MYKOLO ROMERIO UNIVERSITETO

VIEŠOJO SAUGUMO AKADEMIJA

VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA (24)

Mokslinis žurnalas

PUBLIC SECURITY AND PUBLIC ORDER (24)

Research Journal

Kaunas 2020

VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA (24)
Mokslinis žurnalas

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Redaktorių kolegija patvirtinta Mykolo Romerio universiteto Viešojo saugumo akademijos Tarybos posėdyje 2018-12-10. Mokslinis žurnalas leidžiamas Mykolo Romerio universiteto Viešojo saugumo akademijoje nuo 2008 m. Kiekvieną straipsnį recenzavo 2 atitinkamos srities mokslininkai vadovaujantis anonimiškumo principu.
Autorių straipsnių kalba netaisyta.

Mokslinio žurnalo VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
Redaktorių kolegijos 2020 m. birželio 10 d. posėdžio nutarimu leidinys rekomenduotas spausdinti.
Visos leidinio leidybos teisės saugomos. Šis leidinys arba kuri nors jo dalis negali būti dauginami, taisomi ar kitu būdu platinami be leidėjo sutikimo. Žurnalas referuojamas EBSCO Publishing, Index Copernicus tarptautinėse duomenų bazėse

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinių straipsnių rinkinys
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Scientific articles

PUBLIC SECURITY AND PUBLIC ORDER (24)

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Each article is reviewed by 2 scientists, following the principle of blind reviewing.
Research Journal has been published since 2008. The research journal is listed in the EBSCO Publishing [International Security & Counter-Terrorism Reference Center], Index Copernicus International Database.

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MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinių straipsnių rinkinys
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ISSN 2029-1701
ISSN 2335-2035 (Online)
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PUBLIC SECURITY AND PUBLIC ORDER
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I DALIS

PART 1

MRU MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
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Research Journal

SU BAZINIU KARIO KURSU SUSIJUSIOS PSICHOLOGINĖS PATIRTYS: SAVANORIŠKAI NUOLATINĘ PRIVALOMĄJĄ PRADINĘ KARO TARNYBĄ ATLIEKANČIŲ VYRŲ PERSPEKTYVA

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DOI: 10.13165/PSPO-20-24-01

Anotacija. Viena ryškiausių pilietinės valios išreikštumo formų – savanorystė kariuomenėje. Pirmasis jos etapas – bazinis kario kursas, kuriame ugdomos pradinės kariškos vertybės. Pereidami į naują gyvenimo situaciją, žmonės gali patirti didesnį stresą ir nuotaikos pokyčius (Martin, 2006), tad adaptacija kariuomenėje gali kelti psichologinių iššūkių. Tyrimo tikslas – atskleisti savanoriškai nuolatinę privalomąją pradinę karo tarnybą (NPPKT) atliekančių vyrų patirtis, susijusias su baziniu kario kursu. Kokybiniame tyrime dalyvavo 4 vyrai (19-26 m. amžiaus). Visi tyrimo dalyviai turėjo būti savanoriškai atlikę arba atliekantys NPPKT ir jau praėję bazinį kario kursą. Duomenys buvo renkami individualaus pusiau struktūruoto interviu metodu. 4 orientaciniai klausimai sudaryti tyrimo autorės. Atlikta indukcinė teminė analizė pagal Braun ir Clarke (2006) rekomendacijas. Atskleistos keturios temos: 1. Kariuomenės nemalonumai ir erzinantys aspektai, 2. Tarpusavio ryšio su vadais ir kolegomis svarba, 3. Naujos kasdienybės reikšmė funkcionavimui kuopoje, 4. Entuziastingos paskatos tarnauti ir gauta nauda. Nors kariai patyrė sunkumų adaptuojantis ir vykdant tarnybą, pastebėtas laipsniškas karių ir vadų santykio gerėjimas, džiaugsmas kariuomenės klestėjimu bei asmeninių tikslų įvykdymas.

Pagrindinės sąvokos: nuolatinė privalomoji pradinė karo tarnyba, Lietuvos kariuomenė, šauktiniai, bazinis kario kursas, teminė analizė.

ĮVADAS

Privalomoji karo tarnyba ir savanorystė Lietuvos kariuomenėje

Vienas svarbiausių pilietinės gynybos elementų yra pilietinė valia ir pasiryžimas kovoti už šalies nepriklausomybę visais įmanomais būdais. Nuolatinė privalomoji pradinė karo

tarnyba (NPPKT) – „nepertraukiama, privalomoji pradinė karo tarnyba, kurią atlikdamas karo prievolininkas įgyja pagrindinį karinį parengtumą, pasirengia veikti karinio vieneto sudėtyje“ (LR Seimas, 2011, XI-1508). Jos grąžinimas Lietuvoje 2015 m. buvo sutiktas nevienareikšmiškai – visuomenė susiskaldė į palaikančius tokį sprendimą ir jam besipriešinančius (Dzimidaitė, 2018).

Savanorystė kariuomenėje – ryški pilietinės valios išreikštumo forma. Nors, grąžinus privalomąją tarnybą, visuomenėje sklandė prieštaringos nuomonės, 2015 m. iš 3010 tarnybai pristatytų jaunuolių 2133 pasirinko atlikti tarnybą savanoriškai. Ir tik 2017 m. atmetus savanorius ir pirmumą atlikti tarnybą išreiškusius asmenis, privalomai pašaukti 53 jaunuoliai (Pocienė, 2018 – remiantis Lietuvos kariuomenės Karo prievolės ir komplektavimo tarnybos duomenimis).

Karių savijauta ir potyriai karo tarnybos pradžioje

Bazinis kario kursas – tai 8 savaičių trukmės kursas, skirtas adaptuoti karius iš civilinio gyvenimo į karinį gyvenimą, išmokyti bazinių karinių žinių ir įgūdžių, kariškos disciplinos tarsi kariuomenės pradžiamokslyje (Lietuvos kariuomenė, 2016).

Karo tarnyba, ypač jos pradžia, gali būti sudėtinga ir dėl objektyvių gyvensenos keitimo ar sveikatos sunkumų. Nepaisant moralinių vertybių ir pasiryžimo, neretai kariai atlikti tarnybą ateina be specialios sveikatos ir jėgos parengties, dėl ko jiems kyla rizika susižaloti (Psaila, Ranson, 2017). Taip pat sunkumų gali kelti neįprastas miego grafikas (Crowley ir kt., 2012) bei maitinimosi pokyčiai (Williamson ir kt., 2002). Tyrimai rodo, jog dalies karių sveikatai ir kognityviniams gebėjimams gerinti pasiteisina tokios intervencijos kaip maisto papildymas vitaminu D, kalciu, geležimi (Lutz ir kt., 2019). Taigi karių savijauta tarnybos metu, o ypač – jos pradžioje, gali būti paveikta veiksnių, aprėpiančių tiek fizines traumas, tiek pokyčius kasdienybėje.

Atliekant karinę tarnybą, svarbus ne tik fizinis užduočių atlikimas, bet ir individualus psichologinis tarnybos patyrimas, kuris gali lemti tolesnę motyvaciją ir ryžtą panaudoti įgytus įgūdžius tikros grėsmės atveju, aukojant savo fizinę gerovę. Karo tarnyba dėl savo ypatingo veiklos ir gyvenimo būdo pokyčio gali paveikti karių psichikos būklę. Dėl to ypač reikšmingas veiksnys, tarnaujant kariuomenėje, yra tarnybos pradžia (Vileikienė ir kt., 2015). Pasak Martin (2006), pereidami į naują gyvenimo situaciją, žmonės patiria stresą ir galimai trumpus reaktyvius nuotaikos pokyčius. Asmenys, patekę į bazinį kario kursą, taip pat patiria stresą

griežtame psichikos ir fizinio lavinimo etape. Svarbu tai, kaip karys jaučiasi tarnyboje ir kaip jis vertina įvairius tarnybos aspektus (Vileikienė ir kt., 2015).

Psichologinė savijauta ir atmosfera tarnybos kontekste svarbi, kalbant apie karių būseną ir požiūrį į tarnybą. Didelę reikšmę, tarnaujant kariuomenėje ir sprendžiant, ar tęsti tarnybą, turi tai, kaip joje jaučiasi pats karys ir kaip jis vertina santykius bei komandiškumą. Reikšminga, kad psichikos sveikatos problemos yra viena iš dažniausiai pasitaikančių priežasčių bazinio kario kurso metu, lemiančių asmens psichologinio atsparumo sumažėjimą dėl patiriamo spaudimo ar priekabiavimo (Williams ir kt., 2016). Vertinant komandos ir vadų santykio kūrimą ir išlaikymą karo tarnybos kontekste, svarbu ir tai, kad į karo tarnybą ateinantys Z kartos atstovai pasižymi motyvacija siekti gerų tarpusavio santykių, palankiai žiūri į pokyčius (Seemiller, Grace, 2016), yra atviri ir siekia turėti aiškius veiklos tikslus (Chou, 2012). Dėl šių savybių ir jų skirtumo nuo vyresnei kartai priklausančių vadų galimi sunkumai, išlaikant saugų psichologinį klimatą griežtame kariuomenės kontekste.

Taigi bazinis kario kursas suteikia unikalią galimybę tyrinėti į naują aplinką patekusius asmenis ir išnagrinėti skirtingus psichologinius potyrius šiame trumpame, intensyviame prisitaikymo etape, taip pat atkreipiant dėmesį į savanorystės aspekto svarbą.

Šiuo tyrimu buvo siekiama susipažinti su šauktinių patyrimu baziniame kario kurse, vertinant tai giluminiu požiūriu. Siekta atskleisti autentišką karo prievolės pradžios koncepciją pirmojo rimto susidūrimo su kariuomene kontekste, t.y. baziniame kario kurse – etape, kuriame ugdomos pradinės kariškos vertybės.

Iškeltas **tyrimo tikslas** – atskleisti savanoriškai NPPKT atliekančių vyrų patirtis, susijusias su baziniu kario kursu.

Tyrimo klausimas ir uždaviniai: Atliekant indukcinį kokybinį tyrimą svarbu atskleisti autentiškas asmenų patirtis, pasiruošiant jas priimti kaip tokias ir nesistengiant susiaurinti iki išsikeltų uždavinių. Uždavinių formulavimo atsisakyta, kadangi tai gali nukreipti tyrėją ir tyrimo dalyvį priešinga kokybinio darbo koncepcijai kryptimi. Uždaviniai buvo pakeisti vienu apibendrinančiu tyrimo klausimu:

- Kokios yra savanorių vyrų psichologinės patirtys, susijusios su baziniu kario kursu NPPKT metu?

Tyrimo eiga ir imtis

Tyrime dalyvavo keturi vyrai nuo 19 m. iki 26 m. amžiaus. Visi tyrimo dalyviai turėjo būti savanoriškai atlikę Nuolatinę privalomąją pradinę karo tarnybą arba ją atliekantys šiuo

metu ir jau praėję bazinį kario kursą. Kadangi kokybiniuose tyrimuose nevertinami skirtumai, o siekiama sužinoti, kas bendro sieja unikalius dalyvių išgyvenimus, heterogeniška tyrimo dalyvių patirtis praturtina patį darbą ir jo koncepciją. Todėl papildomi atrankos kriterijai nebuvo taikomi ir nesiekta homogeniškumo.

1 lentelė. Tyrimo dalyvių dabartinis tarnybos statusas

	Tyrimo dalyvis (vardai pakeisti)	**Dabartinis tarnybos atlikimo statusas**
1.	Gustas	Nebaigta
2.	Justas	Baigta
3.	Arūnas	Nebaigta
4.	Paulius	Nebaigta

Interviu vykdyti 2019 m. balandžio mėnesį, šeštadienį arba sekmadienį, kadangi vis dar atliekantys tarnybą vyrai galėdavo susitikti savaitgaliais. Kontaktas su pirmuoju tyrimo dalyviu buvo užmegztas asmeniškai jį pažįstant ir pristatant planuojamo tyrimo koncepciją. Toliau tyrimo dalyvių imtis buvo surinkta naudojantis „sniego gniūžtės“ principu, pirmajam dalyviui paskleidus žinią apie tyrimą savo aplinkoje. Buvo laikomasi asmens duomenų apsaugos principų, atskleidžiant tyrėjai norinčiųjų dalyvauti tyrime kontaktinę informaciją tik gavus jų žodinį sutikimą.

Atliekant tyrimą buvo surengtas susitikimas su kiekvienu tyrimo dalyviu jam patogioje, netriukšmingoje vietoje, susitartu laiku. Buvo siekiama, kad pokalbio metu pernelyg arti nebūtų pašalinių žmonių. Su kiekvienu tyrimo dalyviu buvo aptartos tyrimo sąlygos: interviu įrašinėjimas diktofonu, anonimiškumas ir konfidencialumas, interviu eiga, informuota apie galimybę bet kada pasitraukti iš interviu, taip pat atsakyta į tyrimo dalyviams rūpėjusius klausimus. Prieš interviu visiems tyrimo dalyviams buvo pateiktos informavimo ir sutikimo dalyvauti tyrime formos. Visi interviu buvo skirtingos trukmės – intervale nuo 25 min. iki 1 val. 10 min. Visų interviu trukmė – 3 val. 2 min. 10 s. Interviu valandos transkribavimas truko ~ 8-9 val.

Tyrimo instrumentai

Duomenys buvo renkami taikant pusiau struktūruoto interviu metodą, t.y. interviu metu remtasi planu, kuriame numatyti pagrindiniai orientaciniai klausimai, jų pateikimo seka, tačiau numatyta, kad tyrimo eigoje tyrėjas gali papildomai užduoti plane neįrašytų tikslinamųjų klausimų. Dalyviui suteikta galimybė plačiau kalbėti apie savo patirtį.

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

Tyrimo dalyviams buvo užduoti keturi pagrindiniai klausimai: 1. Gal gali trumpai papasakoti apie save?. 2. Kas paskatino tave tapti savanoriu?. Aktyviai klausantis buvo skatinama tęsti pasakojimą linktelint taip pat sakant *(„Mhm“, „Taip“, „Kaip įdomu“ – kartojosi visų interviu metu)*. Buvo užduodami tikslinamieji klausimai *(„Kaip tu supranti ...?“, „Ką tau reiškia būti savanoriu?“).*3. Gal galėtum prisiminti ir papasakoti apie savo kasdienybę kuopoje, bazinio kurso metu?. Buvo užduoti tikslinamieji klausimai *(„O, kas buvo sunkiausia?“)*. 4. Gal galėtum prisiminti, kaip jauteisi pirmosiomis savaitėmis atliekant tarnybą? – tikslinamieji klausimai *(„Kas būdinga tavo minimiems santykiams?“*.

Duomenų analizė ir apdorojimas

Tyrimo dalyvių patirties nagrinėjimui pasirinkta teminės analizės aprašomoji strategija. Teminė analizė nėra susieta su konkrečia teorine sistema, todėl ji gali būti naudojama įvairių fenomenų nagrinėjimui (Braun ir Clarke, 2006). Konkretaus tyrimo atveju ji nukreipta į tam tikro reiškinio (fenomeno) patyrimo atskleidimą, kategorizuojant, apibendrinant, išlaikant ir užfiksuojant svarbiausias surinktų duomenų sąvokas bei idėjas (Braun ir Clarke, 2006).

Keturių interviu metu gauta medžiaga buvo apdorota ir analizuota, atliekant šiuos žingsnius:

1. Transkribuota pažodžiui. Siekiant kuo tiksliau perteikti visų interviu turinį, į dalyvių kalbos transkriptą buvo įterpiami laužtiniai skliaustai, kuriuose atsispindėjo įvairios dalyvių reakcijos (balso tonų pokyčiai, juokas) – pvz.: „*tie šokoladukai... tą visą moralę keldavo [nusišypso]*“. Pauzės ir ilgesnių pauzių trukmė žymėtos sutartiniais ženklais – pvz.: „...“ ir *[pauzė 5s.]*. Kalbos trukdžiai, pabrauktos ir paryškintos pabrėžtinai pasakytos teksto dalys pvz.: *„Kambariokai pradeda badyt tave žvilgsniais... piktžodžiaut... kol tu pasikeiti* **<...> *morališkai palaužia*** *“*. Transkripto skyryba paremta dalyvių kalbos intonacija ir darytomis pauzėmis. Iš viso surinkta 25 psl. gryno interviu teksto.

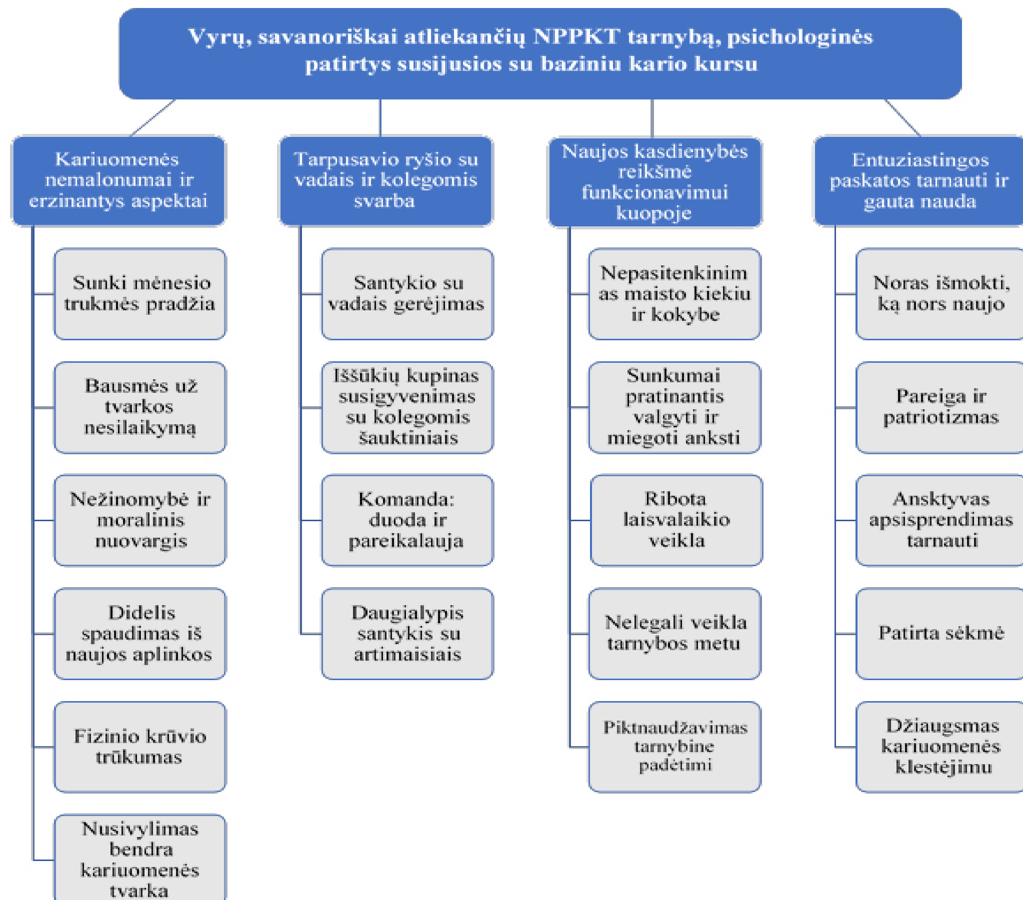
2. Buvo sugeneruoti kodai. Kiekvienas interviu tekstas buvo skirstytas prasminiais vienetais, jiems suteikiant kodus.

3. Vykdyta temų paieška, dar kartą skaitant, jungiant, grupuojant kodus ir jungiant juos į potemes ir temas. Potemės buvo grupuojamos, jei bent pusė vyrų (t.y. mažiausiai 2 iš 4) kalbėjo apie tą patį.

4. Temos peržiūrėtos, tikrinant jas pačias, jų formuluotes, kodų atitikimą, pergrupuojant, taisant, kuriant temų žemėlapį.

5. Tęsiant analizę ir siekiant patikslinti kiekvieną temą, sukurti tikslūs pavadinimai temoms ir jos apibrėžtos.

6. Temos aprašytos, atrenkant gyvus, ryškius pavyzdžius, juos analizuojant, pagrindžiant temų struktūrą, susiejant gautus rezultatus su literatūros medžiaga (Braun ir Clarke, 2006).



1 pav. Temų ir potemių schema

REZULTATAI

Darbo metu išryškėjo keturios pagrindinės temos: 1. Kariuomenės nemalonumai ir erzinantys aspektai, 2. Tarpusavio ryšio su vadais ir kolegomis svarba, 3. Naujos kasdienybės reikšmė funkcionavimui kuopoje, 4. Entuziastingos paskatos tarnauti ir gauta nauda. Kiekvieną iš jų sudaro atskiros potemės *(1 pav.)*.

1 tema. Kariuomenės nemalonumai ir erzinantys aspektai

Visi tyrimo dalyviai pasakodami apie Bazinį kario kursą paminėjo sferas, situacijas ar aplinkybes, kurios jiems buvo itin nemalonios, nepriimtinos ar priimtinos sunkiai, sukėlusios ryškias neigiamas emocijas, pasipiktinimą, nepasitikėjimą, o dažnai ir nuovargį. Tai plati tema

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apimanti nemalonius tarnybos aspektus pradedant nuo pačių pirmųjų savaičių sunkumų adaptuojantis prie radikaliai kitokios santvarkos ir būsimo gyvenimo būdo: *„<...> Mokomajam pulke... pirmos dienos buvo baisios [atsidūsta ir nusišypso]“.* *„Buvo pusantro mėnesio sunkesnis periodas <...>“.*

Taip pat visi tyrimo dalyviai minėjo bausmių taikymą nesilaikant numatytos tvarkos. Ypač dažnai buvo baudžiama už neleistiną maisto produktų laikymą: *„ <...> randa Coca Colos skardinę ar bandelę paslėptą, tai, kol ją suvalgo, visi kiti turi sportuot, šimtas kitų“*. Šios taktikos veiksmingumo ypatybes pastebėjo ir patys kariai, kai besikartojančios bausmės pradėjo veikti grupės tarpusavio santykius: *„Kambariokai pradeda badyt tave žvilgsniais... piktžodžiaut... kol tu pasikeiti* ***<..> morališkai palaužia****“*. Moralinio nuovargio aspektas buvo akcentuojamas trijų tyrimo dalyvių, vienas jų įvardino nuovargio kitimą: *„Būdavo paskui tas nuovargis... ne fizinis... bet moralinis...“*. Jis buvo siejamas ir su erzinančia nežinomybe dažniausiai dėl nežinomo dienos veiklos plano: *„Tu paklausi, ką veiksim po pusvalandžio – nežinau pamatysit, praeina valanda <...> už 5 min. būkit susiruošę <...> turi verstis per galvą <...> nežinai, kas bus vėliau, labiausiai kariuomenėj nervina nežinomybė“*. Dienotvarkės neišpildymas arba nesilaikymas sąlygodavo fizinės veiklos trūkumą bazinio kario kurso metu: *„Tas pats sportas, nu vat pagal dienotvarkę turėtume, o nėra, nespėjam. Tai krūvio niekad nebuvo per daug <...> kartais blogai, norisi jo tikrai daugiau“.*

Keturi iš keturių tyrimo dalyvių įvardino jaustą spaudimą iš naujos aplinkos. Disciplinos naujiems kareiviams įdiegimas buvo sunkus, varginantis – paremtas sustiprintu dėmesiu į kiekvieną detalę, elgesio niuansą: *„Labai griežtai vertino... viską. Spaudė, spaudimas buvo labai didelis iš visų vadų“*. Spaudimas disciplinai pasireiškė ir perteklinėmis bausmėmis: *„bausmės gal tokios už bet ką, <...> kad pajaust, kas yra kariuomenė...“.*

Bazinio kario kurso metu vyrai susidūrė su nemažai nusivylimų. Dažnai lūkesčius vertino kaip nepateisintus dėl ilgainiui silpnėjančios disciplinos, organizuotumo trūkumo, kas apėmė ir aplaidžius vadų pažadus: *„Kai buvo pirmos savaitės <...> pasakė, kad bazinis truks... 3 savaites <...> padaliny pasakė, kad truks... 3 mėnesius. <...> sakė, kad paleis kiekvieną savaitgalį namo, [padalinio pavadinimas]... taip nebūdavo“*. Į nepasitenkinimą bendrą kariuomenės tvarka įeina ir pastebėjimai apie disciplinos silpnėjimą – susijusį su valdžios rūpesčiu, kad gaunami skundai nepatektų į žiniasklaidą: *„ai, kas mane nuvylė, kad šauktinis turi labai daug teisių <...> mamos skambina, kad ten sūnus kažką <...> net mankštų ryte negalėdavom daryt, galvą apsukt, nes širdis kam sustos“*. Susipažįstant su kariuomenės veikimo principais

nusivylimas transformavosi į nepasitikėjimą sistema: *„ <...> ko mes neišnaudojam finansiškai jiems susitaupo <...> būdavo pasirašai už daugiau negu iššaudai"*. Tyrimo dalyvių nepasitikėjimą sistema sustiprino ir pastebėjimai dėl maitinimo organizavimo – *„Būna, keičiasi meniu ir naudoja vakarykštį maistą, nors to daryti negalima..."*.

***2 tema.* Tarpusavio ryšio su vadais ir kolegomis svarba**

Būrio vidinė atmosfera priklauso nuo jam priklausančių karių susibendravimo, kuris bazinio kurso metu buvo daugialypis ir kintantis. Taip pat išryškėjo labai svarbus komandos ir individualaus buvimo kariuomenėje koncepto persidengimas. kartais vieningai besibaigiantis asmeninių principų nugalėjimu.

Bazinio kurso pradžioje akcentuojamas neigiamas pirminis santykis su vadais dėl jų motyvacijos *„Vadai tai buvo visokie <...> kurie grynai demotyvuodavo ir, kad dėl pinigų jie čia"*. Keturių tyrimo dalyvių interviu atkleidė, kad yra aiškus santykių su vadais skirtumas prieš ir po bazinio kario kurso. Respondentų minimas vadų griežtumas suvokiamas kaip įprastas dalykas, kuris kartais turėjo piktdžiugos elementų: *„vien dėl malonumo... mes matydavom... kai mes dirbam... o jis šypsos...piktybiškai būdavo"*. Neigiamas požiūris į vadus sustiprėdavo tada, kai jie tarpusavyje nebūdavo vieningi, mokydami šauktinius. Buvo vadų, kurie ir nuo pirmųjų dienų bandė kurti kiek įmanoma, teigiamą santykį: *„draugiškai priima iš to kolektyvo profesionalių karių <...>"*. Draugiškumo perspektyvoje nebuvo pamirštama disciplina ir suteikiamas struktūruotas dėmesys: *„spaudimo gaudavom, bet būdavo žmogiškesni <...> ateidavo pasikalbėt kartais su mumis į kambarį, paklaust kaip sekasi ar nieko netrūksta"*. Trys tyrimo dalyviai išskyrė, kad besibaigiant bazinio kario kursui būrys susidraugavo su vadais ir geriausi santykiai yra šiam kursui pasibaigus *„o dabar santykiai su vadais nuostabūs kaip draugeliai žinai... ir pašnekėt gali, ir nusijuokt, ir vienas kitą per dantį patraukt"*.

Bazinis kario kursas buvo kupinas iššūkių susigyvenant su kolegomis šauktiniais. Šauktinių tarpusavio santykiai palaipsniui kito, dėl didelės naujų žmonių įvairovės: *„Nu po truputį išdrąsėjom, gerai sutariam, aišku būna tų pykčių... jau ilgai kartu esam"*. Prastai pažįstant vienas kitą kildavo pykčių dėl nesutampančių nuomonių ypač dėl nusibostančio ilgo buvimo kartu. Ryškus santykių disonansas tarp kolegų šauktinių atsirasdavo ir tada, kai išsiskirdavo tarnybos atlikimo tikslai: *„<...> sunkiausia ne fiziniai išbandymai, bet ta psichologija. Labai sunku dirbti su žmonėm, kurie ne savo noru atėjo"* - tai paminėjo visi tyrimo dalyviai. Ilgainiui vyrai adaptavosi prie asmenybių įvairovės ir sukūrė artimą, palaikantį vienas

kitą ryšį mažesnėse grupelėse: *„mes to proto neknisam, jau susitaikėm su tuo ir jį užginam prieš kitus"*.

Visuose tyrimo dalyvių interviu atsiskleidė komandos sampratos ir susiformavimo būtinybės aspektai, nes *„kariuomenėj nėra individualistinis darbas"*. Paaiškėjo, kad komandinis darbas bei gyvenimas tiek duoda, tiek ir pareikalauja. Komandinio darbo efektyvumui užtikrinti svarbūs sutampantys narių tikslai: *„aišku, man svarbu ir kolegos, kad norėtų to paties... tos garbės siekti"* ir dėl nesutampančių asmeninių tikslų, komandai sunku pasiekti rezultatą. Bendri tikslai skatina sukurti artimą ryšį: *„Nu mes kaip šeima buvom, maistu daliniesi"*. Komandinis darbas ir kasdienė bendrystė gali priversti ne savo noru aukotis dėl sistemos kuriamų komandos veikimo principų: *„mmm pradžioje buvo labai sunku <...> sąlyginai per kažkieno nenorą turi daryti daugiau negu pats turėtum ir tavo protas išneša, kad galėtum nedaryti <...> bet esi atsakingas už kitus... todėl tenka daryti daugiau nei, kad norėtum ir galėtum"*.

Trys vyrai kalbėjo apie santykius su artimaisiais tarnybos metu. Dviem iš jų šeimos narių ilgesys ir buvimas kartu buvo išties reikšmingas: *„tas namų ilgesys didelę įtaką daro, bet kažkaip pripratau po mėnesio <...> kažkaip visų vienodai pasiilgdavai, bet norėdavosi, kad brolis pamatytų, žinau, kad jam įdomu [pasako tyliai]"*. Šeimos narių reakcijos ir pritarimas norui tarnauti taip pat svarbūs, bet namų ilgesys ne visada būdavo stiprus: *„gal tėčio labiau laukdavau <...> bet prieš tarnybą pusę metų nuomojaus butą <...> per daug didelio skirtumo nėra"*.

3 tema. Naujos kasdienybės reikšmė funkcionavimui kuopoje

Bazinis kario kursas\ pirmiausia yra visai nauji kiekvienos dienos ritualai ir pareigos, kurių privalu laikytis ir išmokti kartu su dešimtimis kitų. Radikaliai kitoks paros ritmas, mitybos laikas, laisvalaikio pobūdis gali lemti pasipriešinimą. Tai automatiškai sąlygoja bandymus ieškoti ir pasinaudoti sistemos spragomis, net nusižengiant taisyklėms.

Nepasitenkinimas maisto kiekiu ir kokybe buvo akcentuojamas trijų tyrimo dalyvių. Kitokie valgymo įpročiai nei namuose, tarnybos pradžioje kėlė nemažai sunkumų - *„daug kas skųsdavosi, kad...jis... nėra kokybiškas... ar skanus"* . Tyrimo dalyviai išreiškė nepasitenkinimą maisto kokybe, nors ankstesnio šaukimo kariai dar prasčiau maitinosi – *„šaukimas prieš mane kardinaliai prastesnis buvo <...> mum pasikeitė, buvo tokių dalykų kaip burgeriai, picos <...> maistas buvo riebus, nesveikas... daug būlkų būdavo"*. Nepatinkantis maistas nevalgomas tol

kol tam yra pasirinkimas – pervargus išrankumas dingdavo: *„Išsidirbinėji tol kol grįžti po pratybų, išalkęs...tai varai dievą į medį kol gali <...> po pratybų valgai viską“* .

Sunkumai pratinantis anksti valgyti ir miegoti buvo svarbūs trims iš keturių karių: *„Ai va, kas dar sunku buvo, kad per visą laiką nepripratau, kad šeštą... vakarienė <...> ir jos žiauriai mažai“ „Pusę septynių, tai trisdešim penkios po einam valgyt, kas yra žiauriai anksti ir sunku priprast*“. Taip pat kariams būdavo sunku priprasti prie ankstyvo miego ritmo dėl įprasto naktinio gyvenimo: „*Anksti eit miegot, anksti keltis <...> naktibalda buvau <...> sunkiausia kelt būdavo“*.

Visi keturi tyrimo dalyviai įvardino tris pagrindinius, neišvengiamus laisvalaikio praleidimo būdus – knygų skaitymą: *„jeigu jau gauni dalį to laisvo laiko, skaitai knygas*“, naudojimąsi telefonu ir štabo išrinktų filmų žiūrėjimą: *„Kiekvieną ketvirtadienį žiūrim filmus... aišku juos išrenka štabas. Apie partizanus. Tinka, bet neįdomu, norisi rimtesnių – psichologinių“*. Labai svarbus telefono vaidmuo laisvu laiku, dėl galimybės bendrauti, nes laisvas laikas būdavo ribotas ir nusipelnomas. - *„Visi į telefonus būna sulindę. Kas ten draugėm rašo, skambina, filmus žiūri <...> telefonas tai tokia egzotika būdavo, nes negali naudotis <...> labai vertindavai“* . Kiek kitokia laisvo laiko koncepcija atsiskleidžia savaitgaliais – laisvas laikas tampa nebelaukiamas dėl užsiėmimų trūkumo, kadangi profesionaliems kariams savaitgalis: *„Tas ir būdavo sunkiausia, kai nepaleisdavo namo... ir savaitgalį nebūdavo kas veikt“*.

Neleistina veikla kariuomenėje yra vienas ryškiausių kasdienybės aspektų atsiskleidusių trijų karių pasakojimuose. Dalis karių stengėsi su tuo susitaikyti, dalis - priešintis sistemai. Labiausiai tyrimo dalyvių pabrėžta neleistina, bet labai aktuali veikla – maisto slėpimas, tai siejant su moraliniais komandiškumo aspektais. Kuopoje negalima turėti maisto dėl higienos reikalavimų, disciplinos ugdymo: *„Atveždavau kitiems nupirkęs <...> dalį paleidžia, dalį ne... tie šokoladukai... tą visą moralę keldavo [nusišypso]... sunku iš tikrųjų, atrodo toks menkas dalykas“*. Antras labai dažnas nusižengimas tarnybos metu – telefono naudojimas neleistinu laiku: *„Būdavau pasislėpęs, realiai kiekvienas karys taip daro už durų pasislėpęs ar tualete pasirašinėt... <...> realiai dabar sunku be jo“*.

Bazinio kario kurso metu kariai pradėjo pažinti sistemą, perprasti jos ypatybes ir kartais tuo naudotis savo tikslų įgyvendinimui: *„Žinai per tą laiką išmoksti apeit <...> ne, kad nepadaryt, bet, kad sau geriau būtų... žinai kaip viskas veikia ir... gal naudojies tuo <...> ne tai, kad piktnaudžiauji... nu žiūrint kokiais dalykais [nusišypso].* Apie piktnaudžiavimą

tarnybine padėtimi kalbėjo du iš keturių tyrimo dalyvių: *„Eini pas paramediką mūsų kuopos <...> tai jei būna sportas ir tą dieną nenori ar turi mini traumą <...> tai eini šnekiesi, viskas per šneką, per pokalbius...“*. Taip pat buvo pastebėtas kolegų šauktinių piktnaudžiavimas, kuris anot tyrimo dalyvių yra nepateisinamas *„esmė, kad apgaudinėdavo <...> sakydavo reikia pas dantistą kokį, o nuvarydavo į festivalį... naudodavosi“* (Justas, 153).

4 tema. **Entuziastingos paskatos tarnauti ir gauta nauda**

Nepaisant patirtų sunkumų bazinio karinio mokymo metu, tyrimo dalyvių interviu išryškėjo ir teigiama tarnybos pusė. Tai pirmiausiai apima savanorišką, ankstyvą ir sąmoningą visų keturių tyrimo dalyvių pasiryžimą tarnauti Lietuvai: *„Apie kariuomenę mąsčiau dar nuo mokyklos baigimo <...> visą laiką kirbėjo ta mintis, gal į karo akademiją, o gal atitarnaut tuos devynis ir žiūrėt... <...> nusprendė už mane valstybė ir nesigailiu“*. Vienas svarbiausių aspektų pradėti savanorišką tarnybą – noras išbandyti save tiek fiziškai, tiek psichologiškai, atrasti kažką naujo: *„Labai įdomios patirtys <...> civiliam gyvenime už visus tuos šaudymus daug pinigų turėtum sumokėti <...> sraigtasparniu skridau, šarvuotį vairavau. Tokie įdomūs iššūkiai kažkaip išbandyt save“,* bei žinoti kaip būti naudingu grėsmės atveju – *„anksčiau ar vėliau gali būti kažkoks konfliktas... tarp... kaimyninės šalies... ir norisi, kad būčiau naudingas“.* Pareigos ir patriotizmo jausmas taip pat buvo reikšmingas faktorius visiems tyrimo dalyviams, kalbant apie teigiamus tarnybos aspektus: *„Tu jauti tokią pareigą... mūsų kaip pareiga, konstitucija reikalauja ginti savo valstybę“*. Kalbant apie pareigą šaliai, išryškėja ir asmeninės garbės jausmo svarba: *„NATO kiekvienoj šaly, karys yra gerbiama profesija <...> [pauzė 7 s.], kad tu atsiduodi savo šaliai... tu ją sieki gint... kas benutiktų... dauguma tų karių siekia tos garbės...“*.

Apie sėkmės patyrimą bazinio kario kurso metu kalbėjo visi tyrimo dalyviai. Tai apėmė pasisekimą užduotyse, apdovanojimus: *„Už gerus mokymosi rezultatus buvo išleisti... iš šimto žmonių... keturi kariai [šypteli]... atrinko dar... taip, pasisekė“*. Sėkmingumo koncepcijai galima priskirti ir įgytas ar sustiprėjusias asmenines žmogaus savybes: *„Šiaip suvyriškėjau, surimtėjau, bent aš taip manau, <...> gal kažkiek padės darbuose tas konkretumas <...> tau liepia kažką... nesistengi aplinkui apeit imi ir darai [pauzė 9s.]“*.

. Galiausiai baigus bazinį kario kursą, du tyrimo dalyviai džiaugėsi klestinčia ir atsinaujinančia Lietuvos kariuomene, jos populiarėjimu**:** *„Džiaugiuosi, kad kariuomenė*

atsinaujina... nauji dalykai vis atsiranda <...> ir baterijų padaliny daugėja... pratybų daugėja <...> finansavimas kitoks, kuo toliau, tuo įdomiau daros tarnaut".

APTARIMAS

Šiuo darbu buvo siekta atskleisti autentišką savanoriško pasiryžimo koncepciją pirmojo rimto susidūrimo su kariuomenę kontekste – baziniame kario kurse. Šis pirminis etapas itin svarbus, nes jame yra ugdomos pradinės kariškos vertybės ir pasiruošimas. Atlikto kokybinio tyrimo išryškėjo keturios pagrindinės temos: 1. Kariuomenės nemalonumai ir erzinantys aspektai, 2. Tarpusavio ryšio su vadais ir kolegomis svarba, 3. Naujos kasdienybės reikšmė funkcionavimui kuopoje 4. Entuziastingos paskatos tarnauti ir gauta nauda (žr. *1 pav.*).

Kalbant apie nemalonius ir erzinančius aspektus, tyrime nustatyta, kad visiems dalyviams buvo labai reikšmingas pirmasis tarnybos mėnesis. Sunki, kupina streso tarnybos pradžia bandant prisitaikyti prie naujos tvarkos – vienas ryškiausių prisiminimų. Lietuvoje vykdytuose tyrimuose šis aspektas nėra akcentuojamas. Martin (2006) įvardina, kad adaptacijos sunkumus patiriantys kariai identifikuojami per pirmąsias 14 dienų ir patvirtina, kad kai kuriose bazinį mokymą atliekančiose karių grupėse pastebėtas svyruojantis streso lygis, kuris po 1 savaitės treniruočių trukmės buvo didžiausias. Galbūt per pirmąjį bazinio kario kurso mėnesį derėtų labiau atkreipti dėmesį į karių psichologinę būseną. Siekiant sumažinti adaptacijos laikotarpiu patiriamą karių stresą, galėtų būti nukreipiama kariuomenės psichologui ar organizuojami mokymai apie streso, nerimo valdymą.

Karių nepasitenkinimas gaunamu per mažu fiziniu krūviu buvo vienas labiausiai nustebinusių aspektų, apibūdinančių nemalonią patirtį bazinio kurso metu (NPPKT). Wood ir bendraautoriai (2017) numato galimybę sukurti ciklinę fizinio mokymo programą su skirtingais adaptacijos kriterijais, priklausomai nuo pradinių fizinių rezultatų (NPPKT). Toki būdu, jau tarnybos pradžioje, užtikrinant tinkamą visų karių galimybių realizavimą. Fizinis krūvis yra labai svarbus visam tolimesniam tarnybos vykdymui, jaučiant jo trūkumą arba perteklių, egzistuoja galimybės jį užtikrinti, bet realus to pritaikymas Lietuvoje turėtų būti nagrinėjamas išsamiau.

Kitas savo specifika įdomus tyrimo rezultatas – bausmių vykdymas. Kariuomenėje skiriamų grupinių bausmių priežastis – atsakomybės ugdymas komandoje ir individualiai. Dažnai taikytos efektyvios sportinės grupinės bausmės ypač už neleistiną maistą ar nešvarą kuopoje, individualios bausmės už neleistiną naudojimąsi telefonu. Analizuojant grupinių

fizinių bausmių specifiką: pvz.: šimtas karių sportuoja, kol vienas valgo (tas pas kurį randama neleistino maisto), bei tam tikrus vadų pasisakymus, galima daryt prielaidą, kad tokiu būdu stengiamasi ugdyti karių discipliną, komandiškumą ir fizinį pasiruošimą. Svarbu, kad kariai apie tai kalbėjo jautriai, akcentavo poveikį grupei. Buvo pastebėta, kad spaudimas ir visos grupės baudimas už prasižengimą yra itin stiprus ar net „morališkai palaužia".

Tarpusavio ryšys su vadais ir kolegomis šauktiniais yra labai svarbus funkcionalios komandos formavimui. Tyrimo metu pastebėtas nuoseklus, teigiamas vadų ir jaunų kareivių santykių kitimas. Ryškus santykių disonansas tarp kolegų šauktinių atsirasdavo ir tada, kai pratybų metu susitikdavo privalomai ir savanoriškai tarnybą atliekantys kariai, o darbas su nemotyvuotais šauktiniais įvardintas kaip vienas sunkiausių tarnybos aspektų. Šis aspektas galėtų būti tyrimų, susijusių su NPPKT karių gerove ateityje, objektas. Komanda laikoma svarbia karinės kultūros dalimi, o karinė socializacija prasideda bazinio kario kurso metu (Williams ir kt., 2016). Komandinis darbas ir kasdienė bendrystė gali priversti ne savo noru aukotis dėl sistemos kuriamų komandos veikimo principų.

Bazinis kario kursas yra pradinis laikotarpis, per kurį naujiems kariams yra suteikiamos labai ribotos sąlygos palaikyti ryšį su civiliu pasauliu (pavyzdžiui, kariai nenuosekliai išleidžiami namo arba tik nusipelnius skiriamas laikas pokalbiams telefonu) (Zelcer, 2012). Kariuomenė bando kruopščiai reguliuoti naujokų elgesį sukuriant aplinką, kurioje jie labiau vertintų tai, ką veikia ir ką gauna, taip ugdydama discipliną. Natūralu, kad neįprastai santvarkai žmonės priešinasi, pvz.: slėpdami saldumynus, kurių galimai norisi dėl jaučiamo cukraus stygiaus. Ribotos laisvalaikio praleidimo galimybės, neišpildytas savaitgalių laikas automatiškai sąlygoja bandymus ieškoti ir pasinaudoti sistemos spragomis, net nusižengiant taisyklėms. Apie tokią karių patirtį, Lietuvoje atliktuose tyrimuose nėra kalbama.

Šis tyrimas turi ir keletą ribotumų. Pirmiausia, tyrimo rezultatai galėtų būtų informatyvesni, jei tyrimo dalyvių imtis būtų didesnė. Antra, tyrimo pradžioje buvo jaučiama kokybinių tyrimų kompetencijos stoka renkant duomenis. Dėl patirties trūkumo užtruko duomenų analizė. Tyrimo privalumas – Lietuvoje šis tyrimas vienas iš nedaugelio kokybinės koncepcijos tyrimų susijusių su nuolatinės privalomosios pradinės karo tarnybos kariais. Jis leido gilumininiu požiūriu, išsamiai pažvelgti į gana siauros specifinės imties vyrų patirtis bazinio kario kurso metu. Ši tyrimo tema aktuali, nes tarnybos pradžia – ryškus pirminis kariuomenės patyrimas, kuris gali sietis su kario vėlesniu pasiryžimu įsipareigoti kariuomenei, rizikuoti savo fizinės gerovės resursais ar net savo gyvybe nacionalinės grėsmės atveju.

IŠVADOS

Tema „Kariuomenės nemalonumai ir erzinantys aspektai“ atskleidė, kad pirmosiomis savaitėmis kilo sunkumų adaptuojantis prie radikaliai kitokio būsimo gyvenimo būdo. Dėl nusižengimų skiriamos bausmės didina spaudimą kariams ir susilaukia negatyvaus jų dėmesio. Fizinio krūvio trūkumas ir pastebėtas korupcijos šešėlis skatino nusivylimą bendra sistema.

Temoje „Tarpusavio ryšio su vadais ir kolegomis svarba“ pastebėtas nuoseklus vadų ir karių tarpusavio santykių gerėjimas. Griežtas vadų elgesys gali būti traktuojamas kaip natūralus reiškinys, kadangi jie yra pagrindiniai autoritetai naujiems kariams. Karinio vieneto komandiškumas gali suteikti pagrindą kareiviams išvengti neigiamų psichologinių potyrių, padidinti komandos našumą net ir tarnaujant ne vienodų paskatų vedamiems.

Temoje „Naujos kasdienybės reikšmė funkcionavimui kuopoje“ atsiskleidė neįprasta bazinio kario kurso metu patiriama kasdienybė, pasižyminti ankstyvo maitinimo ir miego adaptacijos sunkumais. Ribotos laisvalaikio praleidimo galimybės, neišpildytas savaitgalių laikas automatiškai lemia bandymus ieškoti ir pasinaudoti sistemos spragomis.

