher over time and with other teachers, facilitates the achievement of ever higher improvement levels towards the desired quality of teaching. Figure 11 shows an overall view of TEM model.

Insert Here Figure n. 11 – The TEM Model

The cycle is repeated for each module and for the whole course. At the end of each module the teacher can elaborate more complex structured tests in order to verify the progresses which have been made by each student and by the class as a whole. You can see how the methodology of PDCA allows the teacher to focus the attention on the satisfaction of the "customer" - in terms of generated learning - through a constant attention to all the stages of the educational process (design, management, evaluation), in the context of place and time in which it operates and with a constant commitment to improvement.

Insert Here Figure n. 12 – Phase 4 Act

Limitation, Sugestions and Summary

The didactical action in its context and temporal constraints assume a dimension that is difficult to observe without the risk of analyzing a less extensive and complex phenomenon than the real one. Although the model allows to observe and evaluate the learning process with respect referring to several variables which condition it, it is difficult to "reduce" to a scheme, although dynamic, an articulated and complex system as the teaching one. The ability to observe and evaluate the teaching path itself, related to the achieved results (learning of learners) and to the way they were achieved (teaching strategies) - during and at the end of the route itself (comparison in time and space) - and to act for the purpose of the improvement can be a sufficient motivation for the "simplification of complexity."

The focus on the teacher, besides, although it represents a strategic point of view of the course in progress - for the mentioned several times reasons - affect the subjectivity of the evaluation process. By contrast the teaching evaluation that was made by the learners meets much more evident limits and is not free of subjectivity. Although the subjectivity is unavoidable, the comparison in time and space that the model allows, compared with that what was expressed by the teacher himself and / or other teachers can be a valuable tool for reflection on possible not detected problems or not considered in the most appropriate way. A further aspect of critical issues in the use of the model is the risk of an initial involvement (by the teacher) and a subsequent abandonment that can arise as a result of constant effort that is required to the teacher in the design and evaluation of every educational intervention. Ultimately, what you ask the teacher is a "cultural revolution", a renewal in the way of thinking and managing the educational process that leads the teacher to "be questioned" in each lesson. This determines a consequent professional enrichment, which is decisive for an effective learning process. The utility in choosing this work methodology is also present at the time of a teaching replacement of the teacher. The model "draws" a compulsory path towards the improvement that ensures unity of direction and methodological approach to the course in progress.

Consider, also, how the background of knowledge and experiences which are formalized in comparable standard models is an archive of knowledge that is useful for the universities in order to understand more clearly the educational carried out activities, the produced results and the achieved improvements, so the quality level of the training offer. Lastly, we want to show how the proposed work is being empirically validated by the use of TEM model as part of a university course in accounting (undergraduate). In particular, we wanted to compare first of all, the learning that has been produced for the students during two different years of course in accounting, which have been carried out by the same teacher, with and without the application of TEM model. In addition, we wanted to investigate if the learning level in learners showed an increasing trend over time, according to a consistent

application of the model (three consecutive years). The emerged results so far, already show relevant evidences, in both cases.

Appendix

An example of lesson

The proposed lesson is referred to a course of accounting. The characteristics of the class of students, which have been checked with the entrance test and monitored at the end of each lesson (120 learners, high motivation, heterogeneous class: 30% of students do not have any knowledge on the subject, 65% low, 5% good) led the teacher to define the objectives and the relative articulation in phases, in strict adherence to these aspects. In particular, the first aim of the lesson is relative to the previous didactical intervention (not met target): (the learner is able to) "recognize the main features of the account." The other purposes of the lesson in the course are represented by (knowledge) "identifies the principles of the double-entry method and points (application) the writings of buying and selling on the domestic and international markets." The objectives are defined according to the scale of the objectives of Bloom (Bloom 1968). So it will be possible to make an immediate analysis of the "produced results" in terms of learning, because these purposes will be tested within the evaluation test (structured or objective tests of knowledge) administered to students at the end of the lesson itself.

As can be seen in Figure 1, next to each goal is shown (in red) the achievement of the aim itself (yes/no). This reference can be found in the *Check* phase (learning verification) and will represent an important reference in the subsequent Phase *Act* - as a guide to the repetition of the PDCA cycle.

Insert Here Figure n. 1.1

The second part of the scheme allows a further explanation of what has been observed. In particular, the objectives of the lesson are articulated (phases) according to the arguments (what), the most appropriate methods and tools (as), times (when), places (where), learning motivation (why) and above all to the "who" (learning level of students). The teacher, according to the goals to be attained, defines the most appropriate instructional strategies, therefore divides into phases (sequence of topics - "what" - methods, and so on..) the presentation of the lesson. The aim is to predict, for each objective, the most appropriate and effective strategies.

A first compulsory aspect in the design of the lesson is the definition of the aspects which are related to the "presentation of the lesson" itself (step 1). Make clear to learners the purposes to be achieved with the lesson and how to pursue them means to create the conditions for the performance of an effective learning. The Objective 1 (comprehension) is pursued by the phase 2, in which the subject to be discussed is related "to the main features of the account." This aim represents a summary of the previous lesson, another compulsory aspect in the design of the lesson. In this phase, the teacher creates the necessary link with the previous educational intervention and reinforces that knowledge (ability-skills) which needs a closer examination. In this case, the teacher defines the best combination of the involved variables (methods, tools, and so on..) because of the learning characteristics of the learners (Who), then of the specific goal. The same procedure is applied to the joint in phases of the other purposes. In particular, regarding the aim 2 (knowledge), where the subject to be discussed is represented by "the principles and methods of the double entry," the teacher, in view of the composition of the classroom (Who), of the objective to be achieved, therefore of the expected argument, and of the total available time, defines the combination of the method of ex cathedra lessons with simple, but effective tools as the blackboard, the posters and flipcharts.

The purpose is presenting to a heterogeneous class, in which the level of knowledge of the proposed topic is not high, a succession of concepts which are repeated several times, in different forms and ways. The estimated time for this step is 20 minutes, considering the repetition of the argument that is scheduled in the next step (with different strategies) and in order to avoid losing the attention of the students. The venue for the development of the lesson is represented by a classroom that has been selected by the teacher at the beginning of the course, according to the number of the students and to the type of methods and tools which had been planned to be used mainly (macro- planning⁴²⁷). The third phase shows the same goal to achieve with the same learners and about the same topic, but with the use of new teaching methods and tools. The purpose is to summarize and develop the same knowledge. The methods that have been selected in this step are represented by the dialogued lesson that the teacher expected to play through the aid of another method: the case. The latter made by the teacher himself according to the discussed subject and to the next one to connect to. The summary that has been provided by the selection of a business case becomes particularly effective if it is solved through the interaction with the class⁴²⁸. Referring to the selected instrument, the teacher has planned to use the projection of slides (simple or synthetic) which contain details of the topics which have been summarized with the help of the case⁴²⁹. The expected time at this stage is 30 minutes. Motivation is a moment that the teacher has planned as integrating part of the case itself⁴³⁰. The second part of the lesson is directed to the achievement the aim: "detection in double-entry of the purchase records in the national and international markets" through an exercise of 50 minutes." The selected tools, in this case, are both those ones which have been foreseen in the first phase (which allow to summarize the theoretical concepts on which the application part is based) both short dispensations (two sheets) containing all the addressed theoretical aspects, which are useful for the development of the exercise. In particular, the lecture notes are intended to encourage students to a further summary time of the lesson, in an attempt to perform the exercise. The teacher also plans to carry out this part of the lesson in the computer room with the use of them in pairs (of students).

The final phase sees the administration of the verification test, which will allow the teacher to assess the learning level achieved by the students (*Check 1*), to reflect on the causes of these problems (*Check 2*) and to plan the corrective actions to be activated in the next lesson (*Act*). The time dedicated to the test (that will not be corrected in the classroom but in the next lesson) must not exceed 10 minutes. The test (objective tests) should be divided into a few items which are focused on the purposes of the lesson, in order to verify their achievement. The mentioned above reason (why), could be considered a marginal aspect. It is perhaps the most common mistake that can be done both in the design phase of the lesson (*Plan*) both at the time of its implementation (*Do*). It is essential to prepare students to listen, so to learn. It is therefore important to highlight the reasons for their effort in this sense and the achievable results. In the diagram above (Fig. 1) you can see that the teacher has planned interventions on motivation in the stages: 1, 4, 7 ("yes" in the column of the motivation).

⁴²⁷ The selection of different places (por example: computer classroom, company, video class room, and so on) also during the same lesson has to be always addressed to the most productive and efficient combination "of the variables to manage".

⁴²⁸ In this circumstance, the teacher has to plan carefully how to lead this part of the lesson, the risk is creating only confusion and disorder among the students – or simply reducing everything to an unuseful and self-functional tale.

⁴²⁹ Chaging methods and tools allow to induce the attention of the learners that normally gets weaker overtime.

⁴³⁰ The "yes" in the motivation column, corresponded to the phase in which the case is forsean, underlines the aid of the motivation in that specific moment of the lesson.

The next *Check* phase, as already noted, will allow to verify whether what was planned has permitted an effective achievement of the set goals (yes / no) or it is necessary to resort to "corrective actions" (Stage *Act*). Referring to the lesson that has been given as an example, the administered tests detect learning problems regarding to the revealing of some double-purchase transactions in the international markets. Almost every student has acquired skills which are related to the detection of the double-purchase transactions in domestic markets (in addition to the acquisition of knowledge and skills which are required for the achievement of other purposes), though only 42% of students answered correctly to the questions concerning the detection of the double-purchase transactions in international markets. The correction of the assessment tests allows the teacher to identify the stages of the lesson which presented problems. The teacher begins to pin the worksheet for Phase *Act* – that is contained in the scheme of instructional planning, the unreached goal, the matter that it is related to and the identified problem (test questions which show problems). The teacher, at this point, retraces the main stages of the learning process following the "critical points" which have been proposed by the self-assessment questionnaire (Figure 2), trying in this way to "track" the causes of the outcomes which have been produced by the lesson.

Insert Here Figure n. 2.2

According to the proposed example, the results which are reached by the teacher concern almost all the critical points: Who, What, How, When, Where. In particular, reflecting on the questions in the questionnaire, the teacher noted, as possible reasons for the problems which have been encountered in the lesson, the following aspects:

(What) the most evident point is represented by the proposed contents which were not adapted to the abilities / learning methods of the students, these ones are divided into two parts (about 50%) who had already shown in the placement test appropriate knowledge about the topic and who showed deficiencies of different kind and level – gaps which were not overcome by the lesson; it is then highlighted the complexity of the issue that has been proposed by the learners and the inadequacy of the workload;

(Who) about this point the teacher noticed that the failure to listen to the needs of the students, during the exercise, prevented him to identify the emerging problem; the teacher, besides, has not facilitated the participation of the learners in the lesson (tutorial) confining them to a pairwise comparison (that was confused and messy);

(How) the methods which have been chosen by the teacher about: the specific target, the number of students, the associated learning conditions/ ability of them, then, time and venue of the lesson, were inadequate. The exercise at the computer, with the grouping of the class into pairs has also created confusion and disorder in the classroom with administering difficulties of it by the teacher (mastery of the teaching method). The same observations can be made for the instruments;

(When) the specific time dedicated to the exercise was not well articulated referring to the complexity of the issue (contents), to the heterogeneity that has been shown by the classroom on the subject itself (ability to learn), the overall times distribution times in the articulation of the lesson to the venue of the development (computer room / computer use);

(Where): The computer lab has created an additional problem. In front of the computer tool, the teacher has permanently lost the attention of the classroom (adequacy to the specific lesson.) In addition, according to the contents to be treated using the classroom computer was premature.

Based on these considerations, the teacher will establish the corrective actions to be implemented in the next didactical intervention - Phase *Act*. Proof of the effectiveness of this process will be the phase *Check* 1 of the next lesson, when the learning of the learners will be assessed also about the goal that was not achieved in the just ended lesson. In this sense, the teacher will have the opportunity to reflect on the effectiveness of implemented corrective

actions, so, if necessary, on the possibility to activate further improvements - or simply "standardize" the processes which have produced positive results.

In the figure below is shown two consecutive lessons in which the phase *Act*, referred to the just mentioned example, represents the link between the two.

Insert Here Figure n.3.3

In particular, in this phase, as noted, the teacher defines the corrective actions specifying them in the *Act* section of the teaching planning scheme. Figure 2 shows this step in lesson 2. The next instructional intervention (lesson n.3) will be partly already defined by the "corrective actions" to be implemented in that particular lesson (red arrow). In particular, the teacher identified, in the *Act* section, the purpose (application) n.3, as a problem that was emerged in the Phase *Check 1* referred to the topic (what): recognition of double-purchase of the transactions in the international markets. The problem that arose was highlighted by three questions (5, 6, 7) of the verification test and the cause that was identified by the teacher (in the *Check phase 2*) is related to the critical aspects: Who, What, How, When and Where. The corrective actions which were planned by the teacher are related to the following considerations. The inappropriate choice of some methods has led to several problems. In step 5, the exercise in pairs resulted in a lack of interaction with the class (accentuated by the use of the computer) not allowing the teacher to detect the learning problems that were experienced by the learners. In addition, the exercise in pairs at the computer has only created confusion and disorder in the classroom, with the difficulty of administering it by the teacher.

The choice of the method has also been made without considering the specific goal to be achieved, the large number of students and especially their learning ability/capacity. Another negative aspect that has been detected by the teacher was the inadequacy of the times and the places which were planned for the achievement of this specific goal. These observations, together with the need to review the contents of the lesson according to the needs of students, led to the choice of the following corrective actions.

The teacher has defined a combination of methods, tools and times for the development of the lessons which seem more appropriate and coherent for the objective to be achieved and for the conditions that bind it. In particular, the objective 3 will be covered in the next lesson with the active method without the use of pair work (individual exercise). So the teacher will have the opportunity to repeat the same arguments to the students through a structured exercise on levels of increasing difficulty. Initially, learners will be provided with some handouts in order to solve the first operations, then the teacher will assist the students work through the projections of synthetic and schematic slides which recall the basic concepts, leaving room for the reflection and the reasoning.

The solution of the questions composing the exercise will allow the teacher to summarize the topic again, this time in an analytical and exhaustive way. The times are distributed in consideration of the overall design of this phase. The teacher has planned, in fact, another moment of summary through a different method: Role Playing⁴³¹ (10 minutes) that allowed highlighting and summarizing the salient aspects of the addressed subject again as well as offering the opportunity for the teacher to act on the motivation (why). Ample times for the repetition of unclear aspects (previous lesson repetition) become needed especially regarding important topics, and which involved (as in this case) a large number of students. Other more specific forms of repetition (involving for example a smaller number of students or a marginal importance topic) can be translated into individual actions on individual learners, planned by the teacher in different forms.

⁴³¹ Role Playing, in this case, has been used to simulate a dialogue between an owner and a director of a company in order to underline the most important aspects which are related to the financial operations though emission of loan capital.

Regarding the example above, the results which were highlighted by the verification test of the lesson n. 3 showed a completely different trend compared to the previous lesson: almost all of the students developed correctly the items related to the objective to summarize. We want to emphasize that the route taken by the teacher, following the PDCA cycle in every educational intervention, leads in time to an unavoidable improvement, due to the positive or negative result that the teacher himself receives after the checking (ex: check phase 1 lesson 3) of the effectiveness of the implemented corrective actions. Furthermore, the possibility to adapt the self-assessment questionnaire to its context (referring to their own successful experiences or best practices of other teachers) represents a further strength element of the TEM model that in this sense allows a steady increase in the level of the achievable improvement.

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Figure 1. The Deming Cycle in the academic teaching activity

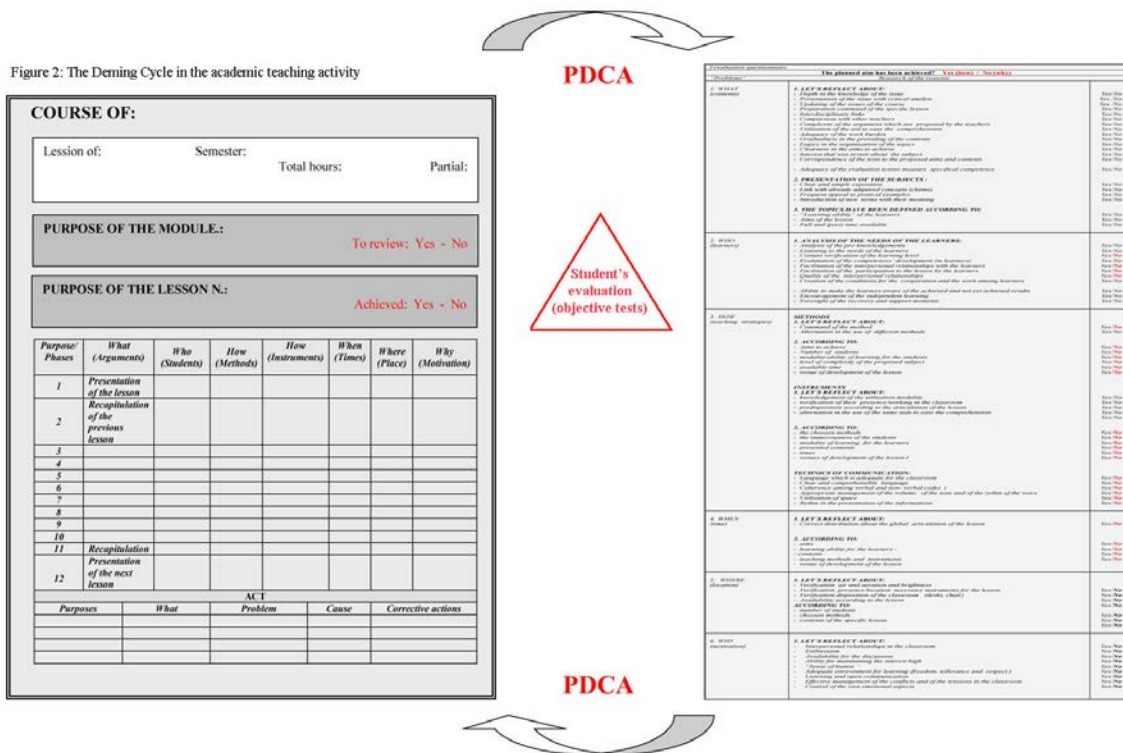


Figure 2. The teaching design scheme

COURSE OF:

Lesson of:	Semester:	Total hours:	Partial:
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PURPOSE OF THE MODULE.: To review: Yes - No

PURPOSE OF THE LESSON N.: Achieved: Yes - No

Purpos e/ Phases	What (Arguments)	Who (Student s)	How (Method s)	How (Instrument s)	When (Time s)	Wher e (Place)	Why (Motivatio n)
1	<i>Presentation of the lesson</i>						
2	<i>Recapitulati on of the previous lesson</i>						
3							
4							
5							
6							
7							
8							
9							
10							
11	<i>Recapitulati on</i>						
12	<i>Presentation of the next lesson</i>						

ACT				
Purposes	What	Problem	Cause	Corrective actions

Figure 3. The teaching design scheme: section related to objectives

COURSE OF:			
Lesson of:	Semester:	Total hours:	Partial:
PURPOSE OF THE MODULE.:			To review: Yes - No
PURPOSE OF THE LESSON N.:			Achieved: Yes - No

Figure 4. The scheme of teaching design: section related to teaching strategy

<i>Purpose/ Phases</i>	<i>What (Arguments)</i>	<i>Who (Students)</i>	<i>How (Methods)</i>	<i>How (Instruments)</i>	<i>When (Times)</i>	<i>Where (Place)</i>	<i>Why (Motivation)</i>
1	<i>Presentation of the lesson</i>						
2	<i>Recapitulation of the previous lesson</i>						
3							
4							
5							
6							
7							
8							
9							
10							
11	<i>Recapitulation</i>						
12	<i>Presentation of the next lesson</i>						
ACT							
<i>Purposes</i>	<i>What</i>	<i>Problem</i>	<i>Cause</i>	<i>Corrective actions</i>			

	<ul style="list-style-type: none"> - Evaluation of the competences' development (in learners) - Facilitation of the interpersonal relationships with the learners - Facilitation of the participation to the lesson by the learners - Quality of the interpersonal relationships - Creation of the conditions for the cooperation and the work among learners <ul style="list-style-type: none"> - Ability to make the learners aware of the achieved and not yet achieved results - Encouragement of the independent learning - Foresight of the recovery and support moments 	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>
<p>3. HOW (teaching strategies)</p>	<p>METHODS</p> <p>1. LET'S REFLECT ABOUT:</p> <ul style="list-style-type: none"> - Command of the method - Alternation in the use of different methods <p>2. ACCORDING TO:</p> <ul style="list-style-type: none"> - Aims to achieve - Number of students - modality/ability of learning for the students - level of complexity of the proposed subject - available time - venue of development of the lesson 	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>

Segue figura 3

	<p>INSTRUMENTS</p> <p>1. LET'S REFLECT ABOUT:</p> <ul style="list-style-type: none"> - knowledgement of the utilization modality - verification of their presence/working in the classroom - predisposition according to the articulation of the lesson - alternation in the use of the same aids to ease the comprehension <p>2. ACCORDING TO:</p> <ul style="list-style-type: none"> - the choosen methods - the numerousness of the students - modality of learning for the learners - presented contents - times - venues of development of the lesson l <p>TECHNICS OF COMMUNICATION:</p> <ul style="list-style-type: none"> - Language which is adequate for the classroom - Clear and comprehensible language - Coherence among verbal and non- verbal codes t - Appropriate management of the volume, of the tone and of the rythm of the voice - Utilization of space - Rythm in the presentation of the informations 	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>
<p>4. WHEN (time)</p>	<p>1. LET'S REFLECT ABOUT:</p> <ul style="list-style-type: none"> - Correct distribution about the global articulation of the lesson <p>2. ACCORDING TO:</p> <ul style="list-style-type: none"> - aims - learning ability for the learners - - contents - teaching methods and instruments - venue of development of the lesson 	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>

<p>5. WHERE (location)</p>	<p>1. LET'S REFLECT ABOUT:</p> <ul style="list-style-type: none"> - Verification air and aeration and brightness - Verification presence/location necessary instruments for the lesson - Verification disposition of the classroom (desks, chair) - Availability according to the lesson <p>ACCORDING TO:</p> <ul style="list-style-type: none"> - number of students - choosen methods - contents of the specific lesson 	<p>Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No</p>
<p>6. WHY (motivation)</p>	<p>1. LET'S REFLECT ABOUT:</p> <ul style="list-style-type: none"> - Interpersonal relationships in the classroom - Enthusiasm - Availability for the discussion - Ability for maintaining the interest high - "Sense of humor " - Adequate environment for learning (freedom, tollerance and respect) - Listening and open communication - Effective management of the conflicts and of the tensions in the classroom - Control of the own emotional aspects 	<p>Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No</p>

Figure 9. Phase 3.2: Check 2

Phase 3.2 – Check 2

The reasons of the difficulties, which were emerged in the evaluations tests, are individuated through a phase of reflection about the self-evaluation scheme

Figure 10 The corrective action

Figure 11. The corrective actions

COURSE OF :							
Lesson of :		Semester:		Total hours:		Partial:	
AIM OF THE MODULE N.2 :							
AIMS OF THE LESSON N.2.2:							
Aim / Phases	What (Arguments)	Who (Students)	How (Methods)	How (Instruments)	When (Times)	Where (Place)	Why (Motivation)
1	Presentation of the lesson						
2	Recapitulation previous lesson						
3							
4							
5							
6	Recapitulation of the lesson (Test)						
7	Anticipation of the next lesson						
ACT							
Aim	What	Problem	Cause	Corrective action			

COURSE OF :							
Lesson of :		Semester:		Total hours:		Partial:	
AIM OF THE MODULE N.2 :							
AIMS OF THE LESSON N.2.3:							
Aim/ Phases	What (Arguments)	Who (Students)	How (Methods)	How (Instruments)	When (Times)	Where (Place)	Why (Motivation)
1	Presentation of the lesson						
2	Recapitulation previous lesson						
3							
4	...						
5	...						
6	Recapitulation of the lesson (Test)						
7	Anticipation of the next lesson						
ACT							
Aim	What	Problem	Cause	Corrective action			

Figure 11. The TEM Model



Figure n.12 Phase Act

Phase 4. ACT

The corrective actions are defined and are executed in the next lesson

Figure 1.1 The planning scheme of a teachig intervention (insert p.13)

COURSE OF :

Lesson of :	Semester:	Total hours:	Partiale:
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AIM OF THE MODULE N.2 :
Comprehension: distinguish the features of the operations which are taxable with VAT from those ones which are not To review: Yes - No
Application: underline in double entry the main purchase and sale documents over the national markets To review: Yes - No
Application: underline in double entry the main purchase and sale documents over the international markets To review: Yes - No

AIMS OF THE LESSON N.2.2:
Comprehension: “recognize the main features of the account ” **Achieved: Yes - No**
Comprehension: “find the principles of the method of the double entry” **Achieved Si - No**
Application: “underline in accounting some purchase and sale documents over the national and international markets” **Achieved : Yes - No**
Achieved: Yes - No

Aim / Phases	What (Arguments)	Who (Students)	How (Methods)	How (Instruments)	When (Times)	Where (Place)	Why (Motivation)
1	Presentation of the lesson	120 stud. Heterogeneity (test d’ingres.)	Dialogued lesson	blackboard	5 minutes	Equipped Classroom 13	yes
2	Recapitulation previous lesson: the account	-	Exercise	blackboard	20 m.	-	-
3	Knowledgement	-	Lesson ex blackboard	Blackboard Playcards Fitments blackboard	-	-	-
4	Knowledgement	-	Dialogued lesson Case	slide	30 m.	-	yes
5	application	-	Exercise e (in pairs)	Blackboard Playcards Fitments blackboard Ambry	50 m.	Multimedia classroom	No
6	Recapitulation of the lesson (Test)	-			10 m.	-	-
7	Anticipation of the next lesson	-	Dialogued lesson	Blackboard	5 m.	-	si
ACT							
Aim	What	Problem	Cause	Corrective action			
Application	Underlining in double entry of purchase and sale operations in the international markets	Questions 5,6,7.	What Who How When Where	What: repetition and graduality in the deepening of the subject How: individual exercise with increasing difficulty levels; Role playing. How: ambries; short and schematic slides When: articulation according to the lesson Where: same classroom			

Segue figura 2.2

	<p>INSTRUMENTS</p> <p>1. LET'S REFLECT ABOUT:</p> <ul style="list-style-type: none"> - knowledge of the utilization modality - verification of their presence/working in the classroom - predisposition according to the articulation of the lesson - alternation in the use of the same aids to ease the comprehension <p>2. ACCORDING TO:</p> <ul style="list-style-type: none"> - the chosen methods - the numerousness of the students - modality of learning for the learners - presented contents - times - venues of development of the lesson <p>TECHNICS OF COMMUNICATION:</p> <ul style="list-style-type: none"> - Language which is adequate for the classroom - Clear and comprehensible language - Coherence among verbal and non-verbal codes - Appropriate management of the volume, of the tone and of the rhythm of the voice - Utilization of space - Rhythm in the presentation of the informations 	<p>Yes/No Yes/No Yes/No Yes/No Yes/No</p> <p>Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No</p> <p>Yes/No Yes/No Yes/No Yes/No Yes/No</p>
<p>10. WHEN (time)</p>	<p>1. LET'S REFLECT ABOUT:</p> <ul style="list-style-type: none"> - Correct distribution about the global articulation of the lesson <p>2. ACCORDING TO:</p> <ul style="list-style-type: none"> - aims - learning ability for the learners - contents - teaching methods and instruments - venue of development of the lesson 	<p>Yes/No</p> <p>Yes/No Yes/No Yes/No Yes/No</p>
<p>11. WHERE (location)</p>	<p>1. LET'S REFLECT ABOUT:</p> <ul style="list-style-type: none"> - Verification air and aeration and brightness - Verification presence/location necessary instruments for the lesson - Verification disposition of the classroom (desks, chair) - Availability according to the lesson - consistency of the lesson <p>ACCORDING TO:</p> <ul style="list-style-type: none"> - number of students - chosen methods - contents of the specific lesson 	<p>Yes/No Yes/No Yes/No Yes/No Yes/No</p> <p>Yes/No Yes/No Yes/No</p>
<p>12. WHY (motivation)</p>	<p>1. LET'S REFLECT ABOUT:</p> <ul style="list-style-type: none"> - Interpersonal relationships in the classroom - Enthusiasm - Availability for the discussion - Ability for maintaining the interest high - "Sense of humor" - Adequate environment for learning (freedom, tolerance and respect) - Listening and open communication - Effective management of the conflicts and of the tensions in the classroom - Control of the own emotional aspects 	<p>Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No</p>

Figure 3.3 The planning scheme of a teaching intervention

Figure 3.3 The planning scheme of a teaching intervention

COURSE OF :							
Lesson of:		Semester:		Total hours:		Partial:	
AIM OF THE MODULE N.2 : Comprehension: distinguish the features of the operations which are taxable with VAT from those ones which are not To review: Yes - No Application: underline in double entry the main purchase and sale documents over the national markets To review: Yes - No Application: underline in double entry the main purchase and sale documents over the international markets To review: Yes - No							
AIMS OF THE LESSON N.2.1: Comprehension: "recognize the main features of the account" Achieved: Yes - No Comprehension: "find the principles of the method of the double entry" Achieved: SI - No Application: underline in accounting some purchase and sale documents over the national and international markets Achieved: Yes - No Raggiunto: SI - No							
Aim / Phases	What (Arguments)	Who (Students)	How (Methods)	How (Instruments)	When (Times)	Where (Locations)	Why (Motivation)
1	Presentation of the lesson	120 stud. Heterogeneity (test if agrees)	Dialogical lesson	blackboard	5 minutes	Classroom 13	yes
2	Recapitulation previous lesson: the account	-	Exercise	blackboard	20 m.	-	-
3	Knowledge: Double entry	-	Lesson ex. blackboard	Blackboard Playcard Firmen's blackboard	-	-	-
4	Knowledge	-	Dialogical lesson	Slide	30 m.	-	yes
5	Application: Purchase and sale documents over the national markets	-	Exercise (in pairs)	Blackboard Playcard Firmen's blackboard Anby	50 m.	Multimed. classroom	No
6	Recapitulation of the lesson (Test)	-	Dialogical lesson	Blackboard	10 m.	-	-
7	Anticipation of the next lesson	-	Dialogical lesson	Blackboard	5 m.	-	si
ACT							
Aim	What	Problem	Cause	Corrective action			
Application	Underlining in double entry of purchase and sale operations in the international markets	Questions 5,6,7	What Who How When Where	What: repetition and graduality in the deepening of the subject How: individual exercise with increasing difficulty levels; Role playing How: audios, short and schematic slides What: articulation according to the lesson Where: same classroom			

COURSE OF :							
Lesson of:		Semester:		Total hours:		Partial:	
AIM OF THE MODULE N.2 : Comprehension: distinguish the features of the operations which are taxable with VAT from those ones which are not To review: Yes - No Application: underline in double entry the main purchase and sale documents over the national markets To review: Yes - No Application: underline in double entry the main purchase and sale documents over the international markets To review: Yes - No							
AIMS OF THE LESSON N.2.1: Application: underline in double entry the main purchase and sale documents over the international markets To review: Yes - No							
Aim / Phases	What (Arguments)	Who (Students)	How (Methods)	How (Instruments)	When (Times)	Where (Place)	Why (Motivation)
1	Presentation of the lesson	120 stud. (heterogeneous entrance test)	Dialogical lesson exone	Blackboard	5 minutes	Equipped classroom 13	yes
2	Recapitulation previous lesson: "Purchase and sale documents over the national markets"	-	Individual exercise with increasing difficulty levels	Anby and slide projection slide	40 m.	-	-
3	Application: "Purchase and sale documents over the international markets"	-	Role playing	-	10 m.	-	-
4	...	-	-	-	-	-	-
5	...	-	-	-	-	-	-
6	Recapitulation of the lesson (Test)	-	-	-	-	-	-
7	Anticipation of the next lesson	-	-	-	-	-	-
ACT							
Aim	What	Problem	Cause	Corrective action			

THE LEADERSHIP OF TEACHERS AND THE USE OF PSYCHO-PEDAGOGICAL PUNISHMENT IN THE REPUBLIC OF KOSOVO IN THE REGION OF PRIZREN

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Abstract

Punishment has great educative virtues. Due to this point of view, the teachers use it often, sometimes even with extreme forms. Many studies have pointed that the discipline in class can be placed better through the motivation of the self-control of the pupils rather than through the external control (<http://www.filebox.vt.edu/users/dstrater/RewardsPunishmentDebate.pdf>). The purpose of this research is to verify the forms of psycho-pedagogic punishments that have been used to the pupils in the 5 communes of the area of Prizren. Regarding their perceptions about the verbal and non-verbal punishments, the students have shown a high demonstration of credibility with the coefficient Cronbach alpha = .639.

Most of the questions have been considered seriously and have been answered toward the demonstration of an autocratic leadership system. Hence, the questions that have the higher coefficient of correlations have shown controversial stability in other statistic performances and have also shown the dominance of the verbal punishments over the verbal ones.

Keywords: Leadership, teachers, punishment, Kosovo, discipline, education, psycho-pedagogical

Introduction

It has been believed that punishment has great educative virtues. Due to this point of view, the teachers use it often, sometimes even with extreme forms. Many studies have pointed that the discipline in class can be placed better through the motivation of the self-control of the pupils rather than through the external control. (<http://www.filebox.vt.edu/users/dstrater/RewardsPunishmentDebate.pdf>).

The interactive relations between the pupils and the teachers is hindered when the teachers does not first initiate any co-operative relations with the pupils. Initially, majority of the pupils consider the teacher as a role model, but the rest of the pupils attends the lesson to gain the knowledge. Some of the pupils are anticipating for the truth and the lessons learnt by teachers during the times they failed or the times they felt disappointed.

They don't want to be disappointed because they see the teacher as a perfect person. However, both the teachers and the pupil's benefits if there is a good interaction between the two parties. So, in these cases, the pupils are those who first benefits most, and at the same time, this success goes to the teachers also.

However, when there is no interaction between them, the teachers displays a negative side in forms such as: mockery, nepotism, disparagement during the estimation, indignity, reprimands, etc. Thus, all these makes the pupils have feelings of inferiority that set them on affront of an unpleasant situation from which they try to get out by finding ways in developing a protect front. (See: Bekar, A. "Form imi i Brezave (The education of Generations)", Prishtinë, 2009, f. 176).

On the contrary, the non effective schools are characterized by teachers who have punitive attitudes towards the pupils. They apply wrong rules that are neither part of any administrative instruction, nor part of the teaching ethics. These teachers are often unclear with their instructions; hence they confuse the pupils more about the educational content. They often choose to organize the teaching lesson in a wrong way pretending that everything that comes from the teacher is reliable.

The wrong attitude of the teacher toward the pupils who have bad behavior can create a conflict during the lesson hours. The harsh verbal punishments used by the teacher can distress the environment where the pupils study by traumatizing them with aggressive models of behaviors.

During my conversations with the teachers from high schools in Kosovo in the region of Prizren, I received different feedback. Some of them have said that punishment is a reasonable way because the pupils have unstable behaviors; they stated that pupils are not polite and do not show any good orientation in learning. From the other side, the pupils think that the psychological punishments in the form of psychological violence used by the teachers are different, such punishment include: low estimation, the violent ejection from class, uncomfortable and humiliating positions for the punished students, and keeping them under total anxiety; thus this presents a different view of what some teachers have confirmed.

Considering these two versions from two different parts; from the teacher's side as a supervisor of the educational process and from the pupil's side as an evaluation barometer of teaching, I have decided to research the topic: "The styles of leadership of teachers and the use of psycho-pedagogical punishments for pupils."

Therefore, from the moment of conception this topic, I have decided to lead it through:

- The personality of the teacher
- The types of punishments and the forms of usage
- The styles of leadership of the teacher
- The age of the teachers and the types of punishments

When it comes to the personality of the teacher, we think of his moral and professional attributes that is better expressed with the pupils through the teaching of philosophy and human behavior (See.Sofokli Garo,(2011),Metodologjia dhe praktika e mësimdhënies (The methodology and the teaching practice) ," U.F.O. Press",fq. 187).

The interaction between the teachers with the pupils can be determined not only in their respect for the teachers, but also by the teacher's tolerance and understanding of the childish actions of these pupils and the importance of the working groups with them.

They need to know the teaching philosophy of their teacher and sometimes, they explore more than is necessary.

The pupils are curious to know what are the primary criteria for the estimation of their teacher, what are the most important aspects of teaching and what are less important for them? (ibidem, pg, 187.)

The Psycho-pedagogical Punishments

Lee and Marlene Canter (1992; Canter, 1996) have suggested methods to handle this issue. They have called their method the drastic discipline. Most of the teachers do not have results with their pupils, because they are either passive and hidden or harsh and aggressive (Anita Woolffolk (2011), Psikologji e Edukimit /The psychology of education "CDE" Tiranë, pg.445).

The passive teachers make comments about the behaviors of their pupils, without explaining the right behavior that needs to be strengthened (ibidem, pg 445).

Thus, the passive teachers ask the pupils to try according to the appropriate thoughts rather than tell them what to do in practice. Hence, the style of a hard response includes different kind of errors.

The teachers can make accusative statements that penalize the pupils without clarifying the real steps they should take. They may use such expressions as: shame on your behavior; you are acting like an infant; you are never concentrating on the lesson and so on. Unfortunately, the punishment is often used as a form of expressing the authority from the side of the parents or the teachers. Unfortunately, I say this because the studies have shown that punishment is useless in the way and manner it is used in school, home and other different places. The punishment teaches the pupils what they should not do even though they already know it, and why they would need to know what to do.

Every time when you think about the punishment, it is better to have the double-face approach: the first is to use the punishment as a way to hold their unwanted behavior and the second one is to give the pupils the proper alternative.

When the psychological punishment is used, the pupils often develop some negative aspects of their behavior, such as: lies, deceptions, rebel actions and unreasonable judgment. Therefore, we can confirm that punishment is a disciplinary measure, but in the reality the punishment strengthens the negative behaviors (Garo S. (2011) *Metodologjia dhe praktika e mësimdhënies /the methodology and the teaching practice*. “U.F.O Press” Tiranë, pg.196).

The word “discipline” is taken out from the roots of the Latin word *disciplina* which means: rule, order, contraction, obligate execution of certain rules from all the members of a community, rigorous and precise execution of principles in a certain social activity area (Ndreca M. (1986) *Fjalor (fjalësh e shprehjesh të huaja /Dictionary of foreign word and expressions “Rilindja”, Prishtinë, pg.159)*.

In this context, we can say that discipline can be considered as a change of inappropriate behaviors into a proper behavior. In the cases of using brutal methods like punishments the person can develop only a temporarily discipline.

The teachers who have a good knowledge on psycho-pedagogic education do not use the method of punishment, but he motivates the self-discipline of the pupil by developing their ability to take decisions, have self-control and also to take responsibilities for their own actions.

The punishment is the most dangerous poison for the education process because it develops the pessimism. The child keeps this perspective for their life by losing their self-confidence and becoming dubious (Adler. A. (2011), *Psikologjia individuale /The Individual Psychology, “EUGEN”, Tiranë, pg.346)*.

The worse pedagogic principle is to say to a student that, you can't make it because naturally you are a bad type (Adler. A. (2011), *Psikologjia individuale, / The individual psychology “EUGEN”, Tiranë, pg.344)*.

How can we identify the psycho-pedagogic punishments that may be classified as a non-productive style?

The Use of the Punishments

It's important to constitute this situation in order to better use the negative reinforcement rather than the punishment. In the cases of using the punishment, it is better to keep it short and on a smooth level. The duration of this process depends on the realization of the tasks in order to correct the actions of the pupils. The teacher must remain pertinacious in execution of the punishment, focusing on the actions of the pupils rather than on their personal attributes by adapting the punishment with the delinquency and the problematic behavior (Anita Woolfolk, (2011) *Psikologji Edukimi /The psychology of education, “CDE Center Democratic Education” Tiranë, pg. 213)*.

The verbal and non-verbal punishments

The verbal punishments are: Irony, disparagement, threatening by using the authority of the director of the institution or the parents, threatening by using the difficulty of the course, yelling in front of the others, underestimation of the unpleasant pupils, the lack of right estimation, the feelings of inferiority, etc.

The **non-verbal** punishments: the teacher does not consider the unpleasant pupil as a part of the group, stays apart from him/her, look at him/her with a gloomy and queasily face, etc. (Karaj Th , Rrapti E. (1999)

Revista e Shkencave të Edukimit/The magazine of the science of education, Nr.1. Janar-Prill /January-april, Tiranë, pg.4-5).

When it comes to the verbal and non-verbal psychological punishments in the theory of personal growth, which is based on humanist principles, the Rogers says: "... if you give freedom and emotional support to the human being, he grows up in an encouraged environment, away from any kind of critics, and he becomes able to solve his problems and be the kind of man he desires to be (Karaj Th. (2005) Psikologjia e zhvillimit të fëmijës/ the psychology of the development of the child, "PROGRES", Tiranë, pg.54).

The verbal punishments

It happens that during the process of education, the teachers use the irony, the disparagement, threatened by the authority of the director of the institution or the parents, threatened by using the difficulty of the course, bawls in front of the others, underestimations of the unpleasant pupils, show of feelings of inferiority toward the unpleasant pupils, etc.

Most of these forms of punishments discourage the pupils by making them become unable to cope with their lives, which is related directly with their development. Many psychologists explain the phenomenon of punishment as the result of those teachers who are stressed out and choose to use this discharge means toward the pupils without thinking about the long term consequences.

The non-verbal Punishments

The non-verbal punishments happens in cases when the teachers do not consider the unpleasant pupil as a part of the group, stays apart from the him/her, look at him/her with a gloomy and queasily face In the psycho-social needs, Eric Barn determines the need to be appreciated/considered. According to Barn, the human needs not to be ignored as if he does not exist at all. The human needs are to be considered in the sense that human requires attention (Tamo A. (2005), Këshillimi dhe psikoterapia/ Counselling and psycho-therapy "ALBATROS" Tiranë, pg. 336-337).

Thus, if we analyze the non-verbal punishments according by this specific need determined from Bern, in the cases when the teacher, doesn't consider a pupil by remaining apart from him/her, looking at him/her with a gloomy face; then he/she begins to develop a reason and a feeling that shows negatively on his personality.

Albert Ellis supposes that the reason and the feeling are connected tightly. When a person thinks about something, he begins to feel it and at the moment he has this experience, he would begin to reflect on it. Thus, during the reflection process, the human makes a conversation with himself.

The essence of this argument is the reflection that human does with regards to their mental matter. The emotions that a human can experience can be productive or contra productive (Ibidem pg. 288).

However, all the above forms of nonverbal punishments (remaining apart from the student, disregarding their answers, showing an angry appearance, ignoring the presence of the pupil during the lesson, etc) are obvious for the pupil. At this point, it starts with the

phase of thinking and feeling for the pupil that effects negatively the development of his personality. In order to go out from this unpleasant situation, the pupil tries to find different ways to be released: dropping out the lesson, missing the motivation to learn, finding reasons to not attend the lessons and the worse, wanting to disparage the personality of the teacher that effects badly on the education process.

Methodology of research

The Purpose of the Research

The purpose of the research is to verify the forms of psycho-pedagogic punishments that have been used on the pupils in the five (5) communes of the area of Prizren.

Thus, the purpose of this research is to carry out the evaluation of psycho-pedagogic punishments focusing on verbal and non-verbal forms.

The Metering Instrument

The questionnaire in this study was designed for pupils and teachers from the high schools in Prizren area. This questionnaire is divided into three (3) sessions: The first session includes the demographic data such as: gender, age, civil status, education level, and the number of years in this institution which are considered a sub variable that is useful for the issue of our research.

The second session includes the questions about the psychological punishments used by the teachers (16 questions). The measure of this questionnaire is based on Linker's study.

Also, the total evaluation of the frameworks is through the total evaluation of the psychological frameworks VPLSHP (the total evaluation of the leadership of the teachers), VPNP (the total evaluation of the psycho-pedagogic punishments) VPIAM (the total evaluation of the interactivity of the teachers).

Population

The population of this research includes the pupils and the teachers from the high schools in the area of Prizren. Thus, from the total amount of 9,388 pupils in five schools, I have chosen 140 of them and 140 teachers from these high schools in the area of Prizren as a sample.

The pupils have been part of this process casually according their degrees and the number of classes they attend. The criteria of exception are the cases that have been rejected to be part of this research.

The Analysis and the Elaboration of the Results

The analysis and the elaboration of the results will be carried out using the SPSS 17.0 program.

All the reports through the variables are tested using the transformed data. Therefore, the average of the quantity of demonstration in the level of the framework for each participant has been accounted for. Cronbach alpha has been calculated through sixteen (16) questions on the framework with the purpose of determining the level of validity and credibility of the test which have been integrated with the independent groups.

The analysis of the regress is made for testing the proportion of 16 questions of this research with the total evaluation of the psycho-pedagogic punishments.

The process of the total number of the teachers Nr 140, in seven (36) and the questions of their perception about leadership with a descriptive statistic and a determined coefficient of Cronbach alpha=.630 (Table1,2).

In the cases of excluding the questions as well as in determining specifically the correlations and multiple correlations, the coefficient of the above questions have influenced directly in the determination of the total statistic.(Table 3) coefficients of credibility as at question V1.; $\alpha=.669$, V 7. $\alpha=.639$, V9, $\alpha=.733$, that proves the fact that in the cases of excluding these questions from the framework because of the high credibility, (because of it, these questions would increase the credibility of the rate at the level of the integral coefficient of the respective questions,) but the correlations between questions are lower. Also, the opposite that the questions have a lower coefficient of consistence has been proved, thus, this indicate a controversial/questionable coefficient of credibility about the perceptions of the pupils toward the framework, respectively with the questions with the lower coefficient of correlations in the framework of the questions about the psycho-pedagogic punishments. Whereas, the questions with the lower coefficient of credibility, indicate to have higher correlations between the questions with the lower coefficient than $\alpha=.630$; P11; $\alpha=.561$, $r=.559$., P10;

Table 3. Item-Total Statistics

	Scale Mean if Item Deleted	Scale Variance if Item Deleted	Corrected Item-Total Correlation	Squared Multiple Correlation	Cronbach's Alpha if Item Deleted
V1- With what grade did you finished the academic year?	36.47	50.309	-.139	.201	.669
V2- What is the total number of unreasonable absences?	37.68	46.336	.247	.390	.617
V3- Do the teachers stop you to enter into the class when you are on delay?	36.24	46.603	.152	.095	.627
V4- How often do the teachers sends you to the director of the school in the cases of breaking the rules?	37.27	44.548	.364	.252	.603
V5- How often does the teachers look at you angrily?	36.91	41.021	.485	.442	.578
V6- Do the teachers cast you out from the lesson?	36.55	43.742	.339	.262	.602
V7- What are your reasons for leaving the lesson?	36.32	44.134	.139	.247	.639
V8- Do the teachers shout at you during the lesson?	35.48	44.933	.207	.258	.621
V9- Do the teachers estimate you correctly with the deserved grade?	35.65	59.317	-.615	.499	.733
V10- Do the teachers remain way from the unpleasant pupils even when these students attend to the lesson regularly?	36.78	39.257	.536	.476	.564
V11- Does it happen to feel ignored by the teacher without any reason?	36.88	39.094	.559	.640	.561
V12- Does the teacher give you additional tasks intentionally to punish you?	37.48	42.599	.467	.382	.587
V13- Are there teachers who make the lesson more difficult intentionally to punish you?	37.10	42.280	.412	.400	.590
V14- How often does it happens that the teachers estimate you with highest grade than you deserve it?	36.87	44.853	.224	.275	.618
V15- Does it happen that the teacher ignore your answers because of the low level you have?	36.60	39.444	.530	.517	.566
V16 - Have you noticed any teacher who underestimates the answers of the pupils because of their appearance?	37.08	42.639	.354	.307	.598

Table 1. Case Processing Summary

	N	%
Case Valid	140	100.0
Excluded ^a	0	0
Total	140	100.0

a. List wise deletion based on all variables in the procedure.

Table 2. Reliability Statistics

Cronbach's Alpha	Cronbach's Alpha Based on Standardized Items	No of Items
.630	.645	16

Table 4. ANOVA

		Sum of Squares	df	Mean Square	F	Sig
Between People		425.657	138	3.084		
Within People	Between Items	742.334	15	49.489	43.410	.000
	Residual	2359.853	2070	1.140		
	Total	3102.188	2085	1.488		
Total		3527.845	2223	1.587		

Grand Mean = 2.45

Table 5. The descriptive statistics of the total evaluation of the psychological variables.

	Mean	Std. Deviation	N
VPALSH	5.3071	1.62665	140
VP	5.8571	1.55277	140
VPIAM	5.0786	1.28112	140

Chart 6. The correlations of the total evaluation of psychological variables.

		VPALSH	VP	VPIAM
VPALSH	Pearson Correlation	1	-.002	-.077
	Sig. (2-tailed)		.977	.364
	N	140	140	140
VP	Pearson Correlation	-.002	1	.176*
	Sig. (2-tailed)	.977		.038
	N	140	140	140
VPIAM	Pearson Correlation	-.077	.176*	1
	Sig. (2-tailed)	.364	.038	
	N	140	140	140

*Correlation is significant at the 0.05 level (2-tailed).

$\alpha=.564$, $r=.530$, $P 15$; $\alpha=.566$, $r=.530$, $P5$; $\alpha=.578$, $r=.485$, $P12$; $\alpha=.587$, $r=.467$, $P13$; $\alpha=.590$, $r=.412$, $P16$; $\alpha=.598$, $r=.354$, $P6$; $\alpha=.602$, $r=.339$.

From the evaluation of both correlations i.e. the individual and the multiple ones, it is shown that punishments are of different types and as such, are perceived by the pupils according to the level of their integral correlations as it can be seen in Table 3.

The differences in the horizontal shaft with the questions of the framework of the psycho pedagogic punishments made with the pupils with the ANOVA (the test of Variance) are significant, positively between the questions $F=43.410$, $x^2=49.489$, $df=138$, and significant statistics $p=.000$, as can be seen in Table 4.

The correlations among the total evaluation of the psychologic frameworks VPALSH (The leadership of the teachers), VP (The total evaluation of the psycho-pedagogical punishments) VPIAM (The total evaluation of the Interaction of the teachers).

From the performance of the correlations between these variables (the Leadership of the Teachers), VP (the Total Evaluation of the Psycho-pedagogical Punishments), VPIAM (the Total Evaluation of the Interaction of the Teachers) and the total evaluation of the environment with the rate 1-9), it is shown that the above variables have valuable correlations among them: VPIAM and; VP, $r=.176^*$, $sig=.038$, while among the other variables, there have not been found valuable correlations. This is shown in the chart of the descriptive statistics and correlations (Table 5, 6)

Table 7. The correlations among of Predicators by the regression analysis

Predicators		VP	VPALSH	VPIAM
Pearson Correlation	VPNP	1.000	-.002	.176
	VPLSHP	-.002	1.000	-.077
	VPIAM	.176	-.077	1.000
Sig. (1-tailed)	VPNP	.	.489	.019
	VPLSHP	.489	.	.182
	VPIAM	.019	.182	.
N	VPNP	140	140	140
	VPLSHP	140	140	140
	VPIAM	140	140	140

Table 8. The coefficient Beta of deviation of predicators' correlations.

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	4.714	.710		6.643	.000
	VPLSHP	.011	.081	.011	.133	.895
	VPIAM	.214	.102	.177	2.093	.038

a. Dependent Variable: VP

The analysis of the regression for determining the size of influence of the questions from the psychological framework, the variables VPLSHP (The total evaluation of the leadership of the teachers), VPNP (The total evaluation of the psycho-pedagogic punishments) and VPIAM (The total evaluation of the interaction of the teachers).

Moreover in the determination of the size of influence, valid for the factor of psycho-pedagogical punishments VP (the total evaluation of the psycho-pedagogic punishments) as a standard variable affected by the factors; VPALSH (The leadership of the teachers), and VPIAM (The total evaluation of the interaction of the teachers) with the essential statistic Table 7. (Annex of research), there has not been found statistical validity of the coefficient β in the one-dimensional lineal space of the criteria VPIAM (The total evaluation of the interaction of the teachers). Hence, the coefficient β , has statistical validity between VPIAM (The total evaluation of the interaction of the teachers) and VP (The total evaluation of the psycho-pedagogic punishments) as a standard variable affected from the factors $\beta= .177$, $t=2.093$, $p=.038$, Table 8.

Conclusion

Regarding their perceptions about the verbal and non-verbal punishments, the students have shown a high demonstration of credibility with the coefficient Cronenbah $\alpha = .639$. Most of the questions have been considered seriously and have been answered toward the demonstration of the autocratic leadership system. The questions that have the higher coefficient of correlations have shown controversy stability in other statistic performances and have shown the dominance of the verbal punishments over the verbal ones. Furthermore, the identification in the horizontal level of the questions between them and the subject (the pupils) has shown significant differences.

The eventual indicators that have been collected and affected by the evaluation of the total rate of the punishments did not come with a positive significance, which is related to the coefficient beta (the individualization) in the measuring variable of the leadership' level of the teachers. Compare to the coefficient β , it has been shown statistical validity between VPIAM (The total evaluation of the interaction of the teachers) and VPNP (The total evaluation of the Psycho-pedagogic punishments) as a standard variable derived from the factors $\beta = .177$, $t = 2.093$, $p = .038$,

These recommendations as well as the importance of this research can be used freely by the respective schools that have been part of the research, by considering the enlargement of other frameworks that are related to the progress of the interrelation of the psychosocial frameworks and the aspect of the demonstration of pleasure, competences, self-contained as well as the social factors. Thus, all these factors will improve the progress of education.

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OMBUDSMAN- HISTORICAL VIEWS

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Abstract

Ombudsman or Mediator represents an institution that more and more is being introduced in different experiences of national institutional organization. This study aims to analyze the operation and the main features of this institution, whose main task is to tear down the wall that separates citizens from public administration. Ombudsman is a mechanism, one of the aspects of democracy that exists for years. Since the period of antiquity, as in Ancient Greece and the Roman Empire also, different institutions can be estimated in current forms of the Ombudsman, because of similar competencies and subjective interests that tutelage against the power of public administration of any time. The institution of Ombudsman in antiquity period has been present under different models and nominations, ranging from the *effors*, the *tribuni plebis* up to *defensor civitatis*. Immediately after completion of this analysis, mainly comparative, we can say that there are no important differences in space and the time at which the Ombudsman has become part of different countries, when we consider his role and main functions, also the modality of interior organization. Since the historical figure of the Swedish Parliamentary Commissioner, today, this institution is generally known as the Protector of Citizens, the bridge between civil society and the administrative apparatus, and every person who sees himself as a victim of an injustice by the Public Administration can be subject of his inquiry. So, the Ombudsman is present in almost all countries, although under different names, like in Spain known as *Defensor del Pueblo*, in Italy known as *Garante*, in France, the land of strong republican tradition and centralized known as *Médiateur de la République* etc...

Keywords: Civil Defender, ombudsman, parliamentary commissioner

1.1 Historical Developments

So as I also stated in the introduction, we can identify experiences in this area dating from the time of antiquity. Various institutions, both in ancient Greece and the Roman Empire, though under other names should be validated with the current forms of Ombudsman, because in they have in common the same skills and the same subjective interests to be protected against excessive power of the public administration of all time. This is because in the words of Rousseau (Rousseau, 2002): "sometimes serves to protect the ruler against the government, as they did in Rome the tribunes of the people, sometimes to support the government against the people, as it does now in Venice, the Council of Ten, and sometimes to maintain balance on the one hand and on the other, as did the ephors in Sparta". With regard to the historical facts, I want to make a clarification. In the introduction I presented this institution as a mechanism, an essential feature of democracy. Several studies in this area support my thesis (Wennergren,1973). As for me, I bind the historical evolution of the Ombudsman with the origin of democracy. We recognize the origins of democracy precisely in that period of history known as antiquity, however, the democracy that we know is a product of the twentieth century, in which it is granted the right to vote to every single individual, including women here (Dahl,2006). In that period of the ancient institution of the Ombudsman has been present in different designs and denominations, from

the Beginning *edici* and *syndici*(Mannino,1984) and then continuing with the ephors, the tribunes and the *defensor civitatis plebis*.

1.1.1 The ephors

The ephors (Paoli), properly "overseers" were a magistracy of Sparta. They formed a board of five members, whose decisions were taken by majority vote, and they were elected by the people. Their main task was to control the entire administration of the state. Precisely the first mentions of the ephors have occurred since the second half of the sixth century BC, when the people wanted to assert his right to exercise control over the administration of the state. In fact, in a city like Sparta, the ephors also represented the only effective control that the people possessed. They had extended competence. They could :

- Impose taxes
- Issue arrest warrants
- Dismiss the judges
- Directing wars also
- Also check out the King

On the latter claim, there is also a historical fact that can testify that the power of the ephors was not limited even before the King, and it is for this reason that all this power was called tyrannical. A famous Spartan King, named Pausanias, the winner of the Persians at Plataea (479 BC) suspected of secret understandings with the King of Persia, was been arrested and sentenced to death by the ephors. Everything said here leads us to the conclusion that even Sparta, the city that was more reluctant to democratic systems had an institution through which his people could freely exercise his will.

1.1.2. Tribunes plebis

The tribune was built from the beginning of the republican constitution and became the instrument of which the plebs use to achieve equality legal with the aristocracy. It is a structure that is established by "establish an exact proportion between the constituent parts of the state, or when it causes can not be eliminated without altering the relationships pose. A special type of the judiciary, which replaces each term in its true relationship and that serves as a link or middle term between both the prince and the people, and between the prince and the king, and, when it is necessary between both sides at the same time"(Rousseau, 2002). Invested with a *potestas Sacrosancta*, meant that the tribunes had the opportunity to object to all magistrates, paralyzing the action. It was not a constitutive part of the state and should not participate in any measure nor the executive nor the legislative branch, but in this his power is greater: because not being able to do anything he stoped everything(Rousseau, 2002). But the tribune was not a magistracy of the Republic but an internal charge of the plebes, a position that no nobleman could play (was prevented by a *lex sacrata*) unless waived its privileges of caste, and he made the *transitio ad plebem* himself to become a plebes(Cassola,1989). The sources provide three data relating to acts performed by the religious community in the foundation of the plebeian tribune :

- a *lex sacrata*
- a *iusiurandum*
- some *caerimoniae* .

The tribune is not sacrosanct for the mere fact that the plebes wants (Fabbrini,1971). The plebes wants to impose its *civitas tribunus* and has full confidence in him, because the *tribunus* is *sacrosanctus* . The assumptions that see in *iusiurandum* the decisive factor of the sacredness, *sacrosanctitas* itself, capture only a purely negative aspect , the "inviolability" in fact. But the inviolability itself is incomprehensible if we do not descend from *sacrosanctitas*. The positive nature of *sakros* was instead given to the tribune on the Monte Sacro, through

sacred ceremonies: the tribune was invested them with the power of magic from which sprang result for the inviolability of his person. The year 494 was a decisive year for the plebeian community, as they have formally recognized the religious foundation of their community and its leaders. After this decisive moment another major challenge presented itself in the fate of the plebeian community: they had to validate the existence of their community against the civitas as a whole. The existential validity of the plebeian tribunes could only occur as a result of an agreement between them and the patricians. It is true that initially the plebeians have created and sustained the tribune revolutionary way, but it is true that it was a peaceful revolution. The tribune is unarmed and does not resort to force (Fabbrini,1971). Since these facts, though on religious foundations, the plebeians in 494 have made a serious act of civil disobedience, after which they would have deserved death. Unless it had happened a new fact: that the Roman patrician religious community had not condescended to recognize the value of religious-legal and therefore also for acts committed by the plebes, ratifying this act. Given that religious ideas on which it was based were the plebeian community foreign to the Roman religion as established by the popes, Rome accepted it then with a different act with the act by which we accept the things that come from abroad. Therefore, the relevant college to accomplish that feat was that of feziali. In front of feziali, the Roman community and community plebeian is recognized as autonomous religious communities worship: that you could integrate only putting those in a position of equality under the protection of a deity from both recognized as the supreme: Jupiter. The period from the secession of Monte Sacro until the lex Hortensia is the heroic age of the tribune of the plebs because at this time the plebes maintains a revolutionary attitude and consequently reaches the legal equality with the patricians(Fabbrini,1971).The tape decisive in this process of integration are: the Twelve Tables and the leges *Liciniae Sextiae*. During the period decemvirale (451-450), the tribune of the plebs was suspended and was only restored in 449, when the new Republic was founded and were reconquered freedom(Fabbrini,1971).So the college of tribunes, consisting of ten members, become effective on 10 -XII- 449. After this brief historical overview of the creation and affirmation of the tribunes plebis would be better if we specify what they consist of the fundamental powers of that authority. The main function that the tribunes possessed was to auxilium that lent to the single plebe or the populace as a whole(Fabbrini,1971).The auxilium was expressed not only through the negative power of defense and punishment practiced against those who violate the rights of the people, but also in the positive thing to talk to the people, to call him, to make proposals, to hear the proposals plebeian. After that they develop a series of powers, including:

- the *intercessio*
- the *coercitio*

The intercession was indeed a revolutionary Tribunician power is the ability to veto all decisions and actions that are harmful in some way to be judged by the tribunes of the plebs as inappropriate for the interests of the populace itself. This veto could be brought against all the organs of the civitas: Magistrates, the Senate, Comizi. Should be noted that this type of power had not character well determined from the beginning. It was only a general power of opposition, and that gradually extends to cover any possible hypothesis (De Martino,1958). It is expressed by the technical term of *prohibere*: it has two meanings : to prevent :

- That the act deemed harmful or unlawful is fulfilled
- That arise from an act detrimental consequences.

In other words, has two aspects:

- Prohibition
- Termination.

Instead *coercitio* consists in a right to personally execute their own decisions, inflicting a penalty to the violator (Fabbrini, 1971). This power is also called *coercendi summa potestas* and the tribune comes as a byproduct of its sacred character. The manner in which the *coercitio* option will apply are:

- The power to stop the consuls
- The power to punish for infringement of the *leges sacrae*
- The power to impose tax
- The power to enforce judgments
- The power to prosecute .

1.1.3 Defensor civitatis

In its first origin, the *defensor* was a magistrate which relied the only assignment, to defend the inhabitants of his city, and especially the plebeians, from every kind of oppression (Romano, 1957). The *defensor* had to exercise this function not only of the various classes of citizens, defending the weak against *potentiores*, but also between the governors and the governed, protecting them from the abuses of the former. So he arose with the only office to protect and defend the plebeians. In fact, in addition to the name of *defensor civitatis*, he is spent designated by the name of *defensor plebis* and also with that of *Patronus plebis*. There is a tendency to compare the *defensor civitatis* with the ancient tribune of the plebs. There is a very strong analogy between the one and the other institution. They proposed the same end and the means of attaining it coincided to a certain point. The *defensor civitatis* was established for the first time on 27 -IV -364 in Illyria by a constitution of the emperors Valens and Valeriano addressed in Probus. However, it must be pointed out that only 385 from all the provinces of the empire have their *defensores* (Romano, 1957).

Under the domination of the Ostrogoths, the *defensor* always retained the mixed nature destination for state and municipal destination by virtue of the fact that it continued to be appointed by the King on the appointment of city residents (Mastropasqua' 2003). In this period, the *defensor* worked with vitality and further increased its power thanks to the contribution of additional features such as :

- 1 . supervision of market prices
- 2 . regulate the activity of the markets in general
- 3 . treat the collection of taxes
- 4 . to prepare the documents necessary to give validity to contracts for the sale of real estate
- 5 . certify municipal deeds .

The *Defensor* at a later date was completely suppressed under the eastern emperor Leo IV "the Wise " (866-911) (Mastropasqua' 2003).

1.2 The Ombudsman in modern times

For centuries the concept of ombudsman seems to have disappeared into thin air, until in 1713 the absolute monarch Charles XII instituted the Hogste Ombudsman. This was the remedy institutional innovation that would not bring chaos during the 13 years of his long absence around the world. In 1719, the Supreme Ombudsman then have conferred the title Chancellor for Justice (Justitiekanslern). And in 1766 the Chancelleries Justice was transformed into a Parliamentary Ombudsman, namely a commissioner in charge of oversight of the bureaucracy and justice. In the act that enacted this change, the Riksdag (Swedish Parliament) established that this new institution should enjoy all the confidence that a free people could tune to each individual and that the holders of that office should be appointed by the electorate MPs. The duration of appointment was the same as the legislature and the owners were required to submit a written report on the whole they remain

in office. The statute provided that anyone could freely access the Ombudsman to request his intervention on whatever they considered a tort committed by a public official, which could also have been reported. This reform is finally restored in the Swedish constitution enacted June 6, 1809(Wennergren,1973). From this year it is noted that the Swedish experience is widespread and embraced in many other areas and countries, but also bearing in mind the conditions and the unique history of each country. There are several evaluation criteria in order to find all models of civil defense in the world today. Currently there are five criteria basis for a classification of the various models(de Vergottini, 1994). The analysis of these five criteria for grouping with their respective subdivisions will be the subject of special study in this paragraph. **The first criterion of individuation takes into account the relationship between the Ombudsman and the constitutional bodies.** There are four models that are identified using the above criteria(la Bella,2004):

- **The parliamentary model.** And the model of civic defense offered by the Ombudsman Scandinavian. It is a model arose as an offshoot of the legislative, administrative and inspection function dependent on the executive who must make informed Parliament through a regular report. In the later stage, when the figure of the original Parliamentary Ombudsman is consolidated, as he also has powers of protection of individual and collective interests of the various parties.