Tema „Entuziastingos paskatos tarnauti ir gauta nauda“ atskleidė teigiamus bazinio kario kurso aspektus. Šauktiniais savanoriais į Lietuvos kariuomenę daugiau linkę ateiti patriotiškai nusiteikę jaunuoliai, dar neturintys įsipareigojimų šeimai, mokslams ir profesinei veiklai. Esminiai savanoriškos tarnybos aspektai – žinoti, kaip elgtis karinės grėsmės atveju, noras išmokti ką nors nauja, siekti savirealizacijos. Išreikštas džiaugsmas pasisekimu karinėse disciplinose ir visa atsinaujinančia kariuomene.

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PSYCHOLOGICAL EXPERIENCES DURING BASIC ARMY TRAINING: THE PERSPECTIVE OF VOLUNTEERS IN THE REGULAR COMPULSORY INITIAL MILITARY SERVICE

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Summary

One of the most prominent forms of expressing civic will is volunteering in the military. The first stage of volunteering is a basic combat training course that helps develop basic military values. As people move into a new life situation, they may experience greater stress and mood changes (Martin, 2006), therefore adaptation in the military can pose significant psychological challenges. The aim of this work is to reveal men's experience of basic combat training as volunteers in the Lithuanian regular compulsory initial military service. This qualitative study involved 4 men (age 19-26). All participants in the study were required to have completed or be undergoing training and have already completed the Basic combat training course. Data were collected using an individual semi-structured interview method. 4 reference questions were compiled by the research authors. An inductive thematic analysis was performed according to the recommendations of Braun and Clarke (2006). Four topics were revealed: 1. Troubles and frustrations in the military service, 2. The importance of communication with commanders and colleagues, 3. Importance of a new daily routine for functioning in the unit, 4.

Enthusiastic incentives to serve and perceived benefits. Even though solders encountered difficulties in adapting and performing their service, some observations revealed gradual improvement of soldier-commander relations, the soldiers' joy for the prosperity of the military, and fulfilment of personal goals.

Keywords: regular compulsory initial military service, Lithuanian Armed Forces, Lithuanian military, conscripts, recruits, basic combat training, thematic analysis.

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

INCREASING EMPLOYEES' UNDERSTANDING ABOUT SUSTAINABILITY IN ORGANIZATIONS

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DOI: 10.13165/PSPO-20-24-02

Annotation. Employees' sustainability awareness is a significant element in the implementation of sustainability in organizations. Employees are the main facilitators of sustainability in organization, thus it is crucially important that employees could develop deeper understanding the philosophy of sustainability. This would inspire employees to look for innovative and creative ideas how to adapt sustainability concept according to the demands of organizations. The pilot survey was done to define employees needs for better understanding of sustainability and its philosophical background. Raising employees understanding about sustainability and its philosophy will be discussed in the paper. Research problem – employees don't have sufficient knowledge about sustainability in organizations. Research aim – to analyse sustainability philosophy and employees' understanding about its importance in organizations. Research methods – systematic scientific literature analysis, pilot survey. The results of the survey showed that employees from private and public organizations prefer to raise their sustainability understanding through training in similar programmes. The findings of the survey demonstrated the importance of sustainability training for employees.

Keywords: employees; sustainability; organizations; sustainability philosophy; training.

INTRODUCTION

Sustainability awareness is a big challenge for modern society. At the same time each organization seeks for sustainability in all fields of their activities. Therefore, it is very important to foresee what kind of knowledge will be useful for sustainability in organizations. That is why it is necessary to raise employees' understanding about sustainability and its philosophy.

For a successful organizational performance, it is not enough to trust managers' intuition or feelings of businesses, but it is important to find the strategies that would allow all employees to show their abilities to take responsibilities on sustainability. This kind of responsibility is

one of the successful management functions. The manager has to encourage and support employees, raise their understanding of the value of sustainability, notice employees' abilities, listen to their problems and help to solve them. Successful managers know about sustainability concept and are able to inspire employees for the increased responsibility for better understanding about sustainability in organizations. Therefore, employees can rely on managers, trust them and not to resist them. Sustainable thinking is the non-stop enquiries if every activity will be useful for organization in the long-term future. It is the ability to make right decisions, to understand the sustainability holistically, to interpret it by using analytical thinking and creativity. Success to reach the goal depends on leadership, strategic thinking, purposefulness and collaboration (DuBrin,2018).

Moreover, employees' personal development training for positive belief in one's abilities and learning about sustainability can ensure acquisition not only of new information and skills, but can also enable organizations to set and reach goals. The ability to collaborate, to work in group assisting each other, to communicate effectively may guarantee sustainability in organizations. During the processes of cooperation, a lot of problems arise due to communication culture. Employees, if they are sustainability skillful, ensure positive psychological atmosphere and good working environment in organizations. At the same time manager's psychological support is very important in overcoming stress, negative feelings and emotions as well as manager's encouragement, enthusiasm is crucial, too. Sustainability and compatibility are the potential of members of the group to work together through cooperation, precision, and the ability to combine their actions (DuBrin,2018). In a group it is highly significant that people would complement each other because it makes a group stronger, more valuable and united; what is more, these elements could make a big impact on the sustainability implementation in organizations. For this reason, this paper will discuss about the importance of employees' understanding about sustainability philosophy and sustainability training directions.

Theoretical background

SOME ASPECTS OF SUSTAINABILITY TRAINING PHILOSOPHY

For the time being our society is undergoing great changes, through the transformation into a new Industry 4.0 environment which aims to create new knowledge, moral values as well as the need to learn, to understand and to empower. For this reason better communication would

increase productivity in the workplaces with the use of innovative methods and modern technologies. In order to prove the necessity and significance of gaining knowledge about sustainability, three alternatives of traditional philosophical trends are specified:

- philosophical trend, emphasizing personality‘s individuality, creativity and self – realization, is based on the ideas of humanism and holism philosophy and theories;
- philosophical trend, concentrating on the requirements of labour market, is based on the ideas of subjective idealism, biheviorism and pragmatism philosophy and their theories;
- philosophical trend, stressing education of constructive and strategic thinking as well as active citizenship, is based on post modernism, social constructivism, progressivism and cognitivism philosophy and their theories.

The founders of humanism theory (Maslow,1970, Rogers, 1980), influenced by the ideas of existentialism philosophy, the principles of humanistic tradition transferred into contemporary psychology and sociology. Philosophical trend of humanism seeks for and reveals the virtues of personality, physical and mental health, inner beauty and emotions, meaningful realization of one's ideas in life. Humanistic theory of human/personality development accentuates individual's search for freedom and self – actualization, the development of personal abilities and positive attitudes towards other people. From the positivistic point of view personality is seen as knowing one's own advantages and complexities, and, having mastered freedom and dignity, feels responsibility in finding true meaning in life. Philosophical trend of humanism points out that positivistic outlook prevails and, therefore, every person has positive attitudes towards her/his state of mind, emotions and actions.

Moreover, philosophical trend of idealism stresses the necessity to create the atmosphere of considerateness for all and each individual in order to enhance personality development, to build up strategies so that every person could freely employ their experiences, reveal and/or nurture their talents at their full potential. Drawing on F. Capra and G. Pauli (1995) who emphasize that sustainability is a holistic process which requires unifying dialectical bond between theory and practice this proposition means that the process of sustainability undergoes a constant change and evolution and that the formation of sustainable society depends on the communication on sustainability in all fields of life. Therefore, the process of sustainability should be linked to all members of society. When every member of society feels responsibility

and duty, in this way it will be possible to adjust to the requirements and challenges of the contemporary world in order to grow both personally and professionally. This is a continuous process which lasts in all spheres of life unceasingly.

However, having concentrated on the subjective aspect of personality growth, and focusing on the philosophical trend, which is based on humanism and idealism, we could be trapped while ignoring an objective aspect of life, that is the dimension of the labour world and its reality. Therefore, if the methodological background of employees training in organizations is based towards the development of personality and his/her talents, there could arise contradiction between those two subjective and objective aspects. Consequently, when a person starts working career, she/he could face mismatch and therefore, the lack of knowledge about the requirements of a labour market could lead to serious misunderstandings and disappointments.

In order to avoid those possible dangers and mistakes, the focus should be paid to a philosophical trend related to sustainability, the trend which originates from the philosophical theories of post modernism, pragmatism and behaviourism. Every person makes order within the chaos of her/his own experience and data while forming reality. Practical activities are explained merely in a subjective way constructing reality and justice. The ideas of pragmatism philosophy laid grounds for the formation of pragmatism trend in training for sustainability which aims to educate a proactive and procreative person.

Post modernism philosophy pays a great attention to dialogical belonging for cooperation. The ideas of post modernism stress the importance of rationality of human activities, to the usefulness of positivism and epistemology for the benefits of mankind. Philosophical trend, which focuses on cooperation for problems solving and competences development, originates from constructivism and cognitivism philosophies. Philosophical trend, orientated towards personality/human development, emphasizes the realization of human capacities which could be enhanced while training, whereas sustainability education model orientated towards productivity focuses on the importance of the regulation of person's, labour world and environment relationships. Philosophical trend, directed towards cooperation while solving different problems, aims to mitigate conflicts and contributes the aforementioned sustainability training strategies with good practice for the sustainability awareness development.

According to the representatives of social constructivism P.L. Berger and T. Luckman (1966) the perception of the world is related to the social environment and doubt in all systems

of thought. Social realities are constructed while cooperating with people of different political systems, nationalities, and religions, therefore a new constructive approach to reality and knowledge formation is created. Philosophical trend of progressivism emphasizes the interrelations between the social problem solutions and dynamic aspects, with the concern how quickly those social issues are solved. An experiential model of sustainability training is prioritized concentrating on active participation while seeking to find a solution to different social problems in a dynamic way. A great attention is paid not to the internalization of moral attitudes and to the foreseen goals, but to the constantly changing reactions towards the modules of social problems. In this manner the question is raised in order to find a necessary solution which could gratify all the members of a specific constructed situation. This trend is based on the theories of cognitive psychology and their assumptions that cognition, as the element of mental structure, organizes personal experiences of the world structurally and internally.

Cognition filters the information about person's understanding on sustainability, environment, gained experiences and the meanings which are assigned to them by a person. A similar trend is signified by A. Bandura (1998), his social cognitivism theory is formed as an alternative to the traditional postulates according to which person‘s activity is based on inner motivation (needs, self – realization) or outer factors (encouragement, fear). Drawing on social cognitivism person's behaviour is neither influenced by inner, nor outer factors, but is determined by dynamic interrelation of personal, environmental and behaviouristic factors. According to the theories of social cognitivism a person is independent, proactive when striving to achieve specific goals in life which are related to social, economic and personal goals. A person sets means and standards for the achievement of the goals, behaves appropriately, controls oneself, shows awareness, concentration and will. Consequently, without certain strategies and human potential little could be done and achieved, therefore, based on the analyses of philosophical theories and postulates, it could be stated that knowledge about sustainability increases employee's cognitive, affective and proactive potential. In this complicated world all philosophical theories are important and needed to be incorporated into employees' training processes. Dialogical belonging and cooperation could be the means for this construction of new knowledge about sustainability creation and adaptation in organizations.

The links between sustainability and social change are reasonably clear. Employees' training is not the solution to our environmental predicament (Huckle, 2014), but appropriate forms of training can assist the struggle to raise employees' awareness about sustainability.

EMPLOYEES' TRAINING ON SUSTAINABILITY IN ORGANIZATIONS

The idea of sustainability is usually linked to world ecological problems, environmental protection issues and the influence of society and culture of organizations (Petkeviciute, Balciunaitiene, 2019; Ivanova, Ignatjeva, 2018).

Therefore, sustainability is related to environmental, economic, institutional and social progress, which aims to empower employees to assume responsibility for creating a sustainable development in organizations. However, sustainability idea is notoriously difficult to grasp. Multidimensional, encompassing social, ecological and economic theories, policies and practice, it can be a maze of complexity and contradiction. Humanism, tolerance to diversity, respect to differences and varieties, and creating equal possibilities is in the centre of all postulates. The Official Agenda for Sustainable Development adopted on 25 September 2015 outlines the 17 Sustainable Development Goals, and its 17th goal is *sustainability which aims to strengthen the means of implementation and revitalize the global partnership for sustainable development*. (The Official Agenda for Sustainable Development, 2015).

1. However, the implementation of those principles is a big challenge for all organizations. It is necessary that employees need to have clear understanding of sustainability. On the other hand, a deeper understanding will help to create new ideas of sustainability and its implementation in organizations. The United Nations organization is responsible for sustainable development implementation at a global scale. Sustainable Development decade 2020 – 2030 programme (The 2030 Agenda for Sustainable Development and SDGs.) the importance of sustainable development values which are necessary elements of sustainability according to which a sustainability skilled person should:
   - understand the need for change to a sustainable way of doing things, individually and collectively;
   - have sufficient knowledge and skills to decide and act in a way that favours sustainability;
   - to be able to recognise and reward other people's decisions and actions that favour sustainability.

The principles of sustainable development uttered (The Earth Charter Initiative, 2006) and by the Centre for Eco Literacy, (Cultivating 20 years of Ecoliteracy, 2015) are as follows:

- the ability of strategic thinking;
- the ability to think critically, to solve problems creatively;
- a commitment to set goals and cooperate with each other;
- equity, justice and respect for all people;
- predict the consequences of actions and decisions;
- feel kinship with the natural world and invoke that feeling in others.

All employees should work together on the shared values and goals of organizations. One of the characteristics of sustainability in organizations is communication - the ability to work in a team, to respect others with different backgrounds, to inspire and motivate others to behave according to the principles of sustainability.

Sustainability practice is based on peoples' direct engagement with real-life situations through their specialities, experience and a great motivation to improve and even to change the existing working environment. The development of sustainability philosophy understanding could be effective employees' training in organizations.

It is the main point of an open-minded manager who has high quality rhetoric for persuasion about sustainability.

- The most important component behind sustainability is the development and discovery of solutions. It is our responsibility to identify problems and work on the sustainable solutions, e.g. the use of bamboo to produce paper and other products as bamboo is capable of growing and renewing itself much more quickly than trees.
- For humans, sustainability is the potential for long-term maintenance of well-being. That‘s why it‘s so important to get more knowledge about ecology or environmental management, i.e. be sustainably literate.
- For some employees sustainability knowledge is the way to preserve their mother tongue, because it's the way to save our history and culture.
- Unfortunately, millions of people share the same outlook of living: "here and right now ", that means they do not care about future and the effects of such mentality. Sustainability philosophy understanding can help change this point of view.

- Sustainability understanding is necessary to acquire skills to save the planet from destruction.
- Sustainability understanding enables us to identify problems and find solutions to the issues that may negatively affect the environment and the future generation.
- Sustainability understanding is a specific field of knowledge, ability to perform the tasks and actions.
- Sustainability understanding is very important in every human's life because it enables them to navigate in our environment, to interact with other respectfully and be useful to the society.

Sustainable development principles emphasize the equality of all three dimensions: economic, environmental and social. profit, planet and people.

According to the Figure 1 it could be a basis of sustainability development in any organization. Furthermore, based on the principle of equality it can be stated that correlation of the three dimensions is the background of harmonious living and cooperation between employees in organizations (People, Planet & Profit – Triple Bottom Line. The Ethical Measure of businesses, (2017).

Figure 1. Profit, People and Planet matrix of sustainability in organizations (People, Planet & Profit – Triple Bottom Line. The Ethical Measure of businesses, (2017).

It is highly significant to develop employees' sustainability understanding, if successful results are wanted to be achieved in organizations. Employees' training for sustainability can be described as the totality of knowledge, skills, abilities, moral values and regulations, which are essential for sustainability goals in organizations. They can be described as some level of: sustainability competence which is getting more and more valuable nowadays because employees implement the advantage not only in working environment, but also in private life. It is possible to distinguish important directions for sustainability training. It is significant to develop leadership; strategic thinking, purposefulness and collaboration for sustainability. Accepting changes and innovations; learning and getting better at what person is doing, control of knowledge and cooperation. Leadership increases employees' motivation, initiative, empathy and self-expression. According to authors D. M. Iwaniec; D.L. Childers; and A. Wiek (2014) accepting changes and innovations, reaching the goal; learning and getting better at what person is doing; working in a group; communication and control of conflicts will enable employees to facilitate sustainability awareness in organizations (Iwaniec, Childers, Wiek, 2014).

The aim of the study is to define employees' opinion about the importance of different training directions for sustainability.

METHODOLOGY

The pilot research using a questionnaire in e- versions, which was designed using Likert scale (1-5) to find out the opinion of private and public sectors employees' preferences for training about sustainability, and which was placed in various private and public organizations of Lithuania. There were 80 respondents, who represented various organizations, and answered four questions expressing their opinions about leadership, strategic thinking, purposefulness and collaboration for different training directions of sustainability.

In order to find out employees' opinion of the importance of training trends on sustainability, employees were asked to specify what kind of trends they would like to increase about understanding of sustainability. The findings were amended by using MS Excel and the descriptive analysis. Each direction for sustainability understanding was evaluated using Likert scale (1-5).

RESULTS AND DISCUSSIONS

The results of the survey about employees' training directions for sustainability

The results showed that employees of both - companies and public corporations share similar opinions because the differences between these two sections did not differ ($p>0,05$) and are statistically unimportant. Furthermore, the research aimed to define employees' preferences about training directions on sustainability (Figure 2). It was found out that employees who work in companies or public corporations have nearly the same preferences for sustainability training: *leadership, strategic thinking, purposefulness and collaborative*. The respondents' answers to four questions varied from 2 to 4 without signifying any of the aforementioned directions as more important. Therefore, it could be stated that it has no difference in what kind of company employees work and they choose the same trends for gaining deeper understanding on sustainability, using Likert scale (1-5).

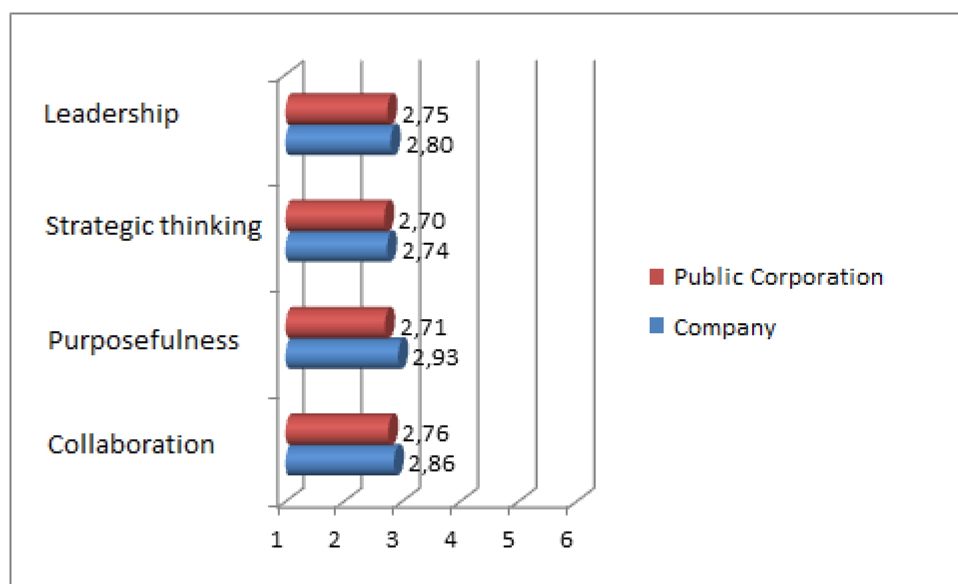

Figure 2. Employees' opinion about the training trends for sustainability.

In a scientific literature is said that sustainability in the organizations depends on the actions of employees. That is why the goal of the analysis was to define the opinion of employees about sustainability training trends in private and public companies (Figure 2).

When the analysis of the results was done, it was clear that there are no statistically important differences between findings. Therefore, we can claim that both employees of the companies and public corporations equally define the importance of training trends which are

leadership, strategic thinking, purposefulness and collaboration. These findings could be used for tailoring training programmes about sustainability for employees in organizations.

CONCLUSION

It is very important to raise employees' understanding about sustainability in modern organizations. If employees have sustainable thinking skills, they gradually increase positive psychological atmosphere and good working environment in organizations.

At the same time manager's psychological support could be grounded on sustainability philosophy which would help to overcome stress, negative feelings and emotions. Sustainability and compatibility are the potential of members of the group to work together through cooperation, precision, and the ability to combine mutual actions.

Therefore, appropriate forms of training can assist the struggle to raise employees' awareness about sustainability of organizations.. Dialogical belonging and cooperation could be the means for this construction of new knowledge about sustainability creation and adaptation in organizations.

The most important aspects for the development of sustainability philosophy understanding could be effective employees training in organizations.

One of the characteristics of sustainability in organizations is communication - the ability to work in a team, to respect others with different backgrounds, to inspire and motivate others to behave according to the principles of sustainability philosophy.

Sustainability training in organizations is based on employees' engagement with real-life situations through their activities for the improvement and development of the existing working environment. One of the most important aspects for the development of sustainability philosophy understanding could be effective employees training in organizations.

There was done a pilot survey about employees' preferences on training trends about sustainability. The results of the survey show that there are no statistically important differences between findings. Therefore, we can claim that leadership, strategic thinking, purposefulness and collaboration are the most important sustainability training trends in both private and public companies.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

RELATIONSHIP BETWEEN PREVENTION OF WASTE AND *ZERO WASTE* MOVEMENT

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DOI: 10.13165/PSPO-20-24-03

Annotation. Climate change, the population of the earth, consumption, decrease of natural resources are the factors that force the search for the most effective environmental solutions. Waste prevention and management policies focus on finding solutions that deliver real results in reducing resource use and avoiding environmental pollution by waste. EU waste prevention and management policy is based on a ranking of priorities: prevention; preparing for re-use; recycling; other recovery, e.g. energy recovery; and disposal. The article aims to reveal the content of waste prevention and its main features. The analysis of legal regulation and national waste prevention policy showed the state's priority tasks in the field of waste prevention. The article briefly discusses the Zero Waste movement, which has been known in some countries for more than a decade and has recently becoming increasingly popular in Lithuania. The article raises the question of whether waste prevention and Zero Waste are the same. Have national regulations and waste prevention and management policies not been stuck in the framework of long-term strategies and are friendly to new ideas? The article concludes that the Zero waste movement in Lithuania can be considered a social phenomenon for the time being, which has no legal basis to consider it as an official part of waste prevention. Despite the lack of state attention to the Zero Waste movement, its objectives clearly coincide with those of waste prevention.

Keywords: environmental law, waste managment, prevention of waste, Zero waste.

INTRODUCTION

Household, construction, food production, electronics and other solid waste management is a universal issue affecting all people in the world. Individuals and governments make important decisions about consumption and waste management that affects their health, productivity, and cleanliness of communities everyday. Poorly managed waste is contaminating oceans, clogging drains and causing flooding, also have a health concerning effects, such as transmitting diseases via breeding of vectors, increasing respiratory problems through airborne particles from burning of waste, harming animals that consume waste without knowing it, and affecting economic development such as through diminished tourism. Unmanaged or

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

improperly managed waste from many years of economic growth requires urgent action in all levels of society.[1]

Article 3 of Directive 2008/98 / EC defines waste as any substance or object which the holder discards or intends or is required to discard. At all levels, waste is associated with the loss of resources (materials, energy) and waste management inevitably affects the environment (e.g. landfills cover large areas of land, landfills pollutes air, water and soil, and incineration emits air pollutants). The long-term goal of the policy is to reduce the amount of waste generated and, where it is unavoidable, to encourage the use of waste as a resource and to increase its recycling and safe disposal. It is safest to avoid waste as much as possible for the environment and human health, so it is understandable that states want to promote waste prevention measures. Prevention measures can be routine, provided for in long-term documents forming state waste prevention policies. However, the global Zero waste movement shows that alternatives are being sought. The questions are, is waste prevention and Zero waste the same phenomenon? Is the Zero Waste Movement just one of the waste prevention measures? Is it a viable social movement involving individuals, businesses and even states? Does the national legal regulation establishing waste prevention and waste management create preconditions for the expansion of the Zero waste movement in Lithuania?

A.Pasvenskienė and B.Pranevičienė[2] studied the problems of waste prevention, other authors only occasionally discussed the aspects of waste prevention. The movement of zero waste in the context of local waste prevention at the national level is not disclosed by legal scholars; foreign scholars discuss the phenomenon of Zero waste in various aspects of social life: Laura R. Crossley[3], Lili Liu, Yangyang Liang[4] et al., Natasa Petrovic, Dragoslav Slovic,

[1] Silpa Kaza, Lisa Yao and ect., „What a Waste 2.0. A Global Snapshot of Solid Waste Management to 2050“. *International Bank for Reconstruction and Development* / The World Bank, Washington, DC 20433, (2018):295. www.worldbank.org

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[4] Lili Liu,· Yangyang Liang, · Qingbin Song, · Jinhui Li, „A review of waste prevention through 3R under the concept of circular economy in China“. *J Mater Cycles Waste Manag* (2017) 19:1314–1323.

Marko Cirovic[5], S. Lehmann[6], Elizabeth Allison et al[7]. However, it should be emphasized that the issue of the relationship between waste prevention and Zero waste is not given enough attention by scientists. These circumstances determine the relevance of the topic and presuppose the need for a more detailed study of the relevant aspects of legal regulation and practical problems.

The aim of the research is to reveal the peculiarities of waste prevention and Zero waste concepts in order to determine their relationship. To achieve this goal, the article discusses the content and features of waste prevention and reveals the concept of Zero Waste at the national level. **The object of the research** is the legal regulation establishing waste prevention and the peculiarities of the development of Zero Waste as an environmental solution to prevent waste.

Research methods: legal acts regulating waste prevention were researched by the method of document analysis; the peculiarities of the legal substantiation of the Zero Waste movement are assessed by the analytical-critical method; the method of analysis of the scientific literature is used to evaluate the findings of research related to the significance of Zero waste.

CONTENTS OF WASTE PREVENTION

The World Summit on Sustainable Development (Johannesburg Declaration on Sustainable Development) sets out the goal of "Preventing and minimizing waste and maximizing reuse, recycling and use of environmentally friendly alternative materials, with the participation of government authorities and all stakeholders, in order to minimize adverse effects on the environment and improve resource efficiency, with financial, technical and other assistance for developing countries" (Art. 22)[8]. National legislation aims to establish measures to protect the environment and human health and to prevent or at least reduce the harmful effects of the generation and management of waste, as well as to create legal preconditions for reducing the overall impact of resource use and increasing its efficiency. All EU waste prevention and management policies are based on a prioritization of priorities, i.e. the legal framework

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establishes the following waste hierarchy: prevention; preparing for re-use; recycling; other recovery, e.g. energy recovery; and disposal[9].

Prevention is understood as measures taken before a substance or product has become waste and which reduce the amount of waste, including through the re-use of products or the extension of the life cycle of products; reduces the negative impact of the generated waste on the environment and human health or the amount of harmful substances in materials and products. Waste prevention is a key objective of waste management policy[10].

In Lithuania, waste prevention policy is reflected in the State Waste Prevention Program[11]. The program is divided into two types of waste prevention measures: (a) waste prevention measures in industrial and commercial establishments which have an impact on the design, manufacture and distribution of products; (b) waste prevention measures that may affect the consumption and use phase of the products.

The first group of measures include the following: (a) integrated pollution prevention and control, which are key measures to promote the introduction of cleaner technologies and which should help to ensure that the best available techniques are used to achieve a high level of environmental protection; (b) plans for the conservation of natural resources and the reduction of waste (those responsible for obtaining environmental permits are required to draw up and implement a joint environmental action plan, including measures to reduce waste); (c) promotion of cleaner production and waste prevention projects (e.g. soft loans); (d) ecodesign of products (life cycle analysis of product development and systematic application of environmental protection requirements during product development); (e) restrictions on harmful substances (e.g. in packaging, electronic equipment, vehicles, batteries, accumulators); (f) environmental management systems (an indirect but effective means of promoting waste prevention, as the establishment of systems would require businesses to look for ways to implement waste prevention measures or to ensure that waste management is prioritized); (g)

[9] *Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives. https://eur-lex.europa.eu/legal-content/LT/TXT/?uri=CELEX%3A32008L0098*, 4 straipnis. Article 3 of the Law on Waste Management of the Republic of Lithuania provides an analogous order of priorities applied in the national field of waste prevention and management: prevention; preparation for re-use after separation of products or their components unfit for re-use; recycling after separation of waste unsuitable for recycling; other uses, such as energy recovery from waste, not suitable for recycling or other uses; disposal after separation of suitable waste for recycling or other recovery. https://e-seimas.lrs.lt/portal /legalAct/lt/TAD/TAIS.59267/asr

[10] Directive 2008/98/EC, *supra note 10*

[11] „Valstybinė atliekų prevencijos programa, Lietuvos Respublikos aplinkos ministro 2013 m. spalio 22 d. įsakymas Nr. D1-782“, LRS, https://eseimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.458655/asr

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

other measures, such as: event "Lithuanian Product of the Year" (great significance for waste prevention).

Another group of waste prevention measures consists of: (a) environmental labeling; (b) the organization of green public procurement; (c) public information and education on waste prevention; (d) social initiatives (indirect waste prevention: e. g. searching for suitable reusable items through social networks); (e) a system of securities for reusable beverage packaging; (f) other measures (e.g. car repair sector, second-hand furniture or clothing stores).

In Lithuania, waste prevention measures cover all waste streams, but priority is given to reducing the generation of packaging, waste electrical and electronic equipment, biodegradable waste, hazardous and construction waste[12].

The Law on Packaging and Packaging Waste Management[13] establishes the priority role of packaging waste prevention, it sets out the main requirements for the production, composition and restrictions of harmful substances. The prevention of packaging waste is defined in the said law as the reduction of the amount and harmfulness to the environment of packaging materials and packaging waste, packaging and packaging waste generated during the production, sale, other distribution, use or disposal of packaged or prepacked products, primarily to develop environmentally friendly products and technologies. In order to reduce the generation of packaging waste, the Program stipulates that measures for the prevention of packaging must be applied in the stages of product design and production (eg eco-design), and the principle of producer responsibility must be implemented. It is important that the retail sector, which uses a large number of group and transport packaging, as well as associations of beverage producers, seek to develop re-use systems and that consumers be informed about the availability of less packaging, reusable, recyclable and economical (larger capacity) packages. Plastic shopping bags are an obvious problem in the context of waste prevention (considering their extremely short-term use; high resource requirements for their production, etc.). The proposed measure to reduce plastic waste is to raise public awareness of the environmental impact of lightweight plastic shopping bags and to change the current perception that plastic is a harmless and cheap material.

[12] State Waste Prevention Program, *supra note* 13
[13] „Lietuvos Respublikos pakuočių ir pakuočių atliekų tvarkymo įstatymas“. LRS, 2020-05-10, https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.150891/asr

The safe collection and recycling of hazardous waste electrical and electronic equipment is an important part of quantitative waste prevention. The purpose of prevention of this type of waste is to promote its reuse, to create preconditions for the use of this equipment for as long as possible. The legal framework establishes the application of the principle of producer responsibility, which should promote ecodesign and waste prevention at all stages of the product life cycle. This would ensure the longevity, recyclability of these products and the ability to repair a defective product.

The prevention of biodegradable waste is most likely to be achieved through the reduction of food waste, e.g. The measure provided for in the Action Plan for the Implementation of the State Waste Prevention Program for 2014–2020[14] is to organize a public information campaign aimed at informing the population about the environmental and economic significance of food waste and providing practical advice on reducing food waste (2.4.1.1). Also, in order to reduce the generation of paper waste, it is necessary to reduce the amount of excessive advertising (flyers, leaflets, etc.), to use writing paper more efficiently in offices, to promote the use of electronic information sources and electronic books. Measures for ecological design and implementation of environmental management systems are applied for the prevention of hazardous waste, as well as for the purchase of eco-labeled products by developing the most efficient systems for separate collection of household hazardous waste, educating and informing the public about the use of less hazardous and environmentally friendly household chemicals. Implementation of environmental management systems in construction companies, establishment of construction and demolition waste reuse and exchange centers in municipalities, renovation of buildings, promotion of the use of environmental classification systems for new buildings are measures considered by the state as priorities in the field of construction waste prevention.

The State Waste Prevention Program[15] sets out two objectives of the Waste Prevention Program for 2014–2020. The first objective is to slow down the growth of waste in the manufacturing, construction and other economic sectors as industry and the economy grow, and to keep the amount of waste generated below the EU Member States' average. To achieve this goal, the state plans to promote waste prevention in the production and other economic activities sectors; increase the efficiency of materials and resources; to improve the qualification of

[14] State Waste Prevention Program, *supra note* 13
[15] *supra note* 13

employees of enterprises, farmers, agricultural companies and control institutions in the field of waste prevention. The second objective is to increase the growth of municipal waste, including packaging, electrical and electronic equipment and biodegradable waste, as consumption increases, and to keep the amount of municipal waste generated below the average of the Member States of the European Union. To this end, it is necessary to improve waste management legislation by setting requirements for the prevention and re-use of waste generated by the municipal waste stream; to promote sustainable consumption; to promote the re-use of products and the preparation for re-use; to increase public awareness and improve the qualification of municipal employees in the field of waste prevention.

Thus, the objectives of waste prevention are to avoid the generation of waste; to reduce the amount of generated and unused waste; to reduce the amount of harmful substances in materials and products; reuse products or extend their life cycle. As A. Pasvenskienė and B. Pranevičienė[16] noted, a legal mechanism is being developed for the implementation of waste prevention in the European Union, but the expected result cannot be achieved by creating a legal regulation mechanism alone. It is necessary to combine legal and other measures: efforts to improve the production process of the product, to create products with a longer life cycle, to encourage the population to purchase and use ecological, environmentally friendly and longer-lasting products. As the authors of the code, the experience of the European Union member states shows that economic benefits, dissemination and adaptation of good practices, consumer habits and other social changes have a significant impact on waste reduction.

The analysis of state waste prevention measures and priorities has shown that in Lithuania waste prevention is understood as a system of certain measures that must be applied before a product (another solid object) becomes unnecessary and unusable. Such measures include organizational, technological, educational and information measures.

ZERO WASTE IN THE CONTEXT OF WASTE PRIORITIES

„The world we have created today as a result of our thinking thus far has problems which cannot be solved by thinking the way we thought when we created them“, Albert Einstein.

Global, regional and national environmental policies are based on long-term goals set out in a multi-level strategy. The National Environmental Strategy states that it has been prepared

[16] *Supra note 4*

in order to set priority environmental policy areas, long-term goals until 2030 and Lithuania's environmental vision until 2050. It sets horizontal long-term environmental goals to help politicians, government and business, the social partners and the public choose a more precise course of action. The goal of the environmental protection policy enshrined in the strategy is to achieve that the Lithuanian environment is healthy, clean and safe, harmoniously meeting the needs of society, the environment and the economy. The promotion of waste prevention is understood in this Strategy as a set of measures focusing on the prevention of the generation of waste from production and other economic activities, especially hazardous waste (integrated product policy; promotion of cleaner production and low-waste technologies; and the promotion of recyclable products, the promotion of voluntary environmental audits, the implementation of environmental management systems, the application of life-cycle thinking to product production, the application of preventive measures to reduce municipal waste) in order to prevent or at least increase waste much slower than production. Without denying the importance of these envisaged environmental goals, however, it should be acknowledged that life is currently very dynamic (globalization, development of new technologies, changes in the forms of communication between members of society), so those measures that were effective 20 years ago years may vary significantly. And it is not the measures imposed by governments that are gaining in importance, but the initiatives stemming from the social space. One of them is Zero Waste.

The Planning Group of the Zero Waste International Alliance adopted the internationally accepted definition of Zero Waste (2004): „Zero waste: the conservation of all resources by means of responsible production, consumtion, reuse, and recovery of products, packaging, and materials without burning and wich no discharges to land, water, or air that threaten the environment or human health“[17]. Zero waste activists say they seek to encourage people to change their lifestyles, use durable items, give up toxic substances, not throw away items, and return them for new uses. The idea of zero waste can be described simply - pour coffee into a durable cup that you bring at the gas station, instead of taking a disposable, bring coffee in your natural fiber bag that you bring from home (and at the same time buy it in the store where it is possible), do not throw the thicket into a waste container, and compost together with other food waste and fertilize the plants. The goal of zero waste is to strive for the lowest use of resources,

[17] http://zwia.org/zero-waste-definition/

to give up the exchange of things to the maximum (the fashion industry encourages the opposite), to buy only extremely high quality (usually much more expensive) items. The idea of zero waste is one of the directions of business development, because in Lithuania, as in many countries of the world, food, clothing and cosmetics stores reorganize their trade skills according to these principles[18].

Some researchers argue that "The Zero Waste approach suggests that the entire concept of waste should be eliminated. Instead, waste should be thought of as a "residual product" or simply a "potential resource" to counter our basic acceptance of waste as a normal course of events. Unlike our current system of managing waste, Zero Waste seeks to eliminate waste wherever possible by encouraging a system approach that avoids the creation of waste in the first place. The Zero Waste system approach turns material outputs from one process into resources for other processes"[19]. A similar conclusion is drawn by Ceclan Rodica Elena, Ceclan Mihai, Popa Ionel[20], Shen Xin et al[21]. Conducted a study on the feasibility of creating a waste-free city in Sanya, Hainan Province, and concluded that "A non-waste city is an advanced urban management concept. Its establishment requires redefining the value of waste, reshaping urban recources and waste flow system, and building a green industrial chain. The whole society must participate in the pilot construction of a non-waste city. Citizens are the producers of waste, and have the responsibility to share waste disposal with society, enterprises, and goverments. Resources are limited, and the cycle is infinite. Only by combining green ideas, policies, technologies and business models can a non-waste city be truly achieved".

In many states, Zero Waste is enshrined in state legal documents, e.g. The Massachusetts 2010-2020 Solid Waste Master Plan[22]. "Pathway to Zero Waste identified zero waste as a statewide goal with both environmental and economic development benefits. Zero waste is a

[18]E.g. VEGGO declares that it tries and encourages as little pollution as possible, therefore uses only recycled paper, sends parcels only in used cardboard boxes, sorts waste, donates expired products to local homeless organizations, https://www.veggo.lt/lt/ content / 4-about-us; Urban Earth Lovers sells reusable goods and claims to be guided by responsible consumption, zero waste and low impact, https://www.urbanearthlovers.com/pages/about-urban-earth-lovers; "Zeroteka" http://minimaliai.lt/zero-waste-apsipirkimas-zerotekoje/ (online stores are chosen at random), etc.

[19] *Supra note*, 7

[20] Ceclan, Rodica Elena, Ceclan, Mihai, Popa, Ionel, „Sustainable Waste Management in Europe". *Electrotehnica, Electronica, Automatica: EEA; Bucharest Vol. 59, Iss. 4, (Oct-Dec 2011): 53-59.*

[21] Shen, Xin; Chen, Bowei; Du, Huanzheng, „Current Situation and Strategies of "Non-waste City" Construction in Sanya City, Hainan Province". *Meteorological and Environmental Research*; Cranston Vol. 11, Iss. 2, (Apr 2020): 53-55,61.

[22] „Massachusetts 2010-2020 solid waste master plan: Pathway to zero waste". Massachusetts Department of Environmental Protection. Boston: Executive Office of Energy and Environmental Affairs http://www.mass.gov/eea/agencies/massdep/recycle/reports/solid-wastemaster-plan.html

newer vision formulated in the last two decades that proposes re-organizing linear waste management of extraction: production, consumption, disposal into circular economic cycles of resourc, resource. In part, zero waste helps to reduce greenhouse gas emissions and toxic pollution from the current system[23]. "The author emphasizes, among other things, that one of the most important aspects of achieving zero waste is increasing consumer influence." Partly, this requires changes in consumer understanding of materials management and changes in consumption patterns. When there are alternatives to demand, consumers have the power to influence product development"[24].

"A zero waste approach is one of the fastest, cheapest, and now effective strategies to protect the climate"[25].

The state usually has two ways to introduce a particular environmental measure: to encourage (e.g. exempt from taxes) or to penalize non-compliance with the measure. Of course, there is no legal responsibility in Lithuania for non-compliance with Zero Waste ideas. But are there real incentives? For example, a local fee for the collection and management of municipal waste has been introduced in City X, and a decision by the Municipal Council of City X for the collection and treatment of municipal waste from municipal waste holders has a mandatory fee valid in the applies the Zero Waste method (almost does not generate waste) must pay in accordance with local regulations. Thus, households are not encouraged to apply Zero Waste.

CONCLUSIONS

Waste prevention is at the top of the EU waste hierarchy. In Lithuania, waste prevention is understood as a system of certain organizational, technological, educational and information measures that must be applied before a product (another solid object) becomes unnecessary and unusable. Waste prevention is also often understood as a tool for preparing waste for re-use. Natural persons and businesses (manufacturers, importers, etc.) are encouraged to take waste prevention measures by various means.

Waste prevention measures are often set out in long-term strategic plans for waste prevention and management, but over time such measures may become ineffective or even

[23] *Supra note* 5
[24] *Ibit*
[25] Platt B., Ciplet D., Bailey K.M., Lombardi E., „Stop trashing the climate“. *Institute for Local Self-Reliance,* June, 2008. 1-92.

inappropriate. In modern dynamic life, more effective tools are offered by society itself. One of them is Zero Waste.

Waste prevention measures are proposed by governments and Zero Waste by potential waste producers.

In Lithuania, Zero Waste acts as an initiative, not as a state-recognized waste avoidance measure enshrined in legal regulation.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

SKAITMENINĖS TRANSFORMACIJOS IŠŠŪKIAI ŽEMĖS ŪKIO SEKTORIUJE

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DOI: 10.13165/PSPO-20-24-04

Anotacija. Technologinės pažangos įtaka yra juntama visuose pramonės sektoriuose ir neabejotina, kad skaitmeninė transformacija turės didelę įtaką beveik bet kuriai pramonei, neaplenkiant ir žemės ūkio. Žemės ūkio ir maisto sektoriuose veikiančios mažos ir vidutinės įmonės susiduria su iššūkiais, kuriuos galima būtų išspręsti pasitelkiant skaitmeninės transformacijos siūlomas galimybes. Kiti pramonės sektoriai dažnai yra labiau pažengę skaitmeninimo srityje nei tradiciniai žemės ūkio ir maisto pramonės sektoriai, tad šio straipsnio tikslas - išanalizuoti su skaitmenine transformacija sietinus iššūkius, kylančius šiuose sektoriuose veikiančios įmonėms. Atsižvelgiant į tai, kad hakatonai pastaraisiais metais vis labiau populiarėja kaip sparčius technologinius pokyčius atliepiantis metodas, tyrimo metodas yra „HackAgriFood'19 hackathon“ atvejo analizė. Tyrimo metu analizuota daugiau nei 60 įmonių, aktyviai veikiančių žemės ūkio ir maisto sektoriuose. Tyrimo rezultatai apima su skaitmenine transformacija sietinų iššūkių identifikavimą, kurie kyla dėl žemės ūkio ir maisto sektoriuose veikiančioms įmonėms.

Pagrindinės sąvokos: Skaitmeninimas, skaitmeninė transformacija, žemės ūkis, hakatonai, Pramonė 4.0.

ĮVADAS

Technologijos sukėlė tikrą šios eros revoliuciją ir manoma, kad skaitmeninė transformacija padarys didžiulę įtaką visoms industrijoms; skaitmeninimas gali atverti naujas

galimybes mažoms ir vidutinėms įmonėms, stiprindamas visą vertės grandinę (Kilimis, 2019). Mokslinės literatūros šaltiniuose autoriai akcentuoja industrijos skaitmeninimo svarbą (Wang, 2016; Qin ir Liu, 2016). Jie teigia, kad bendrovėms reikia diegti naujausias technologijas. Ketvirtoji industrinė revoliucija turės nepaprastai didelę įtaką pasaulio ekonomikai – tokio didelio masto, kad bus sunku atskirti vieną konkretų poveikį nuo kito (Schwab, 2016).

Skaitmeninę transformaciją galima apibūdinti kaip „visų darbo ir pajamų kūrimo strategijų pokytį, lankstaus, prieš konkurenciją pasisakančio valdymo modelio taikymą, greitą prisitaikymą prie pokyčių, verslo modelių pertvarkymą iš naujo, skaitmeninant veiksmus ir formuojant ištęstinius tiekimo grandinės santykius; funkcionalų interneto panaudojimą dizainui, gamybai, rinkodarai, pardavimui, prezentacijai ir duomenimis pagrįstam valdymo modeliui.“ (Schallmo ir kiti, 2018).

Skaitmeninė transformacija gali reikšmingai padėti tobulinti produktus ir (arba) paslaugas, gerokai efektyviau valdyti operacijas. Ji taip pat gali paskatinti kainų mažėjimą arba padėti įgyti konkurencinį pranašumą rinkoje. Ulas (2019) išskyrė keletą lemiančiųjų veiksnių, pagreitinančių skaitmeninę transformaciją, kuri apima, be kita kito, globalizaciją, technologinę pažangą ir inovacijas, elektroninę prekybą ir socialinius tinklus. Tarpusavyje susijęs pasaulis sulaukia vis daugiau industrijos sektoriaus dėmesio, o ketvirtosios industrinės revoliucijos, dar vadinamos „Pramonė 4.0“, vizija vis labiau aiškėja (Kang ir kiti, 2016).

Specialistai išskiria keturias sritis, kurioms skaitmeninimo technologijos turės didžiausią įtaką: produktyvumas, pajamų augimas, darbas ir investicijos (Rußmann ir kiti, 2015). Ketvirtosios pramonės revoliucijos vystymasis, dirbtinis intelektas, daiktų internetas (IoT), „Blockchain“ technologija, debesų kompiuterija, virtuali realybė, 3D spausdintuvai, virtualūs pašnekovai, dideli duomenų srautai ir nanotechnologijos dar labiau pagreitina skaitmeninimo procesus.

„Pramonė 4.0“ vadinama ketvirtoji pramonės revoliucija, kai gamybos procesas yra skaitmeninamas, o mašinos tiesiogiai jungiamos viena su kita ir personalizuota gamyba tampa įmanoma (Ulas, 2019). Vis labiau plinta techninė įranga ir programinės įrangos sprendimai, kurie greitina judėjimą link išmanios ir tarpusavyje susietos gamyklos, kokia ir turėtų būti pramonė ketvirtosios pramonės revoliucijos kontekste (Almada-Lobo, 2016).