- **The parliamentary-government model.** This is the original Scandinavian ombudsman, but that becomes a fruit processing changes to be adopted in a particular context. This is the case of the UK Parliamentary Commissioner and the Ombudsman French. While remaining the criterion of the fiduciary relationship between the Ombudsman and Parliament, the holder body is appointed by the government and the search for information, through the possibility of access to the Parliamentary Commissioner, is filtered through an instance to be presented to a member of Parliament.

- **The governmental model.** It is stated in Germany for example, where there is the delegate for immigration, the delegate for the disabled, the federal guarantor for the protection of data. It's Ombudsman trust the government, operating in various sectors of public administration.

- **The spontaneous model.** It is located in a position completely outside the state apparatus organization, as it has no ties with both the parliament and with the government. This refers to a kind of third sector organization, such as the various committees of consumer protection, the courts of the sick, the doors complaints.

A second evaluation criterion is that of territorial jurisdiction. Keeping this criterion we can distinguish between Ombudsman :

- **National.** Belong to this type of cases, Sweden, Great Britain, Netherlands, Portugal, Spain and Austria, where there are parliamentary delegates with skills generalized throughout the country.

- **Sub - national.** Join here all forms of decentralization envisaged, for example, in France, where there are the departmental representatives Mediateur the only national, or Britain itself where we find the commissioner for the health service in England, one in Wales and one in Scotland, all delegates of the Parliamentary Commissioner.

- **Local.** And the model represented by real local Ombudsman, as in the Italian case.

The third evaluation criterion takes into account the competence for the matter. Based on this criterion, we identify two examples of Ombudsman :

- **General Competence**

- **Expertise in specialized area,** such as the Parliamentary Commissioner for the Armed Forces in Germany or that of the protection for children in Norway.

The fourth criterion evaluates the organizational structure in distinguishing the Ombudsman. So we have two models :

- **The Collegial model**, the typical model of Sweden, where even today what is called Ombudsman is composed of four different subjects.

- **The Monocratic model**, based on a single subject, who heads the office.

The last evaluation criterion, but no less important because it is **precisely this that makes the most difference distinguishes the Ombudsman according to the functions assigned to them**. The theme of the functions is closely linked to that of the powers of the Ombudsman. A "dilemma" the applicant regards, for example, whether it should be only "organ of influence" or "organ of effective protection". In the first case, the Ombudsman would only power signaling, recommendation or warning. In the second case, however, it would be more effective powers of nature "coercive". In the context of these dilemmas should read the variety of functions that, in addition to those 'classic' ombudsman, are expected to head to the Ombudsman under the laws of the various countries: control functions, functions of settling conflicts, functions reform, and functions of political and democratic representation.

So this figure is present in Finland (1919), Norway (1952), Denmark (1954), West Germany (1957), New Zealand (1962), Great Britain (1967), Israel (1971), France (1973), Portugal (1976), Luxembourg (1976), Austria (1977), Spain (1978), Ireland (1980), The Netherlands (1981), etc. . This process resulted in not only the spread of the Swedish original model, but also its separation into different logs, which once provided for in the constitutions of each country, trying to adapt to a specific context, thus creating new models and also variations arising of the original Swedish contemporary era .

1.3 The evolution of the Ombudsman to the European level

Still in regard to the subject on the ombudsman is noteworthy development of that institution at the European level. This is because at this level there is an ombudsman institution that transcends national boundaries national ombudsman. In fact it is a completely different context, which is where the ombudsman community. In fact, rather than in a universe inspired by the principle of separation of powers, predominant in Western democracies, in Maastricht, the ombudsman system is, as it were, immersed in an environment based on the principle of specificity of competence (Ubertazzi, 1992). The law is the product of a common organization, but has no constitutional foundations as national law. And an anomalous union constitutions, a new order in middle between international law and domestic law (Morbidegli, 2009). As of February 7, 1992, when the Maastricht Treaty was signed at the European level was settled the European Ombudsman. And just art. 138E is made clear that the institution of the European Ombudsman. Literally art. 138E (1) provides: "The European Parliament shall appoint an Ombudsman empowered to receive complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a Member State concerning instances of maladministration activities of the institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role". So the art.138E, does not determine clearly and precisely what skills has the Mediator. It only puts limits that are connected with the explicit acts in the exercise of judicial functions by the Court and the Court of First Instance. In Art. 138E can be deduced that the recurs of European Mediator is a right that belongs to every citizen of the European Union. So when the EU citizen has recourse to the Ombudsman exercises his right of citizenship, which in fact belongs to them as a European citizen. But that article also shows that EU citizens are not the only ones who have the right to appeal to the Ombudsman. In fact, the other category of persons recognized as entitled persons are also citizens of third States, which enjoy such rights as they have their registered office in a Member State of the European Union. In a Union "ever closer union among the peoples of Europe, in which decisions are always taken as close as possible to the citizen" (Article A),

the introduction of citizenship is a means to achieve one of the objectives of the Union same, namely "strengthen the protection of the rights and interests of the nationals of its Member States". In addition to identifying individuals who may have recourse to the Ombudsman, it remains important to identify the subject of a possible appeal to the Ombudsman. Article. 138E was very clear in this direction. Subject of an appeal to the Ombudsman may be situations of maladministration by EU institutions. But, unfortunately, the Maastricht Treaty was not so clear in defining what situations fall in cases of poor administration. Thus leaving ample space in the courts in the interpretation of that provision. And on the other side, leaving puzzled Europeans on a possible competence of the Ombudsman or less a matter of maladministration. A particular importance also takes the analysis of the relationship between the European Parliament and the European Ombudsman. Is easy to see that the appointing authority in accordance with Art. 138E of the Maastricht Treaty for the European Parliament. But once the Ombudsman is appointed by its parliament, the latter still continues to exercise powers on it. In fact, it is still the European Parliament to determine the regulations and general conditions of functioning of the Ombudsman in accordance with section 4 of Art. 138E of the Maastricht Treaty. To my opinion the art.138E is itself contradictory, because on the one hand as the European Parliament with powers so large that go beyond the appointment of the Ombudsman, and therefore Parliament has powers of control estimates on the Ombudsman, as the Statute of the Ombudsman is determined by the Parliament and also the general conditions of the progress of the Ombudsman. And on the other hand, provides a point 3 in that article. 138E, according to which, the Ombudsman shall perform his duties in full independence and in the performance of its functions do not take instructions from anyone. I think it is on these bases if the model of the European Ombudsman chosen by the Treaty of Maastricht was considered a "parliamentary model"(Rinaldi 1992). Precisely for this reason in the European Parliament has emphasized that "the nature and purpose (the Ombudsman) can not be understood without reference to the control functions of the European Parliament, with respect to which the Ombudsman plays the role of high responsibility for the control of smooth administrative functioning of the institutions and bodies"(Rinaldi, 1992). So framed and finalized the tasks of the European Ombudsman, the European Parliament is "the conditions of complementarity" between that institution and the right to petition, "essentially trying to strengthen the protection of the citizen before administration, and at the same time, to maintain control of their own political system of the petition". About the power of the petition it is worth mentioning another article of the Maastricht Treaty, art. 8 -8D. This article provides: " Every citizen of the Union has the right to petition the European Parliament in accordance with Art.138D. Every citizen of the Union may apply to the European Ombudsman in accordance with Article .138E ". Apparently , art. 8 -8D opens a path with two possibilities for European citizens: or a petition to the European Parliament, or the complaint to the European Ombudsman. In this way, once again end up being contradictory, as it does not specify exactly which cases fall within the competence of Parliament and such cases, however, fall within the remit of the Ombudsman. But there is even more. There is a certain tendency to qualify as such a discriminatory provision in the Treaty of Maastricht (Saulle,1994). First of all because there is a difference between the petition and the complaint, which must be grasped in the fact that, while in the case of the petition calling for the establishment of a form of protection where this is absent in the case, however, a complaint you have the demand to assert and exercise a specific right of the individual or group. And then, " compete ", ask, to advocate the creation of a rule of law that previously did not exist. It is worth to mention a very important historical event in the context of petitions. Even before they signed the Maastricht Treaty on European Union, the European Parliament has decided to create a Committee on Petitions in all respects. In doing so, the European Parliament "external" about his opposition about a possible opportunity to

create a "European Ombudsman". This is because it would weaken the powers of the Parliament and its committees about the control of the Commission and its services and would represent a new structure superposition and to the detriment of the already existing, represented by the Committee on Petitions. And in fact it is the subsequent behavior of the Parliament which states that hypothesis. After the Maastricht Treaty was signed, the Committee on Petitions wanted to point out that: "The Commission of the European Communities is the recipient of the 'natural', from the point of view of the institutional demands of the European Parliament. The petitions allow you to snap parliamentary control in areas that might not otherwise be subject to investigation, and also allow the Commission to intervene in member states in accordance with the procedures in force if the petitions highlighting the existence of infringements of Community law. Through petitions, in particular, you can examine the application of the law and its control by the Commission. The Commission itself (...) states that it is based on very considerable extent on complaints and petitions to exert its main activity as "guardian of Community law". A mechanism such petition has delineated a primary role is to solicit business "investigation" which in turn strengthens the controlling power of the European Parliament. In this role, looking for any small space able to strengthen its position in the inter-institutional relations, obviously does not want to give up (Rinaldi, 1992). In these reflections I add also one definitive. We must not forget that the European Parliament of the European Union does not represent the traditional model of the national parliament. The European Parliament does not have the legislative power is the power that a fundamental characteristic of the national parliament. Being a weak parliament, not having the traditional power that is legislative, it is clear that Parliament would do anything to customize any power that could enhance its role and thus strengthen its position in front of the other EU institutions. Apart from the relations with the European Parliament, the European Ombudsman Institution is an organ of particular importance. Just as he says himself, he works at the same time as a body outside and inside the European Union. It acts as an external mechanism of control, instructing the appeals for maladministration and recommending corrective action where necessary. On the other hand, the Ombudsman serves as a resource for institutions helping them to improve their conduct in the performance of their duties by directing their attention on the areas where you need improvement. The sole purpose of both cases is to improve the service offered to its citizens. However, taking what we have stated previously, the European Ombudsman based its work on the same acts which it adopts European Parliament: The Statute and the Code of Good Administrative Behaviour. By its decision of 9 March 1994, the European Parliament adopted its Statute which governs the terms and conditions of exercise of the functions assigned to him. By virtue of this Statute, the Ombudsman has the following connotations:

- Is appointed by the European Parliament, to which every year sends them a report on its work, pointing to the abuses, irregularities and malfunctions encountered and suggesting remedies
- Is fully independent of the bodies and the term of office coincides with that of the legislature, and then he was appointed after each election of the European Parliament
- The dismissal is decided by the Court of Justice in cases where the holder of the organ is not the most suitable to perform the task or has been guilty of serious
- Is entitled to receive from anyone residing in the territory of the Union or is a national, complaints and reports in order to maladministration relating solely to the institutions and bodies
- Carries out the relevant investigations and activate its powers of intervention , questioning the purpose the officer in charge and try to get to a point of compromise
- Has no enforcement powers or binding powers

- Shall dismiss the complaint and shall terminate its examination in all cases where it concerns a "deal" (Mastropasqua 2003), in respect of which hangs or is subsequently established a procedure before a court of law. The Code of Conduct was adopted by a resolution of the European Parliament of 6 September 2001. The adoption of the Code of Good Administrative Behaviour aims precisely to achieve the goals of the institution. Given that the maladministration is presented as a key competence of the Ombudsman, it seems reasonable to specify which behaviors of the European administration may be designated as such. Just on that basis I think it is resentful at the beginning of the institution of the European Ombudsman, the need for the provision of a code of good conduct on which the Ombudsman was based on his work. It is worth mentioning that in earlier years of the adoption of this Code, the Charter of Fundamental Rights of the European Union, proclaimed at the Nice summit in 2000, contained in his art.41 a provision titled " Right to good administration." Article . 41 provides: "

- 1.Any citizen has the right to the issues that concern are handled impartially , fairly and within a reasonable time by the institutions and bodies of the Union .

- 2.Such right includes :

- A. the right of every person to be heard against him before any individual measure is taken that would adversely affect

- B . the right of every person to have access to his or her file , while respecting the legitimate interests of confidentiality and professional secrecy

- C . the obligation of the administration to give reasons for its decisions

- 3.Any individual has the right to have the Community make good any damage caused by its institutions or by its servants in the performance of their duties in accordance with the general principles common to the laws of the Member States .

- 4.Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language .

The same European Ombudsman in his report in 1997 helped in the definition of maladministration by stating that "we are in the presence of maladministration occurs when a public body fails to act in accordance with a rule or principle which is binding upon it". Among the principles that are laid down in the Code we may mention that of legality (Art. 4), the absence of discrimination (Art.5), proportionality (Art.6), the absence of abuse of power (Art.7), impartiality and independence (art.8), objectivity (Art. 9), legitimate expectations, consistency and advice (Art.10), equality (Art.11), courtesy (Art.12) , response to letters in the language of the citizen (Art.13), notification of decisions (Art. 20), data protection (Art. 21). As you can see it is already known from first principles in the European context . Apart from the recovery of these principles, art. 26 is also taken recourse through complaints to the Ombudsman as a means of security against any default on the part of an officer of such principles .

1.3 A model of regional ombudsmen: the Italian case

It should immediately be pointed out that in Italy there isn't an ombudsman at the national level. But on the other hand, the ombudsman is very present at the regional level, in the provinces and municipalities. This fact may lead us to think that so many experiences ombuds constructed so they can consolidate a single model of civic defense. But, instead, lead to a fragmentation and disarticulation of the civic culture(La Bella, 2004). Fragmentation and disarticulation which in turn are due to a lack of entrenchment of a culture of political-administrative unit, or due to the objective difficulty to design and implement coordinated strategies for regulating relations between the community and the state administration. Various were the negotiations to adopt an ombudsman at the national level in Italy. The first and foremost was the bill on February 5, 1965(La Bella, 2004), but

failed due to the fact that the institutional architecture of the Italian system, provided that these powers were reserved to the Chambers, being that you initially wanted to adopt a model of the Parliamentary Commissioner, the appointing authority of which rests with the parliament. Given that the attempt to adopt an ombudsman at the national level failed, in the 70's you have the "regionalization" of the phenomenon. We can identify three historical phases of the adoption of the Regional Ombudsman(La Bella, 2004):

- The phase "constituent" "which takes place in the years 1974-75 and coincides with the adoption of the first two regional laws of Tuscany and Liguria .

- The stage of "transition" , "which takes place in the years 1976-80, when this phenomenon is spreading to other Italian regions.

- The phase of "consolidation", which takes place since the early 90's. It is characterized by redefining the one hand the type of public bodies should be subject to review by the ombudsman and the other, the type of subjects that can enable the regional office of the ombudsman .

The practice of the regional ombudsman testifies to a widening " fact" of its responsibilities(Comba,1995). The main functions of the Ombudsman are:

- The protection of individual positions of citizens towards the Administration
- Ensuring efficiency and good performance in general administration.

Both see the ombudsman in an intermediate position between the citizen and the administration, but while the former emphasizes the link between the ombudsman and citizen, the second gives the Ombudsman a role almost Auxiliary Administration (Sandulli,1989). With regard to this second function, so in relation to the control on the efficiency and smooth running of the government, it would not be too dissimilar, despite the obvious difference of situation, that of the administrative law judge under the supervision of the operations of the legitimacy public administration. The administrative judge, according to the known theory of protection reflex protects the legitimate interests of citizens as such, but because doing so also serves the public interest of the legality of administrative action.

Already from its first reports, the Ombudsman notes that the Tuscan most of the requests of citizens is not related to regional authorities, but mainly in those state. This is because perhaps the beginning of the adoption of this figure at the regional level, the citizens knew what were the powers and limits of such a body. Or because, for me it is a fundamental reason, the needs of citizens at the time felt the need for an ombudsman just at the national level. And it was precisely these needs who founded an *opinio iuris* in the matter, which in turn leads to two figures in the creation of civic defender(Comba,1995):

- The " de jure "
- And the " de facto ".

The ombudsman "in fact", where it acts outside the jurisdiction conferred by law, has not provided even though the limited range of technical and legal instruments which are instead provided for by the legislation establishing the ombudsman "of law". For a greater extension of the sphere of action of the ombudsman "in fact" corresponds to a minor technicality of the instruments used , compared to those that the law provides to the ombudsman "of law". As early as the 80s had noticed the changes that it had begun to play "on the role of a broker firm that the role of controller" (Pizzeti,1984). Instead, the prediction of the ombudsman at the provincial and municipal starts from the 90's. The first laws to the rank of municipalities and provinces were those n.142 and n.241 of 1990. We can say that these two laws are different by nature and goals(Pizzeti,1993). In fact, while the Law n. 241 of 1990 directly protects the procedural rights of the individual , the law n .142 of 1990 protects them indirectly through the enhancement of local self-government, and then through the differentiation of guarantee schemes. The Ombudsman referred to in Law no. 142 of 1990 can be understood as an instrument additional to those provided for by Law no. 241 of

1990 , from which it is distinguished by its greater variety of its forms and its mode of action. Exactly the art . 8 of Law no. 142 titled "ombudsman " includes:

1 . The Statute may provide for the municipal and provincial institution of the ombudsman, who plays the role of guarantor of impartiality and good performance of the municipal or provincial public administration, reporting, on their own initiative, abuse, malfunction, the shortages and delays of the administration towards the citizens .

2 . The statute governing the election, the powers and resources of the Ombudsman as well as its relations with the municipal or provincial council. Therefore, the provision in question states that the statute is to provide for the establishment of the ombudsman, that statute must have a minimum content required with regard to the rules governing the election, the powers and means of action and the type of relationships that are established by the City Council (Gorga, 2005). Thus was preserved the value of the constitutionally guaranteed autonomy of local authorities, but at the same time it is threatened and you are likely to create a different system of guarantee for citizens depending on the municipality or province. At provincial and municipal level, there has been a mass distribution of Ombudsmen. It is a completely legitimate behavior because each statute has the right to establish its own ombudsman. But in addition to providing the right to appoint their own ombudsman, statutes and regulations also provide, especially in smaller municipalities, the possibility :

- Or agree with other administrations to establish an ombudsman only
- Or to make use of already established an ombudsman, which is generally the regional level(Comba,1995).

Particular attention I think deserve the powers of appointment and the requirements for the office of the ombudsman. The Ombudsman is elected by the regional council by a majority of two-thirds of the directors and may be revoked for serious reasons by the same majority. An exception to the rules provided by the Lazio Region in which it is established for the appointment and revocation of the three-quarters majority. Its headquarters is everywhere scheduled at the Regional Council (de Vergottini,1994). Several regional laws cases of ineligibility for the office of the ombudsman. The ineligibility is provided particularly for :

- Members of the National Parliament
- The regional, provincial and municipal
- The members of the Regional Monitoring Committee
- The directors of institutions and public enterprises, semi-public or otherwise restricted to the region to work or administration of contracts or grants.

They recognized, however, such as eligibility requirements:

- The right to vote in a town in the region
- A particular legal-administrative competence that gives "guarantee of independence, objectivity, serenity of judgment "
- Belonging to some specific categories such as "professors of the University in the fields of law, judges of the ordinary courts even at rest or administrative sponsoring lawyers in the Supreme Court for more than 10 years".

Conclusion

The first thing to point out , just after finishing the analysis of this argument is that it does not matter if it comes from different countries in which the institution of Ombudsman has been provided, or the different times in which the institution has been adopted. The Ombudsman has characteristics that are common to many experiences. These features are:

- The Ombudsman is an emanation of the legislative power

- And, in principle, also independent from the legislative power, although a parliamentary committee can oversee the administration, the staff and the decisions of the Ombudsman
- Is a prestigious and influential figure that these characteristics based on the independence, objectivity, competence and impartiality. He is seen as the personification of the law and ensuring that the law is not upheld by public officials.
- The Ombudsman may act on its own but in most cases, are private litigation that put it in motto.
- An Ombudsman conducts impartial investigations, has the right to call anyone to get information, and has free access to official documents
- Usually used procedures free, quick and informal
- It does not have the power to issue orders and impose sanctions
- Keeps continuous reports and annual reports with the parliament, which contains specifically of all the activity in this time
- Always communicates the reasons for which a claim can not be taken into account by him, is that it is unfounded or that does not fall within its jurisdiction
- You can always make inspection visits to the authorities , either because that option falls within its powers of a general nature or to investigate a complaint about
- You can always suggest or recommend changes or improvements in administrative procedures
- He has a great psychological value for the population.

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IMPORTANCE OF POSITIVE PEDAGOGICAL RELATIONSHIPS IN THE CONTEXT OF NOWADAY'S TEACHER EDUCATION

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Abstract

The current situation in the sphere of education outlines the need for changes that can be seen as a continuous quality improvement process in the sphere of teacher education. The context emphasizes pedagogical relationships that are viewed as a key element penetrating the whole process of education. However, the competence models focus more on different sets of competences, but those necessary for the development of pedagogical relationships remain unclear. Therefore the following research questions have been put forward: 1) What is the correlation between pedagogical relationships oriented towards the personality and university teachers as social role models for student teachers? 2) What is the correlation between pedagogical relationships oriented towards the personality and self-evaluation of the effectiveness of mastering the content of study courses?

The article reflects the research study that involves Bachelor and Master level students at Liepaja University, who were separated in 3 groups according to the respondents' pedagogical experience and the following criterions: 1) a level of study experience and 2) personal involvement into the development of pedagogical relationships. The results were collected by Likert-type questionnaire and analysed with SPSS Statistics 17.0 using a cross-tabulation and a Pearson's chi-square test. The totality of the research data confirm that exactly the skills of university teachers to create positive personal relationships with the students can be regarded as a precondition for achieving desirable study outcomes and a determinant factor of their competitiveness.

Keywords: Pedagogical relationships, university teachers, teacher education

Introduction

Current situation in the field of education has been influenced by the tendencies of today's global world characterized by postmodernism, constructivism as well as democratic and humanistic approach to pedagogy. A postmodern perspective challenges uncertainty, diversity and multiplicity that can be fragmenting and depowering as well as energizing and powerful. According to Merriam, Caffarella, & Baumgartner (2007), relationships, connectedness and interdependence are the constants that hold us together in such a fragmented world. The context outlines the need for changes and paradigm shift in education that can be seen as a continuous process of looking for the possibilities to improve the quality of teaching and teacher education, which has been identified as the most important factor influencing the quality of education. Moreover, university teachers are intended to be less a source of answers than a resource for learning and act as role models for student teachers, who acquire the competences that they deploy later in the classroom (Report of a Peer Learning Activity, 2010; Taylor, Marienau, & Fiddler, 2000). The context demands changes

in the understanding of pedagogical relationships as well – they are viewed as a key element penetrating the whole process of lifelong education and existing as a common denominator between the process of education and professional performance, where especial role has been allocated to professional competence of teachers. However, the research studies focus more on the content of teacher education, outcomes and competences in general, but hardly on the significance of pedagogical relationships as one of the main aspects reflecting the professionalism of university teachers. This contradiction has been confirmed by majority of competence models that highlight different sets of competences, but those necessary for the development of pedagogical relationships remain unclear. Therefore the following **research questions** have been put forward:

Research Question 1: What is the correlation between pedagogical relationships oriented towards the personality and university teachers as social role models for student teachers?

Research Question 2: What is the correlation between pedagogical relationships oriented towards the personality and self-evaluation of the effectiveness of mastering the content of study courses?

Pedagogical relationships as a key element in university teachers' professional competence

The basic goal of humanistic education is to develop the potentials of a person - open to change, continued learning and striving for self-actualization, who is able to live in society as a fully-functioning individual. However, when entering university, students often revert to classroom strategies that worked for them in high school, generally trying to do “what the teacher wants”, thus seeking to improve their job performance yet denying themselves the practice it takes to develop the new skills. Becoming an effective teacher may involve changing personal theories about teaching and learning, as well as unlearning established ideas. Whether learners change their conceptions is strongly influenced by educators' conceptions (Brooks, 2005; Taylor, Marienau, & Fiddler, 2000).

The social role of a teacher in a humanistic setting is that of facilitator, helper, and partner, who trusts students to assume responsibility for their learning and respect and utilize the experiences and potentialities of students, in order to create a cooperative, supportive learning environment. Therefore the quality of pedagogical relationships between a teacher and a student considered as the foundation of teaching and learning that happens in the classroom is of great significance. Through these relationships teachers attend to the affective, emotional and intellectual dimensions of a learner in an educational setting (Elias & Merriam, 1984). Congruency, empathy, compassion and acceptance have been considered as the main preconditions of quality in pedagogical relationships revealing in the process of positive and collaborative interaction, respect, responsibility, and facilitation of learning on both sides (Axline, 1993; Pädagogischer Bezug, n.d.). The value of pedagogical relationships lies in attitudes and understandings that the educator employs in the educational context.

However, analysing the models explaining the concept of teachers' professionalism, the aspect of pedagogical relationships has often been neglected or conceptualized very indefinitely. Among the qualities essential to the teacher profession there have been mentioned a strong academic and practical knowledge base, practice-based research, ethical codes, lifelong professional development, professional autonomy and control of one's own work, as well as collaboration with colleagues and stakeholders (Snoek, Swennen, & Van Der Klink, 2011). Although the research findings suggest to consider the ability to plan, assess, differentiate, communicate effectively, use questions skilfully and manage behaviour as some of the core professional skills that point to the quality of teachers, the interplay of people involved in the learning setting has been less often addressed (Brooks, 2005; Merriam &

Caffarella, 1991). Also the constructivist point of view supports the idea of learning as a cognitive process of meaning-making that depends on an individual mental activity, inner motivation and a socially interactive interchange. Aspects of constructivism can be found in self-directed learning, transformational learning, experiential learning, situated cognition, and reflective practice (Merriam, Caffarella, & Baumgartner, 2007; Reich, 2002).

Snoek, Swennen, & Van Der Klink (2010) have outlined some general characteristics of the concept „professionalism” referring to the aspects of the quality of teacher education and turning attention towards the importance of pedagogical relationships: 1) quality improvement and output requirements, 2) movement towards new forms of relationships and collaboration, 3) accountability – how the intended learning outcomes have been achieved, 4) improvement and innovation, 5) the nature of the knowledge base, which can also be the result of experience and reflection, 6) professional development, 7) implementation of standards describing competencies and qualifications. Moreover, Snoek, Swennen, & Van Der Klink (2010) believe that the quality of teachers has a larger impact on the learning of students than the quality of the curriculum, the teaching methods, the school building or the role of parents. By modelling effective teaching strategies, university teachers potentially play a key role both in maintaining and in improving the quality of the education system through their impact on student teachers and through their role as developers and mediators of knowledge about education, and as educational innovators (Report of a Peer Learning Activity, 2010). Accordingly the issue of the professionalism of university teachers and pedagogical relationships as its key element is becoming an issue of paramount importance.

Research procedure and design Participants

The article reflects the research study that involves Liepaja University students (N = 1267), who represent Bachelor and Master level study programmes in the sphere of education. In order to compare the attitudes of respondents, there were separated several groups of students (see Table 1).

Table 1. The Groups of Respondents

Groups	Study level/year	N	% (of total amount)
A	Bachelor level/ study year 1 - 2	584	46.1
B	Bachelor level/ study year 3 - 4	556	43.9
C	Master level/ study year 1-2	127	10.0

For the research purpose the grouping of the respondents complies with two criterions. Firstly, it is a level of study experience that ensures diverse opportunities for evaluation of the input of university teachers into the development of pedagogical relationships. Secondly, it is personal involvement of respondents into the development of pedagogical relationships. It has to be noted that in the beginning of the study process students have only acquired basic theoretical knowledge necessary for pedagogical work (Group A), whereas in the further study process students have got involved in active implementation of pedagogical practice programmes (Group B). Respectively, in many cases Master level students have already acquired teacher qualification and during research practice give more attention to the studies of pedagogical relationships in different educational institutions (Group C).

Method

The research data reflected in the publication were collected during the years 2009 – 2013. The implementation of the research was ensured by a standardised evaluation

procedure of university teachers' professional competence that corresponds with the demands of the Quality Management System existing at Liepaja University. The procedure is implemented every semester – twice in a study year, in accordance with the evaluation schedule of the teaching staff prepared beforehand. In the practice of the higher educational institution the results of the evaluation have been analysed in the frame of one semester.

The research work reflected in the article summarizes the results of a questionnaire acquired during nine repeated measurements, where professional performance of the teaching staff (N = 39) in a context of different study courses is subjected to evaluation. Respectively, 14 members of the teaching staff were evaluated twice, but 6 members – 3 times. At the same time the research work turns attention not to the professional competence and performance of autonomous university teaching staff and implementation of particular study courses, but towards mutual correlations.

The standardized questionnaire consists of 19 questions containing indicators that are not systemically equal to any of the university teachers' competence models analysed before. However, in the structure of the research instrument it is possible to separate several thematically connected groups of questions:

Teaching as dynamic and innovative profession and teachers as reflective practitioners - reflected by the questions in connection with autonomy of study courses, skills of the teaching staff to reveal the content qualitatively and quantitatively, availability and usefulness of suggested readings, as well as assessments conducted to gain detailed insights into the learning outcomes.

Professional development throughout the career, included in the questions revealing the presence of newest scientific findings in the study course programme, as well as using study methods and technologies relevant to the content of the study course.

The implementation of standards describing competencies and qualifications of the profession, revealed by the questions oriented towards the formulation of the students' evaluation criterions and organization of teaching activities.

Movement away from the traditional professional authority and autonomy towards new forms of relationships and collaboration, including questions about the teaching staff ability to evoke interest in the study course and develop positive relationships with the students.

The research work is oriented towards the fourth group of questions reflecting positive pedagogical relationships, which has been revealed with comparatively insignificant proportion of questions. Respectively two questions allow obtaining information about the desire of respondents to attend more study courses taught by the same teacher.

According to the research questions put forward in the article, the correlation has been determined between the attitude expressed by the respondents in relation with their wish to attend more study courses taught by the same teacher (Q18), as well as with the evaluation of the study course level of difficulty (Q19) and the indicators of pedagogical relationships implemented by university teachers: skills and ability to evoke interest in the study course (Q6), favourable teacher's attitude towards students (Q15) and a good contact with audience (Q16).

In order to measure the attitude of respondents, the structure of the questionnaire offers Likert-type response questions with five possible degrees of agreement: 1 - strongly agree, 2 – rather agree, 3 – rather disagree, 4 - strongly disagree, 5 – cannot say. Cronbach's alpha is 0.815, which indicates a high level of internal consistency for the items in the questionnaire used in the research. The results were analysed with SPSS Statistics 17.0 using a cross-tabulation and a Pearson's chi-square test.

Results

The results for the three groups were statistically significant and demonstrated relationships between the variables (see Table 2).

Table 2. Pearson’s Chi-square test results for groups A, B and C.

	Group A	Group B	Group C
Q6	X ² (25, N=584) = 334.9, p<.001	X ² (20, N=556) = 413.89, p<.001	X ² (20, N=127) = 413.89, p<.001
Q15	X ² (25, N=584) = 398, p<.001	X ² (20, N=556) = 314.04, p<.001	X ² (20, N=127) = 314.04, p<.001
Q16	X ² (25, N=584) = 502.99, p<.001	X ² (25, N=556) = 404.80, p<.001	X ² (25, N=127) = 404.8, p<.001

The correlation between the students, who are less experienced in the study process and pedagogical practice (Group A) and their readiness to continue collaboration with the university teacher and his/her skills to collaborate with audience has been reflected in the Table 3.

Table 3. Group A.

N=584		6q1	15q1	16q1	6q2	15q2	16q2	6q3	15q3	16q3	6q4	15q4	16q4	6q5	15q5	16q5
I would attend other courses taught by this lecturer	1 Count	243	296	292	68	16	24	3	3	0	0	0	0	2	1	0
	2 Count	60	122	102	95	49	70	15	3	0	2	0	0	0	0	0
	3 Count	1	21	13	17	23	26	30	6	0	1	0	0	1	0	1
	4 Count	1	1	0	3	4	5	5	1	3	1	3	3	0	1	0
	5 Count	6	16	14	12	9	11	8	2	0	1	1	0	2	1	1

The data obtained from the respondents of the Group A confirm statistically significant correlation observed between the expressed desires of the respondents to collaborate with university teachers in cases if there exist a high level of pedagogical relationships. In this connection 243 respondents (41,6%) have expressed strong agreement to the fact that the university teacher evoked interest in the corresponding course of study. Respectively 96 respondents (50,7%) have presented strong agreement that the teachers attitude towards the students was favourable. In its turn, 292 respondents (50%) have expressed strong agreement to continue collaboration with the teacher, because he/she had good contact with the audience.

Analysing the correlation between the difficulty level of the study course, it was found that 219 respondents of the Group A (37,5%) evaluated it as appropriate, because the teacher evoked interest in the study course. Correspondingly 300 respondents (51,4%) have evaluated the difficulty level of the study course as suitable, because the teacher’s attitude towards the students was favourable. The responses of 279 respondents (47,8%) have acknowledged the correlation between a sufficient level of the study course acquisition and a good contact of the teacher with the audience.