Stoldt ir kiti (2018) akcentuoja, kad įmonės gali įgyvendinti dvi verslo skaitmeninimo strategijas – vis labiau transformuoti savo procesus ir gamybos vietas arba įgyvendinti radikalius pokyčius, keisdamos visą procesą ir sistemas visiškai skaitmenindamos. Pasak Stoldt

(2018), mažos ir vidutinės įmonės neturi ekonominių pajėgumų atlaikyti tokią revoliuciją, bet nori naudoti naujausias technologijas savo gamyklose, taip didindamos konkurencingumą.

Tyrimo tikslas – išanalizuoti su skaitmenine transformacija sietinus iššūkius, kylančius žemės ūkio ir maisto pramonės sektoriuose veikiančios įmonėms.

MAŽŲ IR VIDUTINIŲ ĮMONIŲ SKAITMENINĖS TRANSFORMACIJOS IŠŠŪKIAI

Skaitmeninė transformacija gali atverti naujas galimybes mažoms ir vidutinėms įmonėms ir parodyti naujus augimo ir vystymosi kelius. Pasak Sommer (2015), tik didelės įmonės sugebės sulaukti naudos iš „Pramonė 4.0“, o mažos bei vidutinės įmonės gali greitai tapti ketvirtosios pramonės revoliucijos aukomis. Daugeliui mažų ir vidutinių įmonių yra sunku suprasti, į kurias technologijas investuoti ir kaip užsitikrinti finansavimą skaitmeninei transformacijai.

Peillon ir Dubrue (2019) pasiūlė galimų mažų ir vidutinių įmonių skaitmeninimo kliūčių klasifikaciją, į kurią įeina:

- techninės / technologinės kliūtys – susijusios su finansiniais apribojimais, prieinamų techninių resursų, galinčių lengvai pagerinti ir įdiegti skaitmenines technologijas, trūkumas;
- organizacinės kliūtys – susijusios su žmonių nenoru keistis ir poreikiu keisti svarbiausių verslo operacijų, produktų, procesų, organizacinių struktūrų inovacijų valdymą, kam reikia naujų kompetencijų, resursų ir bendradarbiavimo;
- kliūtys, orientuotos į žmogiškuosius išteklius – susijusios su kvalifikuotų darbuotojų trūkumu ir skaitmeninių kompetencijų trūkumu;
- su klientais susijusios kliūtys – tai apima klientų baimes prarasti informacijos kontrolę, pavyzdžiui, privatumo pažeidimai, saugumo klausimai ir prieigos prie gamybinių ir įmonės sistemų saugumas.

Raymond (2005) išvardijo veiklos indikatorius, kurie, kaip mažos ir vidutinės įmonės gali tikėtis, gali pagerėti investavus į naujas technologijas: mažesnės sąnaudos, geresnė kokybė, didesnis lankstumas, padidėjęs produktyvumas. Jiems antrina Bayo-Moriones (2013), kurie atlikę naujų technologijų diegimo įmonių tyrime pasiūlė panašių indikatorių sąrašą, papildytą pristatymo terminų trumpinimo kriterijumi. Šie veiklos indikatoriai tampa svarbūs siekiant įvertinti „Pramonė 4.0“ įtaką mažų ir vidutinių įmonių lankstumui, sąnaudoms, produktyvumui, kokybei ir vykdymo terminams. Nepaisant to, mažos ir vidutinės įmonės jaučiasi atsiliekančios

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

nuo skaitmeninių inovacijų, jų įgyvendinimo procesas išlieka lėtas, todėl jos rizikuoja likti skaitmeninės tiekimo grandinės užribyje. Šios įmonės yra linkusios susidaryti klaidingas išankstines nuostatas apie skaitmeninimo sudėtingumą ir išlaidas (Kilimis, 2019).

Moeuf (2018) mini tokius mažų ir vidutinių įmonių gamybos veiklos tikslus: lankstumas, sąnaudų mažinimas, produktyvumo didinimas, kokybės gerinimas ir pristatymo laiko trumpinimas. Pasak Moeuf (2018), lankstumas yra dažniausiai nustatomas veiklos tikslas, į kurį taikosi tyrinėtojai ir kuris gali nustebinti praktikus, nes būtent lankstumas yra įprasta mažų ir vidutinių įmonių charakteristika, leidžianti joms išsiskirti iš kitų įmonių.

Mažesnės įmonės nukentės nuo didesnio investicijų poreikio, o „Pramonės 4.0" suteikiamas didesnis lankstumas sudarys galimybes didesnėms įmonėms atsiriekti rinkos dalį individualizuotiems produktams – rinkos segmentą, kuriame šiuo metu dominuoja mažos ir vidutinės įmonės (Rüttimann ir Stöckli, 2016).

Skaitmeninė žemės ūkio ir maisto produktų sektoriaus transformacija

Skaitmeninių ir „Pramonės 4.0" sprendimų taikymas žemės ūkio ir maisto produktų pramonėje yra labai įvairus – jie gali padėti pailginti produkcijos galiojimo laiką, stebėti šviežumą, rodyti kokybės informaciją, didinti saugumą ir gerinti patogumą, tad mažoms ir vidutinėms įmonėms tai tampa galimybe, o taip pat ir iššūkiu sukurti naujus, skaitmeninius verslo modelius, pritaikytus esamai ekonominei realybei. Vieno iš svarbiausių indėlių į ateities tvarumą šaltinis turi būti radikali žemės ūkio ir maisto (žemės ūkio ir maisto produktų) vertės grandinė (CEPS, 2019), o skaitmeninė transformacija ir yra tai nukreipta.

Rotz ir kiti (2018) sutelkė dėmesį į skaitmeninimo techninius ir organizacinius iššūkius žemės ūkio ir maisto produktų industrijoje. Jie ypač akcentavo, kad yra sunku suprasti, kurios technologijos galėtų tikti žemės ūkio ir maisto sektoriuje veikiančios įmonėms, kaip ir kur rasti tinkamus technologijų tiekėjus. Žemės ūkio ir maisto produktų pramonės mažos ir vidutinės įmonės dažniausiai yra kaimiškuose regionuose, kur lėtesnis internetas ir nepakankamas energijos tiekimas (Salampasis, 2013). Dėl žinių trūkumo, ypač tarp ūkininkų, žemo žemės ūkio ir maisto produktų įmonių skaitmeninimo lygio, taip pat mažų ūkininkų pajamų, didelių informacinių ir kompiuterinių technologijų sąnaudų, su tokiomis technologijomis galinčių dirbti darbuotojų stygiaus ir turinio vietine kalba trūkumo internete, tokia transformacija tampa tikru iššūkiu (Salampasis, 2013). Iš kitos pusės, informacinių ir kompiuterinių technologijų įmonės dažnai yra įsikūrusios miesto teritorijose, todėl nežino žemės ūkio ir maisto produktų

sektoriaus technologinių poreikių, neturi žinių apie tai, kaip skaitmeninių sprendimų naudą išdėstyti lengvai suprantama kalba.

Pasak Brewster ir kitų (2012), esminis informacinių ir kompiuterinių technologijų įgyvendinimo žemės ūkio sektoriuje iššūkis yra informacijos valdymas, susiję̨s su tiekimo grandinės heterogeniškumu ir labai dideliu veikėjų skaičiumi. Potencialus informacinių ir kompiuterinių sprendimų panaudojimas žemės ūkio ir maisto produktų sektoriuje yra labai įvairus, be kita ko, įskaitant programinę įrangą tiekimo grandinei ar finansų valdymui, mobiliąsias aplikacijas ūkio valdymui, ūkio žemių naudojimo optimizavimui, preciziniam ūkininkavimui ir kitas sritis, patenkančias į informacinėmis ir kompiuterinėmis technologijomis pagrįstų paslaugų kategorijas. Veikiamas skaitmeninės transformacijos, žemės ūkio sektorius stengiasi aprūpinti savo ūkius naujais įrenginiais ir paslaugomis (jutikliais, akumuliatoriais, meteorologine informacija, dronais ir palydoviniu atvaizdavimu), leidžiančiomis optimizuoti resursus, pagerinti produktyvumą ir lygiagrečiai sumažinti neigiamą įtaką aplinkai (López-Morales, 2020).

Iššūkių identifikavimo metodologija - hakatonai

Pastaruoju metu populiarėja tarpdisciplininių komandų sutelkimas siekiant išspręsti tam tikrą problemą. Nepaisant to, ne mažesnis iššūkis yra tinkamai identifikuoti pačia problemą ar iššūkį ir vienas iš būtų tai padaryti gali būti hakatono metodikos pasitelkimas. Remiantis Oksfordo Universiteto Leidyklos (2020) apibrėžimu, hakatonas yra įvykis, kurio metu didelė grupė žmonių keletą dienų dirba kartu kurdami kompiuterines sistemas. Hakatonas yra laikomas nauju metodu, kuriuo remiasi įvairių sričių inovacijos (Iqbal et al, 2018) ir jo metu sutelkiama patirtis iš skirtingų disciplinų, kurios gali būti pritaikomos realioje aplinkoje (Lyndon et al, 2018). Inovacijų kūrimas reikalauja skirtingų sričių specialistų bendradarbiavimo (Iqbal et al, 2018), ir hakatonas yra tinkamas metodas norint tai pasiekti. Šis darbo metodas pradėtas plačiai naudoti 2000-aisiais, kuomet programinę įrangą kuriančios kompanijos ir rizikos kapitalo specialistai naudojo jį siekiant greitai sukurti naujas programinės įrangos technologijas ir pritaikyti jas naujoms inovacijų plėtojimo ir finansavimo sritims (Briscoe, 2014). Didėjančio masto skaitmeninių technologijų taikymas įvairiose srityse keitė ir tebekeičia organizacines struktūras (Soltani, 2014). Šiandien hakatonai gali būti naudojami ne tik sprendžiant iššūkius, susijusius su informacinėmis technologijomis. Dažniausiai pasitaikantys hakatonų požymiai yra: a) dalyviai yra suskirstyti į mažas grupeles, kuriose dirba

labai intensyviai (kartais 24/7 principu); b) trumpas laiko tarpas per kurį idėja yra išvystoma iki prototipo; c) bendra darbo vieta visiems dalyviams, kurioje jie susitinka, dirba, dalijasi patirtimi, įžvalgomis ir resursais ir d) parama (maistas, finansiniai ištekliai, vadyba ir t.t.) skiriama rėmėjų ir organizatorių (Lara, 2016). Paprastai hakatonų rezultatas yra sukurtas inovatyvaus produkto, paslaugos arba verslo modelio prototipas. Viena iš hakatonų populiarumo priežasčių yra jų visapusiškai naudinga aplinka: kiekvienas hakatono dalyvis gali gauti naudos, tiek dalyvis, tiek ir organizatorius ar rėmėjas (Lara, 2016). Hakatonai pritraukia dalyvius viliodami prisijungti, paskirti savo laiką ir dalintis žiniomis, idėjomis ir patirtimi siekiant bendro tikslo (Kitchinm 2011) motyvuodami atlygiu, tokiu kaip naujos galimybės, prizai, pažinčių ratas ir naujai užsimezgusios draugystės (Pernga, 2018). Buvimas idėjų generavimo ir/ar idėjų adaptavimo praktinių problemų sprendime sistemos dalimi, gali būti laikom kaip ankstyvoji sudėtingesnių inovacinių procesų, kuriais plėtoja įmonė, fazė (Cooper, 2008).

Pastaraisiais metais hakatonai vis labiau populiarėja kaip moderni inovacijų priemonė. Todėl tyrime yra analizuojamas „HackAgriFood'19“ hakatono atvejis. Atvejis buvo pasirinktas, todėl, kad tai buvo pirmasis tokio tipo sektorinis hakatonas Baltijos šalyse, skirtas žemės ūkio ir maisto sektoriaus tematikoms. Renginys pritraukė daugiau kaip 60 mažų ir vidutinių įmonių, aktyviai veikiančių žemės ūkio ir maisto pramonėje, dėmesį. Iš esmės tai rodo, kad naujovės ir skaitmeninė transformacija neabejotinai yra prioritetinė žemės ūkio bei maisto produktų įmonių interesų sritis. Tyrimas buvo atliktas 2019 m. rugpjūčio – lapkričio mėn.

Tyrimas yra svarbus dėl mažai analizuotos tematikos ir panašių tyrimų trūkumo Baltijos šalyse. Dalyvavusios įmonės buvo Lietuvoje įsikūrusios žemės ūkio ir maisto sektoriaus MVĮ, tačiau daugelis jų turi savo atstovybes kitose Baltijos šalyse.

Informacijai surinkta buvo naudotas ekspertų interviu metodas. Pusiau struktūruoti interviu yra vienas iš efektyviausių kokybinių tyrimų metodų, siekiant efektyviai išanalizuoti tam tikrą klausimą. Šį metodą taip pat galima apibūdinti kaip organizuotą pokalbį, kurio metu taip pat vadovaujamasi nauja gauta informacija. Atvejo tyrimas pagrįstas pusiau struktūruotų interviu metu surinktais duomenimis. Tokiu būdu surinkta informacija yra išsami ir aiškiai padėjo identifikuoti, kokie iššūkiai kyla žemės ūkio ir maisto sektoriaus MVĮ pasukus skaitmeninimo keliu. Metodas yra naudingas norint suprasti pagrindinių žemės ūkio ir maisto sektoriaus dalyvių požiūrį, nes jis leidžia respondentui dalyvauti procese ir išsamiai aptarti

klausimus, susijusius su tyrimu. Pokalbiai vyko su „HackAgriFood'19" organizatoriais, mentoriais ir MVĮ savininkais, direktoriais, inovacijų ir produktų vadovais. Iš viso tyrime dalyvavo 100 ekspertų.

TYRIMO REZULTATAI

Tradiciniam žemės ūkio ir maisto sektoriaus požiūriui iš esmės transformuojantis - „skaitmeninė žemės ūkio revoliucija" yra naujas terminas, aiškinantis šiuos pokyčius. Dalyviams stengiantis prisitaikyti prie besikeičiančios rinkos ir diegiant inovacijas, kartu ateina naujos kovos ir iššūkiai.

„HackAgrifood'19" hakatono pagrindinis tikslas buvo sukurti naujas virsmo (angl.disruptive) inovacijas žemės ūkio ir maisto sektoriuje. Nuspręsta susisiekti su aktyviausiomis žemės ūkio ir maisto pramonės MVĮ, kurios susiduria su darbinio proceso problemomis ir kurias, būtų įmanoma išspręsti skaitmeninant. Daugiau nei 60 MVĮ sutiko dalyvauti renginyje ir pateikti komandoms iššūkius. Apibendrinus įmonių poreikius, buvo išskirtos šešios iššūkių temos: duomenimis grįstos agro ir maisto inovacijos; automatizacija ir jutiklių inžinerija; tvarumas ir efektyvumas; „crowdfarming" ir dalijimosi ekonomika; derliaus valdymas; akvakultūra. Interviu metu, ekspertai išskyrė iššūkius, kurie jų manymu, yra didžiausi trukdžiai diegiant technologijas.

Žemės ūkio ir maisto sektoriaus mvį skaitmeninės transformacijos iššūkiai

Interviu metu išryškėjo, kad nepriklausant nuo to, kurioje žemės ūkio ir maisto sektoriaus srityje įmonė vykdo veiklą, skaitmeninimo iššūkiai išlieka beveik identiški visiems.

Nors žemės ūkio ir maisto sektoriaus skaitmeninimas yra prioretizuojama tema, *supratimo stoka ir tinkamų skaitmeninių įgūdžių, reikalingų tam tikram verslui, pasirinkimas* yra vis dar didelis iššūkis. Daugeliu atvejų skaitmeninė transformacija nevyksta dėl nepakankamos informacijos, o dažnai ir nesuprantama, kaip skaitmeninimas gali išauginti pridėtinę vertę verslui. Vis dar pakankamai sunku suvokti, kaip technologijos gali būti naudingos ne tik MVĮ, bet ir jų produktų bei paslaugų galutiniams naudotojams. Ekspertai atkreipė dėmesį, kad kai kurios MVĮ žymiai lengviau transformuojasi nei kitos. Tai daugiausia priklauso nuo tiesioginio verslo suderinamumo su skaitmeninimu. Labai svarbu suprasti skaitmeninimo galimybes pačiai MVĮ. Kai kuriais atvejais, skaitmeninimas, gali duoti ir nepageidaujamų rezultatų arba blogiausiu atveju, įmonei atnešti daugiau žalos nei naudos.

Taigi, MVĮ sprendimus priimantys asmenys turėtų atlikti kruopščią procesų analizę, kad įvertintų, kurie skaitmeninimo veiksmai įmonei duotų didžiausią naudą. Tokia įmonės analizė atskleistų potencialias skaitmeninių inovacijų galimybes, kurias būtų galima tiesiogiai pritaikyti įmonės procesuose.

Skaitmenizacijos svarbos suvokimas – kitas iššūkis. Ekspertai sutinka, kad nors ir labai mažai tikėtina, kad verslas nesupras skaitmeninių inovacijų svarbos, problema egzistuoja. Taip yra todėl, kad žemės ūkio ir maisto sektoriaus įmonės yra labai konservatyvios. Daugeliu atvejų verslas nesupranta, kas yra skaitmenizacija. Ir tai nenuostabu, nes rinka yra perpildyta įvairiais sprendimais, kurie visi pristatomi kaip skaitmeninė transformacija. Ekspertai atkreipė dėmesį, kad daugeliu atvejų pamirštama, kad skaitmeninimas yra susijęs ne tik su technologijų diegimu. Verslo įmonėms svarbu prisiminti, kad jų klientų skaitmenininių inovacijų naudojimas kasdien auga. Taigi kalbant apie skaitmeninę transformaciją, tampa aišku, kad ji anksčiau ar vėliau palies visą verslą.

Žemės ūkio ir maisto sektoriaus dalyviai yra gana konservatyvūs inovacijų ar technologijų atžvilgiu. Nors mobiliosios aplikacijos, socialiniai tinklai, precizinis žemės ūkis ir nuotolinio stebėjimo sistemos nėra naujovė sektoriuje. „Didieji duomenys", debesų kompiuterija, blokų sistemos (angl.block chain), mašininis mokymasis, dirbtinis intelektas, robotika ir autonominės valdymo sistemos, terminą „technologija" perkelia į kitą lygmenį. Šiame lygmenyje verslas nerimauja dėl to, ar saugūs jų duomenys ir kaip juos galima apsaugoti. Taigi įveikti *kibernetinio saugumo* problemą tampa gana sudėtinga. Šis iššūkis nėra lengvai išsprendžiamas dėl keleto priežasčių, nurodytų interviu. Visų pirma, žemės ūkio ir maisto sektoriuje yra didelis nepasitikėjimas duomenų saugumu virtualioje erdvėje. Dabar, kada pasaulis tampa vis labiau skaitmeninis, kibernetinės atakos yra labai paplitusios. Taigi konsultacijos ar net samdymas kibernetinio saugumo eksperto tampa privalomu įmonių veiksmu. Tuomet kyla susirūpinimas ne tik dėl didėjančių išlaidų, bet ir dėl pasitikėjimo tarp eksperto ir įmonės. Kita priežastis yra ta, kad dauguma sprendimų priėmėjų vis dar neišskiria kibernetinio saugumo kaip konkurencinio įrankio, kurį įmonė galėtų įsidiegti. Kibernetinis saugumas kol kas nėra vertinamas kaip konkurencinis pranašumas.

Žmogiškųjų (pvz. inovacijų diegimo ekspertų) ir finansinių išteklių trūkumas bei baimė patirti dar didesnes išlaidas yra vienas didžiausių iššūkių MVĮ žemės ūkio ir maisto sektoriuje. Daugelį metų agro technologijų sprendimai buvo vertinami kaip brangūs ir sudėtingi. Brangumo suvokimas ir nepasitikėjimas technologijų tiekėjais, sukūrė klestinčią aplinką tokiai

koncepcijai augti. Nepaisant mažėjančių mobiliųjų ir interneto paslaugų, technologijų produktų ir paslaugų įperkamumas vis dar laikoma pagrindine kliūtimi pasukti skaitmeninimo keliu. Ekspertai sutinka, kad norint pakeisti tokį požiūrį, reikia įdėti nemažai pastangų.

IŠVADOS

Yra aišku, kad žemės ūkio ir maisto sektoriaus skaitmeninė transformacija nebus lengva. Skaitmeninimo kelias verslui atneša daugybę pokyčių. Tyrimo metu išryškėjo pagrindiniai žemės ūkio ir maisto sektoriaus MVĮ skaitmeninimo iššūkiai: tinkamų skaitmeninių įrankių, reikalingų tam tikram verslui, nesuvokimas ir jų pasirinkimas, skaitmeninimo svarbos pripažinimas, kibernetinis saugumas bei su žmogiškaisiais bei finansiniais resursais susijusių išlaidų augimo baimė. Ekspertai ypatingai pabrėžė kibernetinio saugumo svarbą dėl didėjančios jo svarbos, susijusios su didžiaisiais duomenimis, debesų kompiuterija, mašininiu mokymu, dirbtiniu intelektu, robotika ir autonominėmis sistemomis.

Tikimasi, kad skaitmeninė žemės ūkio ir maisto sektoriaus revoliucija turės didžiausią poveikį pertvarkant sektorių, lyginant su kitomis sektorinėmis sritimis. Pasikeis ne tik, kaip valdomis verslo procesai, bet ir pats sektorius. Laukiama, kad žemės ūkio produktų vertės grandinė iš esmės pasikeis. Tai neabejotinai paveiks rinką ir pakeis perdirbimo, mažmeninės prekybos, kainų nustatymo ir pardavimo būdus. Vartotojų elgsenos skaitmeninimas verslui nepalieka kito pasirinkimo, kaip tik prisitaikyti prie technologijų. Įmonė, kuri ignoruos skaitmeninimą, rizikuoja neišlikti pati.

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CHALLENGES OF DIGITAL TRANSFORMATION IN THE AGRI-FOOD SECTOR

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Summary

Technology has been completely revolutionizing the present era and digital transformation is expected to have a major impact on almost any industry. Agri-food industry SMEs which face everyday problems and which could be possibly solved by digitalization. Considering the fact that other industrial sectors are often more advanced in digitalization than the agricultural sector, this article aims to analyze the challenges existing in the process of digital transformation by SMEs in the agri-food sector in Lithuania. Considering that, hackathons have become increasingly popular in recent years as a modern tool for innovation, the research methodology is based on HackAgriFood'19 hackathon use case. It has attracted the attention of more than 60 SMEs acting in the Agri-food industry actively. As a result, challenges of adaptation of digitalized products and services by Agri-food sector SME's were identified and they are presented in this article.

Keywords: Digitalization, digital transformation, agri-food, hackathon SMEs, Industry 4.0.

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

MOTIVATION OF UNIVERSITY STUDENTS AND ITS CULTIVATION

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DOI: 10.13165/PSPO-20-24-05

Annotation. The intention of the paper is given to the motivation of university students and the way of influence it intentionally and unintentionally. The academic motivation of students represents the power of conviction, dedicated energy, enthusiasm, zeal toward their academic performance, but also various urges to reject unwanted conditions, the need to actively avoid potential losses and failures, etc. It is formed by many factors, events, tools and situations, acting in accordance with dichotomy, i.e. positively and negatively. The empirical part focuses on examining the expected effectiveness or significance of motivational tools versus the frequency of motivational tools really applied towards students. The results of a survey conducted on a sample of 142 students from the University of Žilina, Slovakia, show that there is a disproportion between the potentially most effective motivators and/versus actually applied motivators. In addition, university teachers utilize a largely unchangeable, stable spectrum of motivators to students, while not reflecting on the change in students' motivation or expectations. Since student motivation is part of a broader system of overall academic motivation, it is desirable to systematically enhance it and thus contribute to the overall academic success of university.

Keywords: academic motivation, student, motivational tools, efficiency, application, survey.

INTRODUCTION

In the higher education, "each individual is not only seeking knowledge but also applying and shaping it. The character of the individual is shaped into a person who excels intellectually,

emotionally, and spiritually"[1] (p. 2). This means the education is a powerful generator of social capital[2]. However, only a few educational programs or university motivational systems addressed issues of motivation "in a systematic and comprehensive way"[3] (p. 55). This fact needs to be definite changed because "people with high-quality motivation adapt well and thrive; people with motivational deficits flounder"[4] (p. 14).

Motivation is an important foundation of academic development in students[5] and is searched by many scientists, e.g. Watt[6], Leopold & Smith[7], Silva et al.[8], Khudur[9], Roßnagel & Fitzallen[10], etc. It can be understood as the motivation to decide for and continue with university studies[11] and as a verve for academic achievement that involves the degree to which students possess certain specific behavioural characteristics related to the motivation.[12]

However, search of the expected, subjectively perceived effectiveness of motivational tools, judged by the students themselves, and comparison of it with the structure and frequency of the motivators actually applied, supplemented by the possible adaptation of the range of motivators to changes in university students' motivation, is rare in literature. Thus, **the aim** of this paper is to disclose potential disproportions between the potential efficiency of the motivators perceived by the students and/versus the frequency and flexibility of motivators really used to them. **Methodology of the Research:** The papers contains the analysis, synthesis,

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comparison and generalization of theoretical knowledge in the field of student motivation; the empirical parts presents, analyses, compares and discusses the results of questionnaire survey; the conclusion contains generalisation, abstraction and modelling of possible suggestions.

MOTIVATION OF UNIVERSITY STUDENTS

Universities that have always strived for knowledge reproduction for the growth of society well-being, must change the managerial paradigm; then, these ones can be drivers of socio-economic development and scientific-educational potential.[13] The academic motivation of students represents the power of conviction, dedicated energy, inflammation, but also various urges to reject unwanted conditions. It mirrors the need for active action to avoid potential losses and failures. It also contains active, conscious and subconscious processes of intra-personal correction of both motivational states and dynamics existing in the student's personality. Thereto, the motivation of university students is formed by many factors, events, tools and situations, also dichotomous: positive and negative.

Student motivation deals with the "orientation to the actions which is important to compel with the perfect standards"[14] (p. 89). And, it is the motivation that has to be respected and advanced mainly. In such a view, motivating can be defined "as the overall processes that give rise to faculty members initiating, sustaining, and regulating goal-directed behaviours"[15] (p. 3).

However, the motivation and the student satisfaction are qualities exercised by students who plan on pursuing graduate studies, but these qualities alone are not enough to overcome existing barriers to graduate education today[16] (p. 408). Students' academic achievement requires coordination and interaction between different aspects of motivation.[17] From the perspective of self-regulated learning, "a metacognition is considered as an important predictor

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MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

of student motivation and achievement. This process requires students to independently plan, monitor, and assess their learning. However, few students naturally do this well"[18] (p. 4).

Stated differently, it may be difficult to maintain motivation; one reason commonly linked to motivational burnout is stress.[19] It is teachers' responsibilities to make learning more accessible, understandable, and interesting, and, in this way, the problem of motivation of the learners is relevant in education[20] (p. 118). It means, the student motivation is connected with and affected especially by the motivation of pedagogical, managerial and administrative staff of university, and vice versa. In addition, it is affected and permanently progressed by the motivational influence of peers, friends, parents, etc.

MOTIVATIONAL APPROACHES AND TOOLS

The literature presents many different approaches, measures, tools, steps, decisions, instructions, advices, etc. that can be used to motivate students. The problem, however, consists in fact that many of academicians focus only on the professional side of their impact on students. Motivation remains often forgotten. As if the motivation of the students was automatically intensive by itself, without any imperfections and the need to improve it, i.e. without any need for help in its advancement.

Thereto the same attention, as is paid to the motivation of employees and managers of various companies, must be given to university teachers and scientists, and in particular to students. Indeed, the student motivation needs to be more cared, as their academic motivation will be transformed in the work motivation, and will be disseminated to other individuals and groups. It will affect the motivation of many people in the future, either positively or negatively.

From that perspective, it may be recommended to respect e.g. the expectancy-value theory in a *person-centred approach*.[21] Also, *constructive alignment* of teaching and learning is seen as an effective approach to improve students' learning outcomes.[22] With application of

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problem-based learning, viewed as a learning strategy for mirroring both support and trustworthiness provided to students, "student develop transferable skills that can be applied across disciplines, such as collaboration, problem-solving and critical thinking"[23] (p. 175). To achieve a higher level of knowledge identification with and building the future professionalism, the *experiential learning* is a clever strategy: "Students need to work with authentic challenges, to be exposed to proven practices and to interact with practitioners in different roles"[24] (p. 1).

Collaborative learning can be viewed as a recommended 'connective strategy' for make student's learning more accessible and understandable. "When collaboration is facilitated skilfully, it benefits all students, especially those from marginalized and historically underserved groups"[25] (p. 1). It means the student belongingness is important for successful study paths.[26] Complexly, there exist three reasons for accepting social belonging as the domain of fostering motivation: 1. Adopting similar motivations as relationship partners may affirm a positive self-image; 2. People have a basic need to belong; 3. Sharing motivation with others may serve important collective goals[27] (pp. 81–82). It is therefore necessary to treat students with understanding and try to re-draw them into mutual respect, support, and belonging.

It is also appropriate to accent the writing instructors using strategies in generating students' initial motivation.[28] In addition to introductive communication, the subsequent (conclusive) this one is important, i.e.: "affective feedback which motivates students to learn"[29] (p. 59) or "an open-floor style exit interview with the senior teams which captures the students' experiences"[30] (p. 1). Students need to meet their social motives (getting a higher status) and

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the pragmatic motives (getting a high salary); these ones result into the confidence that knowledge gained at university will help them to achieve success in their professional activity.[31]

RESEARCH

Teachers see lack of inner motivation and, in response, they use grades, stickers, praise, recess privileges, and threats of doom to motivate their students[32] (p. 111). But, motivating the students includes many self-motivational processes and activities which students actively participate in, and in this way, act on their own motivation. "Life goals and subsequent service participation are a function of students' citizenship predispositions, the intensity and context of service involvement, and, importantly, the benefits that students derive from their service participation"[33] (p. 312). In addition, there exist a lot of other motivators that efficiently act on the student motivation. Based on this premise, the authors decided to perform a sociological questioning aimed at disclose the expected effectiveness of motivators versus real frequency of applied motivators, while these ones were both of quasi-material and relational character.

There participated *n* = 142 students of the University of Žilina, Slovak Republic, in the survey. Of them, 77 were female and 65 were male in all 3 degrees of study: 1st degree (Bachelor; 53 male and 54 female), 2nd (Master; 12 male, 21 female) and 3rd (PhD; 2 female).

Data analysis and results

Crucial questions were aimed to searching the ***effectiveness of motivation tools*** *that is expected by students* on the one hand. The respondents' role was to assign the subjective effectiveness on the scale 1–10 to each of listed 12 motivators (1 = the most effective motivator; 10 = the ineffective motivator). Hierarchical order was worked out in this way (Table 1). The provided list of motivators was generated by previous respondents, i.e. respondents who took part in the authors' previous surveys (performed since 2004). In first surveys, this field had a form of an open question. The former respondents' role consisted in setting the motivators which were the most important for them; then, the most frequent 12 motivators, collected from all respondents, were incorporated in modified version of questionnaire.[34]

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The total score of these factors (highest score = highest overall efficiency) was also calculated to create a clear ranking based on efficacy. The most effective motivator was *correctness/fairness of teachers and management,* with a total score of 1,078 points. In second place was *creating good relationships and atmosphere* (1,037). The third was *fair and objective criteria for evaluating student results* (912). *Threats and sanctions* (with score only 504 points) were the least effective motivating factor.

Table 1. Perceived potential effectiveness of motivational factors

Motivator		**Frequency – values on a scale of 1 to 10**										**Total score**
		1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	
1	Correctness of teachers and management	5	1	4	5	19	11	17	13	15	52	1,078
2	Good relationships and atmosphere	6	3	2	6	12	9	26	33	15	30	1,037
3	Fair criteria for evaluate academic results	8	7	9	9	14	22	19	19	10	25	912
4	Space for student autonomy	9	6	7	9	16	17	24	23	16	15	906
5	Interest in student opinions/suggestions	7	7	10	7	18	23	24	22	4	20	887
6	Extra (bonus) points	10	10	10	4	24	13	15	26	3	27	884
7	Further knowledge growth	11	5	11	5	18	17	33	17	12	13	871
8	Verbal praise	10	13	9	7	18	13	24	25	10	13	847
9	Providing necessary information	9	11	9	14	19	21	12	21	9	17	838
10	Involving students in faculty research	34	16	11	11	24	15	10	13	4	4	603
11	Involving students in faculty development	28	15	20	14	18	19	10	12	2	4	602
12	Application of threats and sanctions	49	21	11	11	16	13	4	8	4	5	504

On the other hand, the respondents' task was to select the ***3 most important motivators*** (among the factors marked in the previous question). These three factors were ranked in order of priority (Table 2). The total score of the factors (the highest efficiency = 3 points; the lowest = 1 point) was also calculated to rank the most effective motivators. The first two places in Table 2 coincided with the first two places in Table 1. Thus, the most important of the most effective motivating factors were *correctness/fairness* (128) and *good relationships* (123).

However, differences in the third place were identified, i.e. the third most important factor was *extra (bonus) points* (103), but it was ranked sixth in the overall ranking of effective factors. Moreover, *fair criteria for evaluation* in the selection of the most important effective motivators got up to ninth place (44), despite the fact that overall in the active tools was in third place. *Threats and sanctions* were the weakest again (11).

Table 2. Importance of the most effective motivational factors

	Motivator	Frequency of			Total score
		The highest	Medium	Lowest	
1	Correctness of teachers and management	24	16	24	128
2	Good relationships and atmosphere	21	18	24	123
3	Extra (bonus) points	22	11	15	103
4	Verbal praise	17	19	9	98
5	Interest in student opinions and suggestions	18	16	11	97
6	Providing necessary information	11	16	10	75
7	Space for student autonomy	9	15	13	70
8	Enabling further knowledge growth	11	11	12	67
9	Fair criteria for evaluate student results	3	14	7	44
10	Involving students in faculty research	3	4	2	19
11	Involving students in faculty development	2	0	11	17
12	Threats and sanctions	1	2	4	11

Further attention was paid to the ***actual application of the motivators examined***. For the same factors, respondents were asked to indicate exactly which of them were actually applied to them by teachers (Table 3). Only in two motivational factors almost exactly it matches their actual use with the opinion of students on their effectiveness. The most used factor was *providing extra points* (by 86.62% of respondents), which is also the third most effective factor (Table 2). *Verbal praise* (61.27%) was identified as the second most used motivational tool; this factor was also ranked fourth in terms of efficacy (Table 2).

Table 3. Motivational tools actually applied by lecturers

	Options	Applied motivation tools	
		Frequency	[%]
1	Extra (bonus) points	123	86.62%
2	Verbal praise	87	61.27%
3	Threats and sanctions	82	57.75%
4	Providing necessary information	77	54.23%
5	Fair and objective criteria for evaluate student results	69	48.59%
6	Interest in student opinions and suggestions	61	42.96%
7	Space for student autonomy	52	36.62%
8	Good relationships and atmosphere	49	34.51%
9	Correctness/fairness of teachers and management	46	32.39%
10	Enabling student further knowledge growth	42	29.58%
11	Involving students in faculty research	31	21.83%
12	Involving students in faculty development	28	19.72%

Despite the fact that, from the perspective of students, the most effective motivator was the *correctness/fairness of teachers and management* (Table 1, 2), only 32.39% of respondents stated that this factor was actually used; in the order of the motivators used it is in the ninth

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

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PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
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place (Table 3). However, it is also worrying that more than half of respondents (57.75%) identified *threats and sanctions* as one of the most used motivators. Thus, educators often use repressive tool, even though they are considered the least effective by students.

For almost all of students, academic progress is very importance.[35] Via this perspective, last question examined in this paper refers to the dynamics of decision-making of teachers in respect of motivation tool application. According to respondents, in terms of the passage of time and motivational dynamics, educators proceed as follows: (1) they constantly change motivation tools according to changes in student needs (this option was chosen by 16, i.e. 11.27% of respondents); (2) they change motivational tools only in cases of significant changes in student needs (51, i.e. 35.92%); (3) they do not change motivational tools at all (75, i.e. 52.82%). Unfortunately, a majority of respondents consider the set of motivators to be fixed.

In addition to the analysis of selected survey questions, ***mutual correlations*** were identified. Calculation for Chi-Square Test: yes = $\chi 2 > c$; c = Critical value of λ 5%; no = $\chi 2 < c$; c = 16.919, $\chi 2$ (9). The correlations were first examined between the ***perceived effectiveness of motivational tools and the gender of respondents*** (Table 4). Significance has been demonstrated in only two cases, i.e. *extra points* and *interest*. In female, the extra (bonus) points are ranked fourth (516 points) and male in seventh (368 points). For a clearer comparison, the average efficacy was calculated, reaching 6.7 in female and 5.66 in male (on the scale 1–10 points of effectiveness). It can be stated that female consider the factor to be more effective.

In the case of *interest in student opinions,* based on the overall score, in female the factor was in fifth place (501 points; with an average effectiveness 6.51) and in male in sixth place (386 points; 5.94). In terms of efficacy, this factor is almost equally important for both groups.

Table 4. Relationship between perceived effectiveness of motivators and gender

Effectiveness of motivator	**χ^2 (9)**	**P-value**	**Signif.**	**Effectiveness of motivator**	**χ^2 (9)**	**P-value**	**Signif.**
Extra (bonus) points	23.913	0.004	**yes**	Providing information	7.37	0.599	no
Verbal praise	10.687	0.298	no	Good relations	7.334	0.602	no
Interest in opinions	18.499	0.030	**yes**	Space for autonomy	15.187	0.086	no
Further knowledge growth	14.403	0.109	no	Correctness of teachers	11.614	0.236	no
Involving in research	12.492	0.187	no	Fair criteria for evaluation	7.034	0.634	no
Involving in development	6.657	0.673	no	Threats and sanctions	8.153	0.519	no

[35] Russkikh, L. Students' motivation to study. The European Proceedings of Social & Behavioural Sciences, 2019. 397–404

Correlations were investigated also in the ***perceived effectiveness of motivators and their actual implementation*** (Table 5). Dependence was only confirmed in two cases: verbal praise and participation of students in the faculty development. Those 87 respondents, who stated that the *verbal praise* was applied against them, generally ranked it fifth in terms of effectiveness, with the average efficiency 6.4. For respondents against whom the instrument was not applied (55), it was ranked ninth by overall efficiency score and had an average efficiency of 5.27. It means this factor was more important for those against whom it was actually applied.

28 respondents, who stated that they are *involved in the faculty development,* generally ranked this motivator as the tenth place of effectiveness – even though the factor is applied to them, they do not consider it effective. The average efficiency was 5.46. Even those to whom this tool have not been applied (114 respondents) also do not consider it to be effective, because they ranked it as the penultimate – 11th out of 12. Average efficiency reaches the value of 3.94.

Table 5. Relations between effectiveness of motivators and actual application

Effectiveness of motivator	**χ^2 (9)**	**P-value**	**Signif.**	**Effectiveness of motivator**	**χ^2 (9)**	**P-value**	**Signif.**
Extra (bonus) points	6.472	0.692	no	Providing information	6.931	0.644	no
Verbal praise	18.499	0.030	**yes**	Good relations	10.563	0.307	no
Interest in opinions	5.075	0.828	no	Space for autonomy	10.078	0.344	no
Further knowledge growth	15.949	0.068	no	Correctness of teachers	11.661	0.233	no
Involving in research	9.698	0.376	no	Fair criteria for evaluation	11.155	0.265	no
Involving in development	21.619	0.010	**yes**	Threats and sanctions	7.769	0.558	no

Discussion

With using an Academic Achievement Motivation Test (AAMT), Kumawat has searched differences in academic motivation among male versus female students. Obtained results confirmed author's hypothesis on differences in the academic motivation according to gender: the mean value of female students was higher than the male students. This means "that girls have more academic achievement motivation that the boys"[36] (p. 91). However, this does not correspond with results obtained in Table 4 of this paper. As flows from the similar survey realized on the sample of 218 university students in Jordan, students who have higher level of optimism, life satisfaction, and perceived social support from family, are more likely to have

[36] Kumawat, S. Academic achievement motivation among Junior College Science Faculty Students. International Journal of Indian Psychology 2017, 4, 88–92

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
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higher level if intrinsic motivation for academic accomplishment[37] (p. 34). The study of Wilkesmann et al., performed at the students (n = 3,687) from three German universities, reaches the knowledge that the more students know about studying – not the contents of certain disciplines but the more general information on what, why, and how – the more they are motivated in general[38] (p. 15). This result can be positively linked to the results presented in Tables 1 and 2. On the scale 1–10, participated students assigned the highest effectiveness to teachers and managers' fairness and good relations. Amrai et al. searched 9 components of academic motivation and academic achievement: task, effort, competition, social power, affiliation, social concern, praise, token, and achievement. Study points out that "academic achievement has the highest correlation with competitiveness and the lowest correlation with praise. Only the components of task, effort, competition and social concern have a positive and significant relationship with academic achievement"[39] (p. 401). Mentioned results are in accordance with results presented in Table 5. Respondents consider the praise highly important and dependent on real application (with average effectiveness of 6.4 points in a case of use).

CONCLUSION

Resuming the whole paper and especially, its empirical and discussion sections, there exist disproportions between the efficiency of motivational tools, events and approaches, and the frequency of motivators really applied towards the students. Also, students opine that the motivational tools, intentionally aimed on increase of their motivation, are constant, without respect to their motivation's changes. This means the university student motivation is not sufficiently formed and purposefully influenced. This creates space for a potential demotivation or a-motivation of students. In other words, the problem is not the intensity, i.e. the size or strength of students' motivation. The problem is letting the motivation of students without responsible cultivation and harmonization with the university and societal motivations, as well as progressive-appropriate development plans and career ambitions of the students themselves in the future. Diversion of unformed motivation of students and graduates from 'properly targeted, properly structured and properly substantial motivation' may subsequently cause

[37] Hamdan-Mansour, A. M. et al. Psychosocial correlates of motivation for academic accomplishment among university students. Procedia – Social and Behavioral Sciences 2014, 159, 32–36
[38] Wilkesmann, U., Fischer, H., Virgillito, A. Academic motivation of students – The German case. Discussion papers des Zentrums für Hochschule Bildung – Technische Universität Dortmund 2012, 2
[39] Amrai, K., Motlagh, S. E., Zalani, H. A., Parhon, H. The relationship between academic motivation and academic achievement students. Procedia Social and Behavioral Sciences 2011, 15, 399–402.

social slowdown and a possible motivation unmet or incompleteness and even overall frustration in their future work and private life. For this reason, university mechanisms should focus on the thoughtful and balanced influence of academic motivation. However, the complex academic motivation contains a multiplied summary of all the motivations existing at the university, i.e. including the motivations of pedagogical, scientific, research, managerial, administrative and service staff, as well as the motivation of the students themselves, their parents, peers, employers, etc.

Although the proper definition and application of effective student motivation tools is complicated, their implementation should become a priority for university and faculty management. In addition, the philosophy and content of applied motivators aimed at improving the student motivation should be consistent with those defined for lecturers, scientists, managers and clerks. In other words, all motivational approaches, tools, measures and events at the university should together form a precise and sophisticated motivational system.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

KŪRYBINGUMO IR KITŲ SU KŪRYBA SUSIJUSIŲ ŽODŽIŲ APIBRĖŽČIŲ DISKURSO ANALIZĖ LIETUVIŲ KALBOS ŽODYNUOSE

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DOI: 10.13165/PSPO-20-24-06

Anotacija. Straipsnio tikslas – aptarti terminų *kūrybingumas* ir *kūrybiškumas* ir kitų su jais susijusių terminų (*kūryba*, *kūrimas*, *kūriniai*, *kūrėjas*, *kūrybinis*, *kūrybiškas*, *kūrybingas*) darybines reikšmes, išanalizuoti minėtų žodžių apibrėžtis žodynuose ir išsiaiškinti apibrėžimo pateikimo situaciją lietuvių kalbos žodynuose. Mokslininkai bei įvairių sričių praktikai pastaruosius terminus vartoja nesiremdami žodynuose pateiktais terminų apibrėžimais, o pasikliauja savo subjektyvia, taip pat kitų mokslininkų darbuose ar žiniasklaidoje dažnai vyraujančia, tačiau ne visuomet teisinga, vieno ar kito termino vartosena. Straipsnyje analizuojama žodžių *kūrybingumas*, *kūrybiškumas* ir kitų su jais susijusių žodžių *kūryba*, *kūrimas*, *kūriniai*, *kūrėjas*, *kūrybinis*, *kūrybiškas*, *kūrybingas* darybiniai ryšiai, taip pat šių žodžių apibrėžtys žodynuose bei žodynuose apibrėžti su šiais žodžiais sudaryti junginiai. Siekiant išsiaiškinti terminų apibrėžimo pateikimo situaciją, naudotas mokslinės literatūros ir žodynų turinio lyginamosios analizės bei apibendrinimo metodai. Tyrimo rezultatai rodo, kad iš veiksmažodžio *kurti* išvesti daiktavardžiai *kūrimas, kūryba, kūrėjas ir kūrinys* turi aiškias reikšmes bei žodynuose pateiktus apibrėžimus, kalbos vartotojui nekyla sunkumų vartojant šiuos žodžius. Būdvardžių *kūrybinis* ir *kūrybiškas* kalbos vartotojams kelia sunkumų dėl panašių ir sunkiai atskiriamų darybinių reikšmių, o šių žodžių apibrėžtys žodynuose vartotojui nepalengvina suvokimo, kurioje situacijoje vartoti šiuos žodžius. Būdvardžių *kūrybiškas* ir *kūrybingas* vartojimas nekelia sunkumų, nes darybinės reikšmės yra aiškiai atskiriamos, tačiau sunkumų kyla vartojant iš šių būdvardžių išvestus daiktavardžius *kūrybiškumas* ir *kūrybingumas*. O žodynuose pateiktos panašios apibrėžtys neleidžia kalbos vartotojui aiškiai suvokti, kurioje situacijoje vartoti šiuos žodžius. Žodynuose pateiktos su *kūryba* susijusių žodžių / terminų junginių apibrėžtys pateikiamos fragmentiškai, žodynuose pateikiama mažuma junginių apibrėžimų, o tai taip pat kalbos vartotojui sukelia sunkumų aiškiai suvokti kaip šiuos junginius taisyklingai vartoti.

Pagrindinės sąvokos: kūrybingumas, kūrybiškumas, kūrybinis, kūrybingas, kūrybiškas.

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

ĮVADAS

21 amžiuje kūrybingumas jau nebetraktuojamas kaip išskirtinis genialumo atributas ar dieviškoji inspiracija, o tampa privilegija darbo rinkoje ir yra pripažįstamas kaip viena iš svarbiausių konkurencingumą užtikrinančių kompetencijų šiuolaikinėje rinkoje tiek individams, tiek organizacijoms. Matomas itin ryškus kūrybingumo fenomeno diskurso postūmis nuo dievams priskiriamų mistifikuojamų galių iki šiandieninės rinkos ekonomikos poreikio kūrybingumo, kaip žmogiškojo ištekliaus esminio kūrybos ekonomikos resurso.

Kūrybingumo moksliniai tyrimai (Hennessey, Amabile, 2010; Mumford, 2012; Baer, 2016) leido geriau suprasti, kas yra kūrybingumas ir kaip tai pasireiškia mūsų gyvenime. Taigi 21 amžiuje prasidėjus kūrybingumo epochai, šios sąvokos vartojimas buitinėje bei verslo kalboje tapo kasdienybe. Terminas atrodytų lyg ir pakankamai aiškus, tačiau siekiant apibrėžti ir pagrįsti šio konstrukto semantinę reikšmę, susiduriama su akivaizdžia painiava ir vieningo požiūrio nebuvimu (Ganusauskaitė ir kt., 2020). Todėl naujausiuose moksliniuose darbuose viena opiausių problemų – kūrybingumo termino bei konstrukto apibrėžimas.

Esama užsienio autorių darbų (Wehner ir kt., 1991; Plucker ir kt., 2004; Robinson, 2008; Plucker, Zabelina, 2009; Kampylis, Valtanen, 2010; Jordanous, Keller, 2016), kuriuose analizuojamas kūrybingumo konstrukto apibrėžimas, susisteminama kūrybingumo apibrėžimų bei pateikiamų sampratų įvairovė. Eberto (1994) teigimu, terminas „kūrybingumas" vartojamas taip, tarsi būtų laikomasi bendro sutarimo kaip turėtų būti apibrėžiamas šis konstruktas, tačiau apibrėžtys dažniau būdingos tam tikriems autoriams nei laikomasi vieningo sutartinio požiūrio. Plucker ir kt. (2004) atlikę kūrybingumo apibrėžimų tyrimų meta-analizę, pastebėjo, kad konkretūs apibrėžimai pateikiami skirtingose srityse, tarpusavyje skiriasi ne tik turiniu, bet ir fokusu. Wehner, Csikszentmihalyi ir Magyari-Beck (1991) atlikta turinio analizė taip pat atskleidė esminių terminų nenuoseklumą. Pasak mokslininkų, „reiškiniai, kuriuos apibrėžia žodis „kūrybingumas", apima daugybę disciplinų ir persipina keliais lygmenimis" (p. 261). Tyrėjai gvildenantys kūrybingumo fenomeno termino semantinę ir lingvistinę problematikas atkreipė dėmesį, kad nėra vieningos nuomonės tarp skirtingų disciplinų mokslininkų, siekiant apibrėžti patį konstruktą, ir nustatė, jog tarp daugelio kūrybingumo apibrėžimų yra įvairių neatitikimų (Cropley, 1999). Akivaizdu, kad kūrybingumo sampratos evoliucija priklausė nuo to, kokia sritis buvo nagrinėjama, kas labiau akcentuojama, kokia psichologine ar filosofine koncepcija vadovavosi tyrėjas ir pan. (Ferrari

ir kt., 2009). Tokia gan paini, semantiškai bei lingvistiškai įvairialypė fenomeno sampratos raida, yra aiškių terminų ir apibrėžčių nebuvimo mokslo plotmėje priežastis.

Lietuvos autorių moksliniuose darbuose *kūrybingumo* konstrukto apibrėžimo diskursas ir problematika taip pat išlieka aktualia. Mokslininkai analizuoja tiek šio konstrukto sampratos diskursą (Levickaitė, 2010; Černevičiūtė, Strazdas, 2014), siekia atskleisti kūrybos termino raidą bei etimologiją (Kačerauskas, 2014), gilinasi į *kūrybingumo* termino semantines ir lingvistines problemas, terminų *kūrybingumas* ir *kūrybiškumas* vartoseną (Daujotytė, 2010; Barevičiūtė 2014), tiek į svetimžodžių *kreatyvus*, *kreatyvinis* ir *kreatyviškas* reikšmes bei vartojimą (Stundžinas, 2015). Trilupaitytė (2014) atkreipia dėmesį į teorines ir praktines kūrybiškumo definicijų problemas bei akcentuoja termino devalvaciją. Vladarskienė (2017) aiškinasi kūrybinių industrijų sąvokos sampratą bei analizuoja realiąją šio ūkio sektoriaus terminų vartoseną ir jų tvarkybos problemas.

Ganusauskaitė ir kt. (2020) įvardijo kūrybingumo apibrėžimo problematiką Lietuvos autorių mokslinėje literatūroje. Autorės akcentuoja, kad Lietuvos mokslininkų darbuose kyla diskusijų tiek dėl paties *kūrybingumo* termino, tiek dėl jo apibrėžimo ir sampratos, kuomet vienareikšmiškai pritariama, kad yra sudėtinga pateikti vieningai priimtiną holistinį apibrėžimą. Be to, Lietuvos mokslo darbuose nėra nusistovėjusios vieningos terminų *kūrybingumas* ir *kūrybiškumas* sampratos, todėl šie terminai dažniausiai vartojami kaip sinonimai, o reikšmės nėra aiškiai identifikuotos. Taip pat nėra aiškiai apibrėžti žodžių junginių apibrėžimai, kyla problemų dėl terminų vertimo, skolinių vartojimo ne tik buitinėje, bet ir mokslinėje kalboje.

Tyrimo aktualumas. Pastebima, kad užsienio ir Lietuvos tyrėjai laikosi skirtingų požiūrių į kūrybingumo fenomeną bei vartoja skirtingas šio konstrukto apibrėžtis, taigi vis dar lieka neatsakytas klausimas: kaip turėtų būti apibrėžiamas kūrybingumo terminas? Akivaizdu, kad Lietuvos mokslinėje literatūroje yra neatitikimų tiek dėl paties termino *kūrybingumas* apibrėžimo ir sampratos, tiek dėl jo vartojimo. Lietuvių mokslininkai vartoja terminus *kūrybingumas*, *kūrybiškumas*, *kūrybinis*. Semantinė šių žodžių prasmė, atsižvelgiant į žodžių priesagas, yra skirtinga, tačiau moksliniuose darbuose ne visuomet to paisoma. O terminai *kūrybingumas* ir *kūrybiškumas* kartais vartojami net kaip sinonimai.

Termino *kūrybingumas* sampratos ir apibrėžimo problematika kyla iš pamatinio termino *creativity*. Pastarojo apibrėžimas nėra nusistovėjęs ne tik užsienio vadybos krypties

mokslininkų darbuose, bet ir kitose kryptyse, pavyzdžiui, psichologijos, kur šis konstruktas yra mokslinių tyrimų objektas jau ne vieną dešimtmetį.

Problema. Koks yra *kūrybingumo* termino apibrėžimas bei žodžių *kūrybingumas*, *kūrybiškumas*, *kūrybinis* vartojimas semantine prasme lietuvių kalboje ir kaip kalbos vartotojas turėtų juos atskirti bei vartoti?

Šio tyrimo problema sietina su tuo, jog terminai *kūrybingumas*, *kūrybiškumas*, *kūrybinis* mokslininkų, įvairių sričių praktikų yra vartojami nesiremiant žodynuose pateiktais terminų apibrėžimais, kuriuos lėmė atitinkamo termino darybinė sandara, o pasikliaujama savo subjektyvia, taip pat kitų mokslininkų darbuose ar žiniasklaidoje dažnai vyraujančia, tačiau netikslinga, vieno ar kito termino vartosena.

Straipsnio objektas – terminų *kūrybingumas* ir *kūrybiškumas* darybos aspektai ir apibrėžtys lietuvių kalbos žodynuose. Atsižvelgiant į tai, kad su minėtais terminais darybiškai yra susijusių kitų terminų (*kūryba*, *kūrimas*, *kūriniai*, *kūrėjas*, *kūrybinis, kūrybiškas, kūrybingas*), straipsnyje nagrinėtos jų darybinės reikšmės ir apibrėžtys žodynuose.

Straipsnio tikslas – aptarti terminų *kūrybingumas* ir *kūrybiškumas* ir kitų su jais susijusių terminų (*kūryba*, *kūrimas*, *kūriniai*, *kūrėjas*, *kūrybinis, kūrybiškas, kūrybingas*) darybines reikšmes, išanalizuoti minėtų žodžių apibrėžtis žodynuose ir išsiaiškinti apibrėžimo pateikimo situaciją lietuvių kalbos žodynuose.

Tyrimo metodai. Tyrimui atlikti taikyti mokslinės literatūros lyginamosios analizės, apibendrinimo metodai. Siekiant išsiaiškinti su kūryba susijusių terminų apibrėžimo pateikimo situaciją, naudotas mokslinės literatūros ir žodynų turinio lyginamosios analizės ir apibendrinimo metodai.

Tyrimo eiga. Pirminis loginis žingsnis yra termino apibrėžties išsiaiškinimas. Vienas iš šaltinių, norint nustatyti mokslininkų apibrėžtą žodžio reikšmę, prasmę yra žodynas. Žodyne ne tik pateikiama žodžio reikšmė, bet ir esama informacijos apie tarimą, darybos aspektus, žodžio ar termino vartojimo sritis, funkciją ir kt. Siekiant tyrimo tikslo, buvo peržiūrėti Valstybinės lietuvių kalbos komisijos įvertinti kalbos taisyklingumo ir terminologijos principus atitinkantys terminų žodynai, pateikti Lietuvos Respublikos terminų banke (www.terminai.vlkk.lt), bibliotekoje prieinami visi bendrosios paskirties ir profesiniai (psichologijos, edukologijos, menų, ekonomikos ir verslo administravimo) žodynai, išleisti nuo 1950-ųjų metų. Taip pat naudotasi Lietuvių kalbos išteklių informacine sistema (http://lkiis.lki.lt), Integruotų lietuvių kalbos ir raštijos išteklių informacine sistema

ISSN 2029-1701
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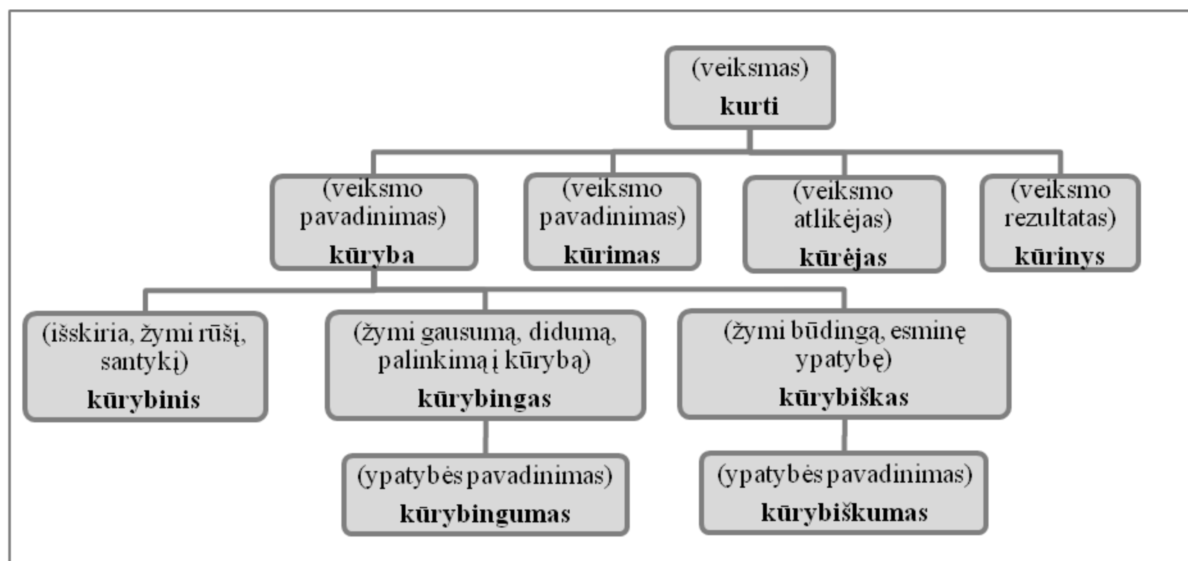
(www.raštija.lt). Žodynų analize siekta nustatyti, kuriuose žodynuose apibrėžti terminai *kūrybingumas* ir *kūrybiškumas*, kaip juose apibrėžiami minėti žodžiai, kokie apibrėžčių skirtumai, panašumai. Kadangi, kaip toliau parodys analizė, su minėtais terminais darybiškai yra susijusių kitų žodžių, straipsnyje taip pat analizuoti ir aptarti kiti darybiškai tiesiogiai ar per kitus žodžius su *kūrybingumu* ir *kūrybiškumu* susiję žodžiai – *kūryba*, *kūrimas*, *kūriniai*, *kūrėjas*, *kūrybinis, kūrybiškas, kūrybiškumas, kūrybingas, kūrybingumas*.

SU KŪRYBA SUSIJUSIŲ ŽODŽIŲ DARYBINIAI RYŠIAI IR DARYBOS FORMANTŲ SUTEIKIAMOS REIKŠMĖS

Prieš nagrinėjant žodynų apibrėžtis, svarbu pagrįsti šiame straipsnyje aptariamų žodžių sąsają su kūryba, taip pat nusakyti žodžių darybinius ryšius. Žodžiai *kūryba*, *kūrimas*, *kūriniai*, *kūrėjas*, *kūrybinis, kūrybiškas, kūrybiškumas, kūrybingas, kūrybingumas* yra vienaip ar kitaip susiję su veiksmažodžiu *kurti*, kuris yra tiesioginis ar kiek nutolęs pagrindas kitiems iš jo išvestiems žodžiams (1 pav.).



1 pav. Su kūryba susijusių žodžių darybiniai ryšiai

Pateiktame paveiksle atvaizduoti su kūryba susijusių žodžių darybiniai ryšiai. Remiantis *Dabartine lietuvių kalbos gramatika* (1996), žodžiai (daiktavardžiai) *kūryba, kūrimas*, *kūrėjas* ir *kūrinys* yra išvesti iš veiksmažodžio *kurti*: *kūryba* yra priesagos *-yba* vedinys, *kūrimas* – priesagos *-imas* vedinys, o *kūrėjas* – priesagos *-ėjas* vedinys ir *kūrinys* yra priesagos *-inys* vedinys iš veiksmažodžio *kurti*. Žodžių *kūryba* ir *kūrimas* darybinės priesagos turi abstrakčią reikšmę, kuria įvardijamas veiksmas, procesas. Priesagos *-ėjas* vediniais yra žymimas asmuo

pagal atliekamą veiksmą (*kurti* vs. *kūrėjas*) ar nuolatinį darbą (*siūti* vs. *siuvėjas*). O priesaga -*inys* reiškia pamatiniu žodžiu (*kurti*) įvardytą veiklos rezultatą. Kitaip pasakius, aptarti daiktavardžiai įvardija veiksmą, nusako veiksmo veikėją ir veiksmo rezultatą.

Kiti 1 paveiksle pavaizduoti žodžiai (būdvardžiai) – *kūrybingas*, *kūrybinis*, *kūrybiškas* yra išvesti iš pamatinio daiktavardžio *kūryba:* žodis *kūrybingas* yra priesagos *-ingas, -a* vedinys, *kūrybinis* – priesagos *-inis, -ė* vedinys ir *kūrybiškas* yra priesagos *-iškas, -a* vedinys. Daiktavardinis priesagos *-ingas, -a* būdvardis (šiuo atveju) kartu su pagrindine gausumo, didumo gerumo reikšme žymi palinkimą į pamatiniu žodžiu reiškiamą daiktą, pamėgimą ko – *kūrybingas žmogus* „linkęs į kūrybą, daug kuriantis“[1]. Daiktavardiniai priesagos *-inis*, *-ė* būdvardžiai išskiria, žymi rūšį pagal kelias iš daugelio darybinių reikšmių – „gali būti linkęs į daiktą, pasakytą pamatiniu žodžiu“ ar „atliekamas įgyjamas, gaunamas, atsiradęs tuo būdu, kuris pasakytas pamatiniu žodžiu“[2]. Trečiasis daiktavardinis priesagos *-iškas*, *-a* būdvardis žymi pažymimuoju žodžiu reiškiamo daikto esmę, pamatą, būdingą ypatybę. Pastarosios priesagos (*-iškas*, *-a*) būdvardžiai yra artimi prieš tai aptartos priesagos *-inis*, *-ė* būdvardžiams ir kartais gali eiti sinonimais: *kūrybinis* ir *kūrybiškas*. Nurodoma, kad „priesagos *-inis, -ė* būdvardžiai žymi išskiriamąją arba rūšinę ypatybę pagal tam tikrą santykį su pamatinio žodžio reiškiamu daiktu, o priesagos *-iškas, -a* būdvardžiai, nors kartais žymi daiktų rūšį, bet kartu išlaiko kokybinę reikšmę – rodo būdingas ar esmines daiktų ypatybes. Pavyzdžiui, junginyje *kūrybinis darbas* būdvardis nurodo tik santykį su kūryba, o *kūrybiškas darbas* žymi, kad kūryba sudaro to darbo esmę“[3].

Dar du 1 paveiksle pavaizduoti žodžiai, į kuriuos šiame straipsnyje daugiausiai telkiama dėmesio dėl jų nesistemingo vartojimo, – *kūrybiškumas* ir *kūrybingumas*. *Kūrybiškumas* yra priesagos *-umas* vedinys iš būdvardžio *kūrybiškas*, o daiktavardis *kūrybingumas* yra tokios pačios priesagos *-umas* vedinys iš būdvardžio *kūrybingas*. Šie iš būdvardžių su priesaga -*umas* padaryti daiktavardžiai yra ypatybių pavadinimai – reiškia ypatybes, atitrauktas nuo daiktų, kuriems jos yra būdingos, turi abstrahuotą (apibendrintą esminių daikto savybių) reikšmę.

Svarbu susisteminti ir pabrėžti, kas pasakyta, nes tai gali padėti atsakyti į klausimą, kodėl žodžiai *kūrybiškumas* ir *kūrybingumas* daugelyje sričių vartojami nesistemingai, nesilaikant reikšmės apibrėžties, neretai sinonimiškai. Žodžiai, iš kurių padaryti *kūrybiškumas*

[1] *Dabartinės lietuvių kalbos gramatika*, Vilnius: Mokslų ir enciklopedijų leidykla, 1996, p. 198.
[2] *Ibid* p. 212.
[3] *Ibid* p. 208.

ir *kūrybingumas*, turi skirtingas reikšmes: žodžiu *kūrybingas* nusakomas į kūrybą linkęs asmuo, o žodžiu *kūrybiškas* apibūdinamas darbas, kurio esmę sudaro kūryba. Iš šių būdvardžių išvedant daiktavardžius naudojama priesaga -*umas*, kuri suteikia ypatybėms *kūrybingas* ir *kūrybiškas* pavadinimus *kūrybingumas* ir *kūrybiškumas.* Dėl tokio darybos aspekto pastarųjų žodžių reikšmės tampa labai panašios ir tikslus šių žodžių vartojimas galimas tik išmanant darybos formantų reikšmes arba remiantis žodynuose pateiktomis apibrėžtimis. Taigi toliau kitas tyrimo žingsnis turi būti susijęs su šių ir kitų aptartų žodžių apibrėžčių žodynuose analize, siekiant nustatyti, kurie su kūryba susiję žodžiai ir kaip apibrėžiami žodynuose, kaip aptartos darybinių formantų reikšmės atsispindi tų žodžių apibrėžtyse žodynuose.

SU KŪRYBA SUSIJUSIŲ ŽODŽIŲ APIBRĖŽTYS ŽODYNUOSE

Išnagrinėjus žodynus nustatyta, kad žodis[4] ***kūryba*** apibrėžtas dvylikoje žodynų (1 lentelė). Plačiausiai žodis apibrėžiamas Aiškinamajame lietuvių kalbos žodyne (2001), kur nurodoma, kad *kūryba* yra „1. kuriamas darbas, kūrimas (meninė kūryba). 2. Kas sukurta (K. Donelaičio kūryba). Darbas – griovimas (atominė energija turi būti ne griovimo ir mirties simbolis, bet techninės pažangos ir kūrybos priemonė)“. Kituose su lietuvių kalba susijusiuose žodynuose (Lietuvių kalbos žodynas, 1962 (VI žodyno dalis); Mokomasis lietuvių kalbos žodynas, 2000; Dabartinės lietuvių kalbos žodynas, 1972, 1993, 2000, 2012) pateiktos siauresnės, tačiau tą pačią esmę apimančios, apibrėžtys. Sinonimų žodyne (2002) *kūrybą* siūloma vartoti vietoje žodžio *darbas*, o Antonimų žodyne (2003) nurodoma, kad *kūryba*, *kūrimas* ir *kuriamasis darbas* yra kaip priešprieša *griovimui*, *naikinimui*, *ardymo veiksmui*.

Kaip matyti iš 1 lentelėje pateiktų duomenų, specializuotuose sociologijos, filosofijos, pedagogikos, edukologijos, psichologijos žodynuose *kūryba*, kaip terminas, apibrėžiamas siejant su žmogaus veikla, kuria sukuriamos materialinės ir / ar dvasinės vertybės. Pedagogikos terminų žodyne (1993) pateiktas apibrėžimas yra atkartotas Enciklopediniame edukologijos žodyne (2007), taip pat pastarajame žodyne aptariama, kaip skatinti kūrybinį mąstymą, kokios yra skiriamos kūrybos sritys ir kt.

[4] Šiame straipsnyje aptariant su kūryba susiję žodžiai yra įvardijami **žodžiais** ir **terminais**. Žodžiais įvardijama tuomet, kai jų reikšmė aiškinama remiantis ne specializuotais lietuvių kalbos žodynais, pavyzdžiui, Dabartinės lietuvių kalbos žodynu, Lietuvių kalbos žodynu. Su kūryba susiję žodžiai vadinami terminais, kai jų apibrėžtys aiškinamos remiantis specializuotais psichologijos, edukologijos, vadybos ar kt. mokslo krypties terminų žodynais.

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

1 lentelė. Žodžio *kūryba* apibrėžtys žodynuose

KŪRYBA		
1.	1. Kuriamasis darbas, kūrimas (meninė kūryba). 2. Kas sukurta (K. Donelaičio kūryba). 3. Darbas – griovimas (atominė energija turi būti ne griovimo ir mirties simbolis, bet techninės pažangos ir kūrybos priemonė).	Aiškinamasis lietuvių kalbos žodynas, 2001
2.	1. kuriamasis darbas, kūrimas: <...> 2. kas sukurta, kūrimo rezultatas: <....>	Lietuvių kalbos žodynas (VI žodyno dalis)
3.	kūrimo veikla; tai kas sukurta: kūrybos džiaugsmas, muziejuje galite pamatyti menininkų kūrybą.	Mokomasis lietuvių kalbos žodynas, 2000
4.	Kūryba – (1) 1. Kuriamasis darbas, kūrimas: Meninė, techninė k. 2. Kas sukurta: Donelaičio k. Tautosaka yra liaudies k.	Dabartinės lietuvių kalbos žodynas, 1972, 1993, 2000, 2012
5.	kūryba 1 –> darbas 2	Sinonimų žodynas, 2002
6.	kūrýba (1), kūrìmas (2) *kuriamasis darbas* – griovìmas (2) *naikinimo, ardymo veiksmas*	Antonimų žodynas, 2003
7.	žmogaus veikla kaip gamtos ir visuomenės materialinio ir dvasinio pertvarkymo procesas, formuojąs naujus, savaime neatsirandančius materialius ir idealius objektus.	Sociologijos žodynas, 1993
8.	Žmogaus veiklos procesas, kuriuo jis kuria kokybiškai naujas materialines ir dvasines vertybes. Kūryba yra bedirbant atsiradęs žmogaus sugebėjimas iš tikrovės teikiamos medžiagos sukurti naują realybę, tenkinančią įvairius visuomenės poreikius.	Filosofijos žodynas, 1975
9.	Žmogaus gebėjimas transformuoti aplinkinį pasaulį, savo išgyvenimus, žinias ir patirtį į kitų žmonių suprantamą artefaktą arba intersubjektyvų tekstą (filos.). Intelektinė veikla, kuria sukuriamos naujos ir originalios materialinės ir dvasinės vertybės (psichol.).	Visuotinė lietuvių kalbos enciklopedija (Kr-Len), 2007
10.	Žmogaus veikla, kuria sukuriamos naujos, iki tol nežinomos materialinės ar dvasinės vertybės, turinčios visuomeninę reikšmę. Mokinių kūrybos reikšmė yra individuali, mokyklinė, rečiau – visuomeninė <...>.	Pedagogikos terminai, 1993
11.	Žmogaus veikla, kai sukuriamos naujos materialinės ar dvasinės vertybės, turinčios visuomeninę reikšmę <...> Skirtinos šios kūrybos sritys: mokslinė, meninė, techninė, technologinė ir kt. Moksleiviai supažindinami su įvairiais kūrybos žanrais, stiliais, metodais, priemonėmis, sudaromos sąlygos kūrybinei veiklai. Žmogaus veikla, kuria sukuriamos naujos, iki tol nežinomos materialinės ar dvasinės vertybės, turinčios visuomeninę reikšmę <...>.	Enciklopedinis edukologijos žodynas, 2007
12.	Žmogaus veikla, kuria jis sukuria naujas materialines ir dvasines vertybes. <...> Svarbią reikšmę turi ↑ vaizduotė, ↑ intuicija, nesąmoningi protinio aktyvumo komponentai, be to, žmogaus poreikis išreikšti save, atskleisti ir išplėtoti savo galimybes <...> G. Volesas skiria keturias kūrybos stadijas: pasirengimą, subrendimą, nušvitimą ir patikrinimą. <...> Kūryba yra susijusi su ta kultūros sritimi, kurioje ji realizuojama (gamyba, technika, menas, mokslas, politika, pedagogika ir kt.) <...>.	Psichologijos žodynas, 1993

Plačiausias termino *kūryba* apibrėžimas pateiktas Psichologijos žodyne (1993), kur ne tik nurodoma, kad kūrybos rezultatas yra materialinės ir dvasinės vertybės, bet ir paaiškinama, dėl ko asmeniui yra svarbi kūryba, kokie procesai sudaro kūrybą, kokios yra kūrybos stadijos, kuriose srityse kūryba yra realizuojama ir kt. Apibendrinant žodynuose pateiktas termino *kūryba* apibrėžtis pasakytina, kad šis terminas suvokiamas kaip techninis, meninis darbas ar veikla, kuria asmuo, įgyvendindamas tam tikrus procesus, pereidamas tam

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

tikrus etapus, išreiškia save, taip sukurdamas tiek sau, tiek visuomenei materialinių ar dvasinių vertybių.

Kito žodžio – ***kūrimas*** – apibrėžčių rasta trijuose žodynuose (2 lentelė). Išnagrinėjus apibrėžtis matyti, kad *kūrimas* yra apibrėžiamas panašiai kaip *kūryba*. Tai yra su kūryba susijęs procesas, veiksmas, kuriuo sukuriamas meninis, techninis rezultatas, o tam priešpriešа, kaip nurodoma Antonimų žodyne (2003), yra veiksmas, kuriuo griaunama, naikinama, ardoma.

2 lentelė. Žodžio *kūrimas* apibrėžtys žodynuose

KŪRIMAS		
1.	1. Kuriamasis darbas, kūrimas: Meninė, techninė k. 2. Kas sukurta: Donelaičio k. Tautosaka yra liaudies k.	Dabartinės lietuvių kalbos žodynas, 1972, 1993, 2000, 2012
2.	Su kūryba susijęs veiksmas, kuriuo gaunamas aiškus galutinis rezultatas.	Aiškinamasis kompiuterijos terminų žodynas, 2015
3.	Kūryba (1), kūrimas (2) *kuriamasis darbas* – griovimas (2) *naikinimo, ardymo veiksmas* Verta daryti viską, kas palengvina žmonių kančias, kas tarnauja kūrybai, o ne griovimui <...> Kieno prigimtis žema, nyki, linkusi ne į kūrybą, o į griovimą, tas kupinas neapykantos kitiems. O kūryba ir griovimas visad greta, netgi Šventajame Rašte rš.	Antonimų žodynas, 2003

Tik viename žodyne rastas žodžio ***kūrėjas*** apibrėžimas (3 lentelė). Kaip matyti, Antonimų žodyne (2003) pateiktoje apibrėžtyje nurodoma, kad *kūrėjas* yra kaip priešpriešа tam, kuris griauna – griovėjui. Tai susiję su darybine priesagos *-ėjas* reikšme, su kuria sudaromi daiktavardžiai, nusakantys pamatiniu žodžiu įvardyto veiksmo (šiuo atveju *kurti*) veikėją, kūrėją.

3 lentelė. Žodžio *kūrėjas* apibrėžtys žodynuose

KŪRĖJAS		
1.	kūrėjas (1) *kas kuria* – griovėjas (1) *kas griauna* Pasaulyje visa ko kūrėjas ir griovėjas, atliekantis didingus ir niekšiškiausius darbus <...> griovėjai vadina save kūrėjais ir kaltina tikruosius kūrėjus ardomąja veikla. Kai ima vyrauti žlugimo nuotaikos, vis iškyla keisti nauji dievai, kurie labiau panašūs į velnią, iškyla demiurgas – nei geras, nei blogas, o tik kūrėjas, tik akla pirmykštė jėga rš.	Antonimų žodynas, 2003

Kita analizuojamų žodžių grupė (*kūrybingas*, *kūrybinis, kūrybiškas*) yra daiktavardžio *kūryba* vediniai (žr. prieš tai aptartą 1 pav.), tiksliau būdvardžiai, kurių darybos formantai žymi išskirtinumą, esmines ypatybes ir kt. Išnagrinėjus žodynus nustatyta, kad žodis ***kūrybingas*** apibrėžtas keturiuose žodynuose (4 lentelė).

4 lentelėje pateikti duomenys rodo, kad Dabartinės lietuvių kalbos žodyne (1972, 1993, 2000, 2012), Lietuvių kalbos žodyne (1962) ir Aiškinamajame kompiuterijos terminų žodyne (2001) žodis *kūrybingas* apibrėžiamas taip, kokią reikšmę turi darybinė priesagos *-ingas* reikšmė tai žmogus, turintis gabumų, polinkių, linkęs į kūrybą, gausus kūrybos.

4 lentelė. Žodžio *kūrybingas* apibrėžtys žodynuose

KŪRYBINGAS		
1.	Kūrybin‖gas, ~a (1) turintis kūrybos gabumų, polinkių: K. žmogus. ~umas (2)	Dabartinės lietuvių kalbos žodynas, 1972, 1993, 2000, 2012
2.	su kūrybos gabumais, palinkimais; gausus kūrybos: Mes norime įrodyti, kad jūs gyvas, pajėgus, kūrybingas žmogus A. Gric. Kūrybinga mintis iškalbingai spindės kiekvienoj jo gamintoj <...>.	Lietuvių kalbos žodynas (VI žodyno dalis), 1962
3.	turintis kūrybos gabumų (kūrybingas jaunuolis). Darbštus	Aiškinamasis kompiuterijos terminų žodynas, 2001
4.	kūrybi̇̃ngas 1 → darbštus	Sinonimų žodynas, 2002

Tik dviejuose žodynuose rasta žodžio ***kūrybinis*** apibrėžčių (5 lentelė). Šie žodynai skirti visiems lietuvių kalbos vartotojams (ne specializuotai sričiai, kaip terminų žodynai), taigi tai atsispindi apibrėžtyse – jose neaiškinama žodžio reikšmė, vartojimo aspektai, o tiesiog pateikiama žodžio vartosenos pavyzdžių.

5 lentelė. Žodžio *kūrybinis* apibrėžtys žodynuose

KŪRYBINIS		
1.	Kūrybin‖is, ~ė (1) → kūryba 1: K. darbas	Lietuvių kalbos žodynas (VI žodyno dalis), 1962
2.	Kūryba: žmogų reikia auklėti aktyviai kūrybinei veikla.	Dabartinės lietuvių kalbos žodynas, 1972, 1993, 2000, 2012

Žodis ***kūrybiškas*** apibrėžtas trijuose žodynuose (6 lentelė). Dabartinės lietuvių kalbos žodyne (1972, 1993, 2000, 2012) ir Lietuvių kalbos žodyne (1962) pateikiama žodžio *kūrybiškas* vartosenos pavyzdžių.

6 lentelė. Žodžio *kūrybiškas* apibrėžtys žodynuose

KŪRYBIŠKAS		
1.	Kūrybišk‖as, ~a (1) → kūryba 1: K. veikalas. ~ai prv.: ~ai nusiteikęs. ~umas (2)	Dabartinės lietuvių kalbos žodynas, 1972, 1993, 2000, 2012
2.	Kūryba: kūrybiškas metas, kūrybiškas veikalas, kūrybiškai nusiteikęs. Kūrybiškumas. Kūrybiškas: aštrios kritikos ir savikritikos ginklu reikia kovoti prieš pavojingą kūrybiškumo priešą – išpuikimą.	Lietuvių kalbos žodynas (VI žodyno dalis), 1962
3.	kūrýbiškas (1) *kuris būdingas kūrybai* – šablòniškas (1) *kuris virtęs šablonu*	Antonimų žodynas, 2003

Antonimų žodyne (2003) nurodant, kad *kūrybiškas* yra antonimas žodžiui *šabloniškas,* dar yra paminima, kad žodžiu *kūrybiškas* apibūdinamas tas, kas būdingas kūrybai.

Kaip matyti, žodžių *kūrybinis* ir *kūrybiškas* apibrėžtys pateikiamos bendruosiuose žodynuose, kuriuose nusakomi minėtų žodžių vartosenos pavyzdžiai, ir tik Antonimų žodyne (2003) apibrėžiant žodį *kūrybiškas* šiek tiek paaiškinama, kas gali būti įvardijama šiuo žodžiu. Susiejant tai su prieš tai straipsnyje aptarta mintimi, kad žodžiai *kūrybinis* ir *kūrybiškas* netikslingai vartojami sinonimiškai, nors iš pamatinio žodžio *kūryba* išvestiems būdvardžiams priesagos *-inis, -ė* ir *-iškas, -a* suteikia skirtingų reikšmių, galima konstatuoti, kad asmuo, norėdamas vartoti aptariamus žodžius pagal reikšmę, turi arba žinoti minėtų priesagų darybines reikšmes, arba prieš vartojant pasitikrinti gramatikose.

Galiausiai liko aptarti dviejų iš būdvardžių *kūrybiškas* ir *kūrybingas* (žr. prieš tai aptartą 1 pav.) išvestų daiktavardžių – *kūrybiškumas* ir *kūrybingumas* – apibrėžtis žodynuose. Rasta, kad žodis ***kūrybiškumas*** yra apibrėžtas keturiuose žodynuose: dviejuose lietuvių kalbos žodynuose, antonimų žodyne ir viename specializuotame – Psichologijos žodyne (7 lentelė).

7 lentelė. Žodžio *kūrybiškumas* apibrėžtys žodynuose

KŪRYBIŠKUMAS		
1.	Kūrybišk||as, ~a (1) → kūryba 1: K. veikalas. ~ai prv.: ~ai nusiteikęs. ~umas (2)	Dabartinės lietuvių kalbos žodynas, 1972, 1993, 2000, 2012
2.	Kūryba: kūrybiškas metas, kūrybiškas veikalas, kūrybiškai nusiteikęs. Kūrybiškumas.	Lietuvių kalbos žodynas (VI žodyno dalis), 1962
3.	Sugebėjimas kelti naujas idėjas, mąstyti savarankiškai, nestereotipiškai, greitai orientuotis probleminėje situacijoje, lengvai rasti netipiškus sprendimus. Kūrybiškumą daugiausia lemia individualios asmenybės savybės <...>. Daugelis sveikų vaikų yra kūrybingi, tačiau, netinkamai juos auklėjant ir mokant, kūrybiškumas gali būti užslopintas <...>.	Psichologijos žodynas, 1993
4.	kūrybiškumas (2) *kuriamoji veikla –* šabloniškùmas (2) *naudojimasis visiems žinomu pavyzdžiu* Besikeičiančiomis sąlygomis labai reikalingas mąstymo kūrybiškumas, ne šabloniškumas rš.	Antonimų žodynas, 2003

Panagrinėjus 7 lentelėje pateiktas apibrėžtis, matyti, kad Dabartinės lietuvių kalbos žodyne (1972, 1993, 2000, 2012) ir Lietuvių kalbos žodyne (1962) pateikiama žodžio vartosenos pavyzdžių. Antonimų žodyne (2003) nurodoma, kad *kūrybiškumui* priešprieša yra šabloniškumas (pasakoma iš esmės tas pats, kas buvo pasakyta apibrėžiant žodį *kūrybiškas*). Psichologijos žodyne (1993) pateiktoje apibrėžtyje į kūrybiškumą žiūrima kaip į gebėjimą, aiškinama, kas lemia kūrybiškumą, kaip jis gali būti skatinamas ir kt.

Išnagrinėjus žodynus nustatyta, kad žodis ***kūrybingumas*** apibrėžtas šešiuose žodynuose (8 lentelė). Dabartinės lietuvių kalbos žodyne (1972, 1993, 2000, 2012) žodžiui *kūrybingumas* nėra sukurtos apibrėžties, minėto žodžio reikšmė aiškinama per žodžio *kūrybingas* apibrėžtį. Kituose specializuotuose pedagogikos, edukologijos, psichoanalizės, sporto terminų žodynuose pateikiamos gan plačios termino *kūrybingumas* apibrėžtys.

8 lentelė. Žodžio *kūrybingumas* apibrėžtys žodynuose

KŪRYBINGUMAS		
1.	Kūrybin‖gas, ~a (1) turintis kūrybos gabumų, polinkių: K. žmogus. ~umas (2)	Dabartinės lietuvių kalbos žodynas, 1972, 1993, 2000, 2012
2.	Asmenybės savybių kompleksas, įgalinantis produktyviu darbu pasiekti originalių, visuomeniškai reikšmingų, kokybiškai naujų veiklos rezultatų. Moksleivių kūrybingumas pasireiškia minčių, idėjų, sumanymų originalumu atliekant mokyklines užduotis, senų idėjų kritika, naujų ieškojimu ir radimu.	Pedagogikos terminai (Sutrumpintas leidinys), 1998 Pedagogikos terminai, 1993
3.	Asmenybės savybių kompleksas, leidžiantis produktyviu darbu pasiekti originalių, visuomeniškai reikšmingų, kokybiškai naujų veiklos rezultatų. Moksleivių kūrybingumas pasireiškia minčių, idėjų, sumanymų originalumu atliekant mokyklines užduotis, senų idėjų kritika, naujų ieškojimu ir radimu <...>.	Enciklopedinis edukologijos žodynas, 2007
4.	Asmenybės savybių derinys, leidžiantis produktyviu darbu siekti originalių, visuomeniškai reikšmingų, kokybiškai naujų veiklos rezultatų. Gebėjimas savarankiškai mąstyti, atsisakyti stereotipų, greitai susivokti probleminėmis situacijomis, rasti naujų sprendimų, kelti naujas idėjas <...>.	Sporto terminų žodynas, 2002
5.	Kūrybingumu vadinami inovaciniai ir kūrybiniai individo gebėjimai. Kūrybingumu galima apibūdinti mąstymą, kūrybinę veiklą bei požiūrį į kasdienybės iššūkius <...>.	Psichoanalizės terminų žodynas, 2003

Kaip matyti iš 8 lentelėje pateiktų duomenų, pedagogikos, edukologijos ir sporto terminų žodynuose *kūrybingumas* apibrėžiamas beveik panašiai, nurodant, kad tai asmens savybių kompleksas / derinys, kuris leidžia dirbti produktyviai, pasiekti originalių, reikšmingų, kokybiškų veiklos rezultatų. Psichoanalizės terminų žodyne (2003) *kūrybingumas* taip pat siejamas su individo gebėjimais, nurodoma, kad kūrybingumu galima apibūdinti mąstymą, veiklą, požiūrį į kasdienius iššūkius ir kt.

Minėta, kad žodžių *kūrybingumas* ir *kūrybiškumas* vartosena yra nesisteminga, šie žodžiai / terminai visuomenės retai vartojami pramaišiui. Minėta, kad šių žodžių darybinė priesaga *-umas* yra tokia pati, ir ši priesaga abiems žodžiams suteikia reikšmę *ypatybės pavadinimas*, todėl tai gali kelti sunkumų atskiriant, kada kurį žodį vartoti. Regis šį klausimą turėtų padėti išspręsti žodynuose pateiktos apibrėžtys, tai yra, paaiškinti, kada kurį žodį vartoti, ką jais įvardyti. Bet žodynų analizė rodo, kad šių žodžių apibrėžtys yra panašios. Pavyzdžiui, Psichologijos žodyne (1993) *kūrybiškumas* apibrėžiamas kaip individo savybės, leidžiančios mąstyti nestereotipiškai, greitai orientuotis probleminėje situacijoje, lengvai rasti

sprendimus. Ką tik aptartuose Enciklopediniame edukologijos žodyne (2007) ar Sporto terminų žodyne (2003) *kūrybingumas* taip pat apibrėžiamas kaip individualių asmens savybių derinys, leidžiantis atsisakyti stereotipų, greitai susivokti probleminėse situacijose, rasti naujų sprendimų, dirbti produktyviai. Taigi galima grįžti prie minties, kad tiek darybinės priesagos, tiek žodynuose pateiktos apibrėžtys leidžia suvokti, kad žodžiu „kūrybingas“ apibūdinamas asmuo, o žodžiu „kūrybiškas“ apibūdinamas su kūryba susijęs darbas, veikla. Tačiau kalbant apie iš šių žodžių išvestų *kūrybingumo* ir *kūrybiškumo* vartojimo skirtumą pasakytina, kad tiek jų darybinė priesaga *-umas*, tiek žodynuose pateiktos panašios apibrėžtys neleidžia kalbos vartotojui aiškiai suvokti, kurioje situacijoje vartoti *kūrybingumas*, o kurioje – *kūrybiškumas*. Atsižvelgiant į tai, toliau analizėje susitelkta į su kūryba susijusių žodžių junginių apibrėžtis žodynuose, nes galbūt jos gali padėti kalbos vartotojui suvokti šiame straipsnyje aptariamų žodžių vartojimo aspektus.

SU KŪRYBA SUSIJUSIŲ ŽODŽIŲ JUNGINIŲ APIBRĖŽTYS ŽODYNUOSE

Panagrinėjus įvairius žodynus nustatyta, kad yra dešimt su kūryba susijusių žodžių / terminų junginių, kurie apibrėžti septyniuose skirtinguose ˛odynuose: ***kūrybos psichologija*** (Psichologijos terminų žodyne, 1993), ***kompiuterinė kūryba*** (Aiškinamajame kompiuterijos terminų žodyne, 2000, 2015; Enciklopediniame kompiuterijos žodyne, 2008), ***kūrybos mokymosi metodai***, ***kūrybingumo tyrimas*** (Enciklopediniame edukologijos žodyne, 2007), ***kūrybos pamoka*** (Pedagogikos terminų, 1993; Enciklopediniame edukologijos žodyne, 2007); ***kūrybiniai metodai*** (Aiškinamajame įmonės vadybos terminų žodyne, 2000), ***kūrybinė kompetencija***, ***kūrybinis mąstymas***, ***laisvos kūrybos šokis*** (Sporto terminų žodyne, 2002), ***kūrybiniai pratimai*** (Lingvodidaktikos terminų žodyne, 2012).

Junginys ***kūrybos psichologija*** (Psichologijos terminų žodynas, 1993) apibrėžiamas kaip psichologiniai tyrimai, apimantys žmogaus kūrybinę veiklą mokslo, grožinės literatūros, muzikos, dailės, teatro, techninių išradimų ir racionalizacijos srityse bei vaikų kūrybinės veiklos tyrimai. Apibrėžime paaiškinama, kad kūrybos psichologija tiria vaizduotę, mąstymą, intuiciją, įkvėpimą, nesituacinį aktyvumą, kūrybos procese išryškėjančias individualias psichologines savybes, įtakas, kurias asmenybei daro kūrybinis kolektyvas, kūrybinį aktyvumą skatinančius veiksnius. Aiškinamajame kompiuterijos terminų žodyne (2000, 2015) ir Enciklopediniame kompiuterijos žodyne (2008) pateikiamas ***kompiuterinės kūrybos*** jungtinis terminas, kuris paaiškinamas kaip kūrybinio proceso imitavimas kompiuterio

programa, kuomet ieškoma tam tikro kūrybos uždavinio sprendimo algoritmo. Teigiama, kad pagrindinis kūrybinio proceso imitavimo tikslas – naudoti žinomus ir atrasti naujus žmogiškosios kūrybos dėsningumus, atskleisti mąstymo procedūras. Edukologijos mokslų srityje rasti trys jungtiniai terminai: ***kūrybingumo tyrimas***, ***kūrybos mokymosi metodai*** (Enciklopedinis edukologijos žodynas, 2007), ***kūrybos pamoka*** (Pedagogikos terminai, 1993; Enciklopedinis edukologijos žodynas, 2007). ***Kūrybingumo tyrimas*** aiškinamas kaip pedagogų veikla siekiant pažinti ugdytinių kūrybingumo kokybę bei paminėtini šie kūrybingumo tyrimo metodai: veiklos proceso ir rezultatų stebėjimas ir testai. O junginio ***kūrybos mokymosi metodai*** reikšmė tiesiog nukreipiama į *mokymosi metodų* aprašymą (Enciklopedinis edukologijos žodynas, 2007). Junginys ***kūrybos pamoka*** apibrėžiamas kaip pamokos tipas, kuri yra skirta produktyviai, kūrybinei mokinių veiklai, kur pasirenkami kūrybingumą skatinantys, probleminio mokymo, tiriamieji metodai (Pedagogikos terminai, 1993; Enciklopedinis edukologijos žodynas, 2007). Vadybos mokslų srityje (Aiškinamajame įmonės vadybos terminų žodyne, 2000) rastas tik vienas junginys – ***kūrybiniai metodai***, kurio apibrėžtyje nurodoma, kad tai veikimo būdai, sukurti reklamos specialisto Alexo Osborno, kur veikiama pagal nustatytas taisykles. Čia derėtų pažymėti, kad šiuo atveju pateiktas labai siauras ir netgi klaidinantis kūrybinių metodų apibrėžimas, nes pateikta informacija suponuoja, jog kūrybiniai metodai yra tik vieno autoriaus – Alexo Osborno. Tačiau akivaizdu, kad tai nėra tiesa, kūrybinių metodų yra daugybė. Sporto terminų žodyne (2002) rasti trys jungtiniai terminai: ***kūrybinė kompetencija*** (trenerio, mokytojo gebėjimai, pasireiškiantys naujoviška ir nestandartine veikla, savarankišku ir kritiniu mąstymu, naujų, netipiškų sprendimų ieškojimu ir taikymu), ***kūrybinis mąstymas*** (aukščiausia mąstymo forma, kai sportininkas sprendžia visai nežinomus taktikos uždavinius), ***laisvos kūrybos šokis*** (sportinių ledo šokių programos dalis, t. y. 4 min. trukmės šokis, susidedantis iš nesikartojančių naujų arba jau žinomų judesių derinių, kurie sudaro vientisą programą). Viename naujausiame Lingvodidaktikos terminų žodyne (2012) yra pateikiamas dar vieno junginio – ***kūrybiniai pratimai*** – apibrėžimas, kuriame nurodoma, kad tai yra pratimų tipas pagal atlikimo būdą, kai su kalbine medžiaga atliekami tam tikri veiksmai (transformacija, papildymas ir kt.) arba kalbos ir šnekos vienetai, apdorojami prasmės atžvilgiu (pranešimas, rašinys ir kt.). Patikslinama, jog kūrybiniai pratimai taikomi kalbos ugdymui, probleminiam mokymui (Lingvodidaktikos terminų žodynas, 2012).