The correlation between the students, who are experienced both in the study process and pedagogical practice (Group B) and their readiness to continue collaboration with the university teacher and his/her skills to collaborate with audience has been reflected in the Table 4.

Table 4. Group B.

N=556		6q1	15q1	16q1	6q2	15q2	16q2	6q3	15q3	16q3	6q4	15q4	16q4	6q5	15q5	16q5
I would attend other courses taught by this lecturer	1 Count	220	270	265	55	8	15	3	2	1	0	1	0	3	0	0
	2 Count	35	112	82	102	39	66	19	7	12	3	1	0	1	1	0
	3 Count	1	11	6	27	34	35	23	6	11	2	4	2	2	0	1
	4 Count	1	3	0	5	8	8	13	9	11	8	7	8	2	2	1
	5 Count	2	13	9	9	10	10	8	2	4	2	1	2	6	1	2

The data analysis indicates a comparatively high proportion – 220 respondents (39,6%), who have strongly agreed to continue collaboration with the teacher, as he/she evoked interest in the study course. Correspondingly 270 respondents (48,6%) have expressed a strong agreement for continuing the collaboration, as the teacher had favourable attitude towards the students. 265 respondents of the Group B (47,7%) strongly agree to continue the collaboration, as the teacher had a good contact with the audience.

Analysing the correlation between the difficulty level of the study course, it can be observed that 200 respondents of the Group B (36,0%) have evaluated it as appropriate, because the teacher evoked interest in the study course. Correspondingly 306 respondents (55,0%) have evaluated the difficulty level of the study course as suitable, because of a favourable teacher's attitude towards the students. The answers of 280 respondents (50,4%) have confirmed the correlation between a sufficient level of the study course acquisition and a good contact of the teacher with the audience.

The correlation between the Master level students (Group C) and their readiness to continue collaboration with the university teacher and his/her skills to collaborate with audience has been reflected in the Table 5.

Table 5. Group C.

N=127		6q1	15q1	16q1	6q2	15q2	16q2	6q3	15q3	16q3	6q4	15q4	16q4	6q5	15q5	16q5
I would attend other courses taught by this lecturer	1 Count	80	87	84	8	1	2	0	0	2	0	0	0	0	0	0
	2 Count	10	20	17	14	5	7	1	2	2	1	0	0	0	0	1
	3 Count	0	1	0	1	3	2	2	0	0	0	0	0	1	0	1
	4 Count	0	0	0	0	0	1	3	2	3	3	2	2	0	2	0
	5 Count	1	1	1	0	0	0	0	0	0	0	0	0	0	0	0

The data analysis of the Group C also indicates a high proportion – 80 respondents (63,0%), who strongly agree to continue collaboration with the teacher, because he/she has evoked interest in the study course. Correspondingly 87 respondents (69%) have expressed strong agreement for continuing the collaboration, because of the teacher's favourable attitude towards the students. 84 respondents of the Group C (66,1%) strongly agree to continue collaboration, as the teacher had a good contact with the audience.

Analysing the correlation between the difficulty level of the study course, it can be noticed that 69 respondents of the Group C (54,3%) have evaluated it as appropriate, as the teacher evoked interest in the study course. Respectively 84 respondents (66,1%) have evaluated the difficulty level of the study course as suitable, because the teacher's attitude towards the students was favourable. In their turn, 79 respondents (62,2%) have demonstrated the correlation between a sufficient level of the study course acquisition and a good contact of the teacher with the audience.

Discussion

Teachers' skills and abilities to develop positive pedagogical relationships with students are among the most significant dimensions of professional competence that has been confirmed by scientific research and studies of good practice. Characterizing the totality of these skills and abilities in general, teachers have to be able to direct their activity in accordance with students' activity and needs, joining into constantly changeable interaction, thus influencing purposefully the process of study and development of their students. At the same time communication, action and interpersonal relationships have to be ensured according to the expectations and individual opportunities of the students. In compliance with the notions of H. Dauber (2005) acquired during long-term pedagogical praxis, teachers have to develop and express true interest in their students, avoiding the conviction that everything is known and predictable (Dauber, 2005). The practical meaning of this approach has been confirmed by scientific research carried out at the end of 20th and in the beginning of 21st

century. One of the most significant conclusions suggest that trustworthy relationships between educatees and teachers motivate students and develop positive attitude towards the process of study and attaches positive life quality indicators to the activity in an educational institution (Wild, 2002).

These conditions can be regarded as topical for the segments of preschool and school education. However, a student, who has entered a higher educational establishment, is a grown up adult – an autonomous personality, who should be aware of his/her future profession acquirement. Therefore more formal relationships between teaching staff and students would be acceptable, bringing forward the content of a study course, the methodology of its implementation and evaluation of students` knowledge. However, the research study reflected in the article demonstrates the opposite – the data certify that university teachers` skills to promote interest in the study course are not so relevant for students` motivation to continue further collaboration. In this context a favourable teacher`s attitude towards students and a good contact with audience become as much more important indicator (see Tables 3, 4, 5).

The findings discover the tendency that less experienced students try to identify the university teachers with their former teachers at schools, whereas experienced students compare the university teachers` skills and abilities to develop pedagogical relationships with the personal competence in this area. The totality of the data obtained during the research confirm that exactly the skills of university teachers to create positive personal relationships with every student and students audience in general, in any case is a precondition of their competitiveness.

The data of the research certify the significance of university teachers` competence in development of pedagogical relationships in connection with the difficulty level of the study course. Learning process has been viewed as a challenge on every educational level and achievements in individual and career development are only possible if the content of studies contain new information and innovative viewpoints. A significant factor for ensuring such study process is the methodological competence of teacher educators. However, the summarized research data certify that the difficulty level and its suitability for the study course to a great extent is directly connected with university teachers` positive attitude towards students and skills to create a good contact with audience. That leads to a cognition that exactly these skills can be regarded as a precondition for achieving desirable study outcomes, and teaching staff should have to actualize their skills and knowledge about pedagogical relationships development. Greater attention should be paid to this topic, for example, in the implementation of university didactics study programmes within the process of continuing education, as well as a differential approach to students and formation of groups with diverse study experience should also be examined in this context.

Paradoxically that the group of Master level students demonstrates statistically significant data certifying the tendency to evaluate university teachers in relation with their skills to collaborate with the students` audience (see Table 5). It has to be mentioned that the legal normative documents foresee less amount of contact hours for Master level students in comparison with Bachelor level, thus anticipating greater amount of time for independent studies. However, the totality of research data acknowledge the significance of positive pedagogical relationships between the teaching staff and the students, that is of greater importance particularly in Master level study programmes.

The findings make to consider the nowadays tendencies in the sphere of higher education and put forward **the questions for further research**. For example, the developmental strategy of the University, where the research was conducted, determines wider implementation of e-studies. This challenge also applies to the pedagogical study programmes of different level. Although the usefulness of modern technologies cannot be

questioned, the findings on implementation of pedagogical relationships and their kinds of expression should be taken into consideration when providing detached e-study process.

Students' expectations, motivation and achievements influence their study process and facilitate higher study outcomes. Positive interpersonal relationships oriented towards collaboration to a great extent ensure the effectiveness of the study process. However, the research data reflect the perspective of only one group representatives – the students.

Therefore a multiperspective approach should be used in further research studies allowing evaluating the attitude of university teachers towards the essence of pedagogical relationships and significance in the frame of the study process in a higher educational institution.

The research study has evoked reflections about the necessity to improve the questionnaire. Although the instrument used during the research is valid, several changes should be introduced in its form and content. Firstly, taking into consideration the significance of the problem, the content of the questionnaire should include more questions related to the thematic of pedagogical relationships. At the same time the structure of the questionnaire should allow adding comments of respondents. This would allow clarifying the particular characteristics reflecting students' understanding about the statements like "good attitude towards students" or "good contact with audience". This kind of data is necessary both in a short term teaching staff evaluation and in a study of mutual coherence in this area.

Conclusion

Based on the findings from the answers to the research questions, the following conclusions can be drawn:

The issue of the professionalism of university teachers and their skills to create positive pedagogical relationships as its key element becomes essential in the educational context. This condition is topical in teacher education, as university teachers are social role models for student teachers attending to the affective, emotional and intellectual dimensions of a learner in an educational setting. The value of pedagogical relationships lies in attitudes and understandings that the educator employs in the study process.

Existing teachers' competence models highlight different sets of competences focussing on the content and outcomes of teacher education, however, often neglecting the significance of pedagogical relationships.

The findings certify that university teachers' skills to promote interest in the study course are not so relevant for students' motivation to continue further collaboration. A favourable teacher's attitude towards students and a good contact with audience have been recognized as more important indicators in this context and are directly connected with the difficulty level of the study course and its suitability.

The research shows statistically significant correlation between pedagogical relationships oriented towards the personality and university teachers as social role models for student teachers, as well as self-evaluation of the effectiveness of mastering the content of study courses. The findings reveal the tendency that less experienced students try to identify the university teachers with their former teachers at schools, whereas experienced students compare the university teachers' skills to develop pedagogical relationships with the personal competence in this area.

The totality of the research data confirm that exactly the skills of university teachers to create positive personal relationships with the students can be regarded as a precondition for achieving desirable study outcomes and a determinant factor of their competitiveness.

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CONTEMPORARY UNIVERSITY: FROM THEORY TO KNOWLEDGEFACTORY

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Abstract

Elevation of technological innovations, achievements generating permanent development, globalization and universal connection had determined other types of level and knowledge criteria for current and especially future workers. Number of university educated workers is expected to be rapidly raised up on behalf of the high school educated workers. As last third level of education, the university education profiles the future workforce. Correspondingly, the character meaning yet more insists on knowledge that apart from theoretical values will also have practical – being enforceable. According to Peter Senge, the new knowledge expensive seeds do not always fall on rich ground.

The university institutions yet more oriented from clearly theoretical-narrative and transfer knowledge poured off to creative-pragmatic. The direction of transmitted examination is yet more imperative. The university institutions manifest their function in different ways with same focus, but different results.

Keywords: University education , University management , theory knowledge in practice

Introduction

Nowadays the knowledge gains more and more applicative dimension rather than simply theoretical. Simply stated, the functionality of the theoretical knowledge is reflected into its percentage of realization. The management of knowledge as a discipline of the new century is an academic approach, but it is still minor in its process aspects. However, this does not rehabilitate the organizations of the higher education from the responsibility to implement the management of knowledge, first of all in their own surroundings, and then, based on their experience, into the everyday work and practice. The base of the general rise of the success in the integrated university is the management of the human resources. There are several situations which generate and develop this management of the human resources. Unfortunately, this rarely happens. Six key aspects of the integrated university can be defined: ⁴³²training sector, career development based on capabilities, change management, initiativity, leadership and management of suppliers and consumers.

If the business is considered to be a mirror of the universities, it is clear that universities have significant role. The universities, with the strength of the mind and the

⁴³² Fulmer, R. Best Practices in corporate university vo M. Allen (Ed), corporate University Handbook, New York: Amacom (2002)

initial dimension of the knowledge which is transferred on his participants (whether directly or indirectly), creates the social ambient. So, the knowledge is the resource which has a direct impact on the society, and the university is the main place for transfer and implementation of the knowledge. Furthermore, it is essential that the knowledge is also checked, not only transferred. In this case, the verification of the knowledge must be made in real circumstances, through practice.

With the introduction of the private higher education in Republic of Macedonia in the sphere of the academic capitalism was caused demystification of the educational processes. Correspondently, in the sphere of the academic managerism the accent was put on the information technologies, as well as on their expansion and usage in the global society of the knowledge. The wish for an active integration of the students caused increase of the awareness and orientation towards the business elitism. A balance between the knowledge of the students and the needs of the business world was achieved. However, all this is not enough if the transferred knowledge is not implemented into practice.

Factory of knowledge: From project to a program

Having in mind the above mentioned, FON University in Skopje, The Republic of Macedonia, in 2010 has initiated a project named as Factory of Knowledge, whose main purpose was a promotion of increased practical implementation of the theoretical knowledge and a popularization of a more efficient way of gaining knowledge, as well as a verification of the theoretical knowledge. In the years 2012/2013 this project became a program whose main function was to initiate and increase the awareness and courage among students and in meantime, to be in a position of a mediator between the students and the needs of the business world.

The idea of transformation of this project into a program was to:

- Estimate the value of the theoretical knowledge into practice
- To estimate its degree of utility
- To be an indicator for a future correction
- Correspondence of the theory and the practice
- To estimate the expectations of the business world from the students
- Promotion of the success of the businesses
- To estimate the degree of readiness of the students for their infiltration in the business world
- To be a tool for self-criticism
- Gaining new knowledge and skills

The beginning of the project Factory of knowledge in FON University in 2012 was incorporated in the program Career (PC), which main purpose is to take care for a real and competent improvement of the students. The Program Career comes from the awareness for the general conditions of the university knowledge which transfers in 3 sectors – academic capitalism, academic managersim and business elitism. Therefore, the initial idea for the project Factory of Knowledge 2012, as a part of Program Career is forming of a modern educational partnership between higher education institutions and developed economic-legal entities in the country.

Taking into account the fact that the major intention was to realize a program with real valuables and realistic results, the activities form this project were mainly taken and realized from the students. The role of the educators and teachers was forming teams, introduction to the activities, giving instructions, mentorship and guidance in the independent work of the students. Meanwhile, for the first time Factory of Knowledge was formed with an intention for an international cooperation into the Euro-Atlantic integrations. The international cooperation was constructed as a collaboration between the municipalities

Podgradec in Republic of Albania and FON University, as a part of the project for improved treatment of the Ohrid Lake.

The project Factory of Knowledge created an ambient of a specific academic-business forum through the collaboration and communication between the students included in the project and the representatives of the business elite. This project improves the skills and the level of expertise of the students. Additionally, a significant improvement in the field of academic writing is achieved.

Project goals

The main purpose of this project was to present the real situation in the Macedonian business world and to identify its needs. This related to our university and this project specifically means that we try to produce workers who will satisfy employee's needs and preferences. This comes from the fact that in the Republic of Macedonia, before the creation of this project, there was almost no collaboration between the higher education institutions and the business world. For this reason, their expectations and needs are different – the supply on the work force market satisfies the demand in a small percentage and vice versa. This project helped us to see the actual needs on the work force market and the business world in general, which had an impact on the curricula and the educational process in the University.

The major goal of FON University was to create, through this project and kind of cooperation, an academic-business forum which through practical work on real projects will define and determine the differences between the needs of the market and the skills of the future work force. The project Factory of Knowledge is considered to be an indicator for a potential correction to overpass the differences in the expectations of the employers as well as the students. In the last few years, there is a certain trend of creating a highly educate nation, but this has a counter effect – this just increases the differences between the businessmen and the educated students who are the future workforce. FON University has realized the need of additional practical work and implementation of the students in real projects on the one side, and on the other side this caused huge interest among the businessmen. The main reason for this instant understanding between the students and the business world comes from the fact that they both have realized that once it is known what the business world needs, it is easier to be achieved.

Furthermore, the project Factory of Knowledge had a self-critical character if we take into account the fact that in this case was also examined the level of expertise of the teachers as well as the knowledge of the students. Through the work on these projects the abilities of the students as well as of the teachers were under inspection – the professors were giving students instructions and constant guidance and monitoring. What is really important in this project is that students gain new skills and new knowledge and find more effective and more efficient ways to use the theory into practice.

All this, of course, required additional efforts, energy and ability to confront with the challenges as well as understanding of the future results. During the realization and at the end, at the presentation of the results the credibility and the capacity of the potentials of the University were noticeable. The confirmation of the achieved results and solutions of the real problems from the business world came from the businessmen themselves.

Experiences gained

The realization of this project was related with a couple of factors. First, it was necessary to realize an activity which is compatible with the role of the University in general, with a special accent on its position, intention and responsibilities in the actual moment. From the very beginning, a dose of awareness for the capacity to start something new and

unrealized was needed. Also, without knowledge, it was impossible to structure and guide more than 200 students (from second to fifth year) who were organized in teams who were working for 7 prestigious Macedonian companies. The base of the knowledge from the professors and collaborators was transferred to the students who were stimulated to find the solution of the problem by their own.

The project Factory of Knowledge was realized through activities of the students, the professors and the collaborators from 8 faculties at FON University. The total work engagement took 7 months in two semesters or around 7 830 working hours, from which 5 300 hours work of the students and 2 520 hours work of the professors. The work engagement of the students from different faculties is as follows: Faculty of Economics – 3 505 hours, Faculty of Law – 1 145, Faculty of Informatics – 650, Faculty of design – 1 130, Faculty of Applied Foreign Languages – 774, Faculty of Political Science – 361, Faculty of Sport and Sport management – 70, and Faculty of Security and detectives – 185 hours.

In this project were included a big number of students, as well as a big number of professors, whose task was to guide the students, to monitor them, to coordinate, to control and to give them certain directions. Around 45% of the students came from the Faculty of Economics, first of all because of the task they were given from the companies-collaborators. However, students from different profiles were included in each team, and special projects were created for certain profiles of students. The fact that every group was an integrated team in which everyone tried to give their own best solution for the problem has to be taken into account. Of course, the students had the support of their professors – mentors, who were managing the projects.

The experience for FON University from the project Factory of Knowledge is huge because, first of all, this project created an opportunity for definition of the eventual problems in the curricula and the educational program. Factory of Knowledge clearly reflects the real situation and the needs of the Macedonian business world, precisely shows the real situation and emphasizes the need for change into the educational system in order to make the students ready for infiltrating at the market of the work force right after graduation.

Conclusion

With the realization of the project Factory of Knowledge, FON University gained acknowledgement that the education offered is on a higher level than the usual transfer of knowledge. The tasks given to the students have actually shown how well the theory can be utilized in practice. The students, trying to express their competences, have come with final solutions and concrete products/ services⁴³³ which had a theoretical background. With this project, the higher education is situated and a bridge for cooperation between the business world and the students is created.

What is very important is the direct connection with the companies who took part of the project Factory of Knowledge. The companies who were part of this project had their own representatives, who held meetings with the students from the different teams on a regular basis. At these meetings, additional directions and corrective activities were given, giving the students freedom to choose their own way of solving the problem. All of the solutions presented in front of the companies were successful. Furthermore, interesting ideas that need to be improved and elaborated deeper were given. Significant part of the solutions given from the students, are nowadays implemented in the companies.

⁴³³ In the project Factory of Knowledge 2012, the companies who took part were: Komercijalna bank, TAV Airports, Renova, Grozd, Tikvesh

The project Factory of Knowledge was realized every year, but 2011/2012 can be pointed out as the most successful because of the achieved success and the international dimension.

First of all, one of the most important results was the satisfaction of the companies from the solutions presented, the constant work of the students as well as their mentors.

Another important result is that, apart from the relation between theory and practice, the students gained new knowledge and new competences which improved their qualifications. This allows them to get involved with the society and the environment more active as academic citizens.

A new development phase emerged for the students and for the higher education institution, for bigger and more successful development, which is just an initiative for bigger successes and positive results in future. This is a phase that requires constant improvement, development and expansion.

Most probably one of the major results is the creation of a new awareness, new dilemma and challenges not just for the students, but as well as for their professors – mentors and the companies which were directly included into the whole process of work. New dilemmas and new challenges, which is very important for this dynamic and changeable world in which we encounter new dilemmas and challenges on a daily basis, and for which we try to find the best solutions and decisions.

Recomendation

The base of the constant improvement and success of the integrated university is in the relation towards the human resources. There are similar conditions that generate and develop this relationship. Unfortunately, this rarely happens. Six clue concepts can be defined for the integrated university:⁴³⁴ sector for training, career development based on abilities, change management, initiative, leadership and management of suppliers and consumers. Probably, the primary task of the University in the actual moment is to provide an opportunity for the right people at the right time with use of the educational technology and the new knowledge. The purpose to provide real relationship between the quality academic resources, practice and the educational technology probably is a good approach. The level of the future continuous improvement and development depends a lot on the successfulness of the integration of these elements.

The educational institutions really need advanced systems based on knowledge, and in the meantime there are working practices that can seriously harm the transfer of knowledge. The strategies and the practices for management of the knowledge must start with an integration of the separate systems and re-building of the opportunities which are offered by the strategies and the practices of management of knowledge, and this most certainly is the hardest challenge for the educational institutions. Higher education institutions can start and with an identification of groups of people who already have synergic work relations and sharing in one organization. This can help for establishing the base of one strong culture of research and reflectiveness and thus creating mechanisms for sustainable, long term organized learning. Of course, the most important in this approach is that the student most probably will have benefit from these practices for knowledge management.

In the process of continuous development and improvement of the higher education institutions there are mainly 3 directions: implemented strategies, management of knowledge and applicability of the same into practice. In this process the most important role of the university in the efforts to be more successful is creating a culture and cult towards the

⁴³⁴Fulmer, R, Best practices in corporate universities. vo M. Allen (Ed.), Corporate university handbook, New York: Amacom. (2002)

learning. The process of lifelong learning first of all should be implemented on itself, and then as a model to be used from the others. Understanding its role, the university will realize that it is one of the most important players in the creation of the business, as well as the society. Must be considered that the changes first must take place into the high education institutions, and then with rise of their own capacity, to have an impact on the society. The management of knowledge is a task which higher education institutions must define on the postulates of the entrepreneurial society: initiative, creativity, invention, competence and of course competition. Based on the grounds on these general and universal valuables the university can make a huge improvement in comparison with the current position.

As a general message from the whole project, we can say that this project woke up the awareness for the new time, time of change, dilemmas and challenges. Among the students who took part in this project there was a positive feeling of satisfaction. The satisfaction of the work is really an important element for a successful and positive income. This project strengthened the academic spirit of our university in our country, as well as on international level.

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FINANCIAL SYSTEM AND THE LOCAL GOVERNMENT IN EUROPEAN COUNTRIES

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Abstract

Local governing represents the first election school in the formation of the bodies and institutions that are closer to the governed, that in it carry the greatest and aware interest of the governed. It observes the basic functioning of the financial system, the creation and realization of the relations between the government and the governed, through which are implemented the basic principles of: - participation in governance; - expression of the will and liking of governing; - fulfilment of tasks of governing according to the interests and aspirations of the governed; - responsibility and accountability of the government. The effectiveness of the government, assessed through the fulfilment of tasks with concrete results related to the fulfilment of the interests of the entire nation and society, is another important aspect in the system of governing. In fact one of the directions of the two definitions of local Autonomy is to realize an independent school to provide financial support, in the management of incomes and spending too.

Keywords: Local governing, regions, municipalities, decentralization, central governing

Introduction:

Local governing represents the first election school in the formation of the bodies and institutions that are closer to the governed, that in it carry the greatest and aware interest of the governed.

Local governing is thought to be a realization of the political procedures which contain the direct fulfilment of the needs and wants of the governed. Therefore we are talking about political procedures (such as laws, decrees, decisions, orders) which meet even the direct interests of the governed.

The definition of local Autonomy exists in two directions.

- a) Local bodies space to take uncontested decisions from central bodies.
- b) The independent school to provide financial support, in the management of incomes and spending too.

The autonomous school de facto of each government is determined by the possibilities to increase and to use financial means in an independent way.

The constitutions have been decisive for the functionality of local bodies.

I.

Financial competences are one of the most importantes elements of the local government autonomy. The degree of local government autonomy is defined, mostly, throught the functionality of financial system of local government. It is built on the basis of three main sources. (The Concise Dictionary Politics, 2009).

- a) Local taxes on wealth, the business' activity or on the incomes.
- b) Tax on local services or payments from exploiters of services given by local government.

c) Subventions from the highest levels of government (central government) and loans from capital funds

The direct local tax is imposed on estates and on individuals too. The first one depends on the evaluation of the estates in the rent and sells cases. Local tax on individuals can be imposed being based on an unchangeable or progressive sum in accordance to the incomes.

Tax on estates is more characteristic for those countries in which the estate is viewed as a necessary condition to enjoy the political rights such as the right to vote, and in which the principle of limited government (in the context of: government defending and guaranteeing freedom and human rights) is deeply rooted in the political culture.

Local tax on individuals is executed independently from the estate.

State subventions are three kinds:

- a) Subvention from state budget as part of public spending, or from the imposing of a specific tax, whose incomes go to the local government.
- b) Subventions to cover some services or subventions for a special service.
- c) Subvention post hoc, based on the percentage of the spending done by the local authorities, especially to help the organization of new services.

Subventions based on a certain need which give advantage to the equality of spending levels for services between the developed areas and those that are left behind. (The Concise Dictionary Politics, 2009).

Traditionally local taxes have been the main financial source in those countries where the independence of local bodies has been bigger. In this point of view the services done have been considered as services mainly of local interest.

In Britain the decision making for the level of local taxes has been made by the local administrators, till 1984.

On the contrary, state subventions were the main source in centralized states as France till 1980; local taxes were much less important.

Meanwhile, it is obvious that the increase of funds in the incomes from the central government for the local government leads to the increase of central check on finances and on local administration politics too.

Being based on these sources, the local autonomy degree can be evaluated on the fact how much real freedom do the local councils have to increase the incomes from these sources, as they wish and as well as how far are they allowed to spend the incomes as they consider it to be more useful.

The differences that exist between European states are from one extreme to the other one, with "a lot of freedom" and with "a little freedom".

On one extreme we can rank Denmark where the commune is the main agency in tax gathering for the state as a whole, with the sum designated for the central government. At the same time, they have the direct responsibility to finance their activities based on the local tax on incomes. The commune decides about the percentages which vary from 13% to around 32%. Furthermore, as the counties, communes have the right that within the specified scales to impose the local tax on the value of the land.

Most of the spending of the Danish communes, as we have mentioned it above, is for the effective administration and realization of State Welfare and Social components, taking into consideration the indicators on national level. Through the implementation of financial policies, the communes are of a higher autonomous degree.

On the other hand, central government has an important role to implement the welfare system in the most possible harmonious levels in all communes. They aim that all have the same national indicators level. For this reason there is used the transferring of central government funds through grants' block. Their quantitative spread is done in the way that all

inequalities that are created in the gathering of the incomes according to the communes to be compensated.

On the other extreme, researchers rank places like Ireland and Italy, where the local councils have really little space in their independence to increase the incomes.

In Ireland, the efforts to change the local bodies into political ones are followed with changes in the source of incomes for the communes. This way, in 1978, central government took off local tax for the estate, which was one of the main resources of incomes for the communes. Central government started the financing of communes through grants. Check on local bodies had to increase more. Local government was dominated by the central one.

The same situation was created in Italy, in 1982; the fiscal reforms took off the communes' real power to finance their services through local taxes. A number of taxes didn't exist anymore like those on the houses, families, groceries, services and businesses.

Changes in transferring financial responsibility from local government into the central one lead to the deprivation of communes from about 92% of their incomes. Italy designed one of the biggest subventions financial systems in the Western world. Since then even the debts of local authorities were of extraordinary figures. While central government increased more the prevalent role in financing the local government.

Britain, has also known the big "strike" of central government on financial independence of central governing. In the process of implemented reforms by the government of the conservator M. Thatcher during 1980, initially to the central councils it was taken off the right to decide independently on the percentage of local wealth taxes. In addition, their increasing spending was put in charge of and was of severe check by the central government. The conservator government was too decisive to exercise its full check on local government. All councillors who dared the central government were threatened to be fired from work, they were even threatened to be legally prosecuted. Their vacancy was occupied by commissioners appointed by the central government. The conservative government of Thatcher used the centralization of power to enlarge the political positions. This was obvious when the "poll tax" (tax per capita) was imposed, on local base. Any adult included in the electoral register was obliged to pay an unchangeable tax. The tax provoked violent demonstrations in a wide degree and it had an impact on Thatcher's expulsion from the government. After this "poll tax" was replaced with "councillors' tax" a modified kind of the old tax on wealth which was in the severe check of the central government. 33 Most of the other European places are ranked in between two extremes mentioned above. In Holland for example less than 10% of local spending is provided from local tax. Other incomes are from the grants of central government, most of which are spending intended for special projects and programs.

In Spain also, regional governments of high level, including the government of Catalonia take 80% of their incomes from central government grant.

On the contrary, in France and Belgium, most part of local spending is financed from local tax, especially from those of land, estates and businesses.

Germany is nearer to the Scandinavian model about the financing of local government from the incomes of tax on incomes, businesses and estates tax. However, local councils take a fixed amount: 15% of all national taxes on incomes gathered in their central region. Local taxes on businesses are also more than divided with the highest levels of government, with municipals councils who have 60%. The percentage that is left is passed on into the regional and federal government. (Gallager, 2011). The check of central government on the finances of local government is one of the key indicators of autonomy in local decision taking in the modern Europe.

The authors and researchers of "Representative Governing in Modern Europe" based also in the studies of A. Lijphart represent taxes data gathered in local and regional level as

an indicator for the categorization of European states from the decentralization point of view of their governing structures.

Meanwhile, “centralization” or “decentralization” is the same with “strong governing system” and “weak governing system”. (Gallager, 2011).

Other authors like Castles uses “fiscal decentralization” based on the proportion of the total incomes of taxes which is gathered in the levels that are under the jurisdiction’s level of central governments. The following table shows both forms of evaluation taken together. The data show that the format of federal governing or the strong system of local governing is accompanied with high scale of tax decentralization. On the contrary, the scale of taxes decentralization is very low in unitary states with weak local governing system. The high degree of taxes decentralization in the Scandinavian places shows about the strong structures of local government. The case of Austria shows that the federal constitutions have the same effects in the places with weak local governing system. (Cit. according to Michael Gallagher, 2011).

Fiscal Decentralization And The Governing Structures			
Strong central governing		Weak central governing	
Federal: Germany	(31%)	Austria	(22%)
Sweden	(32%)	Greece	(4%)
Unitary: Denmark	(30%)	Belgium	(5%)
Finland	(24%)	Britain	(9%)
Norway	(20%)	France	(9%)
Suede	(32%)	Greece	(4%)
		Ireland	(4%)
		Italy	(3%)
		Dutch	(10%)
		Portuguese	(4%)
		Spain	(9%)

(In brackets there is the regional and local taxes part as a percentage of total incomes from the taxes.)

Conclusion:

The decentralization in the European countries is realized through an uninterrupted process of continuity. It was conditioned by a number of factors:

- The historical process of formation of nation states and of the institutionalization of governing bodies of liberal democracy;
- The nature of the political culture of the elite and of the mass of population.
- The undertaking of constitutional changes from certain political forces.
- The need of optimizing governing in accordance with the influence of the new factors of the computing revolution, integration and globalization.

The authors of the study “Representative Government in Modern Europe” wrote that it is vital to determine the area within which the local government’s bureaucracy is committed to fully implement the national policy and as many areas in which the local government bodies are free to modify national policies upon their own initiative (Gallager, 2011).

The determination of the local bodies is done in two directions:

- 1- The power of the local government to take decisions without being contested from the central authorities.
- 2- The degree of independence for the provision of financial support, including the management of the revenue and making expenses. The de facto degree of autonomy of every local government is determined from the opportunities of raising and spending funds independently

The totality of the governing system makes it unavoidable for the above mechanisms of central governing to act alongside those of local governing. This is the reason that for the local governing bodies to operate as governing bodies being closer to the governed and more direct in the fulfilment of the imputes, it is raised the issue of their powers that in the liberal democratic system are summarized in the so-called decentralization with the pre-condition of the autonomy of local governing.

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TEACHING SPEAKING STRATEGIES TO BEGINNERS

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Abstract

In our experience as language teachers, speaking has always been the most challenging skill for most of our freshman students, at the Foreign Language Bachelor Degree at the Facultad de Ciencias Educativas in the Universidad Autónoma del Carmen. Despite the fact that various oral activities including strategies are implemented in the classroom, it is difficult to monitor each student's progress. For that reason it was decided to invite some students to develop extracurricular sessions. During these sessions, they could practice the use of speaking strategies: Fillers, circumlocution, asking for clarification and expressing not understanding. Our main objective was to train the students on these basic speaking strategies so that they could use them regularly. The methodology to develop the sessions consisted in three stages: 1) a pre-task to know the participants' previous knowledge of speaking strategies, 2) the training sessions, which were taught through formal instruction and practice in oral tasks and, 3) a post task to show if the frequency of strategy use increased after instruction. In order to analyze the progress of the participants, a questionnaire to collect previous knowledge about the students' oral strategies, and a check list to analyze the video recorded sessions were used. The results from the post task showed there was an increase in the use of the strategies. Satisfactorily, the students showed more confidence when communicating or expressing themselves orally.

Keywords: Strategies, training, speaking, foreign language

Introduction

Along our lives through our learning process we try different strategies in order to store important elements in our memory; for instance, when we are learning to speak; the way our parents or the people around teach us to say certain words or sounds so that communication takes place is a strategy. The most common words that we are taught would be "mom", "dad", "milk" among others, but why do the parents teach these basic words? And, which strategy or strategies do they use so that the babies get familiar with the use of language or sounds? Most parents teach babies by repetition and association. For example, when they are drinking milk parents teach them the word "milk", until the baby is able to associate the meaning of the words, and begins to produce the language. Therefore, strategies take an important place during the learning process; each individual chooses the one that is the most suitable for him or her.

When learning a foreign language some students use different strategies as long as they work for them. Oxford (cited in Murrieta and Hernández 2012, p.15) for instance, points out that those students who learn easily use a great number of learning strategies. On the other hand, there are some students who see the English language learning as a challenge; even though they have already learned their mother tongue without any problem they see the

target language as something hard to achieve especially when they have to speak in English there is when the teacher has to help and motivate the student.

Since speaking is one of the main challenges for a basic student, and leads to student's frustration since the beginning of the degree; it was proposed to carry out a study based specifically on the speaking skill strategies at basic level in order to support and enhance student's oral participation. MacIntyre and Gardner (cited in Murrieta and Hernández 2012, p.15) found out that using learning strategies reduces the level of anxiety which is very common reaction at these early stages. This would be the beginning for searching new strategies that could be of great help for them in this new learning stage which is "learning English as a foreign language".

Introduction

Ciudad del Carmen, Campeche, is located in the south part of the Gulf of Mexico in Campeche, it has two main Universities one in the Capital which is the UAC (Universidad Autónoma de Campeche and the other in Carmen which is the UNACAR (Universidad Autónoma del Carmen) however, only the University of Carmen offers the English language degree to a number of 200 students approximately every year. The UNACAR accepts almost 90% of the students who pre-enroll because the number of the students who want to study this degree is low.

Therefore, most of them who come from public schools start learning English from secondary to preparatory school, unless they are paid a private English lesson in a private institution, but it happens with 2 or 3 students. These students begin college with a very basic level of speaking in the target language, the lack of the use of strategies during English language instruction at public schools do not cover the needs of a college student to communicate orally in English. On the other hand, students from private schools or students who have taken English private lessons have a higher level of speaking; but unfortunately only a few of these students decide to study English in this foreign Language degree.

Speaking, as it has been observed and confirmed with this specific group through oral presentations is the most challenging skill to produce. Basic students with very low level of English and lack of self-confidence tend to show certain characteristics such as: shaking while speaking, sweating, keeping silent for long periods of time, sitting when they cannot continue and others even crying because it is hard for them to say a word.

A workshop to train students was proposed due to these reactions at the moment of speaking in front of a group, and it was an opportunity to help students to gain more confidence as well. The main objective of the workshop was to enhance students to use strategies that could help them to improve in a future their level of speaking. Once students knew the strategies they could be able to choose the ones that work for them in an speech. As a first step, we reviewed the literature related to the use of strategies in the English language learning and got familiar with some of them to practice in the target language in order to implement it into our teaching workshop. Mendez and Marin (2007) of the University of Quintana Roo did a previous research and their results were very positive about the use of strategies.

Oral communication skill

As individuals we have the need to communicate. We have learnt to communicate in many different forms for instance, at the early ages pictures were ways of expressing ideas inside the caves; surprisingly, one of the most important cultures in Latin America as Mayans still communicate ideas through their architecture on their walls and pyramids. However, the most important and unique form to communicate for us is orally.

To communicate in another language which is not our mother tongue is a challenge, especially if there is little knowledge of the target language; students feel limited to speak just with the vocabulary they have learnt. Bygate (1987, p.3) mentions that one of the basic problems in foreign language teaching is to prepare learners to be able to use the language”; therefore students and teachers both face these problems regarding speaking in class.

There are some useful strategies that teachers could make his/her students use in order to apply them during oral activities and so students with the practice of these strategies could speak more and feel more confident. In the following section it will be given the most common strategies for speaking skill.

Speaking strategy

Douglas (2007, p.332) proposed these speaking strategies so that students are able to communicate in an oral way:

- Asking for clarification (what?)
- Asking someone to repeat something (huh? Excuse me?)
- Using fillers (uh, I mean, well,) in order to gain time to process
- Using conversation maintenance cues (uh-huh, right, yeah, okay, hm)
- Getting someone’s attention (hey, Say, So)
- Using paraphrases for structures one can’t produce
- Appealing for assistance from the interlocutor (to get a word or phrase, for example)
- Using formulaic expressions (at the survival stage) (how much does _____ cost?

How do you get to the ___?

- Using mime and nonverbal expressions to convey meaning
- Circumlocution is another strategy which was used by Mendez and Marín (2007, p.78) and it was added to the four specific strategies taught during this research.
- Circumlocution which is the use of a synonym or a descriptive sentence for unknown words. For instance. An item you use to sit down (chair)

Procedure

To achieve the requirements, ten students of basic level were chosen to participate in a short workshop that we designed which was divided into three sections. The first part of the workshop was classified as a pre-task, a questionnaire was applied and the results were registered in a checklist where we collected the data to find out if students used any strategy, afterwards the students had to carry out an activity given by the teacher in order to speak. The purpose of this first session was to find out if students knew about the speaking strategies and how to use them at the moment of a conversation. At the end of the pre-task we realized that students did not use any of these. A journal was used as well to keep all the details observed during the sessions.

The decision to use Fillers, Circumlocution, Asking for clarification and Expressing not understanding, was based on the problems identified in class and the pre-task, observed in the video recording and the survey. During the training session or training task the students were given some speaking activities and before every activity they were taught how to use the strategies, one at a time. The first strategy taught was Fillers, the order was on purpose, since we believed that we had to start with fillers; this strategy would smooth the process of teaching the other strategies. Mendez and Marín (2007, p.79) suggest that fillers “help students to fill those silent periods” where they take a long time to remember the word they want to say at the moment.

The second strategy taught was circumlocution, students replace the unknown or forgotten word by a synonym or a descriptive sentence, which can help the student to avoid the use of Spanish during the English class and while giving the description they might

remember the word or while he/she explains, another classmate can recall the word and tell him/her.

The third strategy was asking for clarification, this strategy was taught in order to motivate students to ask for an explanation when they do not understand an idea, a question or a word which is very common at this basic level. Instead of being silent, students could use questions like: what do you mean?, or again, please?. Pardon?, or expressions like: You mean that..., what you are trying to say is...etc.

The last strategy taught to these first semester students was expressing not understanding by gestures (quizzical look) or expressions (I'm sorry... can you repeat that?), this strategy does not require a good level of English, actually if the student has a good level of English and is having a conversation with a student who barely speaks then this student will have to use the expressing not understanding strategy and vice versa.

Research approach

This research was both qualitative and quantitative. For the qualitative section we used a checklist which was completed through observation, and a video recording to keep all the necessary evidence. The activities were intended to improve students' results, which at the same time were observed and analysed to answer our research questions. On the quantitative technique students answered a questionnaire that we used to collect some important information about their language learning as well as each student's background. In order to have a clearer idea, the subjects and the instruments are briefly described.

Subjects

The study was based on ten students, they all speak Spanish and they all are Mexicans. They are in the English basic class in the faculty of English language degree; the textbook used is the traveler elementary level. The age range is from 18 to 22 years old. The Universidad Autónoma del Carmen is a public university so the socio-economic status of our students goes from low-middle class to middle class, this is one of the factors why most of them have not taken private English lessons before beginning college.

Only ten students were invited to take the training because they were identified as the most responsible students in the classroom so they would not miss any session. From our ten students, five had a good level of communication in English and did not show any fear when they have to explain something, on the other hand the other five students hardly ever talked in front of the class they just would say a few words, and sometimes they were not even able to communicate a complete idea, so they were the best candidates for this study, basically they had to be able to learn the use of the strategies and use them later on in the post-task freely.

The workshop took place at the student's classroom but outside the schedule of the class.

Instruments

In order to obtain information about the use of the strategies, a questionnaire was applied; the questionnaire was mainly to find out if students recognized the strategies or if they used any when speaking.

The questionnaire began with a statement in which they had to describe if they used any resource when they spoke in English. Then students had to read each sentence and mark with an X the answer that better described him/her when he/she speaks in English, they were eight sentences. In the last part of the questionnaire students provided us with general data about their ages, gender, mother tongue, the languages they use at home, years in which they have studied English or if they had had any training in speaking strategies. Another aspect that we consider was if their level of English and if they enjoyed learning the language.

Afterwards the questionnaire was analysed and classified in order to know if students used: fillers, circumlocution, asking for clarification and expressing not understanding.

Results

The questionnaire results showed that half of the students (five) used the dictionary when they did not know a word, and just 3 of them had previous knowledge of the target language, in spite of the fact they did not use the strategies with frequency they really enjoyed the learning of a foreign language. The students are aware that speaking English is not easy and they need many ideas to speak more. After the interview the students were invited to take a workshop, in which they would receive a very short session to learn 4 speaking strategies.

<i>Resource</i>	<i>Number of students</i>
Use of Dictionaries	5
Previous knowledge	3
Phrases they memorize	2
Gestures	1
Thinking in English	3

Questionnaire results

The workshop

The training was divided into 3 different sessions a pre-task, the training task and a post task.

The pre-task was a set up in which the students were going to show if they used the strategies while carrying out any spoken activity. They were given a role-play to start a conversation and they were video recorded at the same time they had to read the instruction and begin with the conversation. During the pre-task they hardly used the strategies as it was expected. The videos were analysed in order to get the number of strategies they used during this first session. The information was registered on a chart to illustrate the results of this first part.

Number of communicative strategies used in the pre-task											
Strategy	S1	S2	S3	S4	S5	S6	S7	S8	S9	S10	total
Fillers	0	1	2	4	1	1	5	2	2	1	19
Circumlocution	0	0	0	1	0	0	0	0	0	1	2
Asking for clarification	0	0	0	0	0	0	0	1	0	0	1
Expressing not understanding	0	0	0	1	1	1	0	0	0	0	3
Total	0	1	2	4	2	2	5	2	2	2	25

Pre-task results

The pre-task showed that students used more the filler strategy than any other strategy, despite mentioning that they did not know anything about them; fillers was the most used in the pre-task session.

In the training task the strategies were introduced to the students one at a time, the strategies were presented and explained through formal instruction. The students were given a speaking activity to practice the strategy, every detail was recorded to keep more evidence and avoid missing any detail. They did well since they used the strategy more than before; the results are registered on the table below.

Communicative strategies used in the training											
Type of strategy	S1	S2	S3	S4	S5	S6	S7	S8	S9	S10	Total
Fillers	8	8	1	1	5	8	5	3	5	11	55
Circumlocution	0	1	0	1	1	1	0	0	1	2	7
Asking for clarification	0	0	1	0	0	0	1	2	2	3	9
Expressing not understanding	0	0	0	0	0	1	0	2	0	4	7
Total	8	7	2	1	6	8	5	7	8	15	78

Training task results

After all the strategies presented they were given a post task to find out if the training sessions were helpful to students and if they learnt about the strategies taught.

Communicative strategies used in the post-task											
Type of strategy	S1	S2	S3	S4	S5	S6	S7	S8	S9	S10	Total
Fillers	6	7	2	4	5	2	6	7	10	10	59
Circumlocution	0	0	0	0	0	0	0	0	0	0	0
Asking for clarification	0	1	4	1	3	0	4	4	0	2	19
Expressing not understanding	2	1	1	1	0	1	1	3	0	3	13
Total	9	8	5	6	8	2	9	14	10	11	91

Post-task results.

If we compare the three charts and we count the strategies that each student used in the pre-task, training sessions, and post-task we will see that the number of times each strategy was used increases in every section of the workshop. The results will be described below.

Discussion

The study was positive as Mendez and Marín's (2007) previous research was too; during the pre-task students had little knowledge of strategies so after the invitation to be part of the group of the training workshop they used them more often, at the end the results showed the differences in use since the beginning besides students gained even more confidence in communicating.

Students were asked to give some feedback, in general they said they enjoyed the workshop and learnt different ways to speak more, they even proposed a conversation club to keep practicing because they said they felt more confident to speak at that moment than before the workshop.

Students were enhanced to search and try new strategies, after this first step which consists on getting familiar with strategies students were invited to use knew ones to develop the four skills: listening, reading, speaking and writing. Being realistic searching is not something our students would do because they are not used to, however the idea of a new workshop or the conversation club with more sessions would be a good beginning, the workshop could be planned so that they learn strategies through searching in book or magazines. Oxford (cited in Carter-Nunan, p.170) points out that "learning strategies are teachable" and the effects after teaching the use of them are always positive.

Conclusion

To sum up, this research project was a learning experience to everybody, the professors and the students involved. We all learned the effect teaching-learning strategies causes in our academic environment. The students' participations were focused on communicating orally through real sets; all students interacted in a friendly atmosphere and helped others to speak. The results presented here represent the beginning of a proposal to

motivate basic or elementary students to work with strategies at the beginning of their learning experience in order to (Oxford, cited in Carter-Nunan, p.170) increase motivation, strategy knowledge and positive attitudes.

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INCLUSIVE PRACTICE IN R. MACEDONIA AT THE BEGINNING OF EFFORTS

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Abstract

Inclusive education is priority in many educational systems. It seems that educational process could not be effective and successful if it is not inclusive one. Educational policy demands creating inclusive practice which means that every one would find his place and could be treated according to different needs that pupils have. It is not easy to develop educational philosophy and to implement it. On that way there are any obstacles, challenges, but the way is the only one. Those decades are dedicated to efforts to make educational process and system inclusive one. Every country has his story. We share our story so that we can collect suggestions and offer experience for all who must follow this way.

Keywords: Inclusive education, inclusive process, inclusive practice

Introduction

Every country has his history in Inclusive education and different experience. Many countries try to develop Inclusive systems in mutual cooperation. Inclusive practice became part of Educational policy at the international level. The main idea is to offer supporting educational process for all citizens. A long period of time educational systems were closed for many of pupils. Or many of pupils didn't get what they really need inside the system. The main reason is difference and understanding of difference. All of us are different in many ways, it is challenge, advantage, not obstacle. We share our story and hope for suggestion for guiding process further more, and in the same time we offer our experience for everybody else who yet have to walk our way.

The definition of Inclusive education

We can define Inclusive education in a different ways: some of them are narrow, some of them are wider. The definition of Inclusive education has his history according to level of awareness of society about importance of Inclusive education and level of development of Inclusive practice. Establishing International Documents and Agreements about Inclusive education make many things more clearer and many initiatives to become true.

Inclusive education can, therefore, be understood as the presence (access to education and school attendance), participation (quality of the learning experience from the students' perspective) and achievement (learning processes and outcomes across the curriculum) of all learners.

Inclusive education is a pairing of philosophy and pedagogical practices that allow each student to feel respected, confident and safe so he or she can learn and develop to his or her full potential

Inclusive education means that all students attend and are welcomed by their neighborhood schools in age-appropriate, regular classes and are supported to learn, contribute and participate in all aspects of the life of the school..

A succinct definition of inclusive education is provided by Lipsky & Gartner (1996, 1999), who described it as students with disabilities having full membership in age-appropriate classes in their neighborhood schools, with appropriate supplementary aids and support services. To Antia et al. (2002), inclusion denotes a student with a disability unconditionally belonging to and having full membership of a regular classroom in a regular school and its community. They contrasted this with ‘integration’, or ‘mainstreaming’, both of which imply that the student with a disability has the status of a visitor, with only conditional access to a regular classroom, but primary membership of a special class or resource room.

The main problem all over the world at the beginning of Inclusive education was integration. It was considered that if pupils are somehow in the educational system, even in that parallel one our responsibility is finished. Many countries opened special institution where pupils with some kind of special needs get special treatment. This was a medical approach, not social one. You as a pupil with special educational need are there, but only with pupils with similar needs. Many of pupils are stigmatized, isolated, not understand in proper way, and many of them simply because of this reason are not in schools at all. Our educational system a long period of time looks like this and functioned like this. From the outside point of view everything was all right. But not for the parents and their children with special educational needs. At the same time there were no serious efforts to understand the reality: who are children with special educational needs, who are children with disabilities and what kind of educational treatment they really need.

Meanwhile many of International documents were established
UNESCO.(Jomtien)

UNESCO (1994) Final Report: World conference on special needs education: Access and quality. Paris: UNESCO. (Salamanca)

UNESCO (2000) Education for All: Meeting our Collective Commitments. Notes on the Dakar Framework for Action. Paris: UNESCO.

UNESCO (2001) The Open File on Inclusive Education. Paris: UNESCO

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This means that actors in educational policy were dedicated seriously to this question. So we have the definition of inclusive education that explains all aspects of inclusion: *Real inclusion is about changing awareness and organization of school systems and environments, focusing on diversity of learning needs and capabilities. “Inclusion is seen as a process of addressing and responding to the diversity of needs of all learners through increasing participation in learning, cultures and communities, and reducing exclusion within and from education. It involves changes and modifications in content, approaches, structures and strategies, with a common vision which covers all children of the appropriate age range and a conviction that it is the responsibility of the regular system to educate all children.” (Guidelines for Inclusion, UNESCO, p. 14, 2005)*

What have we done?

Our first initiatives about Inclusive education did not get proper attention in our educational system. This means that we were not prepared for serious steps. Only very

narrow circle of teachers have heard about inclusive policy. There were research activities among parents to collect their opinions about inclusion. Their attitudes were negative: they do not want the real inclusion in schools. The explanations they give were about their concern about their children. They consider that children with disabilities or special educational needs will disrupt the process of education. From one point of view they were right: no one in our educational system was not ready to implement this process in a qualitative way. The concept of inclusion was not elaborated between parents, teachers, pupils, attitudes were negative, prejudices and stereotypes were present, it was no clear how the implementation will be organized and many more questions were without answers. The fear of inclusion was among all stakeholders and it was reasonable because the real framework of inclusion was not prepared. It was not clear enough who, when and for what will be in charged, how they will collaborate between them. The network of supporting institutions was not established, and the main obstacles was yet to be overcome. Teachers in primary and secondary school were not prepared to understand and implement an idea of inclusive education. The first real steps were taken by UNICEF organization in Macedonia by providing high quality training sessions about inclusive education. The sessions were leading by experts from various countries which expertise is in area of inclusion in education. Training was very well prepared by incorporation of different aspects of inclusion. Participants have to be promoters of inclusive education concept and trainers for teachers and other stakeholders. But we still have some doubts: are we ready enough to implement this serious practice? We think that there is lack of wider social initiative of promoting importance of this philosophy. Staying in tight circle of actors a long period of time is not good. Inclusive practice is hard work for everyone who must participate in it. So many actions must be taken simultaneously if we want qualitative and effective practice.

What has to be done?

Our recommendations if we want to succeed in our efforts for inclusive education practice are:

Developing National Framework for Inclusive Education;
Preparation of society, and
Preparation of schools.

First of all we need one document which will be leader in all actions that should be taken. That document will be represent of our dedication to make our society inclusive one.

There must be introduced all actions and steps that should be taken. This means that our society is really dedicated to inclusion and Social model of inclusion, not to medical one.

This document will offer answer to questions such as: where we want to go and how to get there? It has to have definition of our priorities and key principles of inclusive practice.

This kind of Document strictly defines which social factor is responsible for what kind of actions and how different social factors will compliment each other.

The next thing that we need is preparation of whole society. We need wide social initiative about promoting philosophy of Inclusion. This is very important because we need national consensus about this initiative. Promotion must be taken among various social groups: representatives from institutions, parents, teachers, medical workers, pupils. Those actions will help us to overcome stereotypes, prejudices, and will give a sense of commitment to all things we have to do, as well as sharing responsibilities. Leaders of promotion must be Government representatives in area of Education and Social work, as well as NGO participators. This kind of approach will offer message of having good Action plan about our intention. The main stress must be put on the elaboration of benefits from Inclusive Education at the social and individual level. Many good and successful practices from countries must be presented, of course getting on mind our circumstances and cultural

background. Preparation of schools will provide promotion of collaborative approach to the implementation of inclusion, operationalization of actions, evaluation policy of inclusion. School inclusion must be carefully prepared because the most valued outputs must come from school practice. The main preparation must be dedicated to: Leadership and Management; Whole-School Development Planning; Whole-School Environment; Communication; Pupil and Staff Well-being a) Fulfilling Pupil Potential, b) Fulfilling Staff Potential; Curriculum Planning for Inclusion; Individualized Education Planning; Teaching and Learning Strategies: a) The Learning Experience, b) The Teaching Experience; Classroom Management: a) Classroom Protocols and Rules, b) Curriculum Implementation; Support for and Recognition of Learning. All of those steps must be carefully planned and implemented. As far as we know situation in the moment is not very well. It seems like we consider teachers as the only one which will implement inclusion. The question is: how and are at all our teachers prepared to practice inclusion? *"All teachers -- those just preparing to teach and those who have been teaching for decades -- need to develop the capacity to better address all kinds of student diversity Only with direct teacher preparation, and only with teacher training activities we can not expect good effects."* Teacher preparation is only one brick in the wall.

Curriculum adaptation, communication between all factors in school, managing the school, cooperation with parents of children with SEN and other parents are only few actions which has to be taken simultaneously. Also there are lots of additional equipment of learning materials according to support different educational needs of pupils and physical adaptations to be provided. The school itself need support from outside. That is the reason why we need institutions of professional character which will support school efforts. There are some kind of institutions which are present right now, but we need much more. But before all of this we will have to take one serious action: make a research which will give a real picture about situation now about main obstacles, expectations, different experiences, level of knowledge and practice.

Conclusion

The process of Inclusive education is very complex one. If we want to have a success in its implementation we must collect different experiences. Still there are a lot of pro et contra arguments about this concept. But we made an decision: our educational school and process must be inclusive one. Many of good practices should be expected and implemented according to our circumstances. But principles and mechanisms of inclusion must be same as everywhere. On that long trip we need a lot of international support, and commitment of many factors which will lead this process. We have to know where we are now if we want to go somewhere else, level higher. Also we must be aware that Inclusive education is a long process, hard one which needs a lot of energy and motivation.

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LEADERSHIP STYLES AND THEIR IMPLICATIONS FOR PROSPEROUS INDUSTRIAL RELATIONS IN NIGERIA

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Abstract

Industrial relations as a profession or discipline of study have undergone a series of developmental stages. This is as a result of changing in world of work prompted by globalisation and its accomplice like technical innovation, knowledge economy to mention few. Thus, trade unions today face simultaneously a wide range of often contradictory tasks. Therefore, they need to change and are changing in order to meet both new and persistent challenges to their advancement of social justice, income security and industrial democracy. The study examines how trade union leaders are going to survive in this turbulent economy paradigm using effective leadership styles that promote prosperous industrial relations in Nigeria. The study adopted discourse content analysis using secondary information of existing literatures on the subject matter to draw up a concrete conclusion with the aid of pictorial discussion. The study concluded that all the styles of leadership can enhance prosperous industrial relations but recommended the need for a situational approach to leadership. That is, the best style of leadership will depend upon the situation. Again, it is important to note that genuine leadership can only turn things around with the cooperation of followership. Therefore, a successful leader is the one which employs all forms of leadership styles in a given situation with predominate cooperation from its followership.

Keywords: Leadership styles, transactional, transformational, industrial relations, autocratic, democratic and laissez-faire

Introduction

Industrial relations as a profession or discipline of study have undergone a series of developmental stages. This is as a result of changing in world of work prompted by globalisation and its accomplice like technical innovation, knowledge economy to mention few. The roles of leadership in every industrial relations system need to change in-line with the changes brought by global economy, in order for the tripartite (trade unions, employers associations' and government agencies) to achieve their predetermine objectives.

Trade unions today face simultaneously a wide range of often contradictory tasks. Therefore, they need to change and are changing in order to meet both new and persistent challenges to their advancement of social justice, income security and industrial democracy. Their members want trade union leaders to be organised in an efficient, strategic and effective fashion. Again, they want them to be transparent, democratic and inclusive. This is so, because trade unions are one of the major groups in organisation for power resource of workers and to promote resolution of variety of problems faced by the workforce.

However, to achieve simultaneously both diversity and unity is a challenge and certainly incompatible with the command and control culture of state or business machineries. As such, the objectives of trade unions usually conflict with the objective of other groups while these often time has a great effects on productivity, profitability and

competitiveness as well as inflation on employment and other economic indices of the national economy.

It is on this basis that the leadership styles adopted by industrial relations actors becomes pertinent in order to minimise the implications of such interaction on the organisation couple with ensuring a qualitative representation of employees with a huge diversity of interests, views and experiences as against business objective of profit maximisation. Therefore, this paper will be tailored towards diagnosis series of leadership styles available to industrial relations actors, particularly trade unionist and measure the implications of such styles, which could be positive or negative while a recommendation will be suggested after the workshop for workers agitation to be attained with a common voice.

2.0 Conceptual Clarification of Terms



Source: Obisi, C (1996). *Personnel Management*, published by Jackbod Enterprise, Ibadan-Nigeria.

It is really imperative to understand what some basic terms denote before going to the subject of the day. Here, certain relevant terms within the context of this paper have been identified and appropriately operationalised as it is use in the paper.

They are as follow:

Leadership- Leadership is the act of directing and controlling the activities of a group who are willing and able to be led by one person. Beach (1980), recognised leadership as an

element of management that compels others to action. He sees leadership as one of the major function of management and argued that leadership is being performed to cause people to take effective action through source of power like coercive; reward, legitimate, expert and referent (Beach, 1980; Genty, 2005).

In the word of Lawal (1993:123) he defined leadership as “the process of influencing others to work willingly towards an organisation’s goal with confidence and keenness”. That is, the ability to influence the behaviour of others in a given situation. It can also be viewed as a process within groups in which one person, either by virtue of position or personality or both, obtains sufficient commitment of the other members to facilitate the achievement of group goals.

Lawal (1993) pointed out that there is a distinction between leadership as an organisation position and leadership as influencing process. He concluded that some individuals who are managers by virtue of their positions but who simply do not possess fellowship ability, whereas there are informal leaders in organisations who inspire and influence others but are not occupying management positions hence they are leaders but not managers.

Strictly speaking, leadership is the art or process of influence people so that they will strive willingly and enthusiastically towards the achievement of group goals.

Who is a leader? According to Genty (2005:9) he refers to a leader as “an individual who occupies a central role in leadership situation, the person with the ability to influence the behaviour of others to his/her desire in a given situation.

The functions of leaders are to achieve the task set for them with the help of the group. Therefore, leaders and their groups is interdependent (Armstrong, 2006: 299). This is unconnected with the fact that the main role of leaders depend on effective relationship between themselves (leaders) and the group to achieve the task.

(1973) cited in Armstrong (2006) pointed out, that in fulfilling their roles, leaders have to satisfy the following needs:

- ❖ **Task Needs:** To ensure that common purpose is fulfilled. If it is not, the group will lose confidence in the leader and this might lead to frustration, disenchantment, criticism and ultimately disintegration of the group.
- ❖ **Group maintenance needs:** The leader’s job here is to build up and maintain team spirit through good morale in order to held the group together.
- ❖ **Individual needs:** This is another prominent role a leader must play in a group. The leaders must be aware of individual needs that are necessary and take steps to harmonise them with the needs of the task and the group.

In summary, a leader is anybody that tried to exercise his/her influence on another for a purpose. Thus, the other person this influenced is the followers. In addition, a leader is a person who is generally able to perceive the intricacies of the problems at a level any other person within the establishment has not perceived and uses its charisma to avert such.

Leadership Styles- By style, we simply means a way of doing something, especially one, which is typical of a person, group of people or place. Therefore, leadership style refers to the type of method or technique adopted by a leader in a particular situation in order to achieve group goals or objectives.

In other word, the term leadership style is used to describe the manner in which a person exercises leadership, especially in relation to their treatment of people and tasks (Jacob, 2004; Lawal, 1993). Obisi (1996) pointed out that leadership style of a leader can only be earned. He emphasized that the style of a leader cannot be forced, conferred or bought. That is, the way in which a leader uses power will indicate his/her leadership style.

Conclusively, leadership style is contingent on the personality of the leaders. All these assertions will discuss extensively in the course of this workshop.

Industrial Relations- In order to facilitate a better understanding of the paper, it is pertinent to operationalise the term ‘industrial relations’, although it is not a new concept to some of us while various scholars have defined the term in different ways.

According to Dunlop (1958) cited in Babalola (2005) sees “Industrial relations as a collective function continuously being discharged by group of actors- workers, employers, the government and its agencies, with a hierarchical ordering of each participating group”. That is, J.T Dunlop one of the originator of industrial relations discipline refers to the term as the relationship that exists between workers, employers and the government for the purpose of determining the conditions under which work is to be done.

The actors according to the scholar (Dunlop) are the basic units for the conduct of industrial relations while the hierarchical ordering of these units denotes the **association of the people**.

To Flanders (1965) cited in Lanre-Omole (2005) “Industrial relations is a system of rules and the study of the system is the institutions of job regulations”. Flander maintains that industrial relations system generates the rules, which according to him may appear in different guises like legislation, collective agreement, arbitration awards, social conventions, managerial decisions and accepted ‘customs and practice.

Shabi (2003:1) defined industrial relations broadly as “the concepts, theories, policies, practices, procedures, understanding and designing network of interaction between the relevant actors as well as institutions and processes which bring about peace in such relations”. This implies that essentially the study of IRs focuses on the institution of trade unionism and processual machinery for regulating collective relations at work, and in the wider society purposefully dialogue and promotion of industrial harmony.

Industrial relations leaders- The essence of industrial relations is among other things to ensure industrial peace so that maximum levels of productive efficiency can be attained as well as ensuring equitable share of the economic returns (Babalola, 2005).

However, for this prominent objective to be achieved the tripartite in industrial relations, that comprises of the three (3) principal actors (workers, management and the government) must discharge their duty independently to determine and regulate the conditions under which the work should be done.

The industrial relations leaders are the parties in the interaction at work which were mandated by law to play their roles independently in industrial relations setting. The parties are:

✓ *The Government:* The main purpose of government intervention in industrial relations is to influence the other two actors to promote industrial peace, increase productivity, preservation of human values in the development process, control of inflation and raising their standard of living.

The government of a nation has responsibility for both the security and the economy of the nation hence the need to intervene in the conflict between the employer and the employees purely for the purpose of economic growth and industrial peace (Babalola, 2005:7).

Thus, the government are duly represented in these roles by their agencies, such as the Federal Ministry of Labour, Employment and Productivity; the National Salaries, Incomes and Wages Commission; the Industrial Arbitration Panel and the National Industrial Courts among others.

✓ *The Management:* This is another major actor in industrial relations saddled with the responsibility of managing the workplace. Management functions include the control of work process; guarantee cost-effectiveness; and maintain managerial authority (Eniayejuni, 2005).

Managements, in all organisations in an industry, unite to form the employers’ association, being representation of employers for that industry, in order to act as a pressure

group function of influencing government policies as well as carrying out a collective bargaining function with other parties. Also, function as an advisory by counselling members and showing solidarity when necessary.

Example of Management/Employers' association includes the Nigerian Employers' Consultative Association (NECA); the Manufacturers' Association of Nigeria (MAN) and the Nigerian Association of Chambers of Commerce, Industry, Mines and Agriculture (NACCIMA) to mention few.

✓ *Trade Union:* Workers and their unions constitute the third key actors in industrial relations. According to Babalola (2005:8) "the trade union is the umbrella body of the workers". That is, trade union is the megaphone of the workers which frowns at anti-labour policies such as unfair dismissal and maltreatment of the workers.

Webbs (1894) cited in Eniaiyejuni (2005) sees union as "a continuous association of wage earners for the purpose of improving the condition of their working life". This implies that trade union constantly presses for equal pay, equal opportunities for all workers, enthronement of collective bargaining and promotion of equity and fairness as well as better conditions of service as a sinequanon for industrial harmony.

In Nigeria, the followings are example of workers union. It includes: the Nigeria Labour Congress (NLC); Trade Union Congress of Nigeria (TUCN); Academic Staff Union of Universities (ASUU); Nigerian Union of Teachers (NUT); Nigerian Civil Service Union (NCSU) among others.

Leadership Styles and Industrial Relations in Nigeria

For a thorough discussion of leadership styles, certain factors must be considered. These include the leader, the led and the situation in which the leadership is necessary. For instance, the style of leadership required on the battle-field will be quite different from the one desired in the House of Parliament. However, effective leadership is desired in both situations.

Etzioni (1958) cited in Genty (2005) postulated that the best situation for leaders' effectiveness is to have both personal and position power. According to him, position-power is the ability to induce or influence behaviour of others. That is, power derived from an organisational office, personal influence or both. Individuals who are able to influence the behaviour of other persons in an organisation because of their positions are said to have position-power.

Personal-power on the other hand is the extent to which followers respect, feel good about, and are committed to their leaders, and see their goals as being satisfied by the goals of their leader (Genty, 2005:13). In essence, it is the extent to which people are willing to follow the leader. Consequently, in an organisation personal-power comes from below, i.e. from the followers.

However, Etzioni argued that in most cases it is not possible to build a relationship on the two based on behavioural school of thought and social factors possess by most people. Therefore, an effective leader is the one who is able to lead others by directing, helping, guiding, counselling and motivating followers to achieve desired goals.