IŠVADOS

Siekiant nustatyti žodžių *kūrybiškumas* ir *kūrybingumas* nesistemingo vartojimo priežastis, svarbu pažiūrėti kiek plačiau – į darybinius ryšius su kitais žodžiais, į darybiškai susijusių žodžių apibrėžtis žodynuose, nes tai gali suteikti žinių apie šių žodžių vartojimą, kaip ir leisti pastebėti tai, kas kalbos vartotojams gali kelti sunkumų. Išnagrinėjus žodžių *kūrybingumas*, *kūrybiškumas* ir kitų su jais susijusių žodžių *kūryba*, *kūrimas*, *kūriniai*, *kūrėjas*, *kūrybinis, kūrybiškas, kūrybingas* **darybinius ryšius**, taip pat šių žodžių **apibrėžtis žodynuose** bei žodynuose apibrėžtus su šiais žodžiais sudarytus **junginius** nustatyta, kad:

- Iš veiksmažodžio *kurti* išvesti daiktavardžiai turi aiškias reikšmes – žodžiais ***kūrimas*** ir ***kūryba*** pavadinamas veiksmas, ***kūrėju*** įvardijamas asmuo, atliekantis tą veiksmą, o žodžiu ***kūrinys*** įvardijamas atliekamos veiklos rezultatas. Dėl aiškiai atskiriamų minėtų žodžių darybinių ar žodynuose pateiktų apibrėžtų reikšmių, kalbos vartotojui nekyla sunkumų vartojant šiuos žodžius.
- Iš daiktavardžio *kūryba* išvestas būdvardis ***kūrybingas*** turi aiškią reikšmę – *linkęs į kažką*. Kiti du iš daiktavardžio *kūryba* išvesti būdvardžiai ***kūrybinis*** (žymi išskiriamąją ar rūšinę ypatybę) ir ***kūrybiškas*** (žymėti daiktų rūšį, kaip ir būdingas daiktų ypatybes) kalbos vartotojams kelia sunkumų dėl panašių ir sunkiai atskiriamų darybinių reikšmių. Šių žodžių apibrėžtys žodynuose vartotojui nepalengvina suvokimo, kurioje situacijoje vartoti *kūrybiškas*, o kurioje – *kūrybinis*. Taigi asmuo, norėdamas tinkamai vartoti šiuos žodžius, turi arba išmanyti darybines priesagų *-iškas* ir *-inis* reikšmes, arba tos informacijos ieškoti gramatikose.
- Iš daiktavardžio *kūryba* išvestų būdvardžių *kūrybiškas* ir *kūrybingas* vartojimas nekelia sunkumų, nes darybinės reikšmės yra aiškiai atskiriamos (*kūrybingas* – į kūrybą linkęs asmuo ir *kūrybiškas* – darbas, kurio esmę sudaro kūryba). Sunkumų kyla vartojant iš šių būdvardžių išvestus daiktavardžius ***kūrybiškumas*** ir ***kūrybingumas***. Taip nutinka, nes išvedant šiuos žodžius vartojama ta pati darybinė priesaga *-umas*, kuri žodžiams suteikia tą pačią reikšmę *ypatybės pavadinimas*. Žodynų analizė parodė, kad žodynuose pateikiamos panašios šių žodžių apibrėžtys. Taigi tiek darybinė priesaga *-umas*, tiek žodynuose pateiktos panašios apibrėžtys neleidžia kalbos vartotojui aiškiai suvokti, kurioje situacijoje vartoti *kūrybingumas*, o kurioje – *kūrybiškumas*.
- Su kūryba susijusių žodžių / terminų junginių rasta dešimt, kurie apibrėžti septyniuose skirtinguose žodynuose. Tačiau nėra aišku ar su *kūryba* išvestų būdvardžių ir daiktavardžių

vartojimas junginiuose yra korektiškas ir neleidžia kalbos vartotojui aiškiai suvokti kaip taisyklingai vartoti junginius, pvz., *kūrybiniai metodai* ar *kūrybos metodai*.

Remiantis pateikta žodynu analize, galima suprasti, kad pateikiama labai siaura ir netiksli kūrybingumo apibrėžtis. Taip pat vyrauja priesagų vartojimo painiava. Turėtų būti nustatyta kokios yra tikslios *kūrybingumas* ir *kūrybiškumas* reikšmės ir kaip jos turėtų būti vartotinos. Aktualu, kad šiuolaikiniai žodynai atnaujintų su kūrybingumu susijusias apibrėžtis. Taip pat yra akivaizdus trūkumas terminų junginių paaiškinimų, tai galėtų būti pateikiama profesiniuose žodynuose. Tai turėtų palengvinti kalbos vartotojams (tiek praktikams, tiek mokslininkams) aiškiai suvokti ir taisyklingai vartoti su kūrybingumu susijusius terminus.

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ANALYSIS OF DISCOURSE ON DEFINITIONS OF CREATIVITY AND OTHER CREATION-RELATED WORDS IN THE LITHUANIAN LANGUAGE DICTIONARIES

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Summary

Describing the phenomenon of creativity, naming the activity/process related to creation, the obtained result, the performer of the action, describing the action related to creation, etc. Lithuanian scientists, businessmen, artists, etc. use various terms in the works: *creation, creating, works of art, creator, creative (kūrybinis, kūrybiškas, kūrybingas)*. Especially many difficulties are caused by the usage of words *creativeness (kūrybingumas)* and *creativity (kūrybiškumas)*, which are used not systemically, interchangeably to name the same aspects of creation. The question arises what causes difficulties for users to properly use these words according to the meaning and to maintain consistency in the use of terms in the Lithuanian language. The question can be answered having analyzed word-formation aspect and definitions of these words in dictionaries. With this in mind, the research **aim** is to discuss the meanings of the terms *creativeness* and *creativity* and other related terms (*creation, creating, works of art, creator, creative*) in the word-formation aspect, to analyze the definitions of the

said words in dictionaries, and to discuss the situation of giving the definition in the Lithuanian language dictionaries. The research employed several **methods**: comparative analysis of scientific literature, generalization, content analysis. During the research, first of all, based on "Dabartinė lietuvių kalbos gramatika" ("*The Current Grammar of the Lithuanian Language"*) (1996), word-formation relations of the words *creativeness* and *creativity* and terms related to them *creation, creating, works of art, creator, creative* were analyzed. In the second stage of the research, the analysis of dictionaries was performed to find out in which dictionaries and how the said terms and combinations formed with them were defined. Upon conducting the study, that following has been identified:

- The nouns derived from the verb *to create* have clear meanings: the words ***creating*** and ***creation*** name the action, the word ***creator*** denotes the person performing that action, while the word ***work of art*** is used to denote the result of the performed activity. The language user has no difficulty in using these words due to clearly distinguishable meanings related to word-formation or definitions of the said words, given in dictionaries.
- The adjective ***creative*** (*kūrybingas*) derived from the noun *creation* has a clear meaning – *inclined to something*. The other two adjectives derived from the noun creation – ***creative*** *(kūrybinis),* denoting distinguished or specific feature, and ***creative*** *(kūrybiškas),* denoting the type of things as well as peculiarities characteristic to things – cause difficulties to language users due to word-formation meanings that are similar and difficult to distinguish. The definitions of these words in dictionaries do not make it easier for the user to understand in which situations the words creative (*kūrybiškas*) and creative (*kūrybinis*) should be used. Thus, to use these words properly, one must either know the meanings of suffixes *-iškas* and *-inis* or search for that information in grammar books.
- The use of adjectives *creative (kūrybiškas)* and *creative* (*kūrybingas)* derived from the noun *creation* does not pose any difficulties, because the word-formation meanings are clearly distinguishable (*kūrybingas* – a person who is inclined to creation and *kūrybiškas* – work whose essence is creation). Difficulties arise in the use of nouns derived from these adjectives ***creativity*** *(kūrybiškumas)* and ***creativeness*** *(kūrybingumas)*. This happens because the same suffix *-umas* is used to derive these words, which gives the same meaning to the words: *the name of the peculiarity*. The dictionary analysis has shown that dictionaries provide similar definitions for these words. Thus, both the word-formation suffix *-umas* and similar definitions in dictionaries do not allow the language user to clearly understand in which situations words ***creativity*** and ***creativeness*** should be used.
- Ten words/term combinations related to creation, which are defined in seven different dictionaries, were found. However, it is not clear whether the use of adjectives and nouns derived from creation in combinations is correct, and the language user cannot clearly perceive how to use these combinations correctly; e.g., creative (kūrybiniai) methods or creation (kūrybos) methods.

Keywords: creativity, creativeness, creative.

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

HUMAN RESOURCES REENGINEERING AS A DIRECTION OF THE STRATEGY OF ANTI-CRISIS DEVELOPMENT OF CORPORATE STRUCTURES

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DOI: 10.13165/PSPO-20-24-07

Annotation. The article substantiates the need to improve anticrisis management of changes in corporate structures by introducing technology for reengineering human resources as a mandatory component of these processes. The main reason for the introduction of it is the limited opportunities of the labour market concern providing employees for companies with the necessary professional characteristics, given into account the shortage of skilled labour in the economy of almost any country. It is shown that in accordance to the conditions of the new economy occur a radical restructuring of business processes of companies. Suggestions requiring implementation reengineering of human resources, ahead of the development and implementation of key organizational, social, technical and technological changes.The purpose of the research is to identify the tools of human resources reengineering in the context of strategy of anti-crisis development of corporate structures. The organizational and economic mechanism of reengineering of human resources in the context of strategy of anti-crisis development of corporation "Donetskstal - Metallurgical plant" is offered. It is established that for its large-scale implementation in anti-crisis management of changes in corporate structures it is necessary to master its tools from psychological to systemic. The practical significance of the developed mechanism is due to the fact that, depending on the change of the situation, it can be modified in the main directions.It is substantiated that in process reengineering of human resources requires necessary to take into account complex the factors, which are related to the business process, budget, organizational structure, system of workplaces. The influence of reengineering methods on personnel reproduction is determined. In the field of human resources management of the enterprise the elements of the strategy are systematized. It is proved that the object of reengineering of human resources of the enterprise is the process reproduction of it, which is presented as a set of parallel or sequentially interconnected stages of the life cycle of human resources. It is emphasized that in process reengineering of human resources, it is necessary to comprehensively take into account factors, which are related to business process, budget, organizational structure, system of workplaces of the corporation (human resources parameters are determined by the content of business processes; business process determines

work tasks and their structure); here with the key issue is the direction of managerial influences. It is noted that in the process of human resources reengineering several situations are possible: prohibition of dismissals provided that the staff is ready to change position or profession; the company recognizes the presence of redundant employees, but will solve this problem on a voluntary basis; implementation of the forced release program. It is concluded that reengineering of human resources should be a central element of the strategy of anti-crisis development of corporate structures.

Keywords: reengineering, human resources, anticrisis development, corporate structures.

INTRODUCTION

Any company, faced with the manifestations of the external crisis situation, seeks to take effective steps to increase production stability. The main condition for the effectiveness of such steps is the availability of human resources of appropriate quality. At the same time, the opportunities of the labor market to provide companies with employees with the necessary professional characteristics are quite limited, given the shortage of skilled labor in the economy of almost any country. The above determines the attention of economic entities to find their own ways of labor supply, one of which is the reengineering of human resources - early adjustment of the quality characteristics of existing staff to the future needs of business development.

At the same time, the practical solution of human resources reengineering requires serious methodological support, which today cannot be considered sufficient, based on the understanding that the most effective anti-crisis strategy of the company is when it is combined with an already adapted staff structure and a balanced system of development goals. At the same time, given that in a crisis situation there is a need to make changes in a limited time, when developing an anti-crisis strategy of companies it is necessary to provide maximum integration of human resource management in business reengineering processes.

Despite the availability of scientific publications on human resource management (etc.), at the same time there are no universal recommendations for solving the problem of labor security in a crisis. This article presents the quintessence of the methodological developments of the authors, which are the basis for the development of the *Comprehensive Human Resources Management Program of Donetskstal Metallurgical Plant*[1] (Kontseptsyia kompleksnoi prohrammы upravlenyia chelovecheskymy resursamy krupnoho promыshlennoho

[1] Kalinina S.P. (2006), Naukovyi tvir "Kontseptsyia kompleksnoi prohrammы upravlenyia chelovecheskymy resursamy krupnoho promыshlennoho predpryiatyia", Svidotstvo pro reiestratsiiu avtorskoho prava na tvir №17248, Ministerstvo torhivli i ekonomichnoho rozvytku Ukrainy.

predpryiatyia, 2006) (before the war in eastern Ukraine), as an example of a combination of academic science and economics practice, the central element of which is the reengineering of human resources as a direction of anti-crisis development strategy of this corporate structure.

The purpose of the article is to identify the tools of human resources reengineering as the central direction of implementation of the strategy of anti-crisis development of corporate structures. **Objectives:** 1) identify the main approaches to the reengineering of human resources of an industrial corporation;

2) to analyze the content of the organizational and economic mechanism of reengineering of human resources in the context of the strategy of anti-crisis development of the corporation "Donetskstal - Metallurgical Plant";

3) to systematize the factors of human resources reengineering;

4) substantiate the priority of the strategic level of human resources management of an industrial corporation.

The object of the study is the process of reengineering human resources in the system of anti-crisis development of corporate structures

Study methods: methods of system analysis, structural analysis, generalization are used.

Study Methodology. The main approaches to the reengineering of human resources of the industrial corporation were identified on the basis of a systematic analysis of the impact of reengineering factors on the development of the internal labor market, embodied in the mechanism of reengineering human resources of the corporation "Donetskstal - Metallurgical Plant". Factors of human resources reengineering are highlighted as a result of structural analysis of the organizational and economic mechanism of human resources reengineering in the context of the strategy of anti-crisis development of the corporation "Donetskstal - Metallurgical Plant". Based on the conceptual generalization of the content of the stated mechanism and factors of human resources reengineering, a conclusion is made about the priority of the strategic level of human resources management of the corporation.

ORGANIZATIONAL AND ECONOMIC MECHANISM OF HUMAN RESOURCES REENGINEERING AS A DIRECTION OF THE STRATEGY OF ANTI-CRISIS DEVELOPMENT OF INDUSTRIAL CORPORATION

A characteristic feature of the current stage of economic development is a tangible global impact of the recent economic crisis, which makes it important to find ways to mitigate the impact of the crisis at all levels, especially at the level of corporate industrial structures, given

their systemic impact on economic development. At the same time, the introduction of effective practical steps requires a fundamental methodological elaboration of the preconditions, content and consequences of certain managerial influences, which include the method of reengineering, the importance of which, given its proactive nature, is difficult to overestimate.

As you know, *reengineering* is a fundamental rethinking and radical reconstruction of business processes (organized in time and space sets of operations, which together give a certain result) in order to achieve radical improvements in critical areas of economic growth. The main purpose of reengineering is to sharply accelerate the response of enterprises to changes in consumer demands (or to projected changes)[2] (E`konomika truda, 2004, p.381). Reengineering is aimed at improving the basic performance of enterprises by modeling, analyzing and redesigning existing business processes.

When developing the organizational and economic mechanism of reengineering of human resources in the corporation "Donetskstal Metallurgical Plant", we proceeded from the fact that there are two main approaches to reengineering: *revolutionary* - based on a sharp and rather problematic break of the old management mechanism (way of doing business, organizational structure , the internal structure of the enterprise) and the introduction of a new one; *evolutionary* - based on the gradual improvement of the quality of production processes. Given that reengineering means changing the basic principles of enterprise organization and focusing not on functions but on processes, it was decided to focus on the labor resources of the corporation, as the *employment process* is a consistent implementation of the whole set of functions that determine the effectiveness of business processes: in human resources, formation of requirements to potential employees, search of candidates, selection, introduction to a position, etc.

The labor-intensive approach to reengineering for the corporation was chosen as optimal, because, according to the practice of anti-crisis management, it can be extended to all types of enterprises that were present in the structure of the corporation "Donetskstal - Metallurgical Plant", for which reengineering was necessary and appropriate, namely:

1) enterprises that are on the verge of collapse, and which, if they do not take decisive steps, will inevitably cease to exist;

[2] E`konomika truda (2004), pod red. M. A. Vinokurova, N. A. Gorelova, SPb.: Piter, 656 p.

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

2) companies that are not currently in a difficult position, but their management understands the inevitability of problems that may be caused, for example, the emergence of new competitors, changes in consumer demand, changes in the economic environment, etc.;

3) leading companies that have no problems in the current and future periods, but who are not satisfied with the state of business, pursue aggressive policies and strive to achieve more.

The use of reengineering methodology was especially important because the market made demands for a radical restructuring of production and business processes of enterprises that were part of the corporation. The need for accelerated restructuring has led to profound and radical changes in the use of human resources of the corporation. The escalation of the contradictions that arose required the application of new approaches to human resource management. In order to conceptually solve the problem, an *organizational and economic mechanism of human resources reengineeringwas developed in the context of the anti-crisis development strategy of Donetskstal - Metallurgical Plant (Fig. 1),* which was put into practice in the form of a Comprehensive human resources management program[3] (Kontseptsyia kompleksnoi prohrammы upravlenyia chelovecheskymy resursamy krupnoho promыshlennoho predpryiatyia, 2006).

The object of reengineering, as can be seen from Fig. 1, *there are business processes* as a structured set of actions designed to produce a new product (service) for a particular consumer or market[4] (Suchasni kontseptsii menedzhmentu, 2007, p.181), which determine the content of the impact of human resources reengineering factors on the development of the internal labor market. In the process of reengineering, personnel management was tasked with effectively directing the activities of employees to ensure the achievement of the goals of enterprises that are part of the corporation, as well as achieving the goals of the corporation as a whole: impact on flows that ensure staff reproduction; impact on staff life cycle stages; impact on the final parameters of the staff. The strategic guidelines for the regulation of the intra-firm labor market determined the directions of the relationship between the indicators of the corporation's budget and the human resources plan (prospective staff and job structure).

[3] Kalinina S.P. (2006), Naukovyi tvir "Kontseptsyia kompleksnoi prohrammы upravlenyia chelovecheskymy resursamy krupnoho promыshlennoho predpryiatyia", Svidotstvo pro reiestratsiiu avtorskoho prava na tvir №17248, Ministerstvo torhivli i ekonomichnoho rozvytku Ukrainy.
[4] Suchasni kontseptsii menedzhmentu (2007), za red. L. I. Fedulovoi, K.: Tsentr uchbovoi literatury, 536 p.

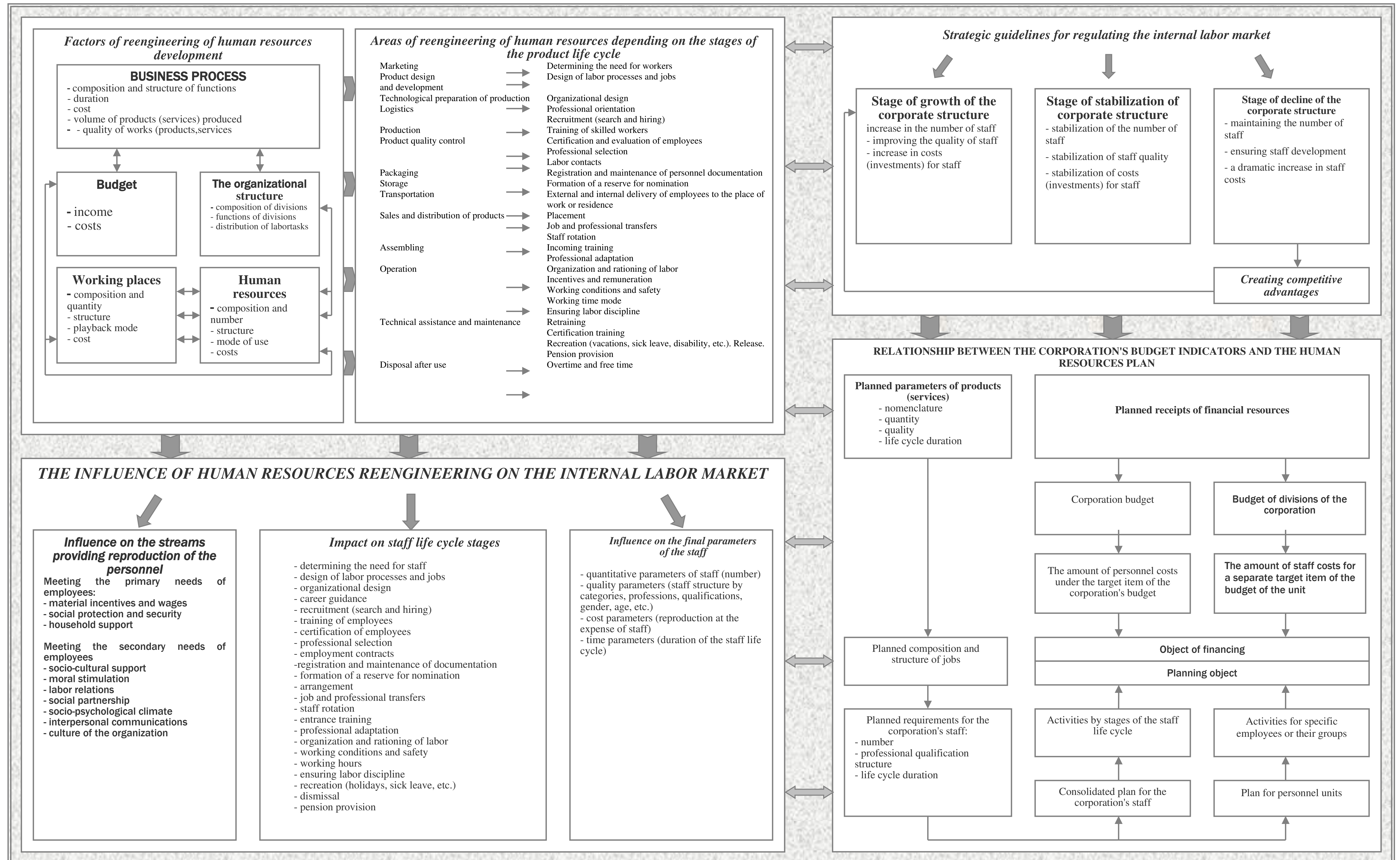

Figure 1. Organizational and economic mechanism of reengineering of human resources in the context of the strategy of anti-crisis development of the corporation "Donetskstal - Metallurgical Plant" [4, p.162]

The practical significance of the developed mechanism is due to the fact that, depending on the change of the situation, it can be modified in the following main areas: *first,* it is possible to significantly expand the composition of the stages of the life cycle of human resources and product; *secondly*, in the analysis it is possible to allocate within each stage of a life cycle of human resources substages, and also to increase quantity of these substages; *thirdly*, each stage (sub-stage) can be divided into separate functions (for example, such a stage as the recruitment process can be divided into a number of *functions*: determining the need for human resources, the choice of information technology, interview, etc.), after what is needed to explore the relationship between these functions. It is also important that the above approach to human resource reengineering is based on a two-way strategy of change in the use of personnel: *psychological* - ie taking into account the orientations of different groups of staff in the context of their attitude to change, limiting the influence of decision-making groups. changes; system - the formation of a transitional organizational structure in order to solve problems of implementation of changes without obstacles to operational activities.

The purpose of reengineering is to abandon ineffective rules of organization and conduct of business, for which they must be identified and replaced with new ones that would meet modern requirements. The exact result of reengineering is difficult to predict, but the more real the risk of crisis or bankruptcy, the more likely the success of reengineering, because in the process of its implementation stimulates initiative and active innovation of all employees, which contributes to new, better and more efficient business processes[1](Reinzhiniring korporaczii, 2011, p.183).

The concept of reengineering in an anti-crisis context is used by many corporations to improve existing and develop new business processes. For example, over the past few years, the US government has initiated more than 200 corporate business reengineering projects, and the current market for business reengineering support is estimated at $ 100 million. USA and grows by about 40% per year[2] (Tekhnologii reinzhiniringa biznes-proczessov predpriyatij, 2013, p. 118). According to a survey conducted by *Ernst and Young* among CFOs of the 80 largest US corporations, the main motivation for reengineering was to ensure the anti-crisis

[1] Khammer M. Champi Dzh. (2011), Reinzhiniring korporaczii. Manifest revolyuczii v biznese. - Izdatel`stvo "Mann, Ivanov i Ferber", 332p.
[2] Marty`nyuk E.A. (2013), Tekhnologii reinzhiniringa biznes-proczessov predpriyatij, Naukovij vi`snik Mi`zhnarodnogo gumani`tarnogo uni`versitetu, vol. 6 , p. 118-121.

development of corporate structures, including through cost reduction[3] (Reinzhiniring proczessov kak metod upravleniya biznesom, p.103)

The importance of practical developments of Donetskstal - Metallurgical Plant is also determined by the fact that if the issues of reengineering information, marketing, financial processes, etc. are deeply developed, the methodological and methodological foundations of human resources reengineering remain virtually undeveloped.

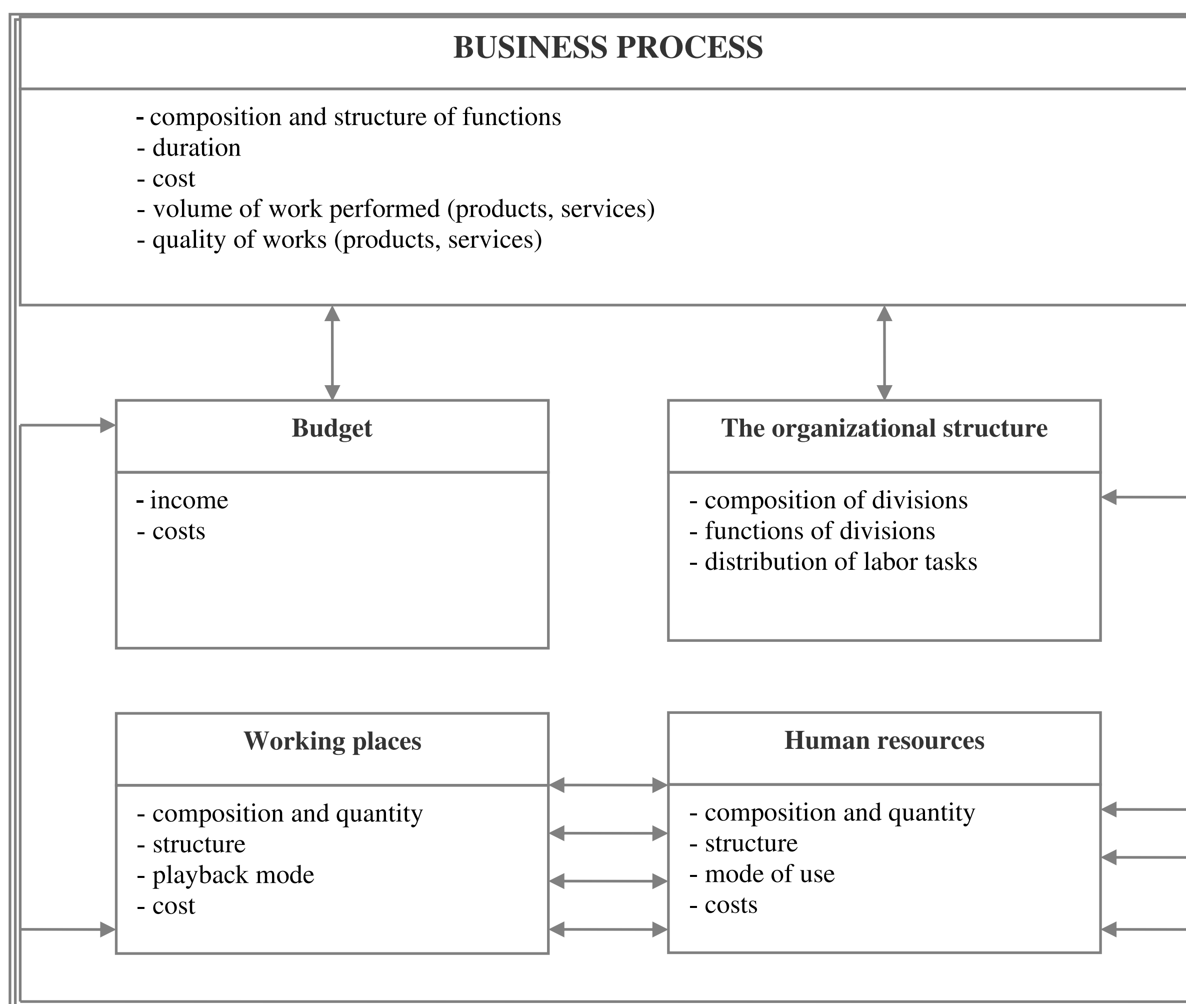

Figure 2. Factors of human resources reengineering

Thus, in developing the above organizational and economic mechanism, we proceeded from the fact that in the reengineering of human resources must comprehensively take into account factors related to business processes (composition and structure of functions, duration, cost, output, quality of work), budget (income, expenses), organizational structure (composition

[3] Firsov M. (2005), Reinzhiniring proczessov kak metod upravleniya biznesom, Problemy` teortii i praktiki upravleniya, vol.2, pp. 100-104.

of units, functions of units, distribution of labor tasks), system of jobs (composition and quantity, structure, mode of reproduction, cost). The parameters of human resources (number and composition, structure, mode of use, costs) are determined by the business processes of the enterprise: the business process (method of work) determines the work tasks and their structure. *The scheme of interrelation of factors of reengineering of human resources* is presented in fig.2.

Regarding the relationship between the characteristics of human resources and organizational structure, it should be noted that the fragmentary processes lead to a narrow specialization of labor tasks based on the tasks of structural units. Integrated processes generate multidimensional work tasks for the relevant units of the organizational structure. On the other hand, the characteristics of human resources available in the internal labor market can determine the organizational transformation of the enterprise.

In crisis conditions, the reengineering of human resources of the enterprise is significantly influenced by budgetary and financial factors, as labor costs are one of the expenditure items of the enterprise budget, and the level of labor efficiency affects its revenue side.

In the process of reengineering human resources, several situations are possible:

1) *prohibition of dismissals provided that the staff is ready to change position or profession.* The dismissed employees are usually used in the implementation of new investment projects. In this case, companies reduce the number due to natural factors - retirement and natural staff turnover. This approach is realistic if the company is on *stage of growing*, or if it is possible to transfer employees to other departments;

2) *the company recognizes the presence of redundant employees, but will solve this problem on a voluntary basis*. The advantage of this approach is to reduce fears of radical change. The disadvantage is that the company cannot control who will resign, as a significant part will be employees who are most confident and willing to take risks. In this case, the loss of qualified personnel is not the same as the dismissal of redundant personnel, in addition, the administration is forced to hire new employees, usually unfamiliar with the specifics of the enterprise;

3) *implementation of the forced release program*. In terms of getting results in the short term, this is the most profitable option, because, in addition to getting benefits quickly, this approach allows you to keep the most valuable employees. However, this approach faces limitations associated with maintaining the enterprise as a holistic industrial and social entity.

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The need to take into account the budgetary factor (see Fig. 2) is due to the fact that in crisis conditions, the reengineering of human resources of the enterprise is significantly influenced by budgetary and financial factors, as labor costs are one of the expenditure items of the enterprise budget. part.

The object of reengineering of human resources is the process of their reproduction, which should be presented as a set of parallel or sequentially interconnected stages of the life cycle of

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
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human resources[4]. (Formuvannia korporatyvnykh stratehii upravlinnia liudskymy resursamy: antykryzovyi aspect, 2018, p.166). Stages of the product life cycle and human life cycle and the relationship between them, which are taken into account in the *organizational and economic mechanism of human resources reengineering in the context of anti-crisis management strategy of the corporation "Donetskstal - Metallurgical Plant"* (see Fig. 1) act as possible objects of reengineering of human resources of the enterprise which need the further specification on forms, kinds, technologies of realization. The main stages of the human life cycle within this reengineering system are training, recruitment, use (including pay) and dismissal. It should be borne in mind that the stage of use of human resources simultaneously means the process of production of the product of labor (goods).

Thus, when reengineering human resources it is necessary to comprehensively take into account factors related to business processes, budget, organizational structure, system of workplaces of the corporation (human resources parameters are determined by the content of business processes; business process determines work tasks and their structure) .

There are three levels of corporate human resource management policy: 1) *target level* - defining the objectives of human resources management of the corporation (at this level it is important to achieve high quality goal-setting, able to ensure compliance with the external environment and capabilities of the corporation); 2) *strategic level* - the creation of an orderly system of actions in the field of human resources management to achieve the goals (at this level it is important to ensure compliance with the goals and selected ways to achieve them: the chosen strategies must be adequate to the goals); 3) *tactical level* - redirection of available in the corporation or externally attracted financial, informational, logistical and other resources to ensure the expected results of the human resources management system (at this level it is important to achieve goals and strategies of volume and quality of available or borrowed funds).

Priority among the above should be recognized strategic level, which in the anti-crisis context involves the development of corporate strategy in human resources management depending on the stage of development of the structure (growth, stabilization, decline), elements of strategy in human resources management of corporationare given in table.1.

[4] Formuvannia korporatyvnykh stratehii upravlinnia liudskymy resursamy : antykryzovyi aspekt: kolektyvna monohrafiia (2018), S.P. Kalinina, Yu.S. Khoruzhyi, O.Iu. Leliuk, Yu.I. Korovchuk; za zah. red. d-ra ekon. nauk, profesora S.P. Kalininoi, Vinnytsia,: TOV «TVORY», 208 p.

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
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2020 (24)
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Table 1. Elements of strategy in the field of human resources management of the corporation

Directions of dynamics	Parameters of human resources of the enterprise		
	Number	**Quality, structure**	**Reproduction costs**
Growth	Increasing the number of human resources	Improving the quality of human resources	Increasing the cost (investment) of human resources
Stabilization	Stabilization of human resources	Stabilization of human resources quality	Stabilization of costs (investments) for human resources
Decline	Reducing the number of staff	Decreased quality of human resources	Reduction of costs (investments) for human resources

The conclusion on the priority importance of the strategic level of human resources management policy is the basis for the development of the *organizational and economic mechanism of human resources reengineering in the context of the anticrisis development strategy of Donetskstal - Metallurgical Plant* (see Figure 1).

CONCLUSIONS

Thus, based on the methodological elaboration of the practical experience of the corporation "Donetskstal - Metallurgical Plant" we can conclude that the reengineering of human resources should play a central role in the strategy of anti-crisis development of corporate structures based on the fact that: *first,* the human resources of corporate structures in a crisis it can be a dysfunctional factor (problems of maintaining the professional and qualification structure of human resources significantly affect the final performance of corporations); *secondly*, labor problems have a clear strategic nature (there is a close relationship between quantitative and qualitative parameters of human resources and the stage of development of the corporate structure); *third,* human resources reengineering aims to overcome the limitations of corporate development associated with the state of human resources; *fourth*, human resources are a central factor in the reengineering of business processes (strategic success of corporate structures is achieved through the use of human resources). The given *organizational and economic mechanism of reengineering of human resources in the context of strategy of anti-crisis development of corporation "Donetskstal - Metallurgical plant"* can be recommended for introduction in activity of large industrial structures.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

A QUALITATIVE ANALYSIS OF THE HINDERING AND SUPPORTING FACTORS OF THE CROSS-BORDER INFORMATION EXCHANGE CONDUCTED BY THE SINGLE POINT OF CONTACT AND THE POLICE AND CUSTOMS COOPERATION CENTRE

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DOI: 10.13165/PSPO-20-24-08

Annotation. Cross-border criminality, emerging hybrid security threats, such as terrorism, trans-border organised criminal activity and most recently the COVID-19 epidemic situation demands efficient cross-border police cooperation and information exchange. To answer this need, various communication channels have been established to facilitate trans-border law-enforcement information exchange. The aim of this paper is to introduce the supporting and hindering factors of the two, most commonly used police information exchange channels, namely the Single Point of Contact (SPOC) and the Police and Customs Cooperation Centre (PCCC). The author tried to achieve this goal by introducing the relevant scientific theories and using them as a starting point for a qualitative study. The subsequent desk research and in-depth interviews helped the researcher to describe the current information exchange process, the hindering and supporting factors, the characteristics and main differences of the SPOC and PCCC information exchange process.

Keywords: police cooperation, cross-border information exchange, SPOC, PCCC, EU.

INTRODUCTION

Cross-border police cooperation and information exchange was probably never as important as it is today when hybrid security threats, such as terrorism, smuggling of weapons and goods, the changing form of radicalization, violence and organised crime are becoming more international and also in nature.[1] Recognizing the importance of cross-border information exchange, different communication channels have recently been used to exchange information, the two most important of which are: Single Points of Contact (SPOC) and the Police and Customs Cooperation Centre (PCCC).

There are 28 SPOCs within the EU. These are centralised departments, located at the central national level of Law Enforcement Agencies (LEA), whose task is to facilitate all types of cross-border police information exchange without geographical limitation. Field officers

[1] Frontex, '*Risk Analysis for 2018*', 2018, p. 6.

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

(end-users) send their request to their national SPOC through the established chain of command, and this request will be forwarded by the SPOC to another SPOC. The speed of the information exchange is strongly dependent on the number of intermediate stations. The 64 operating PCCCs are located regionally in the border areas. The PCCCs accommodate LEA staff who exchange information to facilitate a rapid and direct information exchange with neighbouring countries. Field officers usually send their request for information exchange directly to their national colleagues employed by the PCCC, who hand it over to the counterpart foreign police officer. The answer is given in the same way directly to the PCCC staff, who can forward it to the applicant. This channel was created to exchange information between neighbouring countries, however a different interpretation of the regulations led to the use of the so-called 'chain request' system, which allows the exchange of information with non-neighbouring countries by using intermediate PCCCs located on the route between the applicant and the requested country.

The importance of information exchange among LEAs was recognised by various agencies and institutions in the EU[2] [3], yet personal experiences show that there are serious shortcomings in cross-border information exchange when rapid information is required in order to properly fulfil the police job. First of all, the choice of the above-mentioned channels depends on many factors, such as personal considerations, preferences for a certain channel etcetera, 'which are not consistent across and not even within the Member States'[4]. In practice, this leads to confusion and often field officers are unaware which channel to use for a particular information exchange. They choose the channel with which they are more familiar, or which provides faster responses, neglecting that channel which should be used according to the applicable rules. Secondly, the speed of information exchange via these two channels is a weakness. Nothing shows the need for rapid, real-time information exchange better than the existence of informal communication channels. This informal communication is based on personal relationships and networks and is widely used by enthusiastic LEA officers who want to receive a rapid answer about persons, documents, visas and passport stamps in order to do their job at the border or inland properly. I have also experienced that cross-border information

[2] Frontex, p.1-3
[3] European Police Office, 'Serious and Organised Crime Threat Assessment', 2017.
[4] Doherty, R. et al., 'Study on the Implementation of the European Information Exchange Model (EIXM) for Strengthening Law Enforcement Cooperation', 2015, p. 6.

exchange is sometimes not initiated and therefore appropriate police measures are not taken when the field officers know there is no chance to receive a formal or informal reply rapidly.

The aim of the research is to provide an insight into the process of information exchange conducted by the above-mentioned channels and to find out which factors are supporting and hindering the exchange.

To answer these research questions, literature review and desk research were carried out, using the available open source documents and the results of earlier field studies. Desk research was followed by in-depth interviews to find a more detailed answer to the questions, to discover the current processes, and to provide insight into the supporting and hindering factors of cross-border information exchange.

LITERATURE REVIEW

The definition of police cooperation and information exchange

International police cooperation became vital in 1984, when two countries, France and Germany agreed to gradually eliminate the border control on the common border and transfer it to the external borders. One year later the Benelux countries expressed their willingness to join this initiative. The strengthening of police and customs cooperation was one of several proposed measures[5]. The so-called Schengen Convention[6] was signed five years later in 1990. The convention lists the modes of cooperation, with Article 39 encouraging the police authorities of the Member States (MS) to assist each other in preventing and detecting criminal offences. SPOC and PCCC information exchange are conducted under the umbrella of this convention as a type of cooperation. The SPOC was created to facilitate all type of information exchange by 'putting one police service in every state in charge of international cooperation, a single contact point strategy, therefore centralizing the process of police cooperation'.[7] The creation of the PCCC was the answer to the emerging need for a less centralised and direct channel among neighbouring countries in order to help operational activities in the border

[5] Zaiotti, R., *Cultures of Border Control: Schengen and the Evolution of European Frontiers,* University of Chicago Press, 2011.
[6] European Union, *The Schengen Acquis,* OJ L 239, 22.9.2000
[7] Weibel, D., 'Police and Border Cooperation in Schengen: The Police and Customs Cooperation Center (PCCC)', Leiden University, 2016, p. 2.

areas.[8] 'They were tasked with rather modest functions, limited to support for local neighbouring police and customs stations in the border areas.'[9]

Information exchange can be defined as the formal and informal sharing of significant and timely information between two or more parties.[10] We can conclude from the academic literature, that information exchange can be conducted on three interrelated levels, namely the inter-personal, intra-organisational and inter-organisational ones.[11] [12] Even though there is a strong distinction between the levels, it is clear that these levels of information exchange are interrelated: Intra-personal information exchange is embedded in the intra-, and inter-organisational information exchange and even further, the intra-organisational information exchange is embedded in the inter-organisational one. The levels should be connected to each other in order to create an efficient information-sharing environment. This theory is supported by another study, which states that weak internal coordination and inter-organisational information exchange can negatively influence cross-border information exchanges.[13]

Besides the (inter)connection of the levels, efficient information-sharing requires adequate organisational-managerial, legal and technological environments, which are determined by various factors such as the Information and Communication Technology (ICT), organisational structure, culture and values, human resources, trust, leadership, rewards, self-interest, legal instruments and regulations.[14] [15]

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[8] Saloven M. et al., 'Study on the Status of Information Exchange amongst Law Enforcement Authorities in the Context of Existing EU Instruments', 2010, p. 70.

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[12] Yang, TM. and Maxwell, AT., 'Information-Sharing in Public Organizations: A Literature Review of Interpersonal, Intra-Organizational and Inter-Organizational Success Factors', Government Information Quarterly, 28 (2), 2011, p. 164..

[13] Saloven M. et al., p. 83.

[14] Yang and Maxwell, p. 171.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

FACTORS EFFECTING INTER-ORGANISATIONAL INFORMATION EXCHANGE

ORGANISATIONAL ENVIRONMENT AND MANAGEMENT

Organisational structure

In the literature two main types of organisational structure are distinguished: the bureaucracy and the adhocracy.[16] [17] Bureaucracy can be characterized by formalized and hierarchized structure, functional departmentalisation and by standardized regulations and procedures.[18] Formalisation can be described as 'the extent to which an organisation's structures and procedures are formally established in written rules and regulations'[19]. Formalisation is often correlated with the 'red-tape', the presence of excessive, rigid and redundant formal rules or procedures that serve no noticeable organisational functions 'and result in inefficiency, unnecessary delays, frustration, and annoyance'[20]. This formalisation can hinder and prevent action or decision-making. Researchers also argue that written rules and formalisation are positively related to psychical and psychological stress, the feeling of powerlessness and have a negative impact on innovation, openness to new ideas, motivation and job satisfaction.[21] In the field of cooperation this limited opportunity for lower level initiative taking also ruins the motivation and interest of the individuals to conduct information exchange.[22] All in all, centralisation and hierarchical structure hinder initiatives and actions for the exchange of information, as individuals lack autonomy and managerial approval is required in most decision making processes[23], which strictly controls the information flow and exchange. In addition, specialization creates conflicting goals which can block inter-, and intra-organisational cooperation.[24]

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[16] Gruszczak, p. 135.
[17] Mintzberg, H 'The Structuring of Organizations' in Asch D. and Bowman C. (eds), Readings in Strategic Management, Palgrave, 1989.
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[21] Arches, A. 'Social Structure, Burnout, and Job Satisfaction' Social Work 36(3), 1991, p. 202.
[22] Yang and Maxwell (n 12).
[23] Kim, S. and Lee, H., 'The Impact of Organizational Context and Information Technology on Employee Knowledge-Sharing Capabilities', Public Administration Review, 66(3), 2006, p. 370.
[24] Mintzberg (n 17).