Thus, leadership style refers to a leader's manner of acting in a work situation. This implies the way in which a leader uses power will indicate his leadership style (Genty, 2005). The style leadership focuses on the pattern a leader uses or adopted in dealing with subordinate. By and large, leadership style can be viewed from two major leadership theories or approaches. These are:

- a) Behavioural theories
- b) System and contingency theories.
- c) Contemporary theories.

Behavioural Phase:

According to Lawal (1993), behavioural leadership theories shifted attention from the trait approach of physical or psychological characteristics that account for a person's behaviour to what an effective leader do. That is, how they delegate tasks, how they communicate with and motivates their subordinates as well as how they carry out tasks.

Lawal (1993) argued that behavioural approach unlike the trait assumes that behaviours could be learned. Therefore, individuals trained in the appropriate leadership behaviours could be effective.

Leadership styles under this approach are generally classified as follows:

Autocratic Styles:

This is a style adopted by leaders through the uses of threats or punishment in getting thing done. Leaders centralise power and decision making while subordinates are instructed on what to do. Here, leaders has no trust and confidence in subordinates as result pose negative motivational style which invariably lead to frustration, low morale and conflict among the rank and file.

An autocratic leadership style is the one in which the leader does not consult or co-decide with his colleagues, and subordinates. This kind of leader always drums his ready-made decision in the ears of his followers without prior discussion and exchange of ideas. Such leader often makes statements as follows...

".....I have decided that this course of action is the best for our union. And I want everybody to accept and implement it. Anyone who does otherwise do so at his or her own risk"....

However, Obisi (1996) assert that some leaders may succeed with this kind of style because it allows for quick decision and enables the organisation to utilise less competent leaders to carry out negligible managerial work. Thus, production is only good when the leader is present, but drops in his absence. Therefore, it is not recommended for any organisation particularly trade unions because of its implications which shall be discussed in the subsequent subheading.



Source: Obisi, C (1996). *Personnel Management*, published by Jackbod Enterprise, Ibadan-Nigeria.

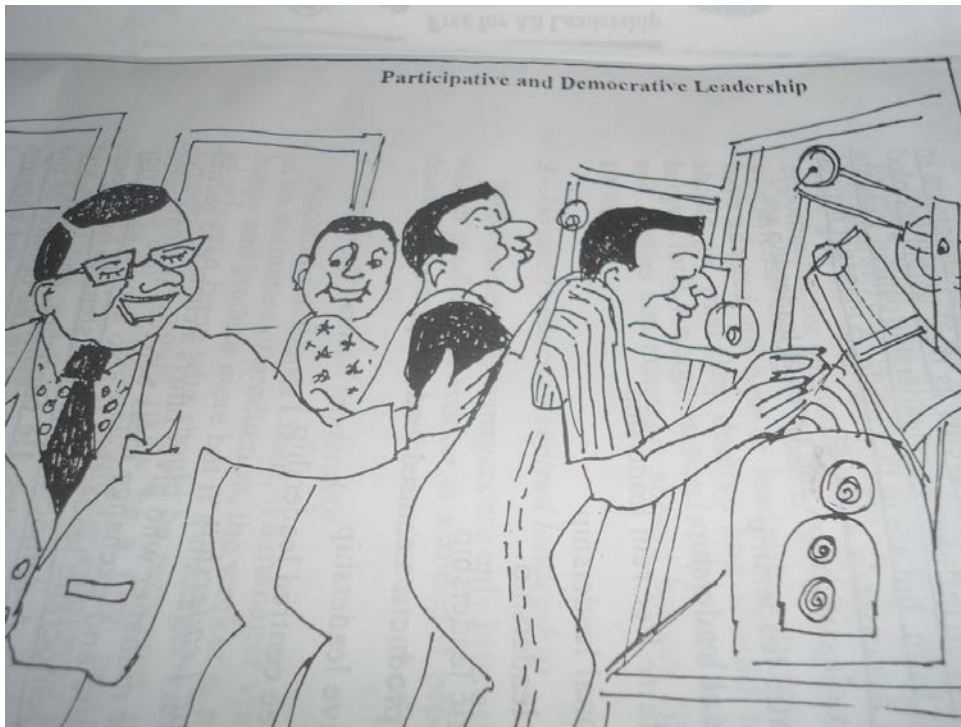
Democratic Styles

This is a leadership style whereby leaders give others (subordinates) a chance to participate, contribute and exchange ideas, believes in decision making process. This kind of leadership involve group to determine work-method, communicate overall-all goals to the subordinates, seeks advice, gives rooms for feedback as well as allows two-way flow of information. Here, rewards rather than threats of punishment are used to motivate subordinates (Lawal, 1993:125).

Democratic leadership styles allows for decentralisation of authority whereby decisions with employees takes place in form of participation and this allow employees (followers) to work as a social group. In this style of leadership new ideas and changes are welcome while this lead to improvement in productivity, level of cooperation increases as well as enhances morale of the workers.

The decision making process is however slower due to the fact that the leader has to give reasons or explaining why certain decisions were taken (Lawal, 1993:132). In the word of Obisi (1996:270) he said this type of leadership is recommended for trade unions because the leader functions through his colleagues and subordinates and not over them.

Why this is so, will be x-rayed in the next subheading while the implication of such measure will be ascertained, particularly to Industrial relations actors who are tripartite representatives.



Source: Obisi, C (1996). *Personnel Management*, published by Jackbod Enterprise, Ibadan-Nigeria.

Laissez faire Styles: This style looked at two respective perspective based on democratic and autocratic styles. This type of leader plays a rather passive role in social participation and individual decision (Otokiti, 2004:155). That is, the leaders acts as an umpire and coordinator of information believing that each person does his best when left free to work and think in his own way.

Thus, the leadership is usually neutral and allow the group to establish goals and work out problems, though the leaders still issues orders but subordinates are given some flexibility in carrying out tasks with carefully prescribed limits and procedures.

According to Otokiti (2004) this type of leadership is considered better than authoritarian leadership style but may not be as effective as democratic leadership style.

However, Obisi (1996) pointed out that the fear in laissez faire leadership style is that it degenerates into mobocracy, if care is not taken which is the extreme form of democracy. That is, the leadership can degenerate into confusion and for this reason the style is not suitable for industrial relations practitioners, especially trade unions.



Source: Obisi, C (1996). *Personnel Management*, published by Jackbod Enterprise, Ibadan-Nigeria.

System and Contingency Approach

As earlier mentioned, style of leadership required at battle-field is quite different from leadership style at House of Parliament because of differences in task. According to Lawal (1993), system approach of leadership is concerned with the complex interrelationship between many parts of a system (Organisation) such as production, marketing, finance etc and effect of the environment on the system.

Katz and Kahn (1966) cited in Lawal (1993) postulated that the kind of leadership style required to better functioning of a system is different from leadership behaviourist style because there were three (3) aspects of leaders behaviour which affect productivity of a system. These include: assumption of the leadership role; closeness of supervision; and degree of employees orientation.

As a result, Katz and Kahn suggested **contingency style** of leadership for system (Organisation). According to them, leadership effectiveness is contingent upon the leader adopting appropriate style in the light of situation favourableness. This implies that contingency style is a process whereby a leader influence to exercise his ability depends upon the group task, situation and the degree of personality and approach to which the leader considered fit the group.

Genty (2005) advocates that leader should understand their own behaviour, the behaviour of their subordinates and the situation before utilising a particular leadership style. He maintained that to do this requires the leader to have a diagnostic skill in human behaviour.

In the word of Fielder (1967) cited in Jacob (2004) said basically, an effective leader must be flexible enough to adapt to the differences among subordinates and situations

because the performance of the groups is dependent on the interaction between leadership style and situational favourableness.

Adair (1983) cited in Genty (2005) mentioned some of the situations that leaders must take into consideration in contingency style, namely: working environment; values, attitudes and experience of the super-ordinates and subordinates; tasks to be performed; and available resources. He concluded that the most favourable situation for leaders is when:

1. He has good leader-member relations
2. The tasks is highly structured; and
3. He has a powerful position.

In a nut shell, contingency leadership style is dependent on situation. For instance, **directive leadership style** will be appropriate for situations of high task ambiguity, **supportive** for situations of stressful, dull or dangerous task, **achievement oriented** will produce positive results in situations where subordinates have confidence in their ability to attain challenging goals and **participative** for situation of high complexity (Lawal, 1993:135).

Contemporary Leadership Approach

On the basis of the foregoing, this paper will not only limited itself to the traditional leadership styles but will also explore the modern leadership styles practice across world presently. It is therefore, with this in our minds that this paper will discuss briefly on the contemporary leadership styles which will serve as a basis for prosperous industrial relations actors on the need to revitalise their respective styles in order to achieve the common goal of industrial peace and harmony. These include:

A Transactional leadership style

This style involves a correspondence between the leader and subordinates on daily basis (Idowu, 2003). Such leader is patient, purposeful, listening and conscious of priorities. The transactional leadership rewards exceptional contributions from subordinates and intervene when there is deviation from standard.

That is, transactional leadership style is a style of leadership in which the leader promotes compliance of his followers through both rewards and punishment (Schultz & Duane, 2010). The exchange between the leader and his followers will determine the level of rewards and punishment that will be suitable for a task.

This kind of leadership style can be recommended for trade union leaders at the National Executive Council (NEC) in order to discourage local unions or shop-floor members from deviating from the set objectives. Also, it will enhance exchange of ideas on daily basis on terms and conditions of employment or any other contract of employment issues.

A Transformational Leadership style

As the name implies, it changes the belief system of subordinates. Transformational leaders are those transform their followers into becoming leaders themselves. That is, transformational leadership creates valuable and positive change in the followers.

A transformational leadership style ensure elevating, mobilising, uplifting of followers interest and makes the followers accept the interest of the corporate group over and above their own interest. Research has shown that transformational leadership can move followers to exceed expected performance as well as lead to high levels of follower's satisfaction and commitment to group and organisation (Bass, 1998).

Bass (1998) identified four (4) components of transformational leadership namely: Idealised influence (Charismatic); Inspirational motivation; Intellectual Stimulation; and Individualised consideration. The subordinate sees leaders that adopt such style as a good

leader hence the style could lead to employee satisfaction, commitment, loyalty, innovativeness and creativity among the rank and file. This perhaps, led to high performance level. Such a style can be recommended for all categories of trade union leadership.

Determinant of Leadership Style

No study so far has been declared to possess answer to the leadership question on the factors suitable for adoption of leadership style, each study attempts to make a contribution by breaking new ground or re-finding exciting studies. Therefore, the question of what determines effective leadership is not completely answered. Jacob (2004) mentioned some of the followings as a determinant of leadership style, these includes:

Size of the Organisation

As an organisation grows larger and get more complex, there is a tendency for decision making to be centralised, leading to very limited participation or no participation at all. It is different where the organisation is small and consultation is very easy. Large organisations have a tendency to follow the line of authority very rigidly, leading to a strict adherence to the principle of unity of command.

Decree of Interaction

The degree of interaction in an organisation influence the style of leadership where employee must co-operate in order to accomplish a task, there is bound to be an open channel of communication.

Personality of members

Some people react more to certain style of leadership than others. Individuals who like to depend on others do not like to participate since their need for security and direction are answered by rigid organisational structures. Individuals who have a clear sense of direction and wish to get ahead live to participate in decision- making.

Level of decision making

In a centralised organisation, there is little or no provision for decision to be made by people of the lower levels of the organisation. Directives are handed down and strict compliance is expected. The style of leadership tends to be directive rather than participation or laissez faire.

The State of the system

When the productivity of an organisation is high and company profit target are being met, there is tendency for the organisation to be moved democratic. When the situation is difference, the leadership style to be adopted will be such as to encourage high productivity. Leadership becomes authoritative, while unproductive employees will have to be dismissed and some organisation expense items may have to be cut in order to improve the profit picture.

Qualities of Successful Leadership

Successful leadership calls for the highest qualities of head and heart besides the physical energy that is essential for the supervision of work (Otokiti, 2004). He argued that the higher the position of the leader and the greater his responsibility, the higher will be the expectation in term of qualities of leadership.

Generally speaking, the following qualities are associated with successful leaders:

- ✓ Intelligence-somewhat above the average level

- ✓ Broad interest and a sound educational/technical background
- ✓ Initiative and creative ability
- ✓ Verbal facility and the ability to communicate with subordinates
- ✓ Sound judgement
- ✓ Ability to take decisions on the basis of a proper evaluation of the relevant facts and factors
- ✓ Mental and emotional maturity including an inclination towards the scientific method and presence of mind
- ✓ Sense of responsibility
- ✓ Ability to deal with the people and secure their willing cooperation
- ✓ Ability to guide and teach
- ✓ Enthusiasm
- ✓ Physical energy and stamina.

A Hypothetical Example of Trade Union Leadership Structure and Functions.

Full Time Officers and their roles






Congress-in-session

It is the supreme authority of any trade union leadership, which is like the Annual General meeting of the limited liability company or the delegate conference of the Industrial Union. The congress in session comprises of the elected representatives of the affiliated unions and all the members of the National Executive Council. Some of the congress in session held their meetings every 3 years like Nigeria Labour Congress (NLC) but can also convene for emergency purpose (Babalola, 2005:43). Parts of congress in session functions are to formulate broad policies over matters concerning the labour movement.

The National Executive Council (NEC)

The NEC plays the role of the Board of Directors in a limited liability company. The NEC is made up of elected officers such as The General President, two Vice Presidents, the Treasurer, The General Secretary, Deputy General Secretary, the Chairman and Secretary of affiliated industrial Unions. The NEC has the power to appoint, deploy, discipline the staff of the congress, appoint committees, raise, invest and administer the funds of the congress as well as convene special congress-in-session to mention few.

In the case of NLC, the NEC meets once in every 3 years to formulate policies (Babalola, 2005). The functions of the NEC are among others:

-  To execute the decision of congress-in-session
-  To convene congress-in-session
-  To monitor labour legislation
-  To strengthen trade unions
-  To settle disputes among affiliated bodies

The NEC commences meeting with a quorum of 60% of its membership while the Congress-in-session delegates power and responsibilities on national issues to the secretariat of the congress.

The Central Working Committee (CWC)

The Central Working Committee (CWC) acts like the management committee which takes decisions on day to day running of the National Secretariat. The CWC meets monthly for decision making process.

The National Secretariat

This consists of all the appointed officers of the congress with the General Secretary as its head. It reports to the NEC and has various departments such as the Administrative, Finance, Public Relations and International Relations Departments, Education and Training departments to mention few.

The State Executive Council

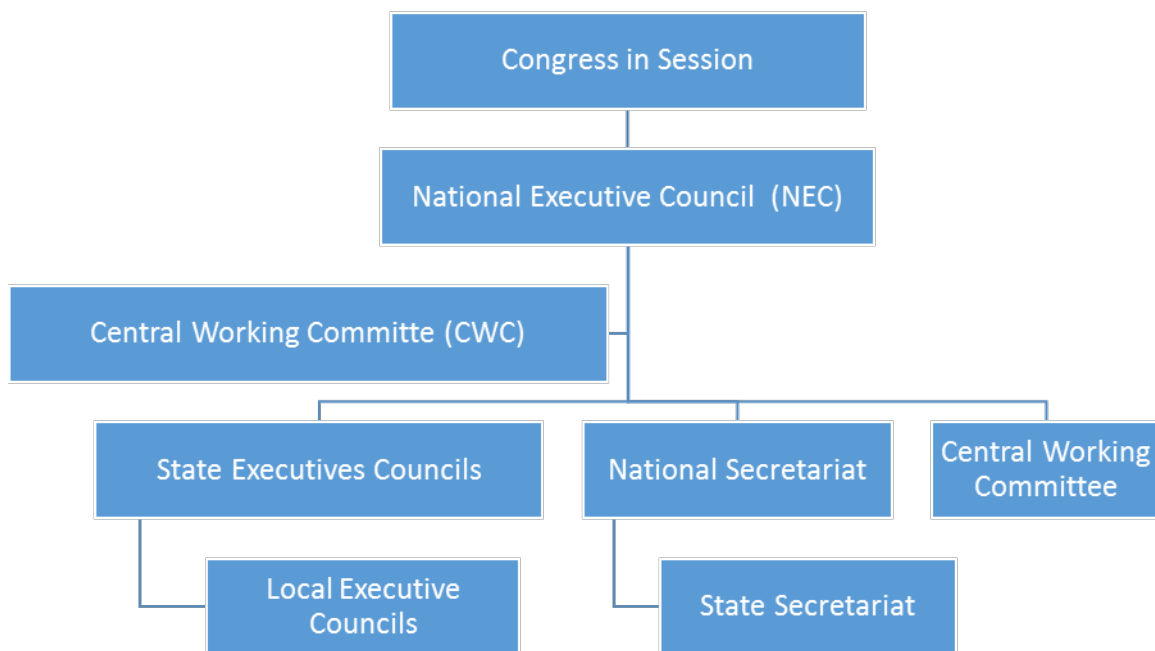
The State Executive council is made up of the Chairman, Treasurer, State Secretary and a representative of each of the branch union. This body executes the business of the congress as may have been directed by the NEC.

The State Secretariat of the congress

The State Secretariat of the Congress like the State Executive Council is made up of the Chairman, State Secretary, Treasurer and Head of Departments. The Secretariat reports to the State Executive Council and coordinates all activities in the State as may be directed by the State NEC.

The Local Executive Council of the congress

This is a body appointed by the State Executive council with not less than five affiliated unions (Babalola, 2005) who are usually part-time members. They meet at least four times in a year. According to Babalola, he pointed out the main function of the local executive council is to execute the business of the umbrella union at the local level and reporting some to the State Executive Council.



Source:

Babalola, D.Y (2005:45).*Theory and Practice of Industrial Relations in Nigeria*, Osamkeh Nigeria Enterprises, Osogbo, Osun State, Nigeria.

Effectiveness/Implications of the Leadership Styles to Prosperous Industrial Relations in Nigeria.

Industrial relations is a complex organisation that has its own set objectives needed to be achieved by the tripartite. This makes its hierarchical structure, official decision-making process complex as well as its institutional policies and routines differs among the three (3) principal actors, particularly in the area of achieving set goals. Therefore, the range of leadership styles required in Nigeria industrial relations system must be different from what is obtainable in other management leadership structure because of the divergent interests of the industrial actors.

For instance, the leadership styles of trade unions during negotiation and discuss on terms and condition of employment must be different to leadership styles needed for day to day running of trade union organisation. That is, style required during negotiation is different from style use for controlling of trade union subordinate members. Fatokun, Salaam and Ajegbomogun (2010) shown that most definitions of leadership, sees the term from traits, behaviour, contingency, power and occupation of an administrative position.

However, most of the definitions reflect the assumption that leadership involves a process whereby individual exerts influence upon others in an organisation (Fatokun et al, 2010). In Industrial relations system, leadership goes beyond exertion of influence on others (subordinate) rather the context will determine leadership techniques to use.

This assertion was corroborated by Yuki (1998) cited in Fatokun et al (2010) when he mentioned that the definition of leadership is arbitrary and very subjective. He concluded that leadership is a function of influences on events interpretation, the choice of the objectives and strategies, the organisation of activities, the maintenance of cooperative relationships, the development of skills and confidence by members as well as the enlistment of support and cooperation from the people outside the group or organisation (Fatokun, et al 2010).

In the world of Ejiofoh (2013) he said a non-democratic union in which the leadership does not represent the aspirations of the rank and file members cannot bargain meaningfully. He argued that leadership style of trade union can only be achieved effectively through adequate labour education where the combination of techniques, knowledge, skills and context of trade union as a movement can be taught and learn by union leaders to afford implication of chosen a style in Nigeria Industrial Relations system.

Some of the implications highlighted include constitution reform of trade union activities, appointment of leaders. Ejiofoh (2010) maintained that trade union leadership should be embodiment of simplicity, humility and modesty. That is, trade union leadership should be guided by social value. Again, trade union must be very careful of subversive generosity from employers in particular and government. This becomes so, because any union which is not independent of the employers or government cannot be said to be a democratic union. Also, trade union leadership appointment and salary or income should not be a secret affairs, it must be made open to other union members. All these are determinant of effective leadership style of prosperous industrial relations, especially among the unions.

Similarly, Lanre-Omole (2005) pointed out that some of the emerging union leaders after the passing of the 1938 ordinance were inexperienced and lack sufficient trade union education to enable them identify their functions. He emphasized that the lack of labour education by some union leaders make them preferred to interrelate with ignorant members and belief that educated and articulate subordinate members would pose a threat to their continued leadership. The implication of this practice is on negotiation abilities and skills of trade union representatives during dialogue where constructive bargaining will be required. In order to promote healthy trade unionism among the rank and file of workers, trade union leadership in collaboration with other international bodies should inculcate labour education

culture through organising of seminars, conferences, symposia and workshop where different styles of leadership and fellowship expectation can be acquired.

Thus, this will encourage a balance of management and leadership which is necessary for a work organisation to operate effectively, particularly in trade union setting. This is so, because the inability to achieve the set trade union objectives makes some union leaders to be accused of exploiting the unions and its members.

Similarly, Clemmers and McNeil (1990) cited in Fatokun et al (2010) suggest that leadership is not a role or position, but the ability to initiate action and move others to shared goals. For them leadership is the foundation stone upon which other vital components of organisation high performance-management system and technology rest. Therefore, without effective leadership style, it is difficult for trade union leaders to function effectively.

Concluding Remarks

From the above classification of leadership styles, it is popularly inferred that the laissez-faire leadership and autocratic leadership are inferior to democratic leadership. However, research does not consistently support any one leadership style. It points to the need for a situational approach to leadership. That is, the best style of leadership will depend upon the situation.

Again, it is important to note that genuine leadership can only turn things around with the cooperation of followership. Therefore, a successful leader is the one which employs all forms of leadership styles in a given situation with predominate cooperation from its followership.

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PERCEPTION OF VISUAL ART ELEMENT LINE ON FINE ART WORKS WITH PUPILS FROM I TO VI GRADE

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Abstract

In visual art education is existing segment that is neglected. This segment is aesthetic appreciation. Attendee of this paper is to represent the results of one part of influence and values of created model of work for aesthetic appreciation. The paper shows development of perception of visual art element line on fine art works with pupils from I to VI grade. Presenting the data obtained from the work of aesthetic appreciation we specifically single out the work on the development of perception. The obtained data confirm the previously established assumptions that between couple other phenomena studied and perception as a phenomenon can be developed through process of aesthetic appreciation.

Keywords: Perception, line, visual art, pupils

Introduction

This research paper represents only one part of bigger longitudinal research with pupils from first two parts of educational cycles (I to VI grade), where we search the values of process of fine art appreciation in visual art education and influence of this process on development of perception of visual art elements (line, color, form, volume), development of intellectual understating of fine art works, development of aesthetic experiences of fine art work, aesthetic taste for fine art works, aesthetic categories, aesthetic evaluation and fine art development in production of children fine art works. This research was designed as pedagogical experiment with one experimental group and after work on aesthetic appreciation in visual art education was measured efficiency of this educational intervention.

Aesthetic appreciation

Learning how to respond to the fine art on aesthetic appreciation way, pupils develop abilities to perceive and observe carefully, to identify, analyze and evaluate the expression. Activities that include the creation and the creation of children's art products actually developed the idea "to think through art." While aesthetic appreciation develops the idea "to think and talk about art." In visual art education we can find different opinion about aesthetic appreciation. Some believe that this process is not suitable for children aged and children are not able to discuss art, to think, to respect , appreciate , value , etc. By contrast there are educators who believe that children have the skills to do it and that it was childhood is that of when to begin the development of capabilities for appreciation of fine art. We consider the opinion that questions of taste or visually-artistic criteria for aesthetic values of works can be constructed through the process of aesthetic appreciation. If art education as a process is well-conceived, planned, organized, properly managed and successfully implemented, it would raise the quality fine art culture at with pupils. Because of that we create model for working on aesthetic appreciation.

Perception of visual art element line

When pupils come in contact with visual art at first they are introduced to elementary visual art elements. This stems from the general maturity and experience of children of this age. It is known that children easily perceive visual art phenomenon in nature and difficult in fine art work. "The development of perception goes in order: perceiving the contours of shapes, decoration of color, tones in color, texture and complex relationships (volume and space in two dimensional surface)" (Karlavaris,1991/1,49). Based on the developmental stages of children should be determined the development of the perception of visual art elements and principles of fine art works. Perception of visual problem follows the principle of simple to complex. Development of aesthetic perception starts from basic elements of art and their simple relations, through their complex relations.

The line as a constructive element of the composition and is one of the basic elements of visual art. Each line and its relationship with other lines in the artistic work despite the visual effect that challenge the viewer, they influence on viewer and cause a certain mood or something associated for example: right line - peace, rest, corrugated - tenderness, motion, zig - zag line - power, masculinity. What is important is that "that doesnt exist only one line which define the beauty of art work and whose application entails unconditional aesthetic effect" (Vasić,1982,48) .

In visual art education development of perception of the visual element line begins with obtaining knowledge for types of lines, her relationships, functions of line, character, etc. Pupils gradually are lead to the development of their perceptive capabilities and their founding of the property line in a particular work of visual art. They ascertain its role in a whole and determine whether the line has reached the criteria and has met the aesthetic requirements. Visual art element line can be perceive only if we develop capacity for perception, which from one side is developed through physiological maturation, and part through process of teaching and learning.

Methodology of research

It was already mention that over here is represent only one part of bigger longitudinal research with pupils from first two parts of educational cycles. Because that, it will be presented only hypotheses needed for explanation of this paper work.

Hypotheses

H.1.The work of aesthetic appreciation affects the development of the perception of visual art element line with pupils from I to VI grade

H.1.1 . The work of aesthetic appreciation affects the development of the perception of visual element line with pupils from I grade

H.1.2 . The work of aesthetic appreciation affects the development of the perception of visual element line with pupils from II grade

H.1.3 . The work of aesthetic appreciation affects the development of the perception of visual element line with pupils from III grade

H.1.4 . The work of aesthetic appreciation affects the development of the perception of visual element line with pupils from IV grade

H.1.5 . The work of aesthetic appreciation affects the development of the perception of visual element line with pupils from V grade

H.1.6 . The work of aesthetic appreciation affects the development of the perception of visual element line with pupils from V grade

To verify hypotheses, as a research procedure we test the pupils and we use instrument test for assessment of perception. Several statistical procedures for data processing and analysis of results including: measures of central value-mean, measures of variability,

testing the significance of differences between arithmetic environments of large dependent samples.

Analysis and interpretation of the results

The analysis of the survey results we begin with hypothesis: H.1.1. The work of aesthetic appreciation affects the development of the perception of visual element line with pupils from I grade. The data for this hypothesis received testing the significance of differences between arithmetic mean in two measurements (initial and final situation). The results of these measurements represent the following table 1.

T-test development of perception of line at pupils from I grade								
p <,05000								
	Arithmetic mean	Standard deviation	No. of cases	Difference	Std. Dv. difference	t - test	Degrees of freedom -df	P
Initial situation	0,764706	0,142276						
Final situation	0,931765	0,146557	85	-0,16706	0,205114	-7,50904	84	5,77E-11

Table 1

The comparison of the calculated value of t-test and the corresponding limit value for degrees of freedom, it can be determined that there is a statistically significant difference between the means of the initial and final measurement. Since the calculated value of t-test (7.50904) is greater than the corresponding limit of the degrees of freedom (1.99) H.1.1 hypothesis is accepted.

The results of the examination of the hypothesis H.1.2 work of art-aesthetic appreciation affects the development of the perception of line with pupils of II grade, will take a look at the table 2.

T-test development of perception of line with pupils from II grade								
p <,05000								
	Arithmetic mean	Standard deviation	No. of cases	Difference	Std. Dv. difference	t - test	df	P
Initial situation	0,6785714	0,4691239						
Final situation	0,9732143	0,2105258	112	-0,2946429	0,4957185	-6,2902777	111	6,451E-09

Table 2

The comparison of the calculated value of t - test and the corresponding limit value for degrees of freedom, it can be determined that there is a statistically significant difference between the means of the initial and final measurement. Since the calculated value of t - test (6.2902777) is greater than the appropriate limit of the degrees of freedom (1.98) H.1.2 hypothesis is accepted .

The results of the examination of the hypothesis H.1.3 The work of aesthetic appreciation affects the development of the perception of line with pupils from III grade, will take a look at the table 3.

T-test development of perception of line with pupils from III grade								
p <,05000								
	Arithmetic mean	Standard deviation	No. of cases	Difference	Std. Dv. difference	t - test	df	P
Initial situation	0,283465	0,452465						
Final situation	0,755906	0,43125	127	-0,47244	0,601938	-8,84499	126	6,91E-15

Table 3

The comparison of the calculated value of t - test and the corresponding limit value for degrees of freedom, it can be determined that there is a statistically significant difference between the means of the initial and final measurement. Since the calculated value of t - test (8.84499) is greater than the corresponding limit of the degrees of freedom (1.98) H.1.3 hypothesis is accepted.

The results of the examination of the hypothesis H.1.4 work of aesthetic appreciation affects the development of the perception of line with pupils from IV grade, will take a look at the table 4.

T-test development of perception of line with pupils from IV grade								
p <,05000								
	Arithmetic mean	Standard deviation	No. of cases	Difference	Std. Dv. difference	t - test	df	P
Initial situation	1,467626	0,651666						
Final situation	1,661871	0,571725	139	-0,19424	0,710967	-3,22112	138	0,001593

Table 4

The comparison of the calculated value of t - test and the corresponding limit value for degrees of freedom, it can be determined that there is a statistically significant difference between the means of the initial and final measurement. Since the calculated value of t - test (3.22112) is greater than the corresponding limit of the degrees of freedom (1.98), H.1.4 hypothesis is accepted.

The results of the examination of the hypothesis H.15 The work of aesthetic appreciation affects the development of the perception of line with pupils from V grade, will take a look at the table 5.

T-test development of perception of line with pupils from V grade								
p <,05000								
	Arithmetic mean	Standard deviation	No. of cases	Difference	Std. Dv. difference	t - test	df	P
Initial situation	1,078947	0,626053						
Final situation	1,289474	0,634184	114	-0,21053	0,709901	-3,16637	113	0,001985

Table 5

The comparison of the calculated value of t - test and the corresponding limit value for degrees of freedom, it can be determined that there is a statistically significant difference between the means of the initial and final measurement. Since the calculated value of t - test (3.16637) is greater than the corresponding limit of the degrees of freedom (1.98), H.1.5 hypothesis is accepted .

The results of the examination of the hypothesis H.1.6 The work of aesthetic appreciation affects the development of the perception of line with pupils from VI grade, will take a look at the table 6.

T-test development of perception of line with pupils from VI grade								
p <,05000								
	Arithmetic mean	Standard deviation	No. of cases	Difference	Std. Dv. difference	t - test	df	P
Initial situation	1,263736	0,727785						
Final situation	1,384615	0,726777	91	-0,12088	1,020187	-1,1303	90	0,261355

Table 6

The comparison of the calculated value of t-test and the corresponding limit value for degrees of freedom, can determine the value of the calculated t-test (1.1303) is less than the appropriate limit of the degrees of freedom (1.99) and it can be concluded that there is no statistically significant difference. According to this hypothesis H.1.6. is rejected.

With the confirmation and acceptance of previous hypothesis, except H.1.6 although there has been progress, but it is not statistically significant, can be concluded that hypothesis: H.1. The work of aesthetic appreciation affects the development of the perception of line with pupils from I to VI grade is accepted.

Conclusion

The research results obtained following the educational intervention and the data processing show that aesthetic appreciation affects the development of perception of line and confirm the hypotheses H.1. The work of aesthetic appreciation affects the development of the perception of visual art element line with pupils from I to VI grade. The intent of this paper was to emphasize the importance of the work of aesthetic appreciation of the development of the perception of the line through the presentation of data obtained from research conducted and their analysis and interpretation.

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STUDENT PERSONALITY TRAITS' INFLUENCE ON PROFESSOR EVALUATION AND ON THEIR ACADEMIC ACHIEVEMENT IN KOSOVO

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Abstract

The purpose of this study was to describe and investigate the personality traits and characteristics influences on students' evaluations about their professor assessment and on their academic achievement. One of the main theses of this analytical study was to determine whether there are differences on evaluating teachers and their assessments used among students with different personality traits. While the other main theses of this analytical study is to identify if there are differences among students with different personality characteristics and their achievement results. To identify the scope of this study, the quantitative research method has been used. The measuring instrument was designed in the form of a questionnaire that was conducted with the 1006 students who are currently pursuing their BA degree at University of Prishtina, Hasan Prishtina University, in Kosovo. For the conduction of the research, students were selected from the 12 departments within the university. Results of the study indicate that a great deal of the student body participating in the study did not believe in the fairness of their professor evaluations. Furthermore, there are differences between evaluations and students personality traits. According to the results, students who agreed that it is common for them to blame others and be reckless were also the least satisfied students with their professor evaluations.