Trust

Trust is a crucial relationship building block, which is often 'defined as a belief that one relationship partner will act in the best interest of the other'[25]. Both inter- and intra-organisational trust influence cooperation and information exchange. The lack of trust among national organisations can seriously hamper cross-border information exchange. For example, a previous study has shown that a national authority refused to provide the requested information to the SPOC or to the PCCC because doing so would allow another national LEA to have access to the information.[26] Although there is a lack of empirical testing of inter-organisational trust models[27], a positive relationship between the degree of trust and the will for information sharing seems to exist.[28] This positive correlation can be experienced in the field of international police cooperation where mutual trust and personal relationships are the most compelling forces.[29]

Trust can be developed and maintained by timely, reliable, and adequate information sharing and perceived fairness.[30] Other factors that support inter-organisational cooperation and trust are mutual benefit, mutual bonding, predictability and conflict resolution. A good personal relationship between the managers must also be recognisable for the staff in order to have a trust building effect. Already established trust can be further strengthened with increased mutual bonding: when more colleagues trust each other, their relationship becomes more personal.[31]

Reciprocity

The anticipated reciprocity positively influences the individual's attitude towards information sharing.[32] Moreover, reciprocity plays an important role not just between individuals, but also between organisations. A positive correlation exists between the extent of

[25] Wilson, D.T., 'An Integrated Model of Buyer-Seller Relationships', Journal of the Academy of Marketing Science, 23(4), 1995, p. 335.
[26] Saloven M. et al., p. 83.
[27] Adams B. et al., 'Review of Interorganizational Trust Models', Ft. Belvoir: Defense Technical Information Center, 2010, p. 105.
[28] Dean W, Goldenberg I and Soeters I., 'Information Sharing in Military Operations', Springer, 2017, p. 85.
[29] Hufnagel, S., *Policing Cooperation across Borders,* London: Routledge, 2016, p. 86.
[30] Bstieler, L., 'Trust Formation in Collaborative New Product Development', Journal of Product Innovation Management, 23(1), 2006, p. 56.
[31] Hufnagel, p. 86.
[32] Constant, D., Kiesler, S. and Sproull, L., 'What's Mine Is Ours, or Is It? A Study of Attitudes about Information Sharing', Information Systems Research, 5(4), 1994, p. 400.

information sharing and the degree of reciprocal interdependence meaning that each participating organisation possesses information that others need and vice versa.[33] Consequently, some academic literature concludes that reciprocity promotes and stabilizes international cooperation.[34]

Organisational values, norms and cultures

Organisational values, norms and cultures also influence the attitudes of individuals and the collective actions regarding information sharing.[35] Organisational differences, such as the diverse national systems, the different culture, the different geographical locations of the national services, the different division of police tasks result in a different structure of cross-border information exchange. The cultural diversity creates misunderstandings and the 'lack of synchronisation in the communication between police forces can hamper cross-border police cooperation'[36]. Intra and inter-organisational information exchange are positively influenced by an organisational culture that emphasizes mutual interests, shared goals.[37] Researchers also found that the strong social network (informal social interactions and personal relationships) is also an important promoting factor.[38]

Incentives and leadership

Performance based reward or bonus system designed specifically to encourage information exchange motivates individuals to share information and thereby greatly facilitates information exchange.[39] On the other hand, in general, non-specific incentive methods can create competition that hinder inter-organisational information exchange[40], therefore, the importance of information exchange in performance assessment should be emphasised and assigned.

[33] Travica, B., 'Information Aspects of New Organizational Designs: Exploring the Non-Traditional Organization', Journal of the American Society for Information Science, 49(23), 1998.
[34] Axelrod, R., *The Evolution of Cooperation*, Cambridge University Press, 1984, p. 128.
[35] Constant, Kiesler and Sproull, p. 410.
[36] Styczyńska I. and Beaumont, E.Z., 'Easing Legal and Administrative Obstacles in EU Border Regions', Case Study No.8, European Commission, 2017, p. 9.
[37] Bock et al., p. 87-111.
[38] Kim and Lee, p. 370-385.
[39] Willem, A. and Buelens, M., 'Knowledge Sharing in Public Sector Organizations: The Effect of Organizational Characteristics on Interdepartmental Knowledge Sharing', Journal of Public Administration Research and Theory, 17(4), 2007, p. 581.
[40] Zhang, J., Dawes, S. and Sarkis, J., 'Exploring Stakeholders' Expectations of the Benefits and Barriers of E-government Knowledge Sharing', Journal of Enterprise Information Management, 18(5), 2005, p. 548.

The attitude of the leadership also determines the reward and bonus system. Resteigne and Bogaert found that 'the style of the leadership can enforce the negative and positive attitude towards information exchange'[41]. An authoritarian leadership style can dissuade staff from developing a positive approach towards information sharing. Contrary to this, transformational leadership supports initiate taking and encourages staff to exchange information.[42]

Staff condition

The researcher argues that the conditions of the human resources also influence the exchange of cross-border information. The lack of staff can hamper cross-border information exchange, as the agency 'may focus on urgent issues within its own organisation when the immediate benefits of sharing information cannot be foreseen'[43]. However, not only the number of staff, but also their knowledge plays an important role in order to exchange quality information. The lack of training courses for field officers and the lack of awareness could hinder cross-border information exchange.[44]

Language

In the field of cross-border information exchange, communication in a foreign language can be a major obstacle and cause complications for daily police cooperation.[45] Insufficient knowledge of the foreign language significantly hinders cross-border information exchange.[46] Furthermore, the proficiency in a common language is a precondition of optimal information sharing as it makes it easier to understand the organisational culture, the information needs and it could also help to create social networks.[47]

[41] Resteigne, D. and Van den Bogaert, S., 'Information Sharing in Contemporary Operations: The Strength of SOF Ties' in I Goldenberg, J Soeters and W Dean (eds), *Information Sharing in Military Operations. Advanced Sciences and Technologies for Security Applications,* Springer, Cham, 2017, p. 58.
[42] Goldenberg I. and Dean, H.W., 'Enablers and Barriers to Information Sharing in Military and Security Operations: Lessons Learned' in I Goldenberg, J Soeters and W Dean (eds), *Information sharing in military operations,* Springer Cham, 2017, p. 251-267.
[43] Yang and Maxwell, p. 170.
[44] Council of the European Union, 'Draft SPOC Guidelines for International Law Enforcement Information Exchange, 6721/3/14', 2014, p. 15.
[45] Hofstede, G. et al., *Coopération Policière Transfrontalière Entre La Belgique, l'Allemagne et Les Pays-Bas Avec Une Attention Particulière Pour l'eurégion Meuse-Rhin,* Maastricht: UPM- Universtaire Pers Maastricht, 1993.
[46] European Commission, 'Enhancing Police and Customs Cooperation in the European Union COM (2004) 376 Final', 2004.
[47] Goldenberg and Dean, p. 251-267.

POLICY, LEGAL ENVIRONMENT

The ruling policies and the legal environment have an impact on the behaviour of the individuals and of the organisation, and therefore on the cooperation between the organisations. Stable and accountable legislation and administrative procedures can mitigate the risks and can enhance inter-organisational cooperation.[48] Researchers argue that confidentiality and privacy should be supported by the legal environment in order to facilitate information exchange.[49] Clear legislation, regulation and policies are therefore fundamental to reduce uncertainties created by a difference in organisational culture, conflicting political and legal principles and competing values such as 'privacy, system integration, security, and confidentiality, which constantly threaten to put restrictions on information sharing into inflexible legal forms'[50]. On the other hand, a rigid legal environment and policies that prohibit sharing sensitive and regulated information in domains such as public safety and security can create barriers to cross-border information exchange and may hamper cooperation.[51] In the field of cross-border information exchange studies pointed out that the requirements of different national legal systems, different data protection and privacy regulations, different interpretation of the EU law, secrecy and confidentiality issues are among the main hindering factors of cross-border information exchange.[52]

TECHNOLOGICAL ENVIRONMENT

Efficiency of inter-organisational collaboration and information exchange can be increased by the advancement of the ICT.[53] An appropriate ICT environment can ensure shorter response times and better data quality.[54] The ICT system supports information exchange if different systems are homogeneous, the system combines user friendly ICT applications and has a high number of users.[55] The large number of different and non-interoperable databases

[48] Zhang, J. and Dawes, S. 'Expectations and Perceptions of Benefits, Barriers, and Success in Public Sector Knowledge Networks', Public Performance & Management Review, 29(4), 2006, p. 433.
[49] Gil-García J.R. and Pardo, T.A., 'E-Government Success Factors: Mapping Practical Tools to Theoretical Foundations', Government Information Quarterly, 22(2), 2005, p. 187.
[50] Zhang, Sharon and Sarkis, p. 548.
[51] Gil-García and Pardo, p. 190.
[52] Styczyńska and Beaumont, p. 7.
[53] Zhang, Sharon and Sarkis, p. 548-567.
[54] European Commission, 'Strengthening Law Enforcement Cooperation in the EU: The European Information Exchange Model (EIXM), COM(2012) 735 Final', 2012, p. 12.
[55] Kim and Lee, p. 370-385.

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
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and communication systems create duplications and hinder cross-border information exchange as it results in delayed responses.[56] More databases and ICT systems make information exchange more difficult, therefore the homogeneity and interoperability of information systems should be improved according to the European Commission.[57] The level of information security, the lack of secured communication channel and the old-style data transfer systems are other factors which can hinder inter-organisational information exchange.[58] Ensuring access authorization, authentication, security and confidentiality are critical in the design of the ICT system.[59]

A case management system which helps to evaluate, classify and disseminate the information originating from all channels and which has an interface to a secured communication platform, increases the efficiency of cross-border information exchange if it is accessible for the information exchange channels.[60]

RESEARCH METHODOLOGY

This research should answer the question of how law enforcement agencies exchange cross-border information, what factors impede and support this process and how obstacles can be overcome. In order to understand the case study[61], the process of cross-border information exchange and the influencing factors qualitative research strategy was chosen, desk research and in-depth interviews were conducted[62].

The desk research analysed the available open source data and documents in the field of cross-border information exchange, paying special attention to the organisational, legal and technological environments and the implications for information exchange. A content analysis was conducted to analyse the desk research. The data analysis was done by open coding, where the researcher broke down, examined, compared, conceptualised, labelled and grouped the gained data.[63] The results of the content analysis of the documents were compared with the

[56] European Commission, 2004.
[57] European Commission, 'Stronger and Smarter Information Systems for Borders and Security, COM(2016) 205 Final', 2016.
[58] Saloven M. et al., p. 84.
[59] Chau M. et al., 'Building an Infrastructure for Law Enforcement Information Sharing and Collaboration: Design Issues and Challenges', *Proceedings of The National Conference on Digital Government Research,* 2002.
[60] Doherty, R. et al., p. 48.
[61] Yin, R.K., *Case Study Research Design and Methods*, 5th edn, Thousand Oaks ,CA:Sage, 2014, p. 1.
[62] Bryman, A., *Social Research Methods,* Oxford University Press, 2012, p. 628.
[63] ibid 569.

results of the analysis of the semi-structured interviews. This offers the opportunity to view the results from a different perspective.

Purposive sampling[64] was used for the three in-depth interviews to find answers to some practical questions. Three semi-structured interviews with one representative of each channel and one field officer were conducted via Skype to receive in-depth information about the research topic and to collect complementary information to support the desk research.[65] Interview questions and informed consent forms were sent out to the interviewees two days before the interviews. The transcripts were elaborated anonymous and shared with the participants for a cross-check to identify possible misunderstandings. The thematic analysis technique was used to code the semi-structured interviews.[66] The text was examined to conceptualise and categorise the information and the elaborated coding matrix helped to understand the data and the theories by sorting out the relevant information.

Quality aspects were ensured during the semi-structured interviews. The auditing approach ensured the dependability. Within the framework of respondent validation[67], the findings were shared with the interviewees ensuring the correspondence between the findings and the experiences of the interviewed persons. Each group and their viewpoints are represented equally in the research in order to ensure fairness.

RESULTS OF THE DESK RESEARCH

ORGANISATIONAL ENVIRONMENT

Culture

Police organisational culture is different in each EU MS, which comes from the diversity of the socio-cultural-, historical backgrounds, education, mentalities, work traditions, habits and fragmentation of the law enforcement tasks and authorities. We can find countries with single police services with two police services and with more than two police authorities. Although the historical roots are common 'neither police organisations nor their daily actions

[64] ibid 418.
[65] Saunders, M., Lewis, P. and Thornhill, A., *Research Methods for Business Students,* Pearson Education Limited, 2008, p. 320.
[66] Bryman, p. 578–581.
[67] ibid 391.

are uniform'[68] in all countries. The police structure is centralised in some countries, and decentralised in others, some countries have single police force others have multiple.[69] This structural and cultural diversity and their effect on cross-border information exchange was recognised by the European Commission, they emphasised the importance of creating a common culture and common instruments in order to increase cross-border information exchange and cooperation.[70]

The general framework of international police cooperation is characterised by the diversity of the above written national structures and by the regional police organisations and EU instruments. Therefore, the structure of cross-border information exchange and the number of used channels depends on the number of police entities in a country and the level of centralisation of these agencies.[71] We distinguish two structures, the centralised and the decentralised one, depending on the general governing structure of the country.

Work of the channels

In reality, different units and services are dealing with different parts of law enforcement cooperation and information exchange in several countries and there are significant differences between the MSs regarding the responsibilities of the services. This complex legal and operational landscape formulates the need to establish a network of databases and creating a 'one window' system by putting one police unit in charge of international police cooperation in each country. This has resulted in the creation of the SPOC. SPOCs can be found on the central national level. SPOCs are usually divided into several functional subunits, which are responsible for conducting different types of cross-border activities. This simple and uniform approach at the national level aims to ensure that all information exchange requests are dealt with efficiently.[72] SPOCs are mostly operating 24/7, although this still does not mean a SPOC can immediately answer to requests especially if SPOC depends on other units which are not working round the clock. The work division is different in each country. In some countries the same staff exchange information on behalf of different agencies and also perform cross-border

[68] Aden, H., 'Convergence of Policing Policies and Transnational Policing in Europe', European Journal of Crime, Criminal Law and Criminal Justice, 9(2), 2001, p. 99.
[69] Bayley, D.H., *Patterns of Policing: A Comparative International Analysis,* Rutgers University Press, 1990.
[70] European Commission, 2004.
[71] Saloven M. et al., p. 19.
[72] Council of the European Union, 2018, p. 32.

information exchange with other national LEAs, while in other countries the workforce is separated according to the channels and tasks. The desk research shows that the SPOC seems to be one of the most efficient tools for cross-border information exchange, and that communication is easier and more efficient within the MSs which have a SPOC. [73] However, the application of the SPOC concept varies across the MSs and the created structures just partly comply with the 'one window' criteria.[74]

Most SPOCs prioritise serious and organised crimes, although cross-border criminality embraces less serious offenses[75]. This and new challenges within the Schengen area needed a less-centralised information exchange channel at the internal frontiers, this has led to the creation of the PCCC. PCCCs are located regionally, they facilitate instant, direct and smooth information exchange with neighbouring countries, support the operational units in the border areas and help to make quick decision.[76] The generally high number of cross-border information exchanges is usually not related to the most serious and organised crime, as petty and medium crime, illegal migration and public order related information exchange is conducted mostly by the PCCCs.[77] The legal basis for the operation of the 64 currently existing PCCCs in the EU, is the Schengen Convention.[78] As the convention regulates the use of the communication channel only to a limited extent, the contracting parties define the basis for their cross-border cooperation in bilateral or multilateral intergovernmental agreements. Given the lack of a commonly agreed legal framework these agreements are very diverse. This has created an opportunity for using the so called 'chain-communication'. Chain-communication let the non-neighbouring countries exchange information by involving the neighbouring, intermediate PCCCs and by omitting the SPOCs[79]. As a result, the information was eventually exchanged between countries which have never signed an intergovernmental agreement on cross-border information exchange. A 'significant proportion of police information exchanges are believed to take place via PCCCs, which in many cases are believed to occur without the SPOC being made aware of them'[80].

[73] Saloven M. et al., p. 19.
[74] Doherty, R. et al., p. 50.
[75] Saloven M. et al., p. 70.
[76] Council of the European Union, 2018, p. 44.
[77] Doherty, R. et al., 51.
[78] European Union, Art. 39, 44.
[79] Doherty, R. et al., p. 58.
[80] ibid 51.

Choice of the channels

Not only the differences of national structures, but also the variety of the nature of the exchanged information and the different legal backgrounds contributed to the creation and the wide choice and use of various information exchange channels. Different channels make 'more difficult to know which channel, and what means of communication, should be used for the cross-border information exchange'[81], and this sometimes leads to confusion.

The choice of channel is partly regulated by EU law, in some cases the use of a certain channel is mandatory, but the choice of channel in other cases is up to the MSs.[82] This seems to be supported by the Swedish Initiative[83], as it states: MSs can choose any channels which are used for international LEA cooperation. Contrary to this, the Schengen Codex states that, the request must be sent to the central national agencies which are responsible for international police cooperation. If the requested authorities do not have the authority to compete the request, it should be forwarded to the competent authority. If the request cannot be made in good time using the central authority, it can be sent directly to the competent police authority. The central authority shall be informed by the requester about the request as soon as possible. The decision of the MS about which channel will be used in a specific case usually depends on the subject matter, the requested country, the level of confidentiality and urgency. However, the Manual on Law Enforcement Information Exchange states that the requester (end-user) has a significant autonomy in choosing the channel which is considered to be the most appropriate and efficient.[84] Despite all these factors, the choice of channel depends on many factors, such as personal considerations, preferences for a certain channel etcetera, 'which are not consistent across and not even within the Member States'[85]. Two important factors which influence the choice of channel are trust and knowledge, as police officers are more willing to use those channels in which they trust and with which they are more familiar. Countries recognised this, therefore various training courses are available in several MSs. Training on cross-border information exchange is offered to SPOC staff in all MSs, however this is not true in case of

[81] Saloven M. et al., p. 53.
[82] European Commission, 2016, p. 6.
[83] Council of the European Union, 'Council Framework Decision 2006/960/JHA', 2006, p. 89.
[84] Council of the European Union, 2018, p. 55.
[85] Doherty, R. et al., p. 6.

field officers.[86] In reality, staff lack adequate training, and the end-users lack knowledge of existing channels.

The previously discussed unstructured choice of channel poses problems for the players and officers who are engaged in information exchange and poses a risk to the quality of information exchange.[87] The unstructured choice also serves as a ground for sending requests via more communication channels, which causes duplications. This is not forbidden, as the manual on Law Enforcement Information Exchange allows one to send a request through more than one channel in exceptional cases, but this should be indicated to all channels. The change of channel and its reason also should be communicated to all parties.[88] The SPOC plays an important role in avoiding duplication according to different MSs.[89] Also, the national case management systems are efficient to detect rare redundancies.[90]

In addition to the above-mentioned formal channels, informal communication, typically via personal contacts also plays an important role. The extent of the use of this channel is impossible to estimate, but there are cases where informal communication channels are used to receive the answer rapidly or to speed up the already ongoing information exchange.[91] As the received information cannot be used in the judiciary procedure, an informal request is usually followed by a formal request at a later stage.[92]

LEGAL ENVIRONMENT

Several EU legal instruments emphasize the importance and create the legal background for the cross-border information exchange. Thanks to the 'principle of availability' rule introduced in the Hague Programme[93], the information available for a national LEA should also be available to each MS LEA, which in practise means that the exchange of available information cannot be refused by a MS LEA. The programme also emphasizes the importance of border areas where closer cooperation and better coordination is indispensable to deal with

[86] ibid 79–83.
[87] ibid 6.
[88] Council of the European Union, 2018, p. 56.
[89] Doherty, R. et al., p. 49.
[90] Saloven M. et al., (n 8) 99.
[91] Doherty, R. et al., p. 58.
[92] Saloven M. et al., p. 76.
[93] Council of the European Union, The Hague programme: Strengthening freedom, security and justice in the European Union (2005/C 53/01), 2005, p. 1.

crime and security threats.[94] According to the desk research the 'principal of availability' is a goal that cannot be fully achieved due the existing differences between the national laws and technical systems, operational capabilities and the lack of interoperability.[95]

The Swedish Initiative[96] ensures that the same procedures be used for cross-border information exchange that is used within the national LEA. Exchange of information can only be refused for very few specific reasons. The 'principle of equivalent access' basically means that cross-border information exchange should not be more complicated or restrictive than information exchange at national level. The initiative also defines the time limit to provide the requested information which is 8 hours in urgent and one week in ordinary cases. Desk research shows that only 11% of the requesters often use urgent requests, since 57% seldom use and 32% have never used.[97] These numbers suggest that urgency is not an essential aspect during cross-border information exchange.

TECHNOLOGICAL ENVIRONMENT

The current ICT systems are appropriate and help cross-border information exchange, but because of the lack of secured communication channels and in order to ensure privacy and security still a large proportion of information exchange is still done by using 'old school' techniques, such as postal mail and fax.[98] To overcome these security concerns, some PCCCs started to use the Secure Information Exchange Network Application (SIENA)[99]. SIENA is a state-of-the-art platform which provides a secured and fast ICT environment for EU law enforcement agencies. It supports information exchange between MSs and Europol (within the Europol mandate) and it also facilitates bilateral data exchange between MSs (outside of the Europol mandate). Contrary to the PCCC, we could not find any information whether SPOCs are using SIENA for bilateral information exchange, although the suggestion to use SIENA as a default tool was already emphasised by the European Commission.[100]

[94] Gherman, A.C., 'Cross-Border Police Cooperation in the European Union', Annals of University of Oradea, Series: International Relations & European Studies, 7, 2015, p. 212.
[95] Saloven M. et al., p. 36.
[96] Council of the European Union, 2006.
[97] Saloven M. et al., p. 38.
[98] ibid 84.
[99] More information is available at https://www.europol.europa.eu/activities-services/services-support/information-exchange/secure-information-exchange-network-application-siena, (accessed 12 March 2020).
[100] European Commission, 2012, p. 10.

Most MSs have a large number of different databases and several national LEAs have different policies, legislation and authorization regarding the use and management of their databases. Furthermore, not all necessary databases are available in a timely manner or to all of the staff who conducts information exchange.[101] Following the instructions of the SPOC guideline, several MSs also work with the case management system and its database which helps to evaluate, classify and disseminate the information originating from all channels and national authorities and which has an interface with SIENA and other platforms.[102]

RESULTS OF THE INTERVIEWS

ORGANISATIONAL ENVIRONMENT

Organisational structure and culture

The organisational structure generally supports the cross-border information exchange according to each interviewee, SPOC respondent furthermore added: *'Single law enforcement service, centralised control and the homogeneity of the structure is supporting the inter-agency information exchange, provides quality and timely answers'*. However, prioritisation can create obstacles, SPOC respondents continued as '*The police itself is doing multiple tasks, and sometimes information exchange has less priority than other police duties'*.

The organisational culture supports the cross-border information exchange and is evaluated by each respondent to be similar to its counterparts. However, the SPOC respondent stated that the culture *'has not too much impact on the efficiency'*, as their work is regulated by the legislation and therefore, they fulfil their tasks regardless of the similarity in organisational culture.

Leadership and management, staffing

All the interviewees agreed on the importance of managerial support in the efficiency of information exchange which is mostly manifested in the use of incentives and awards. No tailor-made performance evaluation procedure is systematised therefore according to the respondents, managers are voluntary using the non-institutionalized feedback system to motivate the staff: The PCCC interviewees started to organise regularly staff meetings in order to brief his colleagues about the results of their work. '*It's worth as this is the biggest motivation, more*

[101] Saloven M. et al., p. 85.
[102] Doherty, R. et al., p. 48.

useful than the mostly administrative and unsupportive performance evaluation procedure' (PCCC – respondents). A manager of the SPOC reported the same experience: the motivation of the staff and then the efficiency of information exchange will increase after the introduction of a feedback system.

With respect to the management style interviewees stated that it is mostly open minded, but when new ideas or bottom up initiatives are conflicting with the current legislation, such as data protection rules, the managerial support decreases.

In the field of staffing, on one hand staff-shortage, overwhelmed staff and fluctuation were mentioned as the most important hindering factors. On the other hand, all of the respondents agreed that the staff is professional, efficient and capable to conduct efficient information exchange. Training courses are regularly organised which help to gain and maintain the necessary knowledge.

Personal relationship, trust

The personal relationship between the counterparts can influence the speed of the information exchange, all interviewees agreed. Field officer and PCCC staff interviewees emphasised the importance of mutual interest, social bonds and personal relationships to speed up the information exchange process. '*The biggest advantage of the PCCC is that the counterparts are working under the same roof which creates good personal relationship, this increases the speed of exchange. (PCCC - respondent)*

The representative of the SPOC on one hand stated that the personal relationship can speed up the information exchange, but the '*mutual interest and reciprocity is not important, as our job is regulated by the legislation*'. The information exchange will be done in an efficient way even in case of bad personal relationships or negative previous experience. Contrary to this, field officer and PCCC respondent emphasised the importance of the mutual interest, '*I can see the differences in efficiency when our counterpart is not interested in a case'*. One example was mentioned in the field of drug related requests between countries with different legislation, penalization (conservative-liberal): '*More difficult to cooperate with them in this case.' (PCCC - respondent)* The trust and reciprocity are also important, the field officer emphasised. The loss of trust and the experienced lack of reciprocity permanently eliminate the informal channel.

All respondents believed that personal relationship can be fostered by joint operations, workshops, various team-building activities and social events. The SPOC interviewee emphasised: *'the teambuilding activities with other countries are very useful, conferences help to improve personal relationships and settle problems'*. The interviews showed that the staff of the PCCCs have more opportunity to conduct more diverse trust building activities with their counterparts than the others: '*We are organising team once a year, celebrating birthdays, retirements on a monthly basis. In addition to the trust-building, these meetings are providing a huge opportunity to solve problems.' (PCCC - respondent)*

WORK AND CHOICE OF THE CHANNELS

Interviewees unanimously agreed that the requesters have a relatively large freedom in the choice of channel: *'The choice of channel is depending on the personal experiences of the requester' (SPOC – respondent).* PCCC respondent added: *'If a police officer has good experience with the PCCC (s)he will use it mostly for information exchange.'*

The SPOC

All of the channels exchange information on persons and objects, but SPOC is the only channel which can be used for all types of information exchange. Regarding to the speed of the information exchange conducted by the SPOC, both the field officer and the manager from the PCCC stated that '*the information comes quite slow' (Field officer-respondent*). *'The SPOC is slower, not suitable for everyday needs. It happens we receive the same request which was sent to the SPOC weeks ago and left unanswered.' (PCCC-respondent)* However, they agreed on that the SPOC is the most efficient channel when complicated or confidential information exchange need to be conducted, or investigative measures are carried out. Another common case for using the SPOC is when the requested information is foreseen to be used in the court procedure. This request is usually preceded by the PCCC or informal information exchange and the SPOC 'legitimising' only the information already known, stated the field officer.

The SPOC exchanges information without geographical border as its counterparts can be not only a neighbouring country but each EU MS and several third countries. Half of the exchange takes place with non-neighbouring countries and most of the exchange is complicated and requires more steps to provide answers. The exchange of information can be initiated via the command structure by mail or by specially designed e-networks. According to the SPOC

respondent, the added value of the SPOC is that, they *'exactly know which channel is the most efficient for a certain request in a specific country, so we can save time and can ensure efficiency'.* Same interviewee noted: '*The use of a specific network is mandatory in some few cases, in this case the use of alternative methods is not allowed.*' Contrary to this, the field officer stated that practical considerations and experiences are more important during the choice of the channel than the text of the legislation. '*Various factors shall be taken into consideration,*' he further explained, '*such as the chance to receive answer in time, available manpower, operational and legal consequences.*' *(Field officer - respondent)*

The PCCC

'The PCCC can conduct information exchange in 5-20 minutes, therefore it is a very efficient channel when fast and simply information exchange is requested from, as a general rule, neighbouring country' (PCCC-respondents), interviewees from the field and from the PCCC stated. The information exchange is based on intergovernmental agreements, which provides flexibility. The area of responsibility usually covers the whole country but sometimes it is limited to the border region. Even if previously mentioned geographical limitation is in force, some PCCCs are allowed to exchange information out of their limited AOR as it was stated by the interviewee from the PCCC: '*We can exchange information out of the border region we are not limited to the region, in this case we have only one restriction, the information exchange request shall be urgent.' (PCCC - respondent)*

Recently PCCCs have started to exchange information directly with non-neighbouring PCCCs, with the staff of LEAs of non-neighbouring countries and even with the staff of Frontex operations who serve abroad: '*We started to receive information, which is related to other, non-neighbouring countries. We also receive requests directly from non-neighbouring countries in case the requester needs information from my country or from my counterparts. Direct contact also exists, we are receiving requests from foreigner (EU MS) police officer from the field and not through their PCCC.' (PCCC – respondent)* Field officer agreed with this, he stated: '*I have a list about the PCCCs within the EU, I send them request regularly, sometimes I receive answer sometimes not, it is not consistent even within one PCCC.'*

Furthermore, the PCCC information exchange with non-neighbouring countries can be conducted by using the so-called 'chain of request technique'. The Swedish Initiative is used as a legal background when information exchange is conducted with non-neighbouring

countries. ‘*If my country has no PCCC with the country from where I need the information, I can send my request to one of my national PCCC, who will use the chain of request or snow ball method, and will send it to the appropriate PCCC by using interim PCCC.’ (Field officer - respondent)* The purpose of the chain of request is to eliminate certain legal problems arising from the nature of intergovernmental agreements, which are mutatis mutandis limiting the information exchange only to the signatory parties. In this case, the intermediate PCCCs only play the role of messengers and forward the request to the final PCCC destination: ‘*If we receive a request which is not related to our country, we use chain request, but this is under 10%.’ (PCCC - respondent)*

Another task of the PCCCs is the facilitator role: ‘*Several countries do not accept requests from countries which are not the parties of the bilateral agreements, in this case the request can be sent to that PCCC which is the member of the agreement and which accepts request from outsiders. This PCCC, based on the bilateral agreement will request the information exchange from its counterpart and when the requested information is received it simply forwards it to the original requester.’ (PCCC - respondent)* The facilitator role is also used to overcome language barriers: As some PCCCs cannot communicate in foreign languages, the facilitator counterpart PCCC can be used to translate the request and to forward it to the target PCCC, stated the PCCC – respondent. This statement was supported by the field officer respondent also.

The informal channel

As a result of the complications introduced above, the use of informal channels has been increased, according to the field officer: ‘*As the official channels are simply incapable to provide the necessary answers such a short time, we have basically two options: using informal channels or not using them, and despite our suspicion, let him or her cross the border and enter or exit the EU, but honestly saying to let somebody crossing the border with e.g. fake passport is a security risk.’*

Informal channels are used when something is suspicious, but the available information is not adequate to create well-grounded suspicion and the officer has only a few, maximum fifteen minutes to decide what actions must be taken. An informal request is usually followed by an official request in case of a positive answer and when further action is needed. According to the field officer ‘*informal channels, trust and maintain trust have an utmost importance.*

Mutual interests make me to use informal channels.' Trust originates from previous work experiences, joint activities, conferences, workshops, common workplaces etc. Closed messenger groups or phone are used for informal information exchange. Informal channels are not used by the staff of the PCCC and the SPOC, we learned from the interviews.

Parallel channels

Parallel channels are mostly used by the field officers to get timely response. '*As one case management system is used, parallelism is immediately spotted',* said the PCCC respondent. Contrary to this the interviewee from the SPOC said that: '*The duplications cannot be identified automatically because of the lack of a common case management system with the police'.* Therefore, the duplication can only be detected manually which is really time consuming. Duplication that is signalled in time does not hinder the information exchange, as only one request will be answered. Increased workload only occurs when parallelism is not noticed and both channels work on the same request. '*We are not using more channels frequently, just if one channel is not responding or acting',* was said by the SPOC interviewee.

LEGAL AND TECHNOLOGICAL ENVIRONMENT

Legislation influences the efficiency of the information exchange and data protection regulation hinders the exchange of information each respondent agreed. The EU legislation makes the system inflexible, the *'Interpretation of the legislation, bilateral agreements are different by the PCCCs even sometimes by the staff within one PCCC, which can block the information exchange' (PCCC - respondent).* As it was mentioned before by the representative of the PCCC, this rigidity can be absorbed by intergovernmental agreements, in this case '*the Schengen regulation and the Swedish Initiative which complicates the information exchange can be neglected*' (PCCC – respondent). Contrary to the opinion of the PCCC and field officer interviewees, the SPOC respondent stated that the legislation is not strict, it *'provides flexibility and thanks to this the ruling regulations do not hinder the information exchange'.*

Finally, in the area of the technological environment, everyone agreed on the importance of interoperability: '*If the systems are interoperable it really can speed up the process.' (SPOC - respondent)* The availability of various databases can also increase the efficiency we learned from the PCCC and the field officer respondents, one said: *'We need more access to more*

databases. We need access to all EU databases if we want to work for a safer EU.' (PCCC – respondent).

CONCLUSIONS AND RECOMMENDATIONS

Three main environments have an impact on the exchange of cross-border information, such as the organisational/management, legislation/policy and the ICT environment. The supporting and hindering factors can be integrated into this concept, in these environments.

Firstly, the highly centralised organisational structure, 'red-tape' bureaucracy and authoritarian leadership style, lack of institutionalised reward and feedback system, weak internal coordination, diverse organisational cultures, internal and external competition, lack of trust and reciprocity and the overwhelmed staff are among the most important organisational obstacles in the field of cross-border information exchange found in this study. However, the organisational structure and culture, the quality of the staff generally supports the cross-border information exchange. Researcher found that, the international police cooperation varies with the organisational structure of the national services, by the regional constellations and relationships and by the ruling EU instruments. Therefore, the cross-border information exchange process, the use of the channel is not consistent, it highly depends on the number of the police entities in a country, the level of centralisation, the ruling policies, legislation and the ICT environment. It also can be concluded that the choice of channel is unstructured, it depends on personal experiences, knowledge and trust towards a certain channel. When the official channel is passive or slow, the rules are sometimes violated by using informal networks. The existence and use of the informal channels indicate that there are significant disadvantages of the official channels, which are mainly reflected in the speed of the information exchange process. However, the existing good personal relationship between the counterparts, trust, mutual interest and the reciprocity can contribute to a faster exchange.

Secondly the legislative environment (various requirements of the national legislations, differences in data protection and classification rules and uncertainty about which information can be provided by a country) slows down the information exchange and poses a threat to the efficiency of cross-border data exchange. The lack or inappropriate harmonisation of the EU instruments and the different national interpretations are also hindering factors found in this study.

Third, the obsolete or different levels of the ICT system, the lack of interoperability and compatibility and finally the proliferation of various national databases can cause delayed responses, and this has a negative impact on the efficiency. Another problem is the lack of a commonly used case management system and the lack of secure communication channels that ensure the enforcement of the required rules on data protection and confidentiality in the exchange process.

Based on the research results and the identified gaps one of our most important suggestions is to create a unified and harmonized legal background for the cross-border information exchange and to equip all channels to be able to conduct fast cross-border information exchange. Also, acknowledging that the speed is a big advantage of the PCCC in the information exchange, at first the legal base should be created which ensures a geographically unlimited cross-border information exchange for this channel. Furthermore, the management must be aware of the importance of supporting, transformational leadership in the efficiency of the information exchange, which can be ensured by organizing managerial training courses. Management could introduce a tailor-made incentive system and provide appropriate feedback. Next, interoperability should be ensured to increase the speed of the channels. User friendly and advanced ICT system should be created which support rapid and secured information exchange. Access to the EU databases should be granted to the channels and to the field officers so that they can respond automatically to certain requests. Finally, in order to avoid duplication and to decrease the unnecessary workload of channels, a case management system should be set up to identify parallel requests.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

SECURITY COUNCIL POWERS IN RELATION TO THE CRIME OF AGGRESSION. INTERNATIONAL SECURITY AND THE ROLE OF ICC.

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DOI: 10.13165/PSPO-20-24-09

Annotation. The perspective of SC and more generally of United Nations in interaction with ICC will not be directly investigated. It will be only incidentally and for the most relevant purposes for the investigation of the SC's powers to affect the content of the Treaty establishing the Court. More generally, any limits to the action of SC will be observed only in light of the repercussions that may have on the jurisdictional activity of ICC. From an internal perspective, so to speak, to the Court itself, it should be emphasized that the autonomy referred to is only that of the ICC with respect to another institution, a political body, the SC. In this perspective, the present work is concentrated on the analysis of the crime of aggression and the role of two organs, which they have fought for years to save peoples and punish those who have committed atrocious crimes such as that of aggression. The method used is that based on sources, in particular on the statute of the ICC and on "restrictive acts" or not of the SC.

Keywords: Security Council of UN, crime of aggression, UN Charter, StICC, international criminal justice, General Assembly of UN, ICJ.

THE CRIME OF AGGRESSION IN STICC. REFERENCE TO UN CHARTER

Another regulatory element contained in Statute of the International Criminal Court (StICC) that expresses the needs to link Security Council (SC) activity and that of ICC, concerns the crime of aggression. It is not possible to retrace here the long and complex path that led to the definition of this crime. However, it can be remembered in general that one of the reasons behind the difficulty of including such criminal conduct among those subject to ICC jurisdiction was precisely the lack of a shared and sufficiently precise definition of the criminally relevant behaviors and of the state acts underlying the individual crime[1].

A further element of complexity, also at the origin of the obstacles to the inclusion of the crime of aggression in the ICC ratione materiae competence, concerns the relationships between individual and state responsibility. The crime of aggression, by definition, the expression of a

[1]B. Bonafè, "The relationship between state and individual responsibility for international crimes", Martinus Nijhoff Publishers, Leiden, Boston, 2009.

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

decision taken by the leaders of the political or military apparatus of a State also presupposes a responsibility for the latter. To tell the truth, other international crimes also tend to be committed by an individual-body therefore attributable to the State of belonging of the author of the illegal conduct and in any case present a collective and, so to speak, political dimension: The systematic attack on crimes against the humanity, the planning of war crimes, the intent to target a group as such in the case of genocide. No other international crime has, however, as it will now be better said. a presupposition and condition of the same evidence of individual criminal conduct, a state offense.

The origins of a particularly close relationship between individual and state responsibility for aggression are already clearly visible in art. 16 of the project of crimes against peace and humanity drawn up by International Law Commission in 19962. In light of that provision, in fact, an individual would have been held responsible for the crime of aggression if "as a leader or organizer, participates in or orders the planning, preparation, initiation or waging of aggression committed by a State"[3]. In this perspective, in short, a necessary condition for the existence of individual crime was the commission of an act of aggression by a State. Moreover, also in light of the aforementioned art. 23 of the draft Statute, drawn up by ILC in 1994, the individual crime of aggression presupposes that a State had been held to have committed aggression[4].

Given these assumptions it was difficult to imagine that the Rome Statute did not provide for this particular crime a connection with the UN Charter and that the relationship between the two forms of responsibility was not made explicit in any way. It is almost superfluous to remember that art. 39 of the UN Charter grants SC the power to investigate interstate attacks. For this reason, in addition to the need for a general connection with the provisions of UN Charter, the most specific emerged and here it is of extreme interest and importance to connect the jurisdictional activity of ICC inherent in SC.

Since no shared solution was found at the Rome Conference on the modalities of such

[2]For further details see: D. Liakopoulos, "*Complicity of states in the international illicit*", Maklu editions, Portland, Antwerp, Apeldoorn, 2020

[3]Draft Code of crimes against the peace and security of mankind, in Yearbook of the International Law Commission, 1996, vol. II (part two).

[4]Draft Statute of the International Criminal Court with commentaries, in Yearbook of the International Law Commission, 1994, vol. II, part two, 1994, pp. 44ss.

coordination between ICC and SC, art. 5 (2) StICC[5], after having precisely ordered that the exercise of jurisdiction over the crime of aggression be postponed to the future adoption of a definition of the crime by the determination of the conditions of activation of ICC, limited itself to recommending in completely generic terms, that this provision however, it must be "consistent with the relevant provisions of the UN Charter"[6]. Now, however incidentally it may appear "redundant but not superfluous"[7], it testifies and anticipates the main question still to be resolved, namely, the need to coordinate the ICC's judicial activity in repressing the individual crime of aggression with the competence of SC to ascertain the commission of a state act of aggression.

Even more than the difficulties related to the definition of the crime of aggression were precisely the conditions of prosecution of the crime, also referred to in art. 5 (2), which led to the decision to postpone the exercise of ICC's jurisdiction over the crime of aggression to a future revision of the Statute[8]. In other words, it was a question of determining to what extent the repression of the crime of aggression by ICC could be conditioned by the powers attributed to SC for the purpose of maintaining peace and in particular of the ascertainment that that body is entitled to in the light of art. 30. All debates relating to the conditions of prosecution of the crime of aggression essentially revolve around the degree of autonomy which with respect to any assessment of SC should have been guaranteed to the Prosecutor for the purpose of opening the investigations and to the other ICC bodies for the purpose of attributing individual criminal liability for this particular criminal conduct[9].

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[5]O. Bekou, *"The International Criminal Court"*, ed. Routledge, London & New York, 2017.
[6]O. Bekou, "The International Criminal Court", op. cit.,
[7]B. Bonafè, *"The relationship between state and individual responsibility for international crimes"*, op. cit.,
[8]Report of the Preparatory Committee on the establishment of an International Criminal Court, vol. I, UN Doc. A/51/22, 1996, p. 19. Many Arab and African States already suggested adopting the definition of aggression contained in Resolution n.3314 of 1974 while other States (such as Germany) suggested a definition that best suited the requirements of penal repression, as far as the role of SC is concerned, however the positions seemed even more distinct. See: Report of the ad hoc Committee on the establishment of an International Criminal Court, A/50/223, 1995, pp. 13-15, it is also evident that some States believed that the crime of aggression was already at least in one of its existing essential nuclei. The fact that the crime of aggression is provided for in the statutes among those subject to ICC jurisdiction ratione materiae but that its actual and concrete persecution was postponed to a future revision intended to define its content and conditions of admissibility has usually made the report speak. To this period so to speak of transition of dormant jurisdiction over the crime of aggression see the expression of P. Kirsch, D. Robinson, *"Reaching agreement at the Rome Conference",* in A. Cassese, P. Gaeta, J.R.W.D. Jones, The Rome statute of the International Criminal Court. A commentary*,* Oxford University Press, Oxford, 2002, pp. 68ss.
[9]D. Liakopoulos, *"The function of accusation in International Criminal Court"*, ed. Maklu, Portland, Antwerp, Apeldoorn, 2019.

THE DEBATES PRECEDING THE ADOPTION OF THE STATUTE

The debates prior to the adoption of the Rome Statute offer some indications of what were the terms of the issue that we intend to address here. In particular, with regard to the repression of the crime of aggression, it can only start from the repeatedly called art. 23 of the Statute of the ILC Project of 1994. Par. 2 of this provision stipulated that a case relating to the crime of aggression could not be subject to ICC jurisdiction "unless SC has first determined that a State has committed the act of aggression which is the subject of the complaint. The initial orientation of ILC was therefore to attribute to SC a preliminary and unavoidable competence to determine the commission of an act of aggression by a State's party in order to proceed with the repression of individual crime[10]. Within ILC there were opposite or at least skeptical positions with respect to this solution[11]. Several States then opposed an exclusive competence of the political body in determining the existence of a state of aggression. States opposed to such an incisive role of SC rather claimed the need to guarantee the autonomy and independence of ICC and therefore to recognize the latter is power to proceed even in the absence of an assessment by the political body[12]. It can be said in general terms that the notion of aggression[13] reflects the inability made by ILC to "divorce form its political nature".

The divergences that emerged during the Commission's work were then repeated in the subsequent Preparatory Commission work, with a clear favor still for a rather marked protection of SC prerogatives with respect to the guarantees of independence and autonomy of ICC (art.10 of the project). A full option included two distinct hypotheses. By virtue of the first, the ICC could not have exercised its jurisdiction only if the SC had expressly denied that the situation brought to the attention of ICC could be classified as aggression. In light of the second hypothesis, however, ICC jurisdiction would always have depended on an explicit assessment made by SC on the basis of Chapter VII of the UN Charter, aimed at determining the

[10]See, Report of the international law Commission on the work of its forty-sixth session, UN Doc. A/49/10, 2 May-22 July 1994, pp. 86: "(...) any criminal responsibility of an individual for an act or crime of aggression necessarily presupposes that a state had been held to have committed aggression, and such a finding would be for the Security Council acting in accordance with Chapter VII of the UN Charter to make". For further analysis see: M. Schuster, *"The Rome statute and the crimes of aggression. A gordian knot in search of a sword"*, in Criminal Law Forum, 14 (1), 2003, pp. 36ss. T. Meron, *"Defining aggression for the International Criminal Court"*, in Suffolk Transnational Law Review, 25, 2001, pp. 13ss.

[11]See the positions of Pellet and Bennouna, in ILC Yearbook 1994, vol. I, 2358 meeting, p. 209 and 2361, meeting, p. 227.

[12]See in particular Bahrein (UN Doc. A/C.6/49/SR17, p. 4) and the Netherlands (UN Doc. A/C.49/SR/SR.17, p. 18), but also the rather critical attitudes of Greece (UN Doc. A/C.6/49/SR.17, p. 18), France /UN Doc. A/C.6/49/SR.19, p. 9), Israel (UN Doc. A/C.6/49/SR.20, p. 6) and Chile/UNDoc. A/C.6/SR.21, p. 6).

[13]A.C. Carpenter, *"The International Criminal Court and the crime of aggression",* in Nordic Journal of International Law, 64, 1995, pp. 234ss.

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

commission of an act of aggression by a State[14]. In a second proposal, in more general terms, it provided for the compulsory nature of any finding made by SC on the commission or not of an act of aggression by a State. However, it was not clear in this different scenario what would have happened in the absence of SC determinations.

Then there was a paragraph, aimed at protecting the jurisdictional activity of ICC which sanctioned the principle according to which any decision of SC "shall not be interpreted as in any way affecting the independence of the Court in its determination of the criminal responsibility of the person concerned"[15]. To tell the truth, this statement appears to be aimed at affirming an obvious principle of independence of the judicial function in ascertaining individual responsibilities. However, it does not seem to guarantee an autonomy of the Court with respect to SC in the event of an overlap of the action of the two bodies. It is quite evident in fact that if SC has the power to limit or initiate the exercise of ICC's jurisdiction over the crime of aggression, then preventing its activation through a negative determination about the existence of an act of aggression by part of a State it wants to subordinating the exercise of jurisdiction to a prior positive assessment regarding the commission of a crime, ICC independence to prosecute criminally responsible individuals is subject to the political assessment made by SC, which has in fact the power to preclude the action of the jurisdictional organ.

The divergences that emerged on the definition of the crime of aggression and on the role that SC should have played in the repression of the same ICC reappeared, as a part mentioned also at the Rome Conference. To mark a decisive moment of the debate was an interesting proposal from Cameroon that while admitting the necessary pre-eminence of SC in ascertaining the crime of aggression was aimed at guaranteeing a margin of discretion to ICC action at least in the case of inertia of the political body. With this proposal it was essentially suggested that before ICC exercises its jurisdiction over the crime of aggression, "SC shall determine the existence of aggression in accordance with the pertinent provisions of the UN Charter"[16].

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[14]Preparatory Committee Draft Statute n.110, par. 4 in its first option reads: 4. option 1 (Accompanied of or directly related to (an act) (a crime) of aggression (referred to in art. 5) may (not) be brought (under this Statute) unless the SC has first (determined) (and formally decided) that the act of a State is the subject of the complaint (is) (is not) an act of aggression (Chapter VII of the UN Charter).

[15]A.C. Carpenter, *"The International Criminal Court and the crime of aggression",* op. cit., pp. 234ss.

[16]UN diplomatic conference of plenipotentiaries on the establishment of an International Criminal Court, Rome, 15 June-17 July 1998, official records, vol. I, UN Doc. A/CONF.183/C.1/L.39.

However, and herein lies the most interesting element especially for the influence it will have in subsequent developments in the matter, it was envisaged that SC had delayed to make its own assessment on the commission of a state act of aggression following a request by the Prosecutor to do so. The latter could have initiated "an investigation for the purpose of establishing whether a crime of aggression within the meaning of the present statute exists"[17].

As mentioned at the Rome Conference, it was decided to postpone the matter to a future revision of the Statute and a special Preparatory Commission was established for this purpose[18]. The impression of many was that the ICC's jurisdiction over aggression crime "was still born". And according to some, its birth would never have happened.

THE WORK FOLLOWING THE ENTRY INTO FORCE OF THE STATUE AND THE FIRST REVIEW CONFERENCE

Starting in 2002, the Assembly of States Parties brought together the work of the Preparatory Commission into a special working group. It was the work of the latter body that laid the foundations for the subsequent debate that took place in the first statute review Conference. It is therefore appropriate to briefly analyze some of the proposals put forward by the States at that time, always naturally with a view to assessing the degree of autonomy that was intended to leave to ICC bodies with respect to SC decisions.

The motions of some States aimed at limiting the role of SC seem to be of particular interest, providing for the possibility of autonomous although limited ICC action or even the involvement of other UN bodies. A first hypothesis put forward by France and Portugal suggested that ICC could exercise its jurisdiction as well as in the event that the SC had already pronounced in this sense pursuant to art. 39 also following a request for assessment from the same Court and addressed to SC, which was disregarded for a period of 12 months[19]. An idea that suggested by the two States that took up the Cameroonian proposal and destined as already anticipated to a certain success. Unlike another hypothesis perhaps too ambitious submitted to the working group by Bosnia-Herzegovina, New Zealand and Romania which contemplated in

[17]A.C. Carpenter, "The International Criminal Court and the crime of aggression", op. cit.,
[18]He was assigned to this body to draw up a series of proposals for a provision on aggression, including the definition and elements of crimes of aggression and the conditions under which the ICC shall exercise its jurisdiction with regard to this crime. See, par. 7 of the Resolution adopted by the UN Diplomatic Conference of plenipotentiaries on the establishment of an International Criminal Court, 17 July 1998.
[19]Working group on the crime of aggression, proposal submitted by Greece and Portugal, PCNICC/2000/WGCA/DP.5, 28 November 2000.

an evident attempt to limit the role of SC, the involvement of General Assembly and International Court of Justice (ICJ)[20]. According to this proposal, always SC had not pronounced on the possible aggression within 12 months from the request of ICC or had not decided to endorse the turnaround of ICC using the power provided by art. 15 StICC[21], the ICJ could have notified the GA of the situation before the Court and invite it to request to it in accordance with article 96 of the existence or otherwise of an act of aggression by the State concerned[22]. Only in the event that the opinion of the ICJ recommended an action by ICC, could the latter have proceeded in ascertaining individual liability.

The results of the numerous discussions that took place within the working group[23] then merged into three distinct documents, commonly called chairman's papers. These works highlight a certain convergence of states in relation to the definition of crimes while they still present different options regarding the UN organ to which the competence should have been attributed to carry out this assessment. In other words, discussions continued on whether to allow the Prosecutor to act even in the absence of an assessment, carried out by a body external to the statute system relating to the commission of an act of aggression by a State. In the event that it was wished to preclude this possibility, it remained to be decided which body between SC, GA and ICJ should be invested with this competence[24].

The whole debate sheds more light on the real issue being disputed, namely whether the SC should be given a monopoly, so to speak, in assessing the commission of aggression between States or, instead, we can imagine that this task is shared with other UN bodies or even at least for the purposes of the criminal repression left to the decision-making autonomy of an international tribunal established through a treaty. Despite the widespread skepticism about the

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[20]D. Liakopoulos, *"La tutela cautelare nella Corte internazionale di giustizia. Aspetti processuali e comparati",* ed. Amon, Firenze, 2012.

[21]W.A. Schabas, *"The International Criminal Court. A commentary to the Rome statute",* Oxford University Press, Oxford, 2010, pp. 302ss.

[22]Working group on the crime of aggression, proposal submitted by Bosnia and Herzegovina, New Zealand and Romania, PCNICC/2001/WGCA/DP.1, 23 February 2001.

[23]Assembly of States Parties, special working group on the crime of aggression, 30 November-14 December 2007, New York, informal inter-sessional meeting of the special working group on the crime of aggression, ICC-ASP/6/SWGCA/INF.1, 25 July 2007.

[24]See the diverse options contained in the discussion paper on the crime of aggression proposed by the Chairman, ICC-ASP/5/SWGCA/2, 1st February 2007; Discussion paper on the crime of aggression proposed by the Chairman, ICC-ASP/6/SWGCA/2, 14 May 2008 and discussion paper on the crime of aggression proposed by the Chairman, ICC-ASP/SWGCA/INF.1, Annex, 19 February 2009. For further analysis see: O. Solera, *"The definition of the crime of aggression: Lessons not learned",* in Case Western Reserve Journal of International Law, 42, 2010, pp. 808ss. T. Lavers, "*Aggression, intervention and powerful feminist methodologies on peace and security issues",* in Amsterdam Law Forum, 5 (2), 2013, pp. 127ss.

concrete possibility of reaching a shared solution regarding the conditions for exercising ICC jurisdiction, the first statute review Conference held in Kampala (Uganda) in 2010 marks the historic compromise[25], which opens the way for the permanent exercise of jurisdiction over this international crime by the permanent criminal court. The same Resolution adopted at the review Conference in 2010 stipulated that jurisdiction over the crime of aggression could only be activated if after the 1st January 2018, a decision had been taken to that effect in the Assembly of States, part of the majority required to amend the Statute (two thirds). In addition, ICC could have prosecuted the crime only one year after thirty States Parties to the Rome Treaty ratified or accepted the amendment. Thirty ratifications have been reached and in December of the last year, the Assembly of States Parties decided to activate ICC's jurisdiction over this particular crime as of 17 July 2018[26]. It is necessary to examine what changes were introduced following the review Conference.

The document presented in Kampala, the so-called Conference Room Paper[27], proposed the elimination of art. 5 (2) and the inclusion of three different provisions. Art. 8 bis, concerning the definition of the crime of aggression, art. 15 bis relating to the conditions of prosecution against this crime in the event of a referral of a State Party or of an action proper to the Prosecutor and concerning the possibility of the referral being exercised by SC.

It is worth mentioning that art. 8 bis (1) defines the crime of aggression as "the planning, preparation initiation or execution by a person effectively in a position to exercise control over or to direct the political or military action of a State, of an act of aggression which by its character, gravity and scale constitutes a manifest violation of the UN Charter"[28]. The conduct that can generate individual responsibility for the crime of aggression therefore presupposes, as had already emerged in previous attempts to define this criminal case, an act of aggression by the State for which the individual acts[29]. Art. 8 bis (2) provides for a list of which state conduct may constitute a prerequisite for the suppression of the crime.

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[25]N. Blokker, C. Kress, *"A consensus agreement on the crime of aggression: Impressions from Kampala",* in Leiden Journal of International Law, 20, 2010, pp. 890ss. The revision Conference was convened on par. 1 of art. 121 which provides for the possibility of proposing amendments to the statutes at the end of the seven years from its entry into force.

[26]Assembly of States Parties, Draft Resolution proposed by the Vice-Presidents of the Assembly activation of the jurisdiction of the Court over the crimes of aggression, ICC-ASP/16/l.10, 14 December 2017.

[27]Conference Room Paper on the crime of aggression, Doc. RC/WGCA/1, 25 May 2010. P. Webb, *"International judicial integration and fragmentation",* Oxford University Press, Oxford, 2013. H.H. Koh, T.F. Buchwald, *"The crime of aggression: The United States perspective",* in American Journal of International Law, 109 (2), 2015, pp. 260ss.

[28]P. Webb, *"International judicial integration and fragmentation",* op. cit.,

[29]The amendment to the Statute also provides for a fairly high threshold of severity for the inter-state infringement, as this should represent a manifest violation of the UN Charter.

With regard to the conditions of prosecution, the proposals contained in the document have shown all the complexity and the composite nature of the debate and the positions taken by the States. The final document distinguishes two different situations as just highlighted: The activation of the jurisdiction upon notification of a State Party or on the initiative of the Prosecutor on one side and the referral of SC on the other. It is obvious that the latter case does not pose particular problems in principle. If the SC reports a situation to ICC, the assessment of individual responsibilities is functional and complementary to the action of the political body itself. As for the first two hypotheses, however, the reporting of a State Party or the action proper motu of the Prosecutor element of extreme importance of the historical Resolution adopted on the evening of 11 June 2010 in Kampala is the fact that the assessment of SC is not indispensable condition for ICC to exercise its jurisdiction over the crime of aggression. Such a solution undoubtedly represents a success of the majority of the States towards the permanent members of SC and appeared to the majority to guarantee a greater probability that the crime of aggression will actually be pursued in the future. Even more if we take into account the known reticence of SC to pronounce on the existence of a situation of aggression. Such a solution undoubtedly represents a success of the majority of the States towards the permanent members of SC and appeared to the majority to guarantee a greater probability that the crime of aggression will actually be pursued in the future. Even more if we take into account the known reticence of SC to pronounce on the existence of a situation of aggression. However, we cannot ignore the rather evident fact that this solution presents greater possibilities of generating opportunities for conflict between the judicial and political body.

Specifically, in light of paragraphs 6, 7 and 8 of the new art. 15 bis of the Rome Statute, the Prosecutor before starting an investigation for a crime of genocide proper motu or on the basis of a report by a State must verify that SC has carried out an investigation according to Chapter VIII of the UN Charter, of the Commission of a state act of aggression. If SC does not make this determination during the six months following the notification (and the transmission of all the relevant documents) to the UN General-Secretary on behalf of ICC regarding the situation on which the opening of the procedure is expected, the Prosecutor can independently carry out the investigation, subject to an authorization from the pre-trial division and unless SC decides to use its referral power.

Despite the compromise reached, it is appropriate to recall here some important limits on the exercise of jurisdiction over the crime of aggression by ICC. In fact, when the ICC action

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
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PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
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is activated, through the exercise of the referral power of SC there are no distinctions between States that are part or not of the Statute, if instead the investigations are undertaken precisely by the Prosecutor or on the impulse of a State Party, ICC cannot exercise its jurisdiction over a crime committed by a citizen or on the territory of a State not part of the Statute[30]. Finally, as regards the States Parties, they can decide through a specific declaration filed by the Registrar not to accept ICC competence for the sole crime of aggression[31].

In conclusion to the most important question of the entire debate on the role of SC with respect to the repression of the crime of aggression, that is whether or not an organ should be recognized as an organ in the assessment of the existence of an aggression must be given a negative answer. From the point of view of ICC this is reflected in a considerable degree of autonomy of the Prosecutor in proceeding even in the absence of an assessment by the political body. On the other hand, it had already been recognized on several occasions that the primary responsibility attributed to SC of art. 24 of the UN Charter for the maintenance of peace and security must not be considered exclusive and that some functions in this area can also be exercised by other political or judicial bodies. A reading in this sense had already emerged in the General Assembly during the adoption of the Resolution uniting for peace. In that particular context, it was found that art. 10 of the UN Charter gives the General Assembly the power to discuss any questions or any matters within the scope of the present Charter in particular if SC does not exercise the powers attributed to it[32].

Furthermore, in light of articles 12 and 14 of the UN Charter[33], GA can make recommendations regarding the measures to be adopted for a peaceful settlement of any controversy that could prejudice the peaceful relations between the States except in the case in which SC itself is dealing with the question. In short, a residual and secondary responsibility of the general assembly in matters of maintaining peace and security is now considered well

[30]See par. 5 of art. 15 bis.
[31]See par. 4 of art. 5 bis.
[32]Resolution n.377 (V) (1950), Uniting for peace (3 November 1950) this is the most well-known and relevant step: "if SC because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where appears to be a threat to the peace, breach of the peace, or act of aggression, the GA shall consider the matter immediately with a view to making appropriate recommendations to members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary to maintain or restore international peace and security. If not in session at the time the GA shall therefore meet in emergency special session within twenty-four hours of the request. Such emergency special session may be called if requested by SC on the vote of any members (nine since 1965) or by a majority of the UN members (...)".
[33]W.A. Schabas, "*The International Criminal Court. A commentary to the Rome statute",* op. cit.,

established.

Similar reasoning can be made towards the Courts. The same ICJ as it is known has expressly ruled that the liability provided for by art. 24 "is primary, not exclusive"[34] and on more than one occasion recalled the different roles that a Court and a political body play and affirmed the idea and the principle of the possible parallel exercise of their respective functions[35]. The recognition of an autonomous prerogative of assessment in relation to the Commission of state acts of aggression also seems in line with these reconstructions. On the other hand, while inevitably overlapping the action of SC in the context of the maintenance of international peace and security, the function assigned to ICC maintains its own distinct and precise specificity: The repression of an individual crime.

POSSIBLE COORDINATION PROBLEMS BETWEEN ICC AND SC IN THE REPRESSION OF THE CRIME OF AGGRESSION. PROCEDURAL ISSUES: ARTICLES 15A AND 15B

The fact that an investigation by SC regarding the Commission of a state act of aggression is not an essential precondition for prosecution undoubtedly represents an important guarantee of autonomy for ICC in the repression of the crime of aggression. Compared to other ICC related crimes, however, more and more stringent conditions for exercising jurisdiction are

[34]International Court of Justice, Certain United Nations expenses (article 117, par. 2 of the charter), opinion of 20 July 1962, in ICJ Reports 1962, pp. 163ss. For further analysis see: M. Ruda, *"Nulidad de los tratados",* in Y. Dinstein, M. Tabory, *"International law at a time of perplexity. Essays in Honour of Shabtai Rosenne"*, ed. Springer, Dordrecht, Boston, London, 1989, pp. 150ss.

[35]International Court of Justice (ICJ), Military and paramilitary activities in Nicaragua and against Nicaragua (Nicaragua v. United States), par. 95, "the Council has functions of a political nature assigned to it, whereas the Court exercise purely judicial functions. Both organs can therefore perform their separate but complementary functions with respect to the same events"; case concerning the application of the convention on the prevention and repression of the crime of genocide (Bosnia-Herzegovina v. Yugoslavia (Serbia and Montenegro), order of 13 September 1993, in ICJ Reports, par. 33. Armed activities in the territory of Congo (Republic Democratic of Congo v. Uganda), order of 1st July 2000, in ICJ Reports 2000, par. 36.The idea that the ICC could legitimately contribute to determining the situations of aggression, independently of an assessment made by SC, was widely affirmed even before the Rome Conference. See in argument: P. Escarameia, "*The ICC and the Security Council on aggression: Overlapping competencies",* in M. Politi, G. Nesi, The International Criminal Court: A challenge to impunity, Ashgate Publishing, Aldershot, 2001, pp. 134ss. M.S. Stein, *"The Security Council, the International Criminal Court and the crime of aggression: How exclusive is the Security Council's power to determine aggression?"*, in Indiana International and Comparative Law Review, 16 (1), 2005, pp. 4ss. S. Barriga, C. Kress, "The travaus preparatoires of the crime of aggression", Cambridge University Press, Cambridge, 2012. J.D. Van Der Vyver, *"Prosecuting the crime of aggression in the ICC",* in University of Miami National Security & Armed Conflict Law Review, 2010-2011, 1, pp. 17ss. M. Mccabe, *"Balancing aggression and compassion in international law: The crime of aggression and humanitarian intervention"*, in Fordham Law Review, 83 (2), 2014, pp. 999ss. C. Mcdougal, *"The crime of aggression under the Rome statute of the International Criminal Court"*, Cambridge University Press, Cambridge, 2013, pp. 215ss.

provided for this particular crime[36].

Although not all closely related to the interactions between ICC and SC, these limits to ICC jurisdiction are a clear consequence of the autonomy recognized by the Prosecutor in pursuing the crime of aggression. It is therefore worth mentioning it briefly.

Indeed, as regards the possibility of a report by SC, the changes do not present particular elements of novelty with respect to what is foreseen in relation to the other crimes covered by the ICC's jurisdiction. By virtue of art. 15 ter StICC, SC can exercise its referral power as provided for in art. 13 b) also in relation to the crime of aggression. As emerged during the first chapter, the possibility that SC indicates which crimes it believes have been committed in a given situation does not prevent the ICC bodies from qualifying a certain conduct differently. Similar reasoning can be performed in the event that a SC decision, through which it exercises its power of referral, expressly ascertains the Commission of a state act of aggression. This latter aspect is further highlighted from par. 14 of art 15 ter, which states that the assessment of an act of aggression "by an organ outside the Court shall be without prejudice to its own findings under this Statute"[37]. In particular ICC could decide not to precede in the repression of the crime, believing differently from what hypothetically stated by SC in its report that there has been no state act of aggression or that despite this act has occurred it is not possible to ascertain a corresponding individual liability[38].

As in part anticipated, the differences compared to the conditions of prosecution against the other crimes under ICC jurisdiction emerge instead in the hypotheses of referral of a State Party or of the Prosecutor's action. The amendments made to the Statute provide that ICC cannot exercise its jurisdiction over citizens or crimes committed on the territory of the aggressor State that has previously declare that it does not accept such jurisdictions by lodging a declaration with the register (art. 15 bis (4))[39]. The ICC cannot exercise its jurisdiction over the crime of aggression perpetrated by an upright citizen against the territory of a State Party to the Statute. Similarly, the exercise of ICC jurisdiction over the aggression committed on the territory of a State not part of the Stature by a citizen of a State Party is excluded. These particular limitations

[36]It highlights the costs of the choice made in Kampala. C. Stahn, "The "end", the "beginning of the end" or the "end of the beginning"? Introducing debates and voices on the definition of aggression", in Leiden Journal of International Law, 23, 2010, pp. 880ss.
[37]P. Webb, "International judicial integration and fragmentation", op. cit.,
[38]In this sense the first comments related to ILC Project of 1994 of the Statute already went. For further details see: A.C. Carpenter, *"The International Criminal Court and the crime of aggression",* op. cit., pp. 236ss.
[39]O. Bekou, "The International Criminal Court", op. cit.,

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ISSN 2029-1701
ISSN 2335-2035 (Online)
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which distinguish the extent of ICC jurisdiction over the crime of aggression in relation to the other three categories of crimes in a rather incisive way, do not apply in the case of a referral from SC. In practice, if the latter hypothesis is excluded, the ICC can exercise its jurisdiction only when a State Party to the Statute attacks another one.

In general terms, it is evident that with respect to the referral of a State Party or to the own action of the Prosecutor, the activation of ICC by SC envisaged by art. 15b, prefigures exactly as for the other cases of exercise of the power of referral a hypothesis of convergence between the action of the political body and that of the permanent tribunal. It is important to underline, however, that in this case the SC is not required to carry out an assessment of any state aggression that is the basis of its referral. As expected from art. 13 b) in fact, SC can limit itself to reporting a situation in which one of the crimes under ICC jurisdiction has been committed. In short, the time when SC decides to start the Prosecutor's investigations into a specific context of violence, ICC bodies will then ascertain whether the aggression is among the crimes committed.

The main problems of coordination between the SC action and ICC jurisdictional activity evidently arise in the hypotheses provided for by art. 15 bis relating to the referral of a State Party and to the proprio motu of the Prosecutor. As already anticipated, it is clear that having guaranteed an autonomy to ICC in ascertaining the Commission of a state act of aggression as a prerequisite for the corresponding individual crime, is at the origin of possible conflicts between the two organizations in these hypotheses.

In principle, a convergence in the action of the two organs is also possible in the case of referral of a State Part or an action proper to the Prosecutor. The SC could, without exercising its power of referral, explicitly ascertain the Commission of a state act of aggression thus allowing the Prosecutor to proceed with the investigation (art.15 bis (7))[40]. Even in this hypothesis it is possible ICC and SC reach different conclusions. The changes made to the Statute confirm with the same language of art. 15 ter, that ICC is not binding on the assessments made by bodies external to its system (art. 15 bis (9))[41]. It can therefore be imagined that despite the assessment made by SC, the Prosecutor decides not to request the opening of the investigations or this is denied by the pre-trial division. In order to avoid such a scenario of

[40]O. Bekou, “The International Criminal Court”, op. cit.,
[41]W.A. Schabas, “*The International Criminal Court. A commentary to the Rome statute”,* op. cit.,

open contrast between ICC and the political body, SC could then choose to exercise its referral power provided by art. 15 ter[42]. As just noted in the exercise of this power, the SC is not required to make any express assessment of the specific state acts of aggression underlying its reporting. He may prefer to initiate investigations on a particular criminal context without exposing himself to a conflict with the ICC as to whether or not an attack by one State is damaging to another.

Although the hypothesis is unlikely, one can also ask what happens in the event that SC expressly establishes that in a given context no state act of aggression has been committed. Art. 15 bis does not contemplate this hypothesis since the verification that the Prosecutor is called to perform in relation to SC action concerns the possibility that the latter has made a positive assessment about the Commission of an act of aggression by a State. The provision does not seem to preclude the possibility of ICC proceeding against a crime of aggression even in the face of a clear position taken by SC aimed at denying the assumption of the state act of aggression. In other words, the hypothesis of a negative assessment of SC about the conduct of aggression if they believe, unlike the SC, that a state act of aggression was instead committed.

It is worth pointing out that within art. 15 bis[43], at least two elements seem to balance to a certain extent the absence of any form of control of SC over the ICC's judicial action on aggression. In the first place even if the wording appears superfluous art. 15 bis (8) reminds that the SC can always request the suspension of the investigation or of a proceeding pursuant to art. 16 StICC[44]. Secondly, always with a view to balancing the absence of a filter by SC with respect to ICC action, then the same art. 15 bis (8) entrusts the task of authorizing the opening of investigations with respect to the crime of aggression to the pre-trial division, rather than as foreseen for the other crimes to one of the preliminary chambers.

(FOLLOWS): SUBSTANTIAL ISSUES: ART. 8 BIS

The definition of crime of aggression contained in art. 8 bis largely follows the Resolution n.3314 of 1974, adopted by the UN General Assembly. However, the basic approach of the changes prepared through the review conference and some specific editorial choices mark important differences compared to the definition drawn up at the general meeting.

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[42]S. Barriga, N. Blokker, "Conditions for the exercise of jurisdiction based on state referrals and propio motu investigations", in C. Kress, S. Barriga, "The crime of aggression: A commentary", Cambridge University Press, Cambridge, 2017, pp. 662ss.
[43]O. Bekou, "The International Criminal Court", op. cit.,
[44]See in argument: C. Wenaweser, *"Reaching the Kampala compromise: The chair's perspective",* in Leiden Journal of International Law, 23 (4), 2010, pp. 888ss.

Art. 8 bis (2) StICC reports with identical letter only art. 3 of the definition contained in Resolution n.3314 of 1974. However, while in the Resolution of GA, state behavior was considered as presumptively constituting aggression in art. 8 bis every single conduct constitutes an act of aggression. In fact, an attempt was made at GA to protect as much as possible the role of SC that could have considered those same conduct not sufficiently serious to configure a hypothesis of state aggression[45]. In the Rome Statute, on the other hand, the assessment of the seriousness of the violation of the rules on the use of force as a constituent element of the definition of aggression contained in art. 8 bis (1) is remitted to ICC bodies.

Art. 8 bis also does not contain a provision similar to art. 4 of Resolution n.3314 which recognizes SC power to ascertain that other acts constitute aggression beyond the terms expressly contained in the definition. The inclusion of this part of Resolution n.3314 of 1974 in the Rome Statute would have posed many compatibility problems with the principle of legality. It would have opened the way to the possibility of punishing an individual on the assumption of state conduct qualified by SC as an act of aggression only at a time after the entry into force of the rule[46]. In art. 8 bis, there are also no references to the irrelevance of political, economic, military or other reasons that can be justified by the act of aggression (art. 5 of Resolution n.3314 of 1974) nor is the need to preserve the principle of self-determination of peoples. All these choices mark the attempt to adapt the definition elaborated by the general assembly to the jurisdictional function of ICC. No longer essentially the typical language of the policy-contextual mode of decision making of SC but rather the textual rule based on ICC decision[47]. In other words, the editorial choices made at the review Conference reflect the need for legal certainty and to reduce, as far as possible, the space for political evaluations by the ICC bodies.

Precisely because of the different nature of the functions that perform the assessment that ICC and SC are called to perform in the matter of aggression, it is based on partially distinct legal bases. The DSC, as the Resolution n.3314 of 1974 well points out, enjoys an extremely wide discretion in establishing state acts that may fall into the category of aggression. ICC is

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[45]S.D. Murphy, "The crime of aggression at the International Criminal Court", in M. Weller, The oxford handbook of the use of force in international law, Oxford University Press, Oxford, 2015, pp. 542ss. E.P. Reale, "Chronicles from Kampala amending the Rome statute", in Revue Internationale de Droit Pénal, 82, 2011, pp. 258ss. C. Mcdougall, "The crime of aggression under the Rome Statute of the International Criminal Court", op. cit., pp. 258ss.
[46]F.P. King, "The crime of aggression: Is it amenable to judicial determination?", in B.S. Brown, "Research handbook on International Criminal Court", Edward Elgar Publishers, Cheltenham, 2011, pp. 128ss.
[47]W.M. Reisman, *"Reflections on the judicialization of the crime of aggression"*, in The Yale Journal of International Law, 39, 2014, pp. 72ss.

required to verify the implementation of one of the specific conduct envisaged by its statutes. This does not detract from the fact that art. 8a StICC is couched in open-ended, valutative language[48]. In this regard, it may be sufficient to remember that the act of aggression underlying the individual crime must by its character, gravity and scale constitute a manifest violation of the UN Charter. These are rather flexible regulatory parameters that are not easy to define and that ultimately imply a judicial choice that can have very significant political repercussions. The point is essentially that as far as art. 8 bis attempting to frame the crime of aggression in a list of determinable conduct the prerequisite for repression in a list of determinable conduct the prerequisite for the criminal repression of that individual behavior remains a state conduct likely to be implemented in the context of hugely important political-military events.

Beyond these general considerations on the particularly complex role that the ICC will be called upon to play in the suppression of the crime of aggression, a series of coordination problems between the exercise of jurisdiction and SC action can more concretely emerge in the light of the specific content of the assessment and possibly made by SC and the meaning that ICC bodies intend to attribute to that determination.

Some problematic aspects may concern the subjects involved in the act of aggression. It can be imagined that SC, as already happened, condemns an act of armed aggression towards a State without identifying the aggressor State or the relationship existing between the mercenary groups responsible for those conducted with a specific state entity[49]. Art. 8 bis (2) (g) StICC states that in relation to the sending of irregular groups to the territory of a State there must be at least a substantial involvement of the aggressor State. In the absence of a clear assessment of SC relating to the attribution to a State of the illegal conduct configuring the act of aggression it could then be the ICC in full autonomy recognized by the Statute to proceed in this delicate work of identification of the aggressor State and the individuals responsible for the illegal act[50]. Similar difficulties may also arise in relation to the victim of the attack. Art. 8 bis establishes that aggression must be directed against a State. Even in this case, it may happen that SC does not identify the State of these attacks in its assessment of the Commission of a series of acts of aggression. Once again, ICC having satisfied the assumption relating to the determination of

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[48]D. Scheffer, *"Amending the crime of aggression under the Rome Statute",* in C. Kress, S. Barriga, The crime of aggression: A commentary, Cambridge University Press, Cambridge, 2012, pp. 1480ss.

[49]See in particular the resolutions relating to the situations in Benin and the Seychelles: Resolutions 405 of 14 April 1977 and 496 of 15 December 1981.

[50]N. Strapatsas, *"The practice of the Security Council regarding the concept of aggression"*, in C. Kress, S. Barriga, The crime of aggression: A commentary, Cambridge University Press, Cambridge, 2012, pp. 184ss.

SC regarding the Commission of a state act of aggression, could find itself having to identify the victim of aggression in order to be able to determine its jurisdiction over illegal conduct.

Another series of problems can arise in relation to the content of the specific illegal state conduct subject to the assessment made by the political body. No question if SC uses the terms contained in art. 8 bis (2) by explicitly qualifying a state conduct such as invasion, military occupation, bombardment or any of the illegal conduct listed in the provision. This, moreover, has already occurred in the past. In resolution n.424 of 1978 SC condemned for example the invasive armed of Zambia by Rodesia of Sud as a consequence of the continuance of its acts of aggression. On another occasion through Resolution n.546 of 1984 SC condemned South Africa "for its renewed, intensified, premeditated and unprovoked bombing, as well as the continuing occupation of parts of the territory of Angola"[51]. The following year, for example, SC again stigmatized "South Africa's (...) unprovoked and unwarranted military attack on the capital of Botswana as an act of aggression"[52]. Israel's air raid on Tunisian territory of 1st October 1985 was also classified by SC as an act of armed aggression[53] and could fall under the letter of art. 8 bis (2) (g), as an attack by "(...) the armed forces of a State on the land (...) or of another State"[54]. As expressly clarified in the amendments made to the elements of the crimes, in fact each of the conduct listed from art. 8 bis (2) represents an act of aggression. In these cases, the prosecutor should not have particular problems in considering the SC's assessment in relation to the Commission of a state act of aggression satisfied. More problematic is the hypothesis in which SC does not use a terminology corresponding to the statutory data. In the past, for example, SC condemned the economic blockade or military threats from Rhodesia of South to Zambia as provocative and aggressive acts[55]. State deeds that are not contained in art. 8 bis (2) of the articles of association and against which the ICC may therefore decide not to exercise its jurisdiction as state conduct irrelevant to the detection of the crime of aggression[56].

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[51]Strapatsas, N., *"The practice of the Security Council regarding the concept of aggression",* in C. Kress, S. Barriga, The crime of aggression: A commentary, op. cit., pp. 188ss.
[52]Resolution of Security Council 568 of 21 June 1985. For further analysis see: T. Ruys, O. Corten, A. Hofer, *"The use of force in international law: A case-based approach",* Oxford University Press, Oxford, 2018, pp. 397ss.
[53]Resolution of Security Council 573 of 4 October 1985. Ruys, T., Corten, O., Hofer, A., *"The use of force in international law: A case-based approach",* op. cit., pp. 400ss.
[54]N. Strapatsas, *"The practice of the Security Council regarding the concept of aggression"*, in C. Kress, S. Barriga, "The crime of aggression: A commentary", op. cit.,
[55]Resolution of Security Council 326 of 26 February 1976. T. Ruys, O. Corten, A. Hofer, *"The use of force in international law: A case-based approach",* op. cit.,
[56]N. Strapatsas, "The practice of the Security Council regarding the concept of aggression", in C. Kress, S. Barriga, "The crime of aggression: A commentary", op. cit., pp. 184ss.

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ISSN 2335-2035 (Online)
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Furthermore, SC could limit itself to ascertaining in general terms the Commission of an act of aggression without however specifying the state conduct attributable to that particular violation of the use of force. For example in Resolution n.386 of 31 March 1976 the SC condemned in general "the acts of aggression committed by South Africa against Angola in violation of its sovereignty and territorial integrity"[57]. In these hypotheses, the Prosecutor would certainly be entitled to start its investigation activities without waiting for the six-month period foreseen in the event of failure to ascertain by SC and the subsequent authorization of the pre-trial division. The ICC bodies will then have to identify the specific conduct, among those provided by art. 8 bis (2) which is attributable to that specific aggression. Vice versa, SC could establish that one of the specific conduct contained in art. 8 bis (2) without expressly qualifying those behaviors as acts of aggression. The most obvious case concerns the invasion of Kuwait by Iraq. In that context, in fact, while condemning the invasion, the armed attack and the illegal occupation of the territory of Kuwait, SC has never used the term aggression or acts of aggression with respect to those conducted and considering them rather as violations of use of force[58]. The situation is in this more complex hypothesis. It could be considered that the condition relating to the determination of SC is not satisfied. In this case, the Prosecutor may wait for the six-month period required to obtain an explicit assessment of SC and failing that, ask the pre-trial division to be able to proceed with the investigation activities. ICC could therefore qualify the behaviors identified by SC as true state acts of aggression in light of art. 8 a (2).

THE PROPOSALS PUT FORWARD REGARDING THE INVOLVEMENT OF UN BODIES REGARDING THE DEFINITION OF THE CONDITIONS OF PROSECUTION TOWARDS AGGRESSION

The problem of SC role for the purpose of exercising ICC jurisdiction in the matter of aggression concerns only the hypotheses of activation of the criminal proceeding on the initiative of a State Party of StICC or of the Prosecutor proprio motu, given that SC action based on Chapter VII of the UN Charter, it is generally competent to submit to the ICC any situation

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[57]N. Strapatsas, *"The practice of the Security Council regarding the concept of aggression"*, in C. Kress, S. Barriga, "The crime of aggression: A commentary", op. cit.,

[58]See the resolutions of SC n. 660 of 2 August 1990, 661 of 6 August 1991, 662 of 8 August 1990, 665 of 25 September 1990, 674 of 29 October 1990. For further analysis see: T. Ruys, O. Corten, A. Hofer, *"The use of force in international law: A case-based approach",* op. cit.,

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ISSN 2335-2035 (Online)
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in which it believes that crimes within the scope ratione materiae of the same have been committed[59]. In both situations indicated above on the basis of the proposals that emerged in the context of the working group on the crime of aggression set up by the Preparatory Commission, when an accusation of aggression comes to the fore, ICC would be required and recognize a right of precedence to SC evaluations in relation to the existence of a state act of aggression. Starting from this common premise, the advanced solutions suggest, alternatively, several options regarding the hypothesis in which SC, after a certain period of time, does not take a position[60]. In this context, the crucial point is therefore given by the determination of the value to be attributed to SC silence[61].

The solution that this silence should in any case be interpreted as an obstacle for ICC jurisdiction does not seem to be acceptable[62]. The practice demonstrates how the inertia of SC, precisely in light of the predominantly political criteria, which oversee the functioning of the body, can be explained in widely different terms depending on the situations that arise with the consequence that it would be unreasonable and arbitrary to attribute to it, in the context currently under examination a univocal meaning, even more so when the chosen meaning leads to such drastic consequences as the paralysis of criminal proceedings against crimes of exceptional gravity[63].

As far as the subject of this work is concerned, it is interesting to note that as part of the attempts to identify a more suitable balance in the relations between SC and ICC in order to ensure a balanced division of labor in terms of assessing the aggression in its dual configuration respectively of state and individual crime, some States have penalized the usefulness of

[59]Art. 13, lett. b) StICC.
[60]In the sense in which SC does not rule in relation to ICC's request to ascertain the existence of an act of aggression pursuant to art. 39 of the Charter. The options suggested in par. 5 of the consolidated proposal can thus be established: "1.The ICC could in any case exercise its jurisdiction; 2.The ICC would find itself in the impossibility of exercising its jurisdiction; 3.The ICC could ask the General Assembly to rule in the institution of the Security Council being able to exercise its jurisdiction only in case of ascertaining the existence of an act of aggression by this last one; 4.The ICJ could be called in a consultive manner to rule in the substitution of the Security Council enabling in the event of a positive reply, the ICC at the jurisdiction of the jurisdiction; 5.The ICJ could exercise its jurisdiction after verifying that the ICJ has previously ascertained, in the context of its concurrent competition, the existence of an act of aggression".
[61]R. Kherad, *"La question de la dèfinition du crime d'aggression dans le statute de Rome. Entre pouvoir politique du Conseil de sècuritè et compètence judiciaire de la cour pènale internationale"*, in Revue Gènèrale de Droit International, 109 (2), 2005, pp. 355ss.
[62]G. Gaja, *"The respective roles of the ICC and the Security Council in determining the existence of aggression",* in M. Politi, G. Nesi, "The International Criminal Court: A challenge to impunity", Ashgate Publishing, Aldershot, 2001, pp. 124ss.
[63]This solution is supported by the statement contained in the opinion on Namibia for which: "le fait que telle ou telle proposition n'ait ètè adoptèe par un organe international n'implique pas nècessarirement quìune dècision colelctive inverse ait ètè prise. Le rejet ou la non-approbation d'une proposition peut tenir à de nombreux motifs (...)" (par. 69)

attributing precisely to ICJ a role of intermediation between the two instances, given that the latter would be called to intervene in order to verification of the existence of acts of aggression, not to correct the assessment of SC but to replace the latter to remedy its possible inaction, when it does not pronounce, within the terms established upon ICC solicitation.

We refer in this case to a proposal submitted to the attention of the Preparatory Commission from Bosnia and Herzegovina, New Zealand and Romania[64] (tripartite proposal). The proposal is structured as a cascade system of competences if a case of aggression is brought to the attention of ICC (ex artt. 14 an 15 of the Statute)[65], the latter must notify SC, which in turn has six months to take a position on the matter[66]. In the event of inertia, after the indicated deadline has elapsed, CC may invite GA to refer the question of the existence of an act of aggression in the present case to ICJ[67]. If ICJ responds positively to the question, then the ICC can proceed against the alleged perpetrator of the crime[68].

In its version, the proposal from Bosnia Herzegovina, New Zealand and Romania in par. 6, lett. b) also allows ICC to exercise its jurisdiction over a case of assault even in the event that the attempt to obtain the assessment required by art. 39 of the Charter, this assessment is made by ICJ during a litigation procedure. The project in question was also accepted in the latest version of the coordinator's discussion paper[69], not the further variant that the intervention of

[64]UN Doc. PCNICC/2001/WGCA/DP.2/Add. 1, 27 August 2001. This is the reworking of a proposal already advanced by these States in February 2001 (UN Doc. PCNICC/2001/WGCA/DP.1, 23 February 2001) and which in its substance maintains its original layout, with the exception of a few exceptions. T. Dannenbaumn, “*The crime of aggression, humanity and the soldier”,* Cambridge University Press, Cambridge, 2018.

[65]O. Bekou, “*The International Criminal Court”,* op. cit.,

[66]Note that the six-month limit set in the proposal in question (UN Doc. PCNICC/2001/WGCA/DP.2/Add.1, par. 5) raised in the first version to twelve months (UN Doc. PCNICC/2001/WGCA/DP.1, par. 4).

[67]O. Deleau, “*L'examen du rôle de la CIJ par l'Assemblèe gènèrale des Nations Unies“,* in Annuaire Français de Droit International, 16, 1970, pp. 4ss.

[68] In the original formulation the proposal provided that once the ICJ activated the procedure before ICC (UN Doc. PCNICC/2001/WGCA/DP.1, par. 5). In the second elaboration this intermediate phase is instead eliminated foreseeing directly to the competence of ICC once the investigation of the aggression by ICJ has taken place (UN Doc. PCNICC/2001/WGCA/DP.2/Add.1, par. 6, letter a)). In the comment to the indicated provision the proposing states raised the question of the attribution to ICC of a permanent authorization by GA regarding advisory questions to ICJ, a solution that would allow to simplify and depoliticize the whole procedure but the whose possibilities of realization are in the State canceled by the circumstance that art. 96, par 2 of the UN Charter expressly restricts the circle of potential beneficiaries of this authorization to the organs and organizations of the UN system. The attribution to ICC of a direct competence with regard to the request for advisory opinions to CJ is also the subject of some proposals put forward as part of the work on the draft agreement on relations between ICC and UN organization. For further analysis see: T. Dannenbaumn, *“The crime of aggression, humanity and the soldier”,* op. cit.

[69]As you can see, the tripartite proposal is based on two main assumptions: 1.The primary, but not exclusive, nature of the role of SC in terms of ascertaining aggression; 2. The incompetence of ICC to express assessments pertaining to the responsibility of the States. D.N. Nsereko, *“Aggression under the Rome statute of the International Criminal Court”,* in C. Mcdougall, “The crime of aggression under the Rome Statute of the International Criminal Court”, Cambridge University Press, Cambridge, 2013, pp. 517ss.

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ISSN 2335-2035 (Online)
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ICJ in the consultative session could be solicited as well as by GA, on the basis of a Resolution with a majority of nine votes, excluding the application of the veto right of permanent members[70].

The solution briefly described presents unquestionable with respect to the other proposals put forward regarding the definition of the trigger mechanism to be applied in the matter of aggression. In particular, the options that tend to attribute to political bodies, especially to SC and GA an exclusive role in the activation of ICC jurisdiction over the crime of aggression, despite the formal assurances that the decisions of these bodies: "Shall not be interpreted as in any way affecting the independence of the Court"[71], are in no way suitable for safeguarding the autonomy and independence of the criminal jurisdiction[72]. ICJ intervention would allow to define the conditions of prosecution in the matter of aggression on the basis of legal parameters, evidently more suited to the type of issue dealt with. Furthermore, taking into account the fact that the individual crime of aggression necessarily implies the existence of a state crime, the referral in case of inertia of SC to ICJ would have the merit of avoiding the direct involvement of ICC in an interstate dispute and at the same time would make it possible to better guarantee the uniqueness and coherence of the international legal system, attributing to a single judicial body the task of ruling on matters relating to the responsibility of states for serious injuries to the essential values of international society[73].

On the contrary, the objection raised against the described proposal does not convince,

[70]The solution to request for the approval of the opinion by SC a majority of nine votes originates from a proposal formulated by the Netherlands (UN Doc. PCNICC/2002/WGCA/DP.1 of 17 April 2002). The opportunity of introducing the described modification has raised some doubts: It has been argued in this regard that it would include an element of doubtful legitimacy in the tripartite proposal, but above all it would regret meeting the strong, if not insurmountable, opposition of the permanent members. C.E. Escobar Hernàndez, *"Corte penal internacional, consejo de seguridad y crimen de agresiòn un equilibrio dificil e inestable"*, in F.M. Mariňo Mènendez, *"El derecho internacional en los albores del siglo XXI. Homenaje al profesor Juan Manuel Castro-Rial Canosa"*, ed. Trotta. Fundaciòn Juan March, 2002, Madrid, pp. 262ss. C. Mcdougall, *"The crime of aggression under the Rome statute of the International Criminal Court",* op. cit., In reality the perplexity highlighted does not appear completely justified. With this precisation, the proposing delegation intended to resolve the controversial issue a priori to be applied to the adoption of requests for opinions. Since the setting therein coincides in fact with the general solution, not only do the doubts of the above mentioned doubts lose consistency from our point of view, but rather it is clear in the greater clarity that results from the modification indicated (in order to determine the activation modalities) of the advisory procedure) an element to be evaluated in positive terms.

[71]The solution is taken from the text of art. 10 of StICC project presented by the Preparatory Commission to the Rome Conference.

[72]J. Trahan, *"Defining "aggression": Why the Preparatory Commission for the International Criminal Court has faced such a conundrum",* in Loyola of Los Angeles International and Comparative Law Review, 24, 2002, pp. 462ss, which is affirmed that "the credibility of ICC regarding prosecutions for aggression would very much depend on the way the SC and/or GA make determinations as to state responsibility".

[73]D.N. Nsereko, "Aggression under the Rome statute of the International Criminal Court", in C. Mcdougall, *"The crime of aggression under the Rome Statute of the International Criminal Court",* op. cit., pp. 522ss.

which essentially hinges on the risk of politicization of the ICJ's activity which could result from its participation in the definition of the conditions of prosecution towards the crime of aggression. In this regard, apart from the completely inconsistent thesis in our opinion that the determination of an act of aggression far from configuring a legal question would be solely "a question of fact"[74], it was highlighted how ICJ would be in substance called to pronounce in a consultative session on a bilateral dispute (between the attacked and the aggressor State) and that it would be unlikely that the States involved (especially the accused State) would accept that ICJ itself will deal with it[75]. The objection indicated actually confuses advisory and contentious jurisdiction and can be easily dismissed in light of the constant ICJ jurisprudence which clearly shows that ICJ has never attributed decisive importance, for the admissibility of a request for an opinion, to the the politicity of the question, let alone the fact that this concerned an interstate dispute with respect to which the parties had not both consented to its jurisdiction. On the other hand, the same configuration of the issues related to the Commission of acts of aggression in terms of purely bilateral disputes (which is at least implicitly apparent from this objection) lends itself, in the light of the considerations developed previously regarding the obligations of erga omnes and international crimes he has been to considerable criticism.

Nor could an obstacle to the involvement of ICJ at the request of GA be identified in hypotheses of this kind in art. 12 of the Charter. The problem of the value to be attributed to the rule indicated for the purpose of determining GA's competence to activate the consultative procedure has already been addressed and resolved (also in the light of the clear stance taken on this point by ICJ in the opinion on the legal consequences of the construction of a wall in the occupied Palestinian territories) in negative terms so there is no need to go back to the issue here again[76]. It is sufficient to note here that the objections that the participation of GA in the

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[74]J.N. Boeving, *“Aggression, international law and the ICC: An argument for the withdrawal of aggression from the Rome Statute”,* in Columbia Journal of Transnational Law, 43 (2), 2005, pp. 538ss. The author argues that the involvement of ICJ in the issues currently under examination would be excluded from the Rome Statute itself, which would provide for the latter only to resolve, to the sense of art. 119, the disputes between States Parties relative to the interpretation of the same Statute. Indeed, this argument seems even weaker than the one we criticized in the text, as well as being absolutely unfounded from a logical point of view, given that the attribution of a specific competence in a given field is not at all apt to exclude further exceptions attributions in different sectors. Nor does it make any sense to censor the proposal in question on the absence of the relief that the defendant would have no way of defending his position before ICJ. This objection, in addition to lending itself to a similar use also with regard to the eventual assessment opted from SC, has no real value, however it concerns an assessment that in the context currently under examination has only a procedural and not substantial scope.