Keywords: Academic factors, academic achievement, students, and personality traits

Introduction

The purpose of this study was to describe and investigate the personality traits characteristics influences on student achievement. One of the main theses of this analytical study was to determine whether there are differences on evaluating teachers and their assessments used among students with different personality characteristics. While the other main theses of this analytical study is to identify if there are differences among students with different personality characteristic and their achievement results.

Literature Review

Throughout the study, a combination of academic, emotional and social factors appear to have impacted in student academic performance. Also, it is considered that professor evaluations and forms of teaching are among the most adequate forms that traditionally affect student performances. While academic factors do have an influence on students academic achievements, it is considered very important that the education system should be designed in a way that involves appropriate teaching methods, creates learning environment situation, and takes into consideration the prior conceptions of students as well (Kane and Russell, 2005). On the other hand, it is believed that to achieve results in a course, and to stimulate student learning, the course leader must choose teaching methods in agreement with the students, methods these which, according to Shepard (2007) "make up the courses main role" and

interconnect with students successful learning. In order to evaluate what a student has learned, a fair way of evaluation is the one which enables evaluating the students combined skills” (Guba & Lincoln, 1994).

However, according to numerous studies, students bring with them into their studies certain characteristics, which influence their academic achievement. According to Helme & Clarke (2001), the cognizant student development, including their abilities, dispositions, knowledge, aspirations, expectations, perceptions, needs, values and goals has impact on student academic performance (pg. 138). However, despite these mentioned factors, as well as other social and personal factors which are related to students, according to other studies, personality characteristics of students are predictors of academic performance as well (Busato, Prins, Elshout, & Hamaker, 1999, 2000; Chamorro-Premuzic & Furnham, 2003). Since, personality is the sum total of the behavior and mental characteristics that are distinctive of an individual. Personality is also described as a categorized set of attributes that is found in a person that influences and defines the individual’s cognition, motivations and behaviors, (Colman, 2006). It is considered that, whereas cognitive ability reflects what an individual can do, personality traits reflect what an individual will do (Furnham & Chamorro-Premuzic, 2004).

Therefore, though throughout the study it is declared that these factors deem to have an impact in the study process, specifically a student’s personality, there are great doubts on whether students’ own characteristics impact the way in which they evaluate their professors and whether student academic achievements depend greater on student qualities compared to the quality of their professors’ instructing or forms of teaching.

Methodology

For the study, the quantitative research method has been used. The measuring instrument has been designed in the form of a questionnaire that was conducted with the 1006 students who are currently pursuing their BA degree at “Hasan Prishtina” University. For the conduction of the research, students were selected from the 12 departments of the University. The research sample was determined for 1006 students, or 10% of students of the departments selected.

Student participation in the research was voluntary, and completion of the questionnaire was anonymous. Participants in various forms, did data collection by visiting the respective faculties, by contacting students directly after their lectures, exams, stay in the library, at their student center, cafeteria or student gatherings.

The data collected from the questionnaire were processed through social science statistical package SPSS. Interaction between the tested variables is presented through interactive analysis (cross-tabulation analysis), while the results for the standard deviation (SD) of the tested variables are tested and released through Pearson's chi-squared test (χ^2).

Results

One of the main theses of this analytical study was to determine whether there are differences on evaluating teachers and their assessments used among students with different personality characteristics. According to the results of this study, a great deal of the student body participating in the study were did not believe in the fairness of their professor. Furthermore, there are differences between evaluations and students personality traits. According to the results, students who agreed that it is common for them to blame others and be reckless, were also the least satisfied students with their professor evaluations (Fig..1).

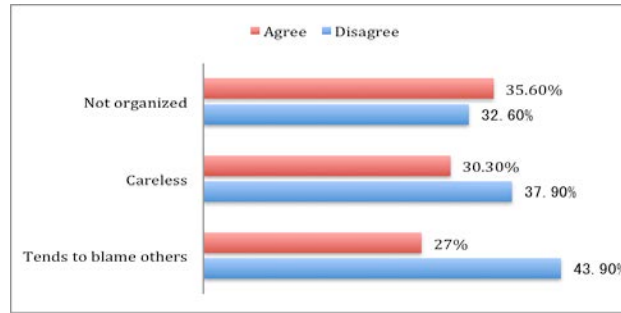


Figure 1: Comparison between student personality characteristic and evaluation about their professor assessment

Nevertheless, according to the results, there is also a clear combination of students with different traits. Of all participating students, those who agreed to be lazy were the ones to be most satisfied with received evaluations from their professors (45.30 %, Fig. 2), while in this group of students, most positive declarations regarding professor evaluations were also students who preferred systematic work (36.70%, Fig. 3).

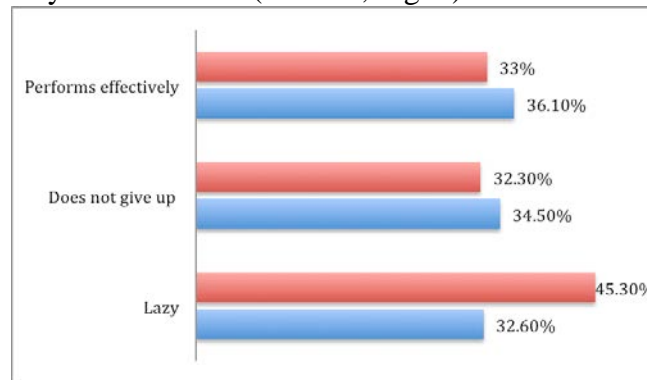


Figure 2: Comparison between student personality characteristic and their evaluation about the professors' assessment⁴³⁵

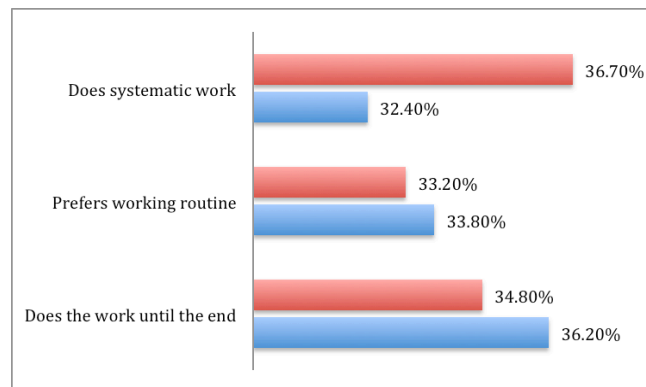


Figure 3: Comparison between student personality characteristic and their evaluation about professor assessment

Study results have also identified differences among students and their achievements results. From the results of the study it becomes clear that the students who are considered more 'reckless' were less evaluated with a grade 10, (40.90%, Fig. 4) which is the current highest grade in Hasan Prishtina University in Kosovo, in comparison to other students who considered them selves as "content workers" of which only (7.20%, Fig. 5) never received such an evaluation. Nevertheless, according to analyzed results, both student groups have

given similar declarations for option two, never being evaluated with the lowest grade or failing the course.

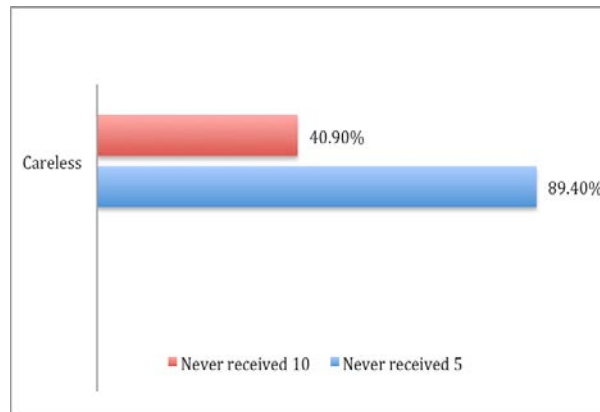


Figure 4: Student exam results based on their personality characteristics

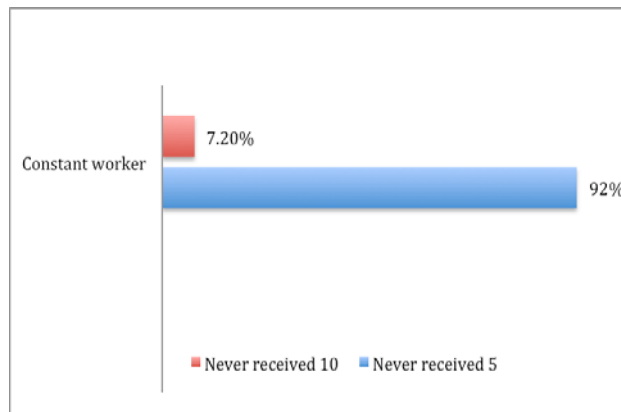


Fig.5: Student exam results based on their personality characteristics

Furthermore, according to the statistical analysis completed with the Pearson Chi-square test and standard deviation, the study results are considered believable according to the values presented in the following table (table 1).

Table 1: Comparison between student personality traits and their evaluation on the correctness of Instructor grading

	Blame other	Careless	Not organized	Lazy	Does not give up	Performs effectively	Does the work until the end	Prefers working routine	Does systematic work
Disagree	43.90%	37.90%	32.60%	32.60%	34.50%	36.10%	36.20%	33.80%	32.40%
Agree	27%	30.30%	35.60%	45.30%	32.30%	33%	34.80%	33.20%	36.70%
S.D	0.92	0	0.16	0.01	0.016	0.001	0	0	0.006

Conclusion

Based on the study results, it can be concluded that there are differences on evaluating of teachers and their assessments used among students with different personality characteristics. However, even though the majority of students who participated in the exam were not satisfied with the assessment used by their professors, the study results also show that there are also similarities between evaluations about the same issue, among students with opposite personality characteristics, for example among students who declared that they see them selves as lazy and or students who do systematic work. Moreover, other differences have also been noticed among students exam results and their personality characteristics, which proves that despite the other factors which can influent their academic achievement, student personality characteristics is another factors which can contribute in this matter as well.

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KNOWLEDGE OF ENTERPRISE AS A TOOL FOR BUSINESS PROCESS OPTIMIZATION USING MARKETING ACTIVITIES

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Abstract

Knowledge as one of the most valuable forms of corporate capital during the current crisis seems to be a very effective tool. Effectiveness lies in its ability to transform raw data, statistics, pictures and another type of information into usable forms of knowledge. This is useful particularly in business processes, where this knowledge as one of the production factors can significantly impact on business results. Proper continuous management (creation, sharing, storage, processing, and exploitation) knowledge is one of the necessary conditions of competitiveness among firms that have worked with knowledge actively. They are found in various forms as either in the form of data in databases or as the partial result of their employees in project information systems. Selected questions from the corporate sector were examined in the author's empirical research. In research were demonstrated attitudes of selected SMEs in the manufacturing of chemical, pharmaceutical and food technology.

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Keywords: Data mining, process optimization, marketing, SMEs, knowledge society

Introduction:

Knowledge management is an important part of business process management. It constitutes an integral component of linking knowledge in relation to other business activities. They are in the context of building a knowledge society conditioned and supported by specific forms of knowledge. The mere knowledge of the company is represented by different forms - raw data, useful information, which is transformed into knowledge. They are tapping into their own business processes are transformed into a higher form of knowledge - i.e. wisdom. In the context of current trends in contingent global economic crisis, it is necessary to use knowledge effectively and reasonable scale. Need to be handled in such a way that within the process guaranteed results. You can achieve optimum amount of knowledge that make use of all employees of the organization. It is also essential that the organization ensured the continuous creation, use, sharing and transfer of knowledge. This will allow the company to achieve a state in which comes to reducing operating costs, building a knowledge base business himself if creation of a knowledge society. Building the evidence base as a fundamental principle of successful businesses on the market is a partial implementation of knowledge management functions. Each function of the interaction of their knowledge management and creating unique for each subject requires a system of knowledge management.

The main issue of small and medium-sized enterprises (SMEs) is in the present recession steadily achieving prominence in the context of the existence of these companies. SMEs represent by their nature less, but more flexible production units. For these benefits SMEs are perfect replacement to large enterprises. Activities of SMEs can substitute selected activities of large enterprises. The disadvantage of these companies remains the lack of funding, resulting in the emergence of some negative phenomena. Many SMEs with lack of funds decline and seek to death. They are unable to progress effectively in comparison to large enterprises. Contrariwise large enterprises have stable financial base, capacity for innovation and creation of new knowledge is attenuated and weak competitiveness.

Definition of knowledge in the context of SMEs:

Worldwide management and marketing are currently relies on the concept of knowledge. This needs to be properly defined. Knowledge is not all the data and they are often inappropriately confused for the information. Most authors (Tobin 1996, Beckman 1997) outlined the following link definitions:

- Data** are facts, pictures, and sounds
+ *Meaning and interpretation* →
- Information** is formatted, filtered and summarized data
+ *Application* →
- Knowledge** is ideas, rules, procedures, which determine the actions and decisions.

Knowledge can be defined as the information and data converted into useable form and their subsequent interpretation respectively uses to solve problems in order to increase performance and efficiency of the organization. Owners of knowledge is especially knowledge workers, but also companies whose knowledge acquired purposeful activity, the same value in form of *Intellectual capital*.

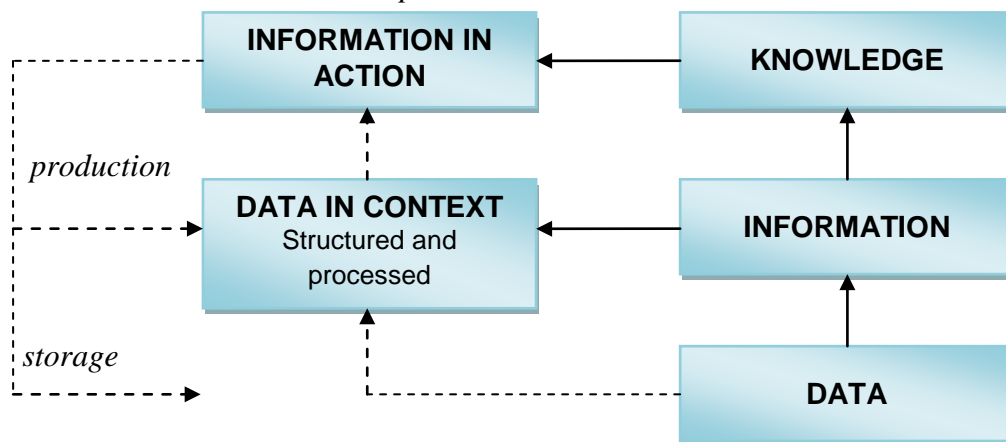


Figure 1: Procedural relationship between data, information and knowledge
Source: De Vasconcelos, 2001

Individual relationships between data, information, knowledge and wisdom describes Bureš in the Figure 2 - it follows a clear hierarchical traceability of individual steps form the data with the trend of accretion their level of knowledge. Direct link data, information and knowledge with the dissertation presents a close link between these various constituents of filling knowledge or wisdom itself, respectively.

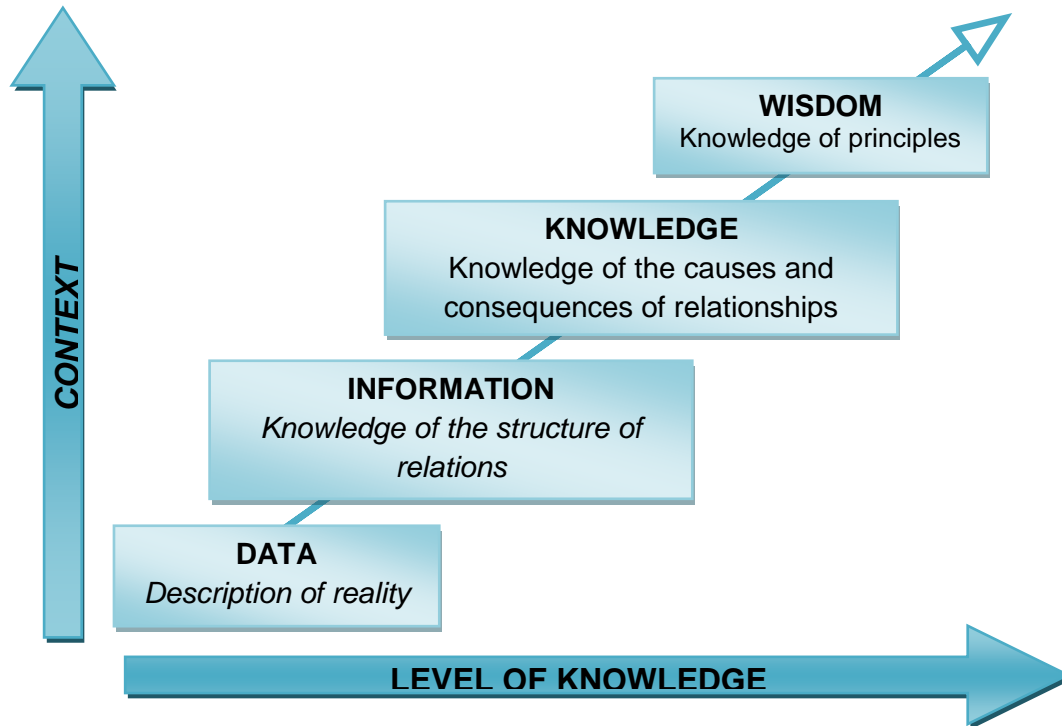


Figure 2: Relationship between the level of knowledge and contexts
 Source: Bureš, 2007

Their interpretation and application is in the higher form of data. To better understand the problems of knowledge it is necessary to clarify the basic - elementary forms of data followed by upward interpretation given higher content value and dimension of knowledge itself. Without actual data does not generate purposeful information processing, which would be transformed into a useable form - the proper interpretation not turn in the knowledge that the use of branding experience itself already represents wisdom. (Bureš, 2007)

SMEs in context of optimization process:

Period of economic crisis, characterized by rapid deterioration of all or most financial indicators that define the short-term interest rates, stock prices, real estate, land, insolvency firms eventually decline of financial institutions. Severe manifestation of the economic crisis is the emergence of the debt crisis, which is characterized by an inability to pay debts - public and private. (Bakanauskiene, Ubartas, 2012)

Necessary for the realization of empirical research and representations of research is necessary to define research units.⁴³⁶

<i>Company category</i>	<i>Employees</i>	<i>Turnover</i>	<i>or</i>	<i>Balance sheet total</i>
<i>Medium sized</i>	< 250	≤ 50 mil. EUR		≤ 43 mil. EUR
<i>Small</i>	< 50	≤ 10 mil. EUR		≤ 10 mil. EUR
<i>Micro</i>	< 10	≤ 2 mil. EUR		≤ 2 mil. EUR

Table 1: Characteristics of SME's - Employee number and Turnover/Balance sheet total
 Source: Innovation Union Scoreboard, 2013

⁴³⁶ Definition of Small and medium-sized enterprises (SMEs) , Source: [http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/](http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/)

The European Commission in its policy of taking active steps to support small and medium enterprises. Union's commitment to help create an environment in which they can develop businesses, industry and innovation is formally enshrined in Article 173 of the Treaty on the Functioning of the European Union. European companies are compared with Japanese and U.S. minor. The average Japanese firm has 10 employees; a firm in the United States employs an average of 19 people and businesses in the European Union employs approximately 6 employees (Holešová, 2003). SMEs in Europe have lower productivity and grow more slowly than small businesses in the United States. Functioning organizations in the U.S. will grow seven years after their establishment employment by an average of 60 percent, while employment in organizations operating in Europe is about 15 percent. Experts in small and medium enterprises see as the main problem of these negative balance common market failures undermining the conditions for entrepreneurship and business competitiveness. To critical areas classified difficult access to finance and the low rate of innovation. Commission of the European Communities has developed because the initiative, which calls on EU Member States to create better conditions for small and medium business. The challenge is comprehensive and its proposals including an appeal to Member States to reduce the amount of fees that the authorities request for registration of the company not to seek business from information already available within the administration to seek to reduce the time for setting up a company and so on. (European Commission, 2008). Not all experts on small and medium enterprises are unreservedly share this view, since factors such as difficult access to finance and lower rate of innovation in comparison with the U.S., for example, is not indicative of market failure (if so only very partially), but proves incorrect, unclear and inconsistent instruments governments. As representatives of the State can identify differences (between 'successful' SMEs in the U.S. and "unsuccessful" or SMEs in the EU or Slovakia) and, consequently, causes and effective countermeasures can we fail to talk about the failures of government. As one previously prepared by a group of measures in Slovakia was the initiative "Singapore". It's visions were interesting, but the real impact only marginal. (European Commission: The Small Business Act for Europe, 2008)

Collection and systemization of information:

For SMEs it is important to properly seek information processing and systematized knowledge. These can then be used effectively staff the benefit of individuals, work teams and also the whole society.

Data collection or „Data mining”⁴³⁷ is the process of search and data analysis in order to find implicit, but potentially useful information. This includes the selection, exploration and modelling of large amount of data to uncover previously unknown samples and ultimately comprehensible information obtained from large databases. Data mining uses a wide range of computational methods, which imply statistical analysis, decision trees, neural networks, rules induction and refining as well as graphic visualization. Data mining tools have been available for a long time, advances in computer hardware and software, in particular exploratory tools such as data visualization and neural networks, data mining made more attractive and practical use tool. Extraction of the sample is an important component of any data mining activities and in the relationship between the subsets of data. (Shaw et al., 2001)

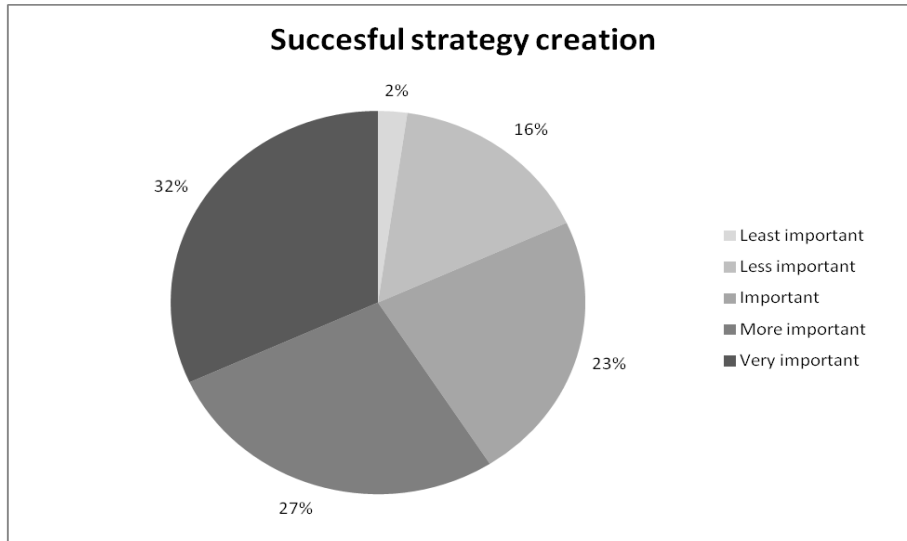
Generally, data mining also known as knowledge discovery is the process of analyzing data from different perspectives and summarizing them useful information that can be used to increase revenue, reduce costs, or both. Data mining software is one of a series of

⁴³⁷ Generally, the "data mining" is also known as knowledge discovery, it is a process of analyzing data from different perspectives and summarizing them useful information that can be used to increase revenue, reduce costs, or both.

analytical methods for data analysis. Allows users to analyze data from many different dimensions or angles, categorize and summarize the relationships identified. Technically, data mining is the process of finding correlations or patterns between the amounts of fields in large relational databases. (Suman et al., 2011)

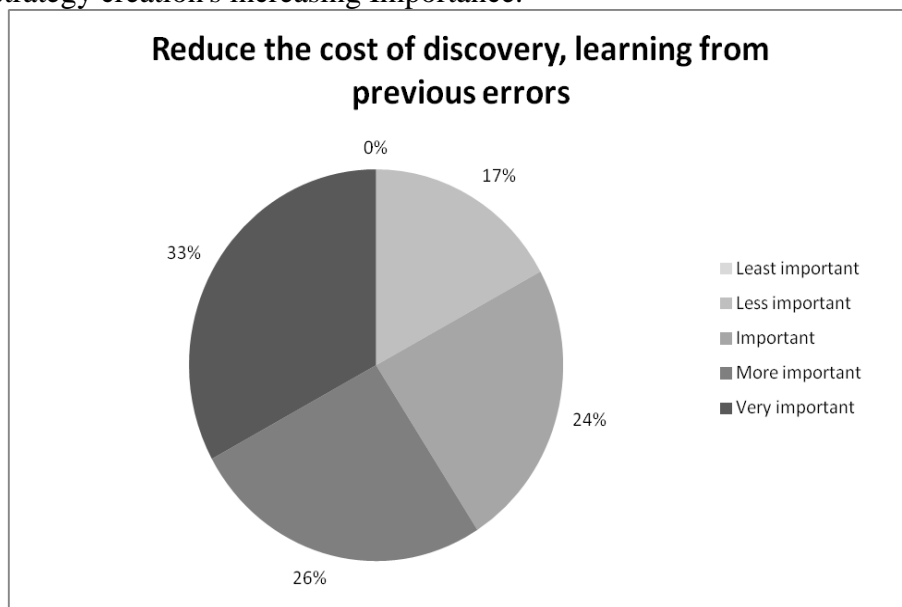
Empirical research:

To validate the theoretical principles of empirical research was carried out in SMEs operating in the field of production of chemical, pharmaceutical and food products. Researched companies belong to manufacturing technologies, operating in the Slovak Republic. Empirical research was carried out in 88 companies during 2013 in the form of an electronic questionnaire system.



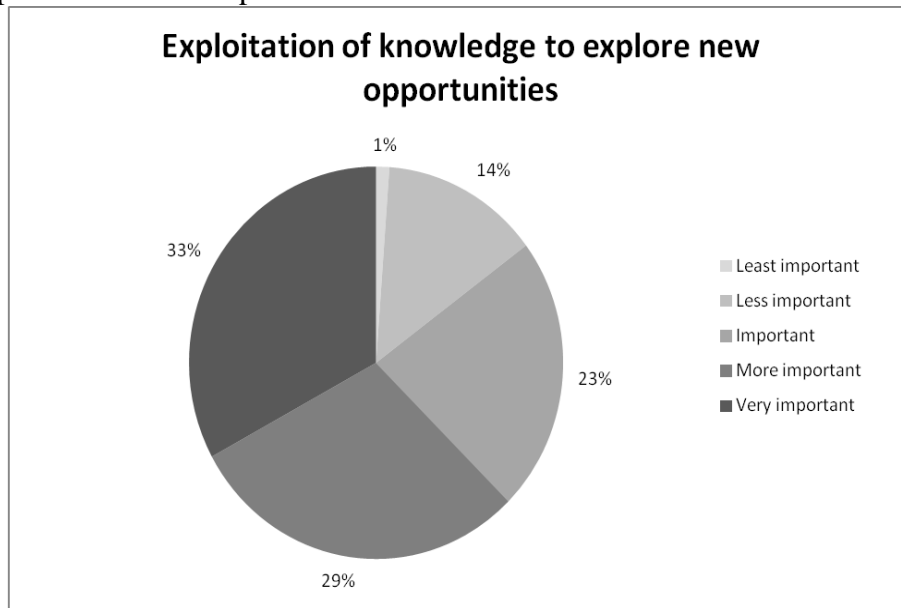
Graph 1: Evaluation of Successful strategy creation in SMEs.
Source: own processing

Successful strategy creation was evaluated (Graph 1) respondents in the range from *Least Important* to *Very important*. Result of research pointed to the fact that only 2% of SMEs considered the Successful creation strategy for *Least important*, other SMEs assigned Successful strategy creation's increasing Importance.



Graph 2: Evaluation of Reduce the cost of discover, learning from previous errors.
Source: own processing

In the Graph 2 are shown results describing survey question *Reduction the cost of discover, learning from previous errors*. SMEs considered the importance of this factor in balance. Rating *Least important* was not defined by any SME, the rating *Most important* achieved up to the 33% of responses.



Graph 3: Exploitation of knowledge to explore new opportunities.

Source: own processing

Exploitation of knowledge to explore new opportunities is considered a significant factor in empirical research. The results presented in Graph 3 show that a significant proportion of the importance of that issue. Only 1% of SMEs considered the question of the least important factor.

Conclusion:

On the basis of the results of research can be concluded that the issues are considered by Slovakian SMEs as significant. Only a small amount of SMEs characterized the issues at least as important in their functioning. Therefore, it is necessary that within these SME will be these issues discussed and potentially solved. It is necessary to process and prepare models and methodologies to identify the way of transformation of basic information systematically to knowledge. They inherently contribute to the efficient running of the company, as a positive effect on earnings of the company. To maintain competitive advantage of SMEs is necessary to consider certain issues. The main feature is creation of successful strategy, which represents a target-oriented direction of the company. Reduction of the cost of discovery and learning from previous errors highlights the importance of research and discovery. The importance is based in to learning from previous mistakes. Exploitation of knowledge to explore new opportunities discusses the perspective of behavior in relation to the use of any kind of business opportunities to achieve long-term set out objectives set out. The actual business approach of each SME should not only be focused on making a profit, but also the status of building knowledge-based society with elements of social responsibility.

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DEMOGRAPHY AND IT'S INFLUENCE IN THE URBAN DEVELOPMENT OF A COUNTRY

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Abstract

Urbanization brings a sustainable development as it closely relates to demography, the movement of population. After 1990, in contrast to the communist regime era a shift from the planned population movements, to congestion mainly toward Tirana and other coastal areas has been noticed.

The aim of this paper is to analyze the impact that the population movement has had into our country's urban development. Urbanization is considered to be a major component for the economic growth of a country, especially in coastal areas, in which it is more incentive for sustainable development.

The urbanization has passed through several stages: pre-industrial, industrial and postindustrial one. It is seen as a means to improve civilization, while bringing more progress and development.

So we may ask:

Was it worth a movement of population without a plan in Albania and should we put nowadays a planning strategy for the urbanization and demography?

Keywords: Urbanization, population, development

Introduction:

Urbanization – comes from the latin word urbs-city. Urbanization is science, art and the construction technique of cities, living zones having a specific plan to allow favorable conditions to work, relax and inhabit. Urbanization is the theory and practice of city construction. Urbanization is a huge component in the economical growth of a country, especially in the coastal areas bringing stable development.

Urbanization has passed through preindustrial, industrial and postindustrial phases.

In the paraindustrial phase cities were small, rare with city population participation between 15 and 20%. The undeveloped countries and the developing ones are in the paraindustrial phase of urbanization.

Secondary activities were in the industrial phase, especially industry and the participation of city population which reached between 20 and 50%.

The postindustrial phase is reached in the highest level of urbanization with more than 2/3 of city population. Tertiary activities have a main role in this phase. Through this phase the migrations from village to city are interrupted and those from city to suburbs are shown.

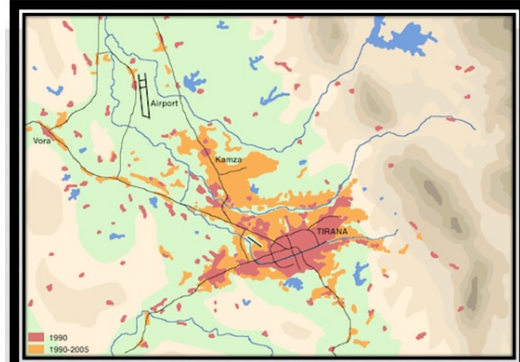
1. Urbanization Development

The 21'st century is seen as the urbanization century. The cities will be more extended, with many centres, different, fragmented, seperated and connected to different networks, interconnected with global exchange, autonomous to state notions, in massive

ecological, social and cultural intertwinement. Technology will bring a big change in people's lives helping families that live away from each other.

So, the developing cities in the 21's century will bring a radical change of civilization and the features inherited through different generations.

TIRANA'S EXPANSION FROM 1990 TO 2005



In the western cities, where civilization and culture have left their marks, three cities subdivision have started to take form:

a) The selected urban periphery's, with excellent infrastructure, seperated homes, gardens, space, parking, chosen neighbors, nature full of trees and guaranteed tranquility. Here lives the elitary society of nowadays civilizations.

b) City centres, full of people, with public transport frequented from middle classes where different objects are placed with care and the historical centres are the proof of cities origin.

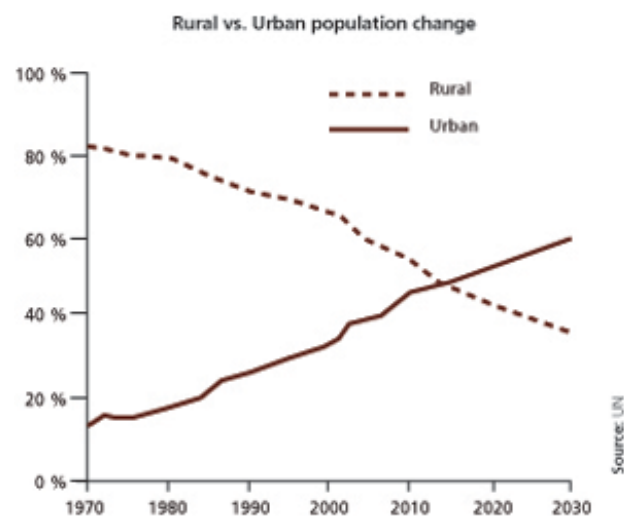
c) The dangerous zones, ghettos, where nobody wants to live there where dominates the absence of security, dominates the moving violation law and the communities do place the everyday rules.