[75]D.N. Nsereko, *“Aggression under the Rome statute of the International Criminal Court”,* op. cit., pp. 520ss. D.S. Mathias, *“Remarks on the definition of aggression and the ICC”*, in ASIL Proceedings, 96, 2002, pp. 182ss.

[76]M. Schuster, *“The Rome statute and the crimes of aggression. A gordian knot in search of a sword”,* op. cit., pp. 36ss.

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

indicated proceeding could constitute a violation of the division of responsibilities for the maintenance of international peace and security outlined by the Charter are not in our opinion absolutely relevant[77].

Also the argument, undoubtedly of greater interest, according to which GA's intervention (but these observations are valid mutatis mutandis also with regard to SC role in the version presented in the consolidated proposal of the coordinator of the crime working group of aggression of the Preparatory Commission), resolving itself in the discretionary decision of the latter to activate or not the consultative procedure before ICJ would not however be suitable to neutralize the risks of politicization of the procedure and to adequately safeguard the independence of ICC[78], in our opinion not it must be dramatized, given that the influence on the criminal proceeding with regard to the crime of aggression of political elements probably constitutes an absolute factor that cannot be eliminated, but whose scope can only be mitigated, what the proposal currently under consideration seems to us to actually achieve[79].

On the other hand, the question of the relationship between ICC and SC in this area has been framed by us from the outset in terms of harmonization and balancing of potentially conflicting needs, i.e. peacekeeping (in a perspective mainly inspired by considerations of a political nature) and repression of international crimes (in a perspective on the contrary of strict respect for legality and law enforcement).

The compatibility of the six-month limit within which SC should respond to the request of ICC with respect to the charter rules pertaining to its functioning and competences, that are based on the widest discretion in favor of the latter. The rule could be partially correct by providing for an extension in favor of SC in the event that the latter or the Secretary General decides to start an investigation to shed light on the facts in question. On the contrary, no delay in the expected times would seem to be justified in the case of simple negotiations or other

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[77]M. Schuster, *"The Rome statute and the crime of aggression. A gordian knot in a search of sword",* op. cit., pp. 46ss.

[78]J. Trahan, "*Defining "aggression": Why the Preparatory Commission for the International Criminal Court has faced such a conundrum",* op. cit., pp. 462ss, the risk of politicization of the issue would be linked in practice to the fact that GA "apparently would retain the option of referring the issue (...)".

[79]With a view to resizing the possibilities of politically motivated determinations, the modification of the present proposal is to be placed, which in its second formulation neutralizes the risk inherent in the first version that following the pronouncement of the ICJ attesting to the existence of acts of aggression, the General Assembly arbitrarily decides not to refer the matter to the ICC. The original formulation actually attributed to the appeal to the ICJ a purely instrumental character with respect to the competences of the General Assembly. In the version currently under examination, instead, once the ICJ has taken up the question, it has ruled on the existence of an act of aggression, the ICC can proceed immediately with the case. In this way, the role of filter of the General Assembly (and mutatis mutandis of the Security Council) is limited only to the activation phase of the ICJ advisory procedure.

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

diplomatic dispute resolution procedures, and this in consideration of the seriousness of the crime and its consequences. In any case, SC would always have the power attributed to it, pursuant to art. 16 StICC to block the exercise of jurisdiction of the latter[80].

As for the effects to be linked to the involvement of UN bodies in the determination of the conditions of prosecution in the matter of aggression, is discussed whether these should be merely procedural or even substantial. If this second perspective prevails, the determination made in the first instance by the indicated bodies would also condition the conduct of the criminal trial on the merits, as ICC cannot deviate from the assessment expressed in terms of state liability. In this way, the indicated assessment would constrain the decision regarding the existence of the individual crime by ICC itself, limiting the latter's margin of judgment to the assessment and determination of the degree of involvement of the accused in the participation, planning and organization of the aggression[81].

Although it is undeniable that a prior determination of the existence of a state act of aggression is likely to produce a tremendous impact on the criminal trial[82], the first solution is certainly favored in our opinion[83]. It allows to guarantee the application of some fundamental principles that must inspire the criminal trial before ICC. We refer above all to the presumption of innocence, expressly provided for by art. 66 StICC, which would be disregarded in the event that the determination made by UN bodies also constrained the merits of ICC assessments[84]. By adopting the solution of the merely procedural nature of the intervention of UN organs instead, the procedural guarantees in favor of the accused would be reserved and ICC would be recognized the possibility of pronouncing in total independence regarding the existence of the crime and the degree of the accused's responsibility[85]. The consideration that the standard of

[80]O. Bekou, *"The International Criminal Court",* op. cit.,
[81]I.K. Müller-Schieke, "Defining the crime of aggression under the statute of the International Criminal Court", in Leiden Journal of International Law, 14 (2), 2001, pp. 428ss.
[82]S.A. Fernàndez De Gourmendi, "The working group on aggression at the preparatory commission for the International Criminal Court", in Fordham International Law Journal, 25, 2001-2002, pp. 606ss.
[83]D. Sarooshi, "Aspects of the relationship between the International Criminal Court and the United Nations", in Netherlands Yearbook of International Law, 32, 2001, pp. 28ss.
[84]In this orientation see: W.A. Schabas, *"Follow up to Rome: preparing for entry into force of the International Criminal Court Statute",* in Human Rights Law Journal, 20, 1999, pp. 158ss, "(...) an accused could arrive before the court with the central factual issue in the charge already determined and not subject to change (...)".
[85]V. Gowlland-Debbas, "The relationship between political and judicial organs if international organizations: The role of the Security Council in the new International Criminal Court", in L. Boisson De Chazournes, C.P.R. Romano, R. Mackenzie, "International organizations and international dispute settlement. Trends and prospects", Martinus Nijhoff Publishers, 2002, pp. 108ss.

proof in the criminal trial is notoriously higher than that required for state liability[86] also supports the thesis accepted here. Nor is the objection that, in the event that SC has previously ascertained the existence of an act of aggression, the determination made on the basis of art. 39 would be binding on Member States under the terms of art. 25 of the Charter, for which the latter would be required to accord the evaluation of SC prevalent character with respect to ICC judgment and this by virtue of the provisions of art. 103 of the Charter[87]. In our opinion, it does not make sense to extend the scope of application of art. 103 also to the activity of mere verification carried out by SC pursuant to art. 39[88]. This activity is essentially procedural in Chapter VII of the Charter, constituting a necessary precondition for the adoption of coercive measures aimed at peacekeeping[89], therefore it does not impose any legal obligation in the proper sense on Member States, likely to enjoy the prevalence granted by the aforementioned provision[90].

For the sake of completeness, it should be noted that the indicated solution, favorable to the independence of the ICC's assessments with respect to those made in terms of state liability, lends itself to raising very difficult consequences to be regulated in the event that these are made by ICJ, according to the model proposed by the tripartite proposal. If accepted as a solution of general application, the idea of the merely procedural nature of the prior determination of an act of state aggression is clear that the risk of conflicts between the assessments of ICJ and those of ICC presents extremely serious profiles[91]. In this regard, a situation of connection would appear to arise between proceedings in progress before international courts, with respect to which international practice is not currently able to provide adequate answers, given the absolute novelty of a situation of this kind. In this regard, the above question is immediately closely linked to the highly discussed issue, at a purely theoretical level, in the configurability of a hierarchy of dispute resolution procedures at international level. It must be said that in a more general perspective, the risk of contradictory solutions regardless of the choices made regarding the involvement of other bodies in defining the conditions of

[86]A. Nollakaemper, “Concurrence between individual responsibility and state responsibility in international law”, in International and Comparative Law Quarterly, 52 (3), 2003, pp. 616ss.
[87]M. Schuster, “The Rome statute and the crime of aggression. A gordian knot in a search of sword”, op. cit., pp. 40ss.
[88]O. Bekou, “The International Criminal Court”, op. cit.,
[89]S. Yee, “A proposal to reformulate article 23 of the ILC draft statute for an International Criminal Court”, in Hastings International and Comparative Law Review, 19, 1995-1996, pp. 534ss.
[90]D.N. Nsereko, “Aggression under the Rome statute of the International Criminal Court”, op. cit., pp. 508ss.
[91]C.E. Escobar Hernàndez, “Corte penal internacional, consejo de seguridad y crimen de agresiòn un equilibrio dificil e inestable”, in F.M. Mariňo Mènendez, “El derecho internacional en los albores del siglo XXI. Homenaje al profesor Juan Manuel Castro-Rial Canosa”, op. cit., pp. 262ss.

prosecution towards the crime of aggression, already exists at present due to the existence to which we have previously referred a plurality of international bodies authorized, albeit with regard to different purposes and in specific institutional contexts, to ascertain the existence of acts of aggression.

CONCLUDING REMARKS

Several proposals have been made with a view to involving the UN bodies in SC first in determining the existence of the crime of aggression, in order to avoid a dangerous overlap in such a sensitive and politically sensitive matter of UN activity to protect peace and that of ICC in the field of repression of the most serious crimes under international law[92].

The initial idea is that since the crime of aggression necessarily presupposes the existence of an act of aggression, that is to say a particularly serious offense attributable to a State[93], a SC definition regarding the ascertainment of the existence of such this case would in principle always be desirable for ICC to exercise its jurisdiction over the alleged offender.

Pursuant to art. 5, par. 2 StICC the definition of the conditions under which ICC can exercise its jurisdiction over the crime in question must be in harmony with the relevant

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[92]It is clear that the question of the relationship between ICC and SC in this area is intimately linked to the problem related to the definition of the crime of aggression itself. Suffice it to note the aspects that are likely to strongly encapsulate the solution to be attributed to the question of the involvement of UN organs in determining the conditions of transferability in relation to the crime under consideration. On the one hand the idea that the rape of aggression necessarily concerns individuals that are at the political and military levels of a state (M. Politi, G. Nesi, *"The international court and the crime of aggression",* ed. Routledge, Burlington, 2004) and, on the other, that for which aggression could only be prosecuted if actually carried out thereby excluding the criminalization of mere preparatory acts. With regard to the definition of the case to be included in this notion, various principal orientations have emerged up to now, depending on whether a formulation is privileged in general and abstract terms of the case, centered on the prohibition of the armed force supported by art. 2, par. 4 of the UN Charter; or an example of cases similar to the same model based on Resolution n. 3314 (XXIX) of 1973 of GA; or finally a narrow definition of crime, limited only to the war of aggression. For further details see: R.S. Clark, *"Rethinking aggression as a crime and formulating its elements. The final work-product of the preparatory commission for the International Criminal Court",* in Leiden Journal of International Law, 15 (4), 2002, pp. 860ss.

[93]I.K. Müller-Schieke, "*Defining the crime of aggression under the statute of the International Criminal Court",* op. cit., pp. 410ss, "(…) the crime of aggression is inherently a state crime. Although the idea of initiating an armed conflict originates and develops in the minds of individuals the aggressive act emanates as an act of the State, not of its intellectual initiators (...)". See also in argument: C.E. Escobar Hernàndez, *"Corte penal internacional, consejo de seguridad y crinen de agresiòn un equilibrio dificil e inestable"*, in F.M. Mariňo Mènendez, *"El derecho internacional en los alores del siglo XXI. Homenaje al profesor Juan Manuel Castro-Rial Canosa",* op. cit., pp. 244ss, which correctly highlights how the determination of the existence of a state act of aggression would necessarily be configured as "condiciln de procedibilidad bàsica de toda actuaciòn de la CPI (...)". This consequence would be derived neither from the UN Charter nor from StICC, but from the "proper conception and internal development" of the crime. The same jurisprudence of individuals for acts of aggression always presupposes a state responsibility state to which the acts in question should be imputed. In this direction see art. 2, par. 2 of the project of the code of crimes against peace and security of humanity, in Annuarie de la Commission de Droit Internationale, 1996, II, 2, p.15ss and par. 4 of the comment of art. 16 of the same project. The described approach that is established in the works on the definition of ICC jurisdiction in relation to the crime of aggression excludes the possibility of criminalizing in these same terms certain devastating forms of terrorism, planned and implemented by non-state entities and not connected to a State on the basis of the traditional criteria of imputation due to international law (but which in terms of size and effects, can be equated with real aggressions).

provisions of the UN Charter. The dominant opinion is that this clarification was intended precisely to safeguard the prerogatives of SC of ex chapter VII of UN Charter and highlight the absolutely pre-eminent role[94]. On the other hand, this statement constitutes an essential starting point if it wants to develop a proposal that is politically acceptable and in consideration of the very stringent conditions required for its adoption, it can count on a substantial support from the States.

Given that therefore a certain role to SC in this matter must be ensured and guaranteed, given the logical link in terms of aggression between state responsibility and criminal liability of the individual, the next step is to determine specifically what this role consists of and what consequences it leads to ICC operation. It is clear that the involvement of SC in the functioning of the court mechanism poses a serious threat to the independence and autonomy of the Court. Essential requirements for the correct and effective performance of judicial functions. The same principle of equality of individuals before the law would risk undergoing unacceptable compressions, given that SC members of exercising their right of veto could remove from ICC jurisdiction cases involving their own citizens or in which their interests result in various title involved[95].

The definition of the conditions of prosecution towards the crime of aggression requires a delicate work of harmonization between the competences and the operating methods of ICC and SC[96]. In other words, a difficult balance must be found between the objectives of promoting international criminal justice and protecting the peace. While in a first phase (which we can temporarily place in the context of the negotiation that preceded the Rome Conference), the need for involvement in this area of SC was mostly motivated on the basis of the assertion of

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[94]M.H. Arsanjani, *"The Rome statute of the International Criminal Court",* in American Journal of International Law, 93, 1999, pp. 22ss. H.A.M. Von Hebel, D. Robinson, *"Crimes within the jurisdiction of the court",* in S.K. Lee, *"The International Criminal Court. The making of the Rome statute. Issues, negotiations, results",* Martinus Nijhoff Publishers, The Hague, Boston, London, 1999, pp. 80ss. L. Yee, *"Not just a war crimes court: the penal regime established by the Rome statute of the International Criminal Court"*, in Singapore Academy of Law Journal, 10, 1998, pp. 322ss., the engraving contained in art. 5, par. 2 of StICC intends to guarantee against any pronouncements of ICC in contrast with previous assessments of SC pursuant to art. 39 of the UN Charter.

[95]C. Carpenter, "*The International Criminal Court and the crime of aggression",* op. cit., pp. 224ss. I.K. Müller-Schieke, *"Defining the crime of aggression under the statute of the International Criminal Court"*, op. cit., pp. 426ss. R. Pierce, *"Which of the preparatory commission's latest proposals for the definition of the crime of aggression and the exercise of jurisdiction should be adopted into the Rome Statute of the International Criminal Court?",* in Brigham Young University Journal of Public Law, 15, 2000-2001, pp. 282ss. G. Gaja, *"The long journey towards repressing aggression",* in A. Cassese, P. Gaeta, J.R.W.D. Jones, *"The Rome statute of the International Criminal Court. A commentary",* Oxford University Press, Oxford, 2002, pp. 434ss.

[96]I.K. Müller-Schieke, *"Defining the crime of aggression under the statute of the International Criminal Court",* op. cit., pp. 424ss.

the absolute exclusivity of competences of this body regarding the assessment of the case in question (for which a prior assessment pursuant to art. 39 of the Charter was indicated as an indispensable condition for the exercise of ICC jurisdiction)[97], from the proposals subsequently discussed in the context of the tendency to reduce the centrality of the SC role emerged from the Preparatory Commission and the working group on the crime of aggression, thus favoring the independence of the functions assigned to ICC itself in this matter[98].

This approach appears undoubtedly preferable. It is based on the widely acceptable

[97]The draft of the Statute of 1994 (in Rapport de la Commission du droit international, quarante-sixième section (2 mai-22 juillet 1994), in Annuaire de la Commission de Droit Internationale proposing a scheme followed already by the provisional version of the project of crimes against the peace and security of humanity adopted in 1991 guaranteed the SC exclusive competence by establishing in article 23, paragraph 2 that "une plainte ne peut être dèposèe en vertu du prèsent statut pour un acte d'agression ou en liaison directe avec un tel acte que si le conseil de sècuritè a constatè au prèable qu'un État a commis l'acte d'agression faisant l'objet de la plainte". Paragraph 3 of the same provision further strengthens the board's position with respect to ICC by providing that: "aucune poursuite ne peut être engagèe en vertu du prèsent statut à raison d'une situation dont le Conseil de sècuritè taite en tant que menace contre la paix ou rupure de la paix ou acte d'agression aux termes du chapitre VII de la Charte des Nations Unies, à moins que le Conseil de sècuritè n'en dècide autrement". In line with this first formulation strongly defended above all by the SC permanent members the project of the Statute elaborated in the Preparatory Commission of 1998 confirmed in principle slightly attenuating the scope, this same approach. Article 10 provided that no provision could be initiated in the event that SC was exercising its functions under the terms of Chapter VII of the UN Charter unless expressly authorized by it, with the consequence that the exercise of ICC jurisdiction to the crime of aggression was allowed only in the hypothesis in which it had determined that the relative state action integrated the extremes of an act of aggression (Report of the Preparatory Committee on the establishment of an International Criminal Court, UN Doc. A/CONF.183/2/Add. 1, 14 April 1998). Already in the phase preceding the Rome Conference the question began to be more controversial. The related debate soon resulted in an open and clear opposition between SC permanent members and other States. Also in the light of these contrasts, the proposals relating to the aspects indicated began to present far more articulated schemes while continuing to essentially preserve a leading role for SC. In this sense, see also the proposal of Cameroon during the Rome Conference in which, although recognizing the priority of SC role in assessing the crime of aggression, the possibility for ICC to initiate an investigation was admitted on a subsidiary basis. If SC within a reasonable period of time had not responded to the request, addressed by the Court to express its opinion regarding the existence of the case in question (UN Doc. A/CONF/.183/C.1/L.39, 2 July 1998, Option B, par. 4) and similarly that presented by Algeria, Saudi Arabia, Arab Emirates, Iraq, Kuwait, Lebanon, Libya, Oman, Syria, Sudan, Tunisia and Yemen (A Doc. A/CONF.183/C.1/L.56, 8 July 1998). The prospect favorable to the importance of SC political role continued to find expressions of support even after the approval of the Statute of Rome emblematic results were put forward in the Preparatory Commission by the Russian Federation (UN Doc. PCNICC/1999/DP.12, 29 July 1999) and of Germany (UN Doc. PCNICC/1999/DP.13, 30 July 1999). For further details see also: R. Wedgwood, *"The International Criminal Court: An American view",* in European Journal of International Law, 10, 1999, pp. 94ss. D.S. Mathias, J.N. Boeving, *"Aggression, international law and the ICC: An argument for the withdrawal of aggression form the Rome Statute",* in Columbia Journal of Transnational Law, 43, 2005, pp. 576ss. N. Koursami, *"The contextual elements of the crime of genocide",* ed. Springer, Berlin, 2018, pp. 126ss.

[98]In this direction the text proposed by Greece and Portugal according to which ICC jurisdiction in matters of aggression should be subordinated to a prior determination made by SC pursuant to art. 39 of the Charter but this determination could be solicited directly by ICC itself with the result that, if SC does not pronounce itself within 12 months from the request (in favor or against as to the existence of an aggression or by issuing a Resolution, ex art.16 of the ICC Statute), ICC could proceed with the examination of the case (UN Doc. PCNICC/1999/2000WGGA/DP.2, 7 December 1999). For similar solutions see the proposal of Colombia (UN Doc. PCNICC/2000/WGCA / DP.1) and (UN Doc. PCNICC/2000/WGGA/DP.2, 17 March 2000 and the one developed by Bosnia and Herzegovina, New Zealand and Romania (UN Doc. PCNICC/2001/WGCA/DP.2/Add. 1, 27 August 2001). This is the reworking of a proposal already put forward by these same States in February of 2001 (UN Doc. PCNICC/2001/WGCA/DP.1, 23 February 2001) and that in substance it maintains the original plant except for a few exceptions. For a comment see: R. KHERAD, La question de la dèfinition du crime d'agression dans le statue de Rome. Entre pouvoir politique du Conseil de sècuritè et compètence judiciare de la cour pènale internationale, op. cit., pp. 358ss. The trend highlighted in the text is also confirmed also in the work of the special working group on the crime of aggression established by the Assembly of States Parties. The proposal made by Cuba foresees in par. 2 that: "The lack of a determination shall not impede the exercise of the court's jurisdiction with respect to a case referred to it", ICC.ASP/2/SWGCA/DP.1, 4 September 2003.

assumption of the denial of the exclusivity of SC assessment powers in the matter of aggression[99]. The validity of this solution, on the other hand, is largely supported, in relation to the division of competences within the UN system from the examination carried out so far, especially in light of the role that in this regard is attributed to ICJ itself and to the autonomy of the functions of the latter compared to those of the other bodies of the Organization. In fact, the main judicial UN body can without a doubt also have a say in the matter of aggression, both in the context of the consultative function (being able to pronounce on any legal issue) and in the context of the contentious function (by virtue of the broad definition of the notion of legal disputes resulting from art.36 of the Statute). Far from remaining purely theoretical, this competence has actually been recognized and exercised by ICJ in practice: The Nicaragua case[100], the appeals of Yugoslavia against some NATO countries regarding the lawfulness of the use of force or even the cases brought by the Democratic Republic of Congo against neighboring states accused of committing acts of armed aggression on the applicant's territory.

If ICJ is a UN organ, it retains its own autonomous competence in the matter, but is not clear how the powers attributed by SC of Chapter VII of the UN Charter can determine an overall barrier for the jurisdiction of an organ competence on the repression of individual crimes[101], and established on the basis of a treaty formally completely independent from the UN Charter[102]. On the other hand, the same relations between SC and ad hoc tribunals set up

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[99]In the sense that SC is not accorded pursuant to the same UN Charter, the monopoly of ascertaining acts of aggression. S.M. Yengejeh, "Reflection on the role of the Security Council in determining an act of aggression", in M. Politi, G. Nesi, "The International Criminal Court and the crime of aggression", Ashgate Publishing, 2001, pp. 128ss.

[100]M. Schuster, "*The Rome statute and the crime of aggression. A gordian knot in a search of sword", op. cit.*, pp. 48ss, who draws from it the incompetence of ICJ to decide issues that fall within the discretionary competences of SC, ex Chapter VII. On the other hand, the competences of SC regarding the verification of acts of aggression pursuant to art. 39 of the UN Charter is justified exclusively in view of the potential assumption of concrete measures aimed at restoring peace and internal security. On the contrary, SC does not at all have the power to decide on the basis of the aforementioned assessment, the conditions for the exercise of criminal jurisdiction against individuals. Emblematic in the perspective described are the observations of dissident judge Scwebel on the sidelines of the sentence of 1986 on military and paramilitary activities in Nicaragua, ICJ Reports, 1986, p. 290, par. 60, "(...) while SC is invested by the Charter with the authority to determine the existence of an act of aggression, it does not act as a Court in making such a determination. It may arrive at a determination of aggression-or, as more often is the case, fail to arrive at a determination of aggression (...) for political rather than legal reasons (...)".

[101]G. Gaja, *"The long journey towards repressing aggression"*, in A. Cassese, P. Gaeta, J.R.W.D. Jones, *"The Rome statute of the International Criminal Court. A commentary",* op. cit., pp. 124ss. G. Gaja, *"The respective roles of the ICC and the Security Council in determining the existence of aggression"*, in M. Politi, F. Nesi, *"The International Criminal Court and the crime of aggression",* op. cit., pp. 124ss. L.J. Springrose, *"Aggression as a core crime in the Rome statute establishing an International Criminal Court",* in Saint Louis-Warsaw Transnational Law Journal, 99, 1999, pp. 152ss. I.K. Müller-Schieke, *"Defining the crime of aggression under the statute of the International Criminal Court"*, op. cit., pp. 426ss.

[102]The considerations developed in the text confirm the possibility at least in principle of involving ICJ in the process of defining the conditions of admissibility with regard to the crime of aggression on a concurrent basis, at the most subsidiary to the role attributed to SC in this scope. At the same time they highlight the risk of inconsistencies and contrasts between ICJ's jurisprudence on the subject and the future ICC positions. C.E. Escobar Hernàndez, *"Corte penal internacional, consejo de seguridad y crinen de agresiòn un equilibrio dificil e inestable", i*n F.M. Mariňo Mènendez, *"El derecho internacional en los*

by it are not expressive of an absolute primautè of the former with respect to the latter, as in the jurisprudence relating to the Tadić and Kanyabashi cases amply testifies.

The non-exclusive nature of SC competences in the matter of ascertaining the case in question is further confirmed by the powers exercised in this area by GA. Finally, it was found that pursuant to art. 51 of the Charter any State (not only the one that suffers the aggression, but also all the other States, acting in collective legitimate defense) would in fact be empowered to operate this qualification[103].

A further consideration is necessary: The SC has traditionally shown that it is not very inclined to express itself in favor of the existence of an act of aggression, preferring to refer rather to the politically more neutral notion of threat to peace[104]. This choice must be ascribed to the type of variables that SC takes into consideration when carrying out this type of evaluation and to the crucial role that realpolitik factors play between them. Qualifying the conduct of a State in terms of aggression is the most serious condemnation that a State can be imposed. It follows that a determination of this content may in many cases even be incompatible with the pacification effort carried out by SC through the conduct of negotiations and good offices, as well as further stiffen the position of the aggressor State[105].

The absolutely central (if not preponderant) relevance of the methods of political management of the aggression would find its rationale in the reversibility of the crime in question, reversibility which constitutes a completely peculiar and specific characteristic of the case in question compared to the other crimes falling within the ICC competence[106]. Add to this the SC Member States themselves may have an interest in not compromising their relations with the responsible state for which they could prevent avoiding the reference to the notion of aggression.

It is therefore evident that subordinating the exercise of ICC jurisdiction in the matter of aggression to a prior assessment by SC would generally end up making the application of the

alores del siglo XXI. Homenaje al profesor Juan Manuel Castro-Rial Canosa", op. cit., pp. 250ss.
[103]For these conclusions see also the document on the historical analysis of the facts concerning the aggression, drawn up from the UN General Secretary (PCNICC/2002/WGCA/L.1, 24 January 2001).
[104]G. Gaja, "The long journey towards repressing aggression", in A. Cassese, P. Gaeta, J.R.W.D. Jones, *"The Rome statute of the International Criminal Court. A commentary"*, op. cit., pp. 124ss. P. Escarameia, *"The ICC and the Security Council on aggression: Overlapping competences?",* in M. Politi, F. Nesi, "The International Criminal Court and the crime of aggression", op. cit., pp. 133, 140ss.
[105]C. Antonopoulos, *"Whatever happened to crimes against peace?",* in Journal of Conflict and Security Law, 6 (1), 2001, pp. 33ss.
[106]C. Antonopoulos, *"Whatever happened to crimes against peace?",* op. cit., pp. 38ss.

provisions of the Statute relating to this crime completely uncertain[107], making it ultimately dependent analysis from purely political considerations[108].

The idea of involvement of the main UN judicial bodies in this field appears in principle to be assessed in positive terms, and meets with some favor in doctrine[109]. Its main limitation is linked to the duration of the consultative procedure before ICJ, whose participation in the determination of the conditions of prosecution towards the crime of aggression could effectively lead to an excessive dilation of the criminal trial[110]. On the other hand, we do not want to deny that the proposal indicated also has further weaknesses and therefore needs to be properly corrected and enhanced.

An overall judgment cannot be separated from some more general reflections: The question of the definition of aggression has always been one of the thorniest and most controversial issues of international law[111].

The problems raised by this situation have therefore led some to believe that it was even preferable to eliminate any reference to the crime of aggression from StICC[112]. In support of this perspective, it was stressed that ICC is already competent under the Statute to prosecute

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[107]C. Antonopoulos, *"Whatever happened to crimes against peace?"*, op. cit., pp. 48ss. G. Gaja, *"The respective roles of the ICC and the Security Council in determining the existence of aggression"*, in M. Politi, F. Nesi, "The International Criminal Court and the crime of aggression", op. cit., pp. 124ss. D.N. Nsereko, *"Aggression under the Rome statute of the International Criminal Court"*, op. cit., pp. 515ss. On the contrary, it seems rather naive to expect that the attribution of the power to activate ICC jurisdiction against the material perpetrators of aggression can determine in itself a greater propensity of SC to refer to the notion indicated in the context of the assessment, ex art. 39 of the Charter. I.K. Müller-Schieke, *"Defining the crime of aggression under the statute of the International Criminal Court"*, op. cit., pp. 424, which is affirmed that "(...) it would be illusory to believe that the court might serve as a catalyst for a clear pronunciation by the Council on the concept of aggression". M. Schuster, *"The Rome statute and the crime of aggression. A gordian knot in a search of sword"*, op. cit., pp. 42ss.

[108]C. Antonopoulos, *"Whatever happened to crimes against peace?"*, op. cit., pp. 49ss. I.K. Müller-Schieke, *"Defining the crime of aggression under the statute of the International Criminal Court"*, op. cit., pp. 426ss. D.N. Nsereko, *"Aggression under the Rome statute of the International Criminal Court"*, op. cit., pp. 514ss.

[109]S.M. Yengejeh, *"Reflection on the role of the Security Council in determining an act of aggression"*, in M. Politi, G. Nesi, *"The International Criminal Court and the crime of aggression"*, op. cit. pp. 130ss, which believes that the option described has at least two advantages: "(...) First it is based on the Charter provisions. Second, ICJ is the judicial organ of the organization and has the competence to provide an impartial and independent advisor opinion (...) seems to be the best equipped for that, as the principal judicial organ of UN" and more laconically J.F.E. Escudero Espinosa, *"Los poderes del Consejo de Seguridad y la corte penal internacional en el estatuto de Roma"*, in Annuario de Derecho Internacional, 19, 2003, pp. 257ss, it should be noted that a part of the doctrine can deny the opportunity of introducing the system described with regard to ICC jurisdiction in terms of aggression, it also believes that the tripartite proposal contains interesting ideas that should be valued rather in the management of the possible issues of legitimacy of SC action pursuant to articles 13, lett. b) and 16 StICC, which could be highlighted in the course of a criminal investigation. I. Petculescu, *"The review of the United Nation Security Council decisions by the International Court of Justice"*, in Netherlands International Law Review, 52 (2), pp. 194ss.

[110]M. Schuster, *"The Rome statute and the crime of aggression. A gordian knot in a search of sword"*, op. cit., pp. 50ss.

[111]W.A. Schabas, "The unfinished work of defining aggression: How many times must the cannonballs fly, before they are forever banned?", in D. Mcgoldrick, P. Rowe, E. Donnelly (ed. by), *"The Permanent International Criminal Court. Legal and policy issues"*, Hart Publishing, Oxford & Portland, Oregon, 2004.

[112]J.N., Boeving, *"Aggression, international law and the ICC: An argument for the withdrawal of aggression from the Rome Statute"*, op. cit., pp. 542ss.

other crimes that are committed in the course of armed conflicts due to their characteristics, so even if the jurisdiction of the same towards aggression is not foreseen directly those responsible for this crime could always be prosecuted on the basis of other charges.

This is actually a very dangerous idea in itself: As it has been pointed out, giving up the ICC's jurisdiction over aggression would create the very serious feeling that "individual perpetrators of aggression may act with impunity"[113] and would mean repudiating the inheritance of Nurmberg with serious damage to the credibility and prestige of ICC itself. On the other hand, the inclusion of aggression in ICC ratione materiae powers retains a fundamental and not negligible symbolic value and in reflecting the will of the majority of States to pursue this crime, produces a deterrent effect that should not be underestimated[114]. Furthermore, the fact that the most serious abuses are committed in the course of arm conflicts does not justify but rather sets against any attempt to remove the aggression from the criminal cases to which the ICC's jurisdiction extends. This elimination "should be tantamount in many cases to treating mere symptoms while ignoring the pathogenic cause"[115].

As far as this investigation is concerned more directly, the perspectives examined in the previous paragraphs regarding a more articulated division and work between the organs of UN and ICC in the persecution of the crime of aggression are once again expressive of an attempt aimed at identifying a as balanced as possible solution to the eternal conflict between the reasons of legality and justice on the one hand and the logic of politics and power on the other and it is above all with a view to the aim assumed that this effort must be evaluated and in our opinion encouraged.

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MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

THE MAIN DETERMINANTS OF PUBLIC POLICY ON SOCIAL SECURITY OF UKRAINE

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DOI: 10.13165/PSPO-20-24-10

Annotation. The state policy in terms of ensuring the social security of Ukrainian society was researched. Theoretical and methodological analysis of social security was carried out, in particular, modern approaches to defining the category of "social security" were analyzed, and the main characteristics of social security, causal links and interactions between society and public authorities in the process of social security were revealed. The main determinants and factors of its provision were determined. Innovative approaches to improving the public policy of social security of Ukraine were substantiated**.**

Keywords: social security, social relations, threats to social security, public policy, public administration.

INTRODUCTION

In Ukraine, social tensions are growing; the welfare and living standards of the population are declining. Negative trends and accumulated problems in the social sphere pose threats to national security in general, social security in particular, as well as the further development of Ukrainian society. They can become factors of imbalance and stability in the state. In the system of factors that determine the process of ensuring social security, a significant place belongs to social relations. Lack of theoretical researches concerning problems of social security of the Ukrainian state reduce the efficiency and quality of public administration in terms of such important components of social relations, as social-class, social-labor relations, social protection, pensions, etc.

In Ukraine, there is no comprehensive mechanism for managing social security, imperfect regulatory framework for public policy in the context of the problem under research. The sphere of social security as a component of the national system, has not received the necessary development, the ways of its optimization are insufficiently substantiated. Therefore, in today's conditions, the scientific and practical problem of developing new approaches to ensuring social security, preserving the livelihood of society becomes especially relevant.

The purpose of the article is to research the main determinants of social security in order to develop preventive measures and to prevent threats that could destabilize Ukraine, as well as to substantiate innovative approaches to improving public policy of social security.

Objectives:

1. To carry out a theoretical and methodological analysis of social security. 2. To identify the main determinants and factors for ensuring social security. 3. To substantiate innovative approaches for improving the state policy of social security of Ukraine.

The **object** of the research is public policy of social security.

Research methods: The research used a structural-functional method (to reveal the main characteristics of social security, causal links and interactions between society, state authorities in the process of social security), generalization and semantic analysis (to study the theoretical foundations and clarify conceptual and terminological apparatus), institutional (while clarifying the features of public policy to ensure social security), prognostic and recommendatory analysis (while formulating recommendations).

Research methodology

The logic of the research is aimed at studying the least researched and most controversial aspects of social security, which is the subject of scientific research. Developing theoretical and methodological concepts of research of determinants of public policy on social security and defining its logical architecture and problem field of analysis, we proceed from the following: each element in the researched system has the specific purpose and at the same time realizes system-forming function, it is important to generalize the received knowledge by clarifying the concept of "social security", the patterns of its provision in today's conditions, to analyze the state of scientific elaboration of the issue.

The application of the functional-activity approach is based on the analysis and characterization of public policy on social security through the process of preserving and maintaining its stable state as a holistic entity, which protects individuals and society from

various social threats, and allows: to research social security, as a dynamic social phenomenon, which is evolving and constantly changing; to identify and assess the real and potential threats and opportunities of society for the proper protection of citizens and society; to determine the ability of the social system to adequately respond to dangers, threats and challenges to social security and to propose preventive measures.

MAIN CONTENT

Social security is one of its leading components in the national security system, determining the state of protection of the individuals', society and the state social interests from the system of threats to national security that affect its state.

Important theoretical-methodological and practical principles of the researched problem were revealed in the works of well-known domestic scientists O. Vlasyuk, V. Goshovska, I. Hnybidenko, O. Koval, A. Kolot, V. Kutsenko, E. Libanova, O. Novikova, A. Pryatelchuk. , G. Sytnyk, V. Skuratovsky and others.

O. Vlasyuk rightly points out that security is the main condition of public life and the first function of statehood. Failure to implement and guarantee this basic social value leads to the decline of societies and states (Vlasyuk, 2016). The essence of the category "security" in a broad sense is considered as "the presence of favorable conditions for the functioning of a complex system, when the influence of external and internal factors does not lead to its destabilization" (Shemshuchenko, 1998).

In Ukraine, there is no clear legal definition of "social security". Modern domestic and foreign scientific approaches to its interpretation do not fundamentally contradict each other, but only complement and develop, specifying and deepening the idea of the essence of social security as a social phenomenon. The Declaration of State Sovereignty of Ukraine considers social security as "a state of guaranteed legal and institutional protection of vital social interests of the individual and society from internal and external threats". The Law of Ukraine "On Fundamentals of National Security of Ukraine" defines security as "protection of vital interests of man and citizen, society and the state, which ensures sustainable development of society, timely detection, prevention and neutralization of real and potential threats to national interests".

Domestic scientists interpret the concept of "social security" in different ways: as a state of guaranteed legal and institutional protection of vital social interests of man, society and the

state from external and internal threats (Gnybidenko, Kolot, Novikova, 2006). the state of human life and society, characterized by the formed, sustainable social system for ensuring social conditions of the individual, his social security, resilience to the influence of factors that increase social risk (2010); component of national security, which determines the state of protection of vital interests of society and the state from internal and external threats, as well as from threats to social interests (Skurativskyi, 2002); the state of protection from threats to social interests, as well as the result of the implementation of social policy (Libanova, Palii, 2004). Koval O. (2016) proposes to consider social security in the traditional (absence of threats to society) and alternative (absence of threats from society) sense.

In world practice, the definition of social security has mainly practical, instrumental significance associated with the establishment and operation of state systems of social support for people with socially inadequate low incomes (Bach, 2003).

The concept of "social security", in our opinion, is complex, multistructural, includes economic, political, social and spiritual aspects, reflects all that affects the human environment, the quality of life, makes society sustainable, capable of development . Social security should be considered as a special type of activity to ensure it, which includes a system of measures and mechanisms aimed at preventing dangers and threats of various kinds to man and society. In this case, such dangers and threats should be understood as a set of adverse factors (existing or latent) that directly or indirectly affect the state of social security.

Social security is a certain state of the object, system, relationship, interaction and correlation of the whole set of conditions and factors that ensure the preservation, security, functioning, development and improvement of the system.

Structural and functional system of social security consists of the following elements: subjects of social security (public administration bodies, civil society institutions); objects of social security (material and spiritual interests and values of human, society, and state); principles of formation and provision of social security; mechanisms and instruments of state policy to ensure social security. Social security is ensured through the implementation of public policy using mechanisms and tools of public administration. An important tool for the formation of social security is compliance with social standards of quality and living. The state must prioritize not the minimum, but the optimal social standards, which should provide equal categories of the population with equal social opportunities, prospects for horizontal and vertical mobility and conditions for self-development (Kutsenko, (2011).

Researchers distinguish three macro structural components of social security: the social security of the state, society and the individual, which are closely linked and significantly affect each other. The system of ensuring the social security of society, the state, and the individual provides for the timely detection, prevention, and neutralization of real and potential threats to national interests.

In today's conditions, the main social risks have significantly exacerbated and reached a scale that poses a real threat to national and social security. Threats to social security are formed independently and move from other areas of national security. In determining the causes of threats to Ukraine's social security, there is a close link between the quality of public administration and the economic situation. (Novikova, Sydorchuk, Pankova, 2018).

Social security is also related to the resilience of the socio-political system to adverse effects, its ability to social integration and adaptation to changing conditions. Therefore, the prerequisite for ensuring social security is the presence of so-called "fuses", their main task is to prevent the basic elements of the socio-political system from reaching critical limits (Pryyatelchuk, Ischenko, 2010).

However, destructive processes in the social sphere of Ukrainian society still are in place. As for today long-term unresolved social problems are one of the main factors in the emergence and development of a number of threats in various segments of national security. These include destabilization of socio-political processes, disbelief in the capacity of the government, the outflow of skilled labor from the country, etc. These threats reached scales that may threaten the social and national security of the state. Ukraine continues to be on red lines of all the important social indicators of world civilization (Pyroghkov, 2003).

Social distortions (rapid social stratification, low living standards, poverty of the general population, destruction of labor potential of society, increasing threats to life and health, unjustifiably high social inequality, unequal access to educational and medical services, etc.) pose a threat to social security of Ukraine. One of the main factors threatening the social security of the state is "social contradictions that arise within the social system, not all, but only those that lead to social conflict". (Gnybidenko, Kolot, Novikova, 2006). Such approach makes it possible to consider social security as the existing in society level of counteraction to threats to the normal state of life of the latter, that have various nature as well as the degree of protection of man and society. At the same time, it is important that the state and society take an offensive position to properly ensure the protection of vital interests and preventively counteract existing

(potential) threats.

Existing threats to social security are caused by low efficiency and quality of public management of social processes. To our opinion, these factors are only derived from the imperfection of decisions made by the authorities, whose activities are characterized by contradictions, focusing on achieving individual goals and insufficient consideration of the practical adaptation of implemented measures to the real conditions in society.

Social security is simultaneously influenced by both external and internal factors. We share the point of view of Sydorchuk O. (2018), who, among the external factors that largely determine the security environment of man (citizens) in our country, included the levers and tools which the state and society are used to influence and provide social protection and security to their citizens (stability of political and socio-economic situation in the country, ensuring a decent standard of living, decent wages, minimization of threats to human life and health, safe social environment, access to educational and medical services, availability of housing, guaranteed food security, etc.); and as internal factors of the security environment, which are formed by the individual for his own social security due to what he influences, she singled out individual's awareness of the value of life, self-preservation, self-defense and self-development, his own responsibility for his (and his family's) life, health, well-being, its contribution to public safety, etc.

Some components of the social security system are relatively static (subjects and objects), others are more dynamic (challenges and threats). In the structural and functional analysis of the system, in particular, the search for directions for the transformation of its structure, clarifying the priorities of the subjects of social security, attention should be paid primarily to the dynamic elements. Depending on the priorities that necessity to be addressed in the process of social security, we can distinguish the formal part (public authorities, means of ensuring security etc.) and the informal part (civil society institutions, citizens, media, etc.).

Ensuring social security is a priority of public policy, its effectiveness is largely determined by the state of development of social security theory and the level of implementation and application of appropriate methods, techniques, models, mechanisms, principles etc. The implementation of public policy on social security should take into account the geopolitical situation and trends, globalization, challenges, risks, dangers and threats to national interests, real and projected capabilities of the state and other factors that affect and will affect the sustainable development of Ukraine in perspective.

For organizational, value and conceptual support of the social security system it is expedient to mobilize the intellectual potential of society, theoretical structures, practical methods of strategic analysis, forecasting and planning; to ensure support for theoretical and practical research in the field of social security; to unite and coordinate the efforts of government and non-government institutions specializing in social security issues; to promote the development of basic structures and infrastructure network of the social security system.

Social security is ensured in the process of transformation of social relations. The main components of social relations are welfare, income level of population, wages, health status, employment, demographic situation, socio-class differentiation, social protection, pensions, etc. It depends on socio-economic development, the availability of human, material and natural resources.

In the system of effective public administration, social security of society should be an important priority and ensured by appropriate implementation mechanisms (legal, institutional, economic, financial, organizational, managerial, informational, personnel, etc.).

Having analyzed the legislative principles of social security, it should be noted that the main directions of social security of the Ukrainian state in terms of such important components of social relations as social-class, social-labor relations, social protection, etc. are not outlined in the current legislation. Therefore, it is necessary to make amendments and additions to the Law of Ukraine "On Fundamentals of National Security", to strengthen and specify the provisions on social security, taking into account the abovementioned aspects. It is also advisable to amend the current legislation on national security, foreign and domestic policy with issues concerning the implementation of international obligations with regard to sustainable development and social responsibility. It is important to create conditions for institutional support for the practical implementation of social security; constructive and coordinated actions of institutions of all branches of government to eliminate (minimize) social threats in the formation and implementation of state and regional social policy.

It is necessary to promote the formation of constructive solidarity and mutually responsible relations between the main social actors - citizens, society, state, government, and business. Joint responsibility should become the main basis of public relations in Ukraine to ensure social security.

Financial and economic provision of social security requires, first of all, social balance and social orientation of the State Budget, taking into account the importance of threats to social

security, as well as strengthening the social orientation of the state tax policy. It is necessary to implement structural changes in the economy in the context of the implementation of social priorities of society. It is necessary to further develop the social insurance system, to create extra-budgetary social funds, to finance necessary research concerning social security issues.

Scientific support of social security requires the use of results of research on social security in public administration practice, the development of strategies (concepts) and social security programs on competitive basis, as well as the development of methods for assessing social security (Novikova, Sydorchuk, Pankova, 2018).

Information support of social security requires the creation of a system of social monitoring and the formation of recommendations for the prevention (minimization) of social threats. It is necessary to improve the socially orientated statistical reporting taking into account the requirements of international standards and social security criteria.

CONCLUSIONS

The research of determinants, threats, challenges, trends and actors made it possible to identify the main problems of social security (discredited value compared to other resources, lack of scientifically sound methodological basis for social security, conceptual and strategic uncertainty of future development, variety of criteria for evaluation effectiveness of public policy to address the research problem), and to propose innovative approaches to improve the public policy to ensure social security.

Analysis of the state of social security demonstrates the relationship and interdependence of all factors, components, directions and mechanisms of formation and implementation of social security.

Social dangers, which are presented at the personal and social levels, exist largely due to inefficient and poor public administration, corruption, and ignoring the protection of national interests by the political ruling elite. Therefore, ensuring the social security of Ukrainian society (as a component of national security) should be made as a central concept with activities of all branches of government at all levels structured around it, because guaranteeing at least a basic level of social security components is a necessary prerequisite for public perception and successful implementation of all domestic reforms.

The provided analysis allows to identify the main determinants of public policy to ensure social security, such