This is worth to be seen even as a way of development for Albania. The construction, addition and the spread of urbanization will bring many changes in the way people live.

As in the whole world, even in Albania the urbanization appears in two forms;

1) *Planned, that needs time, months, or years to be thrown in letter*

2) *Urbanization that comes naturally to respond to modernization and development of industrial life of an area (like the case of developing countries)*



Urbanization is seen as a way to improve the civilization, bringing more progress and development.

URBANIZATION like every side of the medal has it's positive and negative side

• ***The positive sides of urbanization are***

- a. the fuse of rural-traditional features in contemporary urban features
- b. the increase of cultural and educational level
- c. the reduction of populations natural raise
- d. socialization of the population

• ***The negative sides of urbanization are***

- a. Huge pressure in working places,
- b. Pressure in habitation funds,
- c. Transport problems,
- d. The enviroment contamination,
- e. Nois,
- f. Changing behavio in people,
- g. Criminality etc.

b) What kind of urban development will Albania have in the future?

It's difficult to specify a prevailing line since urbanization is changing phenomenon, eventhough its quite sure that the future developing lines are connected with:

- Cities
- With the increase in human population

Albania is a post-communist place that has passed from a planned movement toward a massive one especially in Tirana and coastal places. Until before 15 years the world knew Albania mainly as a very isolated society, where the state had the titles of ownership and the control over properties similar to other socialist places. From that time Albania has passed through many changes with almost no similarity with other economies in transition¹.

Albania is trying to become a candidate state in the European Union, a speical attention is given to the regional development decreasing the levels between them.

The regional development influences not only in the population but also in the urbanization of the population and it's economical and social aspect.

In the country there is a big change between the most developed pole, Tirana and Durres, and the least developed regions which are Dibra and Kukesi. The migration is a critical problem, which brings huge infrastructure pressures even in the services for the most attractive zones, also a reduction of population and inefficiency for the least attractive ones². The least deveoped cirucits are Dibra, Kukesi and Berati with ZHR 75 index.

Tirana has the highest index (151) and it's considered as the most developed city. All the other circuits with index between 75 and 125 are classified as:

¹ URBAN SECTOR ASSESSMENT IN ALBANIA, 19 January 2007, page 3

²Regional Development in Albania - the challenge of development or integration? , Pg 352, Tirana, 2010

Circuits with an average level of development, which are distinguished in many characteristics³.

According to INSTAT⁴³⁸ they show a regional concentration increasing, where the part of population in Tirana and Durres will increase with less than ¼, in almost 1/3 of the general population, whether the population in other big regions (especialli in the north and south) will decrease. The central region, focuse on Tirana and Durres, shows the largest concentration of the registered firms (partly for administrative reasons). This is the region

³Regional Development in Albania - the challenge of development or integration?, Pg 353, Tiranë, 2010 ,

⁴³⁸ Instat.al.

where the modern services and productive activities, main of the companies with other capital, main of the public sector and the construction bum, together. This region is also the centre of export and import, it dominates all the ports, the aerial transport and passenger traffic in the country.

The coastal zone (in north and south of Durres) has unexploited potentials for the toursim and has unused potentials for tourism and agriculture/ agro-buisness, which will look for structured support to develop, to raise the standards and to support the competirion of the European Union in expansion.

The inner zone does not have new incentive to disallow the fall of agricultural sector, continuing to stay behind. The cities of Berat and Korca constitutes a positive exclusion and conitnues to preserve a regional dynamic.

The main objective of government in the third phase would be the legalization and integration of real estate fortune. The new construction and urnbanization in the two first phases have been spontanous with no interfering from the central goverment. In reality the adaption of private sector, trhough the first decade of transition, was very apparent having present the starting point: the artificial space distribution of population (65% in the rural zones), state possessions of 70 % inventory of the accomodating homes, and a very restricted possession for accomodation (the exploitation of construction area is only 5 m2 for each person in the urban zones, compare to 16 m2 in Bulgaria on the transition period). Having present the weak economy and administration in the beginning of 90's, the informal building were the only practical way for population accomodation of a displaced population.

This phase of Albanian urbanization must non be considered negative. It contributed in the sub-division and land distribution, state property, in small parcels in a very short time. It created a huge inventory of the permanent residences so that they could be sold and bought.

2. The trajectory of population number in Albania

At least until 2021 the trajectory of population number in Tirane and Durres will increase progressively. It's precisely the study of the Institute of Statistics that confirms a fact where all the sources and origins of displacement are detailed. This may be one of the reasons why in Tirana and Durres the prices of residences never decrease even in times of crisis.

The demand and population growth in this region is progressive ².

However, having present that only 22 % of non migrants live in the city, migration has intensified the urbanization of the city. ³

Almost every prefecture with a positive migrative static has increased in the urban population. For more, 62 % of immigrants in Durres and 62 % of those in Elbasan are placed in urban zones. During 1989-2001 period, Dibra, Fieri, and Lezha had the highest level of immigration with rural character. Vlora, Durresi and Tirana had the lowest levels. In this prefectures, except Tirana it's noticed a reinforcement of migration urbanization.



As we see from tab above nr 1 Korca's prefecture is mainly touched from inner migration, but not as a place where you can migrate. It's connected to a huge number of persons that migrate choosing to live and work in another place of destination, except that of the origin.

The migration has touched mostly the population in working age, where those who are getting old have remained in the places of their origins.

Korca's prefecture has migrative experience, connected to the inner migration especially towards Tirana or coastal places and the migration towards America, Greece or other places.

² Instat.al. The movement towards urban centers, prediction, 2012

³ http://www.gazeta-albania.net/movement_towards_urban_centers

Conclusion:

- The inner migration, with the extension of international migration, can lead to the reduction of human resources and development in the prefectures of origins. It brings a chaotic sensation in the waiting prefecture infrastructures.

- A strategy is needed. from the side of albanians to have a programmed movement of population not only in Tirana but also in other regions.

- A political system is needed from the urbanistic aspect and demographic one to become the most active part of population in Albania being separated in developing and population zones.

- The urban zone and the rural one need to develop especially from the north of our country, where there are buildings and investment are higher.

- Urbanization is considered to be a major component for the economic growth of a country, especially in coastal areas, in which it is more incentive for sustainable development.

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PERCEPTION OF ENTREPRENEURS REGARDING BUSINESS ENVIRONMENT IN MONTENEGRO: REGIONAL ANALYSIS

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Abstract

The goal of this work is to analyze the economic ambient by entrepreneurs through the identification of the most significant barriers exerting influences on the development of business in Montenegro. For the needs of researching, the questionnaire was created consisting of 30 questions, including five groups of barriers. The questionnaire was filled in by 102 business people with their main offices in Montenegro. Collected data were processed by means of the statistical processing data program SPSS20. The descriptive analysis was used with a view of getting the hierarchy of observed barriers, while the one-way analysis of variance (ANOVA) was used for determining statistically significant differences regarding to observed barriers by entrepreneurs classified into three geographical regions (maritime, central and northern). Financial resources, procedures in the local competence and centralized procedures were recognized by entrepreneurs as barriers of the greatest importance on entrepreneurial development. Statistically significant differences between the observed barriers by entrepreneurs in three geographical regions appeared in case of development inequality of regions and administrative procedures in employment.

Keywords: Entrepreneurship, business environment, Montenegro, regional analysis, barriers

Introduction:

The goal of this study is to analyze the entrepreneurial environment in Montenegro, in order to identify and specify the barriers that really slow down the implementation of the entrepreneurial concepts and values, and entrepreneurship development itself. The purpose of the research taken is to identify and classify the barriers that have strong but negative influence, into five clusters. This research includes the questionnaire, specially created for the purpose of this analysis and research. Data collected are processed using the software package for statistical analysis-SPSS. Descriptive statistics, analysis of variance-ANOVA statistical test were used to determine existing barriers and statistically significant differences between respondents from all of three regions of Montenegro (Northern, Maritime and Central region).

In the first part of this study, the authors give a theoretical review on entrepreneurship, and barriers to entrepreneurship that influence on establishing and developing of business projects in entrepreneurial environment. In the second part of this study, the authors give a wide explanation of the methodology used in this research in order to make it more familiar

and comprehensive. This part includes all the details about the questionnaire, about how the relevant data are collected; data collected sample, as well as the purpose of the used statistical analysis. In the third part of the study, the authors represent the results of the statistical analysis in form of tables. This part includes authors' detailed evaluation, discussion of results and final conclusions in order to point out the significance of the research taken for the future in this research area as well as its theoretical and practical contribution to entrepreneurship development in Montenegro.

Theoretical Background

Some authors defined entrepreneurship via three related components: innovativeness, risk taking and proactiveness (Covin and Slevin, 1989; Zahra, 1993). Three components, which best reflect the nature of entrepreneurs, represent the trigger for the action of entrepreneurs oriented to the creation of enterprises and self-employment. This tendency was recognized by the group of authors citing that entrepreneurs drive job formation through self-employment and small-business creation (Barth, *et. al.*, 2006).

The behavior of entrepreneurs, as well as their business is exposed to the influence of many internal and external factors of their environment. The factors of influence in this work were recognized as barriers to establish and develop entrepreneurial business. Trying to identify and measure the strength of perception of entrepreneurs regarding to some problems in business development, we tried to recognize and minimize the influence of some factors with negative influence. Perception of some factors by entrepreneurs can be different relating to their sex, age, education, etc (Lekovic and Berber, 2012). The geographical region can also exert influence on the perception of entrepreneurs regarding to business ambient evaluation within of which is the main office of the enterprise. The current business surroundings in Montenegro, although the same for all the citizens, can be differently perceived by entrepreneurs in three different geographical regions. Different perception can be the result of tradition, available natural resources, infrastructures, available human resources, etc. A good starting point to a discussion on regional factors as determinants for development of entrepreneurial business can be Tobler's statement "Everything is related to everything else, but near things are more related than distant things" (Tobler, 1970, p. 234). In the Global Report for 2012, Global Entrepreneurship Monitor noticed the differences between some countries relating to entrepreneurial attitudes. German researchers established that differences relating to entrepreneurial attitudes can be also notices between entrepreneurial in different regions within one country (Bergman *et al.* 2002, Luckgen, *et al.*, 2004).

Barriers to establish and develop entrepreneurial development have been discussed by many authors. Non-existence of the united research methodology, as well as insufficiently determined framework of potential barriers represents the source of unity in the former researches. Different authors have used different barrier groups in defining their methodological research frameworks.

Many authors have paid attention to individual and psychological in their researches. Nawaser *et al.*, 2011, Sandhu *et al.*, 2011, Hatala, 2005, Choo and Wong, 2006). Creating a potential business idea is the first step in the development of entrepreneurial business by entrepreneurs of the future. Development of business ideas may be the result of creativity and innovativeness of the entrepreneur or the result that came through the interaction of entrepreneurs and their friends or family to find a suitable business idea. Of course, the prerequisite for the implementation of the business idea is a confirmation of its feasibility by developing a business plan and feasibility study. One of the major myths within the entrepreneurship is constantly searching for the answer to the question whether entrepreneurs are born or created (Bobera, 2010, p.61). Authors Gorji and Rahimian (2011) agreed with this, stating whether individuals are born entrepreneurs or that entrepreneur will become

through academic education. Education is undoubtedly an important determinant of the successful/unsuccessful entrepreneurs. Generally accepted attitude is that for successfully start of business venture as well as latter development, adequate funding and provision of adequate financial resources is important. Basu and Parker (2001) point out that in most countries most new business finance takes the form of bank loans and the next largest source of funds are family members. Because of its relationship with the entrepreneur, relatives and friends are a very common source of financing business ventures with its positive and negative sides. The role of family and friends does not end with the act of collecting funds necessary to finance the venture. They also find their role within the networks of moral support to entrepreneurs. Mentioned networks are the most important in the support entrepreneurs in the entrepreneurial process that is full of difficult situations, and greatly assist the entrepreneur in overcoming the fear of eventual failure.

HRM is very important to understand the organization of entrepreneurial firms (Dabić, *et. al*, 2011, p. 14) and it is crucial for the success of entrepreneurship (Welbourne, 2006). Many authors made very interesting research in the past to identify the importance of HRM for entrepreneurship (Chen, *et.al*, 2005; Marlow, 2006; Jack, *et. al*, 2006; Cooke, 2008). Some authors classified HRM in their research related to barriers to entrepreneurship (Barlett and Bukvic, 2001, Gorji and Rahimian, 2011). HRM includes certain functions such as planning, staffing (recruitment, selection and orientation), training, development and career development, performance measurement, compensation and benefits, leaving the organizations, labor legislation and the like. It can be said that HRM can also have many possibilities for fostering entrepreneurial process, since entrepreneurship is also based on human resources, entrepreneurs. HRM in small and medium sized companies (SME) has not been developed as department, and in many cases, entrepreneurs have different problems with these issues. How to manage people in new founded entrepreneurial organization, select adequate workers or deal with all legislation questions are barriers that can complicate process.

Not only economic but also the overall living ambient exert influence on the perception of barriers by entrepreneurs in some regions. Entrepreneurial process is conditioned by skills and capabilities of individuals existing in some socio-cultural conditions. Therefore, we can reflect the influence of perception of the society relating to entrepreneurship on entrepreneurial behavior of individuals at the local, regional and national level. Some authors have dealt with socio-cultural factors and their impact on the development of entrepreneurship (Barlett and Bukvic, 2001, Gorji and Rahimian, 2011). If the economy in general has a positive attitude towards entrepreneurship, this can generate cultural and social support, financial and business assistance, and networking benefits that will encourage and facilitate potential and existing entrepreneurs (Xavier, *et.al*, 2012).

Many countries, in order to improve business ambient, try to reduce costs, simplify procedures and cut the time to register the enterprise. Therefore, understanding the current business surroundings is of key importance for making decisions, policies and procedures with a view of entrepreneurial business development. A methodology for measuring effectiveness of the regulatory framework registration was developed by Djankov, *et. al* (2002). This methodology is recognized by the World Bank, which in its annual reports "Doing Business", Starting Business Section, uses to quantify data for 170 countries. These results are used to prove if there is causality between the time and costs to register the enterprise and the number of newly started enterprises. The result of research of Klaper and Love (2010) pointed to that in countries with high initial registration costs, the benefits of registration are significantly below the costs of registration, likely because of limited access to finance or rigid labor markets. The results represent the confirmation of the previous research by Djankov et al. (2002) who cite that high registration costs do not serve public

interest, but only benefit politicians and bureaucrats. Some authors have noticed in their research the importance of the procedures to register the enterprise and the influence on the entrepreneurial business development. In their research, Bohata and Mladek (1999) considered the barriers related to registration and licensing such as court registration, social and health insurance register, opening bank account, statistical office registration etc.

Entrepreneurs are a very important element of the national tax system. Small business owners not only pay their income tax but need to take account of various types of business taxes such as corporate tax, property taxes, and payroll taxes; they need to collect sales taxes such as VAT; and they need to withhold taxes such as personal income taxes in the case of having at least one employee (Christensen et al., 2001). Some authors researched the impact of fiscal burdens as a barrier to entrepreneurship (Bohata and Mladek, 1999, Hashi, 2001, Celu and Kociu, 2012), while some authors observed the influence of the tax system on entrepreneurship development (Stenkula, 2009, Djankov *et al.* 2010).

Many authors put the barriers to entrepreneurship in focus of their researches. Sarasvathy (2004) identified and discussed the barriers to entrepreneurship, revealing them through the answers on question: „What barriers to entrepreneurship exist? “ rather than asking „What induces people to become entrepreneurs?“. Doern (2009) did some research work in the field of barriers to entrepreneurship and growth of the SME sector in former centrally planned economies and now economies in a transitioning process, like it is the economy of Montenegro in present. Doer focused on creating a methodology that would be helpful in better understanding of existing barriers to entrepreneurship and their modes of action. In their research work, Bitzenis and Nito (2005) showed their interest in barriers to entrepreneurship in economies in transition, too. Research conducted by Bitzenis and Nito included 226 enterprises. Results confirmed which barriers to entrepreneurship have the strongest negative influence and those are: unfair competition from the informal economy, changes in taxation procedures, lack of financial assets and problems related to order. The authors also came to a conclusion that presence of corruption and too much bureaucracy in the economic system are not recognized as significant barriers to entrepreneurship. Sandhu *et al.*(2010) conducted a research among 226 Malaysian postgraduate student and confirmed that most significant barriers are lack of social networking followed by lack of resources and aversion to risk. Results of this research are very similar to the results of the research conducted by Lekovic and Berber (2012) among 57 entrepreneurs on the territory of Vojvodina (Autonomous Province of the Republic of Serbia).

Methodology

The research was driven by idea to identify and explicitly state barriers that interfere with starting business activities and creating a competitive, entrepreneurial environment. Barriers were grouped into five sections: individual and psychological factor, socio-cultural factor, human resource, enterprise registration and fiscal burdens. This research includes the questionnaire, specially created for the purpose of this research, consists of 25 questions covering up 5 groups of barriers. Data were collected within the interviews with entrepreneurs.

When responding to a Likert questionnaire item, respondents had to specify their level of agreement or disagreement on a symmetric agree-disagree scale for a series of questions. Options for each determined barrier, presented in Table 1, in business on agree-disagree scale were: 1. Strong significant negative influence, 2. Mostly negative influence, 3. Present, but with no significant influence, 4. Mostly, doesn't have negative influence, 5. Doesn't represent barrier at all.

In the first step, descriptive analysis of data was done in order to create a hierarchy of barriers. In the second step, one-way ANOVA test was done in order to determine existing

differences between entrepreneurs based on a criteria of geographic region. In total, 102 entrepreneurs from Montenegro completed the above-mentioned questionnaire, 50 from Maritime region, 30 from central region and 22 from northern region.

Table 1. Barriers of Entrepreneurship – SC, SOC, HR, REC, ER and LC

<i>Individual and psychological</i>	<i>Socio-cultural factor</i>	<i>Human resources</i>
<ul style="list-style-type: none"> • Idea, initiative • Support in inner circle • Education, skills • Financial assets (lack) • Fear of failure 	<ul style="list-style-type: none"> • Social conditions • The political situation • Regional development disparities • Infrastructure • Global crisis 	<ul style="list-style-type: none"> • Labour legislation • Administrative procedures (hiring) • The process of layoffs • The lack of specialized training programs
<i>Enterprise registration</i>	<i>Fiscal burdens</i>	
<ul style="list-style-type: none"> • Access to information • Registration procedure • State authorities procedures • Centralized procedures • Procedures under local jurisdictions 	<ul style="list-style-type: none"> • Tax obligations • Inconsistent state and municipal taxes • Tax liability on invoiced instead of cash realization • Penal provisions • Taxes and contributions 	

Source: Author's

In accordance with theoretical background, available literature and questionnaire the authors set up the following hypothesis:

H0: There are entrepreneurship barriers related to individual and psychological factor, socio-cultural factor, human resources, enterprise registration, and fiscal burdens.

H1: There are differences related to perception of entrepreneurs regarding business barriers between three regions related to socio-cultural factor in the field of regional development disparities.

H2: There are differences related to perception of entrepreneurs regarding business barriers between three regions related to human resources in the field of administrative procedures of hiring.

Results of analysis and discussion

Results from the descriptive analyses showed that respondents have recognized the barriers with strong, negative influence, in following order: financial assets, procedures under local jurisdiction and centralized procedures. The hierarchy of barriers in Table 2 shows that presented 10 barriers come from all five sections.

Table 2. The Hierarchy of entrepreneurship barriers (top 10) - I&S, SOC, HR, ER and FB – obtained from the sample (N=102)

	N	Mean	Std. Deviation
I&P – Financial assets	102	1,97	1,121
ER – Procedures under local jurisdiction	102	1,99	1,182
ER – Centralized procedures	101	2,01	1,221
FB – Tax liabilities on invoiced instead of cash realization	102	2,03	1,222
SC – Global crisis	101	2,06	1,066
FB – Taxes and contributions	101	2,09	1,209
ER – State authorities procedures	101	2,11	1,067
SC – Regional development disparities	102	2,12	1,237
HR – Administrative procedures (hiring)	102	2,24	1,212
HR – Process of layoffs	101	2,24	1,242

Source: Author's calculation

Results from the descriptive analyses showed that respondents have recognized the barriers with strong, negative influence, in following order: financial assets (M=1.97), procedures under local jurisdiction (M=1.99), centralized procedures (M=2.01) etc. Further statistical data analysis using oneway ANOVA test showed that entrepreneurs performing different business activities refer to barriers: support of inner circle, regional development disparities, fear of failure, administrative procedures, in a different way. For reasons of clarity and abundance of tables in the table no. 3 shows only the results with statistically significant differences.

Table 3. One way Annova test, barriers to entrepreneurship – regional analysis (N=102)

Multiple Comparisons							
Tukey HSD							
Dependent Variable	(I) Region	(J) Region	Mean Difference (I-J)	Std. Error	Sig.	95% Confidence Interval	
						Lower Bound	Upper Bound
SC – Regional development disparities	Maritime	Central	,333	,278	,456	-,33	,99
		North	,855*	,308	,018	,12	1,59
	North	Maritime	-,855*	,308	,018	-1,59	-,12
		Central	-,521	,338	,275	-1,32	,28
HR – Administrative procedures (hiring)	Maritime	Central	-,267	,272	,590	-,91	,38
		North	,664	,301	,075	-,05	1,38
	Central	Maritime	,267	,272	,590	-,38	,91
		North	,930*	,330	,016	,14	1,72
	North	Maritime	-,664	,301	,075	-1,38	,05
		Central	-,930*	,330	,016	-1,72	-,14

*. The mean difference is significant at the 0.05 level.

Source: Author’s calculation

The results of the one-way analysis of variance (ANOVA) showed that there are differences among participants in terms of geographic region. One-way ANOVA test was used to test differences in regional development disparities among enterprises operating in three different geographic region. Preferences in regional development disparities differed significantly among enterprises operating in three different geographic region, $F(2,99) = 3.891, p = .024$. Tukey’s post-hoc comparison of enterprises operating in three different geographic region showed that entrepreneurs in north region (M=1.55, 95% CI [1.06, 2.03]) find ideas and initiative more aggravating to their business than entrepreneurs in maritime region (M=2.40, 95% CI, [2.04, 2.76]), $p = .018$. Comparison between enterprises in central region (M=2.07, 95% CI [1.63, 2.50]) and enterprises in maritime as well as in north region were not statistically significant, $p < .05$.

Preferences in administrative procedures of hiring differed significantly among enterprises operating in three different geographic region, $F(2,99) = 4.119, p = .019$. Tukey’s post-hoc comparison of enterprises operating in three different geographic region showed that entrepreneurs in north region (M=1.64, 95% CI [1.26, 2.01]) find ideas and initiative more aggravating to their business than entrepreneurs in maritime region (M=2.30, 95% CI, [1.98, 2.62]), $p = .016$. Comparison between enterprises in central region (M=2.57, 95% CI [2.02, 3.11]) and enterprises in maritime as well as in north region were not statistically significant, $p < .05$.

All the results we got using several statistical analysis should be interpreted with regard to earlier set up hypothesis. Results of descriptive analysis show that main hypothesis H0 is confirmed. According to data from Table 2, 102 respondents identified financial assets as a barrier with highest influence on their business. The results received by this research are in accordance with the previously research carried out within which financial was recognized as the barrier of the significant impact on business development (Wach, 2007, Hashi, 2001,

Bitzenis and Nito, 2005, Hatala, 2005, Bohata and Mladek, 1999). Ensuring or the lack of financial resources can be seen as potential barrier to business recognized by entrepreneurs in this survey. While the significance and impact of financial resources to the realization of a business venture cannot be ignored, it should be noted that the lack of adequate funding is often an indicator of other problems such as managerial incompetence, lack of understanding in the field of finance and the like. The distinction between successful and unsuccessful entrepreneurs is often caused precisely by the ability of entrepreneurs to overcome periods successfully in business that is accompanied by a lack of funds (Bobera, 2010). For the need of financing the starting business projects, as well as for financing further business development, different financial sources are placed at entrepreneurs' disposal. In searching for financial resources, services of business and development banks are also placed at entrepreneurs' disposal. The Government of Montenegro founded the Direction for Development of Small and Medium Enterprises, with a view to promote the significance of small and medium enterprises, support SME sector development and give assistance to carry out research and development projects. Its financial support, this Institution offers in the form of many announced open competition intended right to the SME sector. It relates to competitions for credit lines for start-up, credit lines to stimulate entrepreneurship, invitations to stimulate competitiveness, invitations intended to increase competitiveness of domestic enterprises, invitations for tourist enterprise, etc. Financial resources are available by means of announcing public invitations by the Centre for Entrepreneurship. Information on financial resources and concrete assistance for applying to use the resources of EU funds are available to entrepreneurs, as well as services of the newly founded European Information and Innovative Center Montenegro, originated as the result of a project within the CIP EU program.

Results of one-way Anova analysis show that hypothesis H1 and H2 are confirmed. The characteristic of the regional Montenegro development is the fact that migration of the population from the northern part of the country to the Central and Coastal regions. The northern part lies on 52.8%, the central one on 36.1%, and Maritime/Coastal lies on the 11.6% of the territory of Montenegro. Population density in the Northern region is less relating to the other two. The characteristics of the Northern region are unfavorable economic indicators: income per capita, as well as the degree of employment, drastically lower than in the other two regions. The paradox is the fact that the Northern region, being the biggest and the most undeveloped region, possesses the biggest part of real resources and comparative advantages. The biggest influence on creation of unequal regional development had transition from the planned economy to the market-oriented system. Industries developed on unreal foundations during the period of transition collapsed; therefore a significant part of the population lost their jobs. At the same time, a significant influx of investment flew to the Central and Maritime regions, mostly in the tourist sector. It unavoidably caused the migration of the population from the northern part to the Central and Maritime regions. The differences between the regions are seen in the reports of the Government of Montenegro (The Strategy of Regional Development in Montenegro, 2011). The socio-economic differences can be seen in the field of income tax per capita, based on the budget income of local communities, number of inhabitants, etc. the tax income per capita in 2007 was the biggest in the city of Budva (the Coastal region), amounted to €298.49, while in the municipality of Andrijevica (Northern region), it amounted to €0.68. The budget income per capita in the municipality of Budva in 2008 amounted to €3,321.14, while it was only €50.31 in the municipality of Berane (Central region). A drastic fall of the population number in the last decade happened in the municipality of Plav (Northern region). It has resulted in the negative birthrate of -28%. Contrary to this commune, in Budva (Coastal region), there has been a positive birthrate of 35.78%. The situation of unequal regional development was

noticed by the Government of Montenegro. Therefore, it planned the future actions in development oriented to reducing regional differences. The Government of Montenegro, through its institutions, actively takes part in developing less developed regions. The Investment and Development Fund of Montenegro has credited, in the last period, small and medium enterprises amounted to €18.49 million in 146 projects. The Northern region was approved with 108 projects, amounted to 74%, valued at €3 million or 71.2% of the total approved resources. The Direction for Small and Medium Enterprises Development financed 184 of 371 projects in the Northern region, valued at €5.18 million, amounting to 38.7% of the total approved resources. Contrary to the direct impact by approving financial resources from the budget of the Republic of Montenegro for developing the sector of small and medium enterprises, the Government of Montenegro has provided access to other more attractive funds. The Government has also provided conditions to stimulate and participate actively the regions to apply for financial resources approved by EU Pre-accession funds. One of the funds available to Montenegro is IPA – Pre-Accession Assistance Programme. Since 2012, conditions for free use of the third component (IPA III) have been created, the component being intended to regional development. The importance of the third component of IPA programme is seen in the allocation of resources of all five components. Namely, of €34.6 million for the needs of regional development, the European Union intended €14,752.941 million for regional development, and it represents 42.63% of financial resources.

Each step and procedure in the process of hiring new employees is important, especially those related to the labor law, mandatory social and pension insurance, income taxes and contributions, etc. Entrepreneur must execute each procedure and paperwork in health insurance fund, pension insurance fund and national employment service. Besides these procedures, related to the state, entrepreneurs must execute many procedures in the house – procedure for recruitment and adequate selection of the right candidate, determination of monthly wage and benefits, orientation in new business organization. This is important since great increase in business is usually accompanied with new employment, which results in greater work force in entrepreneurship organization that needs improved management and organizational skills and knowledge. The labor market of Montenegro is regulated by the Law on Work, Employment Law and the Collective Contract and Contractual Work between employers and employees. The new Employment law gave a more qualitative legal and institutional framework for regulating mediation on labor market (Strategy for Barriers Elimination to Develop Entrepreneurship in Montenegro, 2007). Passing this Law, Montenegro has significantly approached to EU standards relating to employment. The Employment Law regulates employment procedures, insurance in case of unemployment, unemployment rights, etc.

Conclusion

In this research, entrepreneurs were consulted for the needs of evaluating business environment in the form of identifying barriers exerting influence on business development. This may represent one of the limitations in the research because the competence of entrepreneurs does not come from the very fact of their existence in business environment. The observed barriers by entrepreneurs in some cases can be identified and provoked by the lack of education or the lack of cognitive capabilities of entrepreneurs. Perception of entrepreneurs can differ substantially from perception of the Governmental institutions, which notice business barriers and work actively to eliminate them. The results of this research speak in favor of this fact, where business barriers in the united business surroundings reigning in Montenegro, are differently observed by entrepreneurs in three regions.

The goal of this study was to determine the barriers to entrepreneurship in Montenegro by questioning entrepreneurs on how they perceive the same. Using statistical analysis, the authors proved the hypothesis in their research. Hypothesis H0 was confirmed by using descriptive statistics which indicated the presence of barriers in all of five research areas. Financial assets are recognized by respondents as the barrier being the most important in business development. The use of one-way annova test confirmed **the hypothesis H1 and H2 are confirmed**. Differences between perception of entrepreneurs regarding business barriers based on regional aspect were significant evident in terms of administrative procedures and regional development disparities.

Perception of entrepreneurs relating to financial resources as the barrier represents the confirmation of the previously cited attitude that perceived barriers by entrepreneurs does not mean the automatic and real state of business surroundings. Noticing the resources to finance business projects in Montenegro, we can freely emphasize the fact that the problem for entrepreneurs is not the lack financial resources but the lack of strategic orientation of the enterprise that is seen in the lack and even non-existence of defined business intentions. To reach the long-term survival in doing business, it is necessary to have ideas and projects, which represent materialization and financial evaluation of profitability of some entrepreneurial ideas. Just these investment projects represent the instruments for drawing financial installments from business banks, development agencies, investment-development funds, as well of the EU funds. If they are treated as barriers for developing business projects at the moment of availability of financial resources, then, we can freely speak on the shortage of ideas and investment projects. When it relates the EU funds intended for development of small and medium-sized enterprises, where the resources in most cases remain unused, we can emphasize insufficient knowledge of rules and procedures, as well as carrying out projects for drawing financial installments from pre-accession funds of the European Union. Administrative procedures of hiring are recognized by entrepreneurs from the Northern region as an influential barrier contrary to entrepreneurs from the Coastal region. Employment procedures are significantly made easier and harmonized with the EU rules and procedures. One significant step has been made in the field of procedures for employment of foreigners, as the economy of Montenegro attract many seasonal workers in the tourist sector and restaurants. Montenegro has harmonized regulations with the EU standards and adopted the procedure for issuing the uniform work permits and stay of foreigners. Requirements of pre-accession negotiations oblige Montenegro to harmonize its laws in the field of legal migration with the EU standards. This procedure represents the result of the Directives of the European Parliament and the Council 2011/98/EU of 13.12.2011. The procedure to employ foreigners is significantly made easier through issuing united work permits and temporary stay permits, reduction of administrative taxes, as well as reducing terms for authorities' decision-making. Employment procedures are unique in the territory of Montenegro and they are harmonized with the EU regulation. Therefore, perception of entrepreneurs from the Northern region, connected with the administrative procedures of hiring, can be interpreted as insufficient knowledge and the shortage of capability to adapt to rules and procedures from the cited field.

Entrepreneurs from the Northern region identify regional development of disparities as the barrier of bigger influence in contrast to entrepreneurs in the other two regions. Every region is characterized by features that are recognized as territorial capital, which represents together activated resources with the role in developing some territory. Territorial potential still in the form of unused resources represents a development chance for the Northern region. Potential for developing the Northern region lies in the fields of tourism, energy, renewable energy resources, hydro resources, production of organic food, agriculture, lumber industry, etc. Territorial capital can be observed as the result of human activity, but it can be

their generator, too. Therefore, human resources and territorial capital are found in the complex system of interdependency. So, human resources represent a very important element of territorial capital in reaching territorial development with a view of creating better living conditions. Investment in human resources by means of opening educational institutions, investment in life-long education and through trainings on EU programs is one of the priorities in developing the Northern region.

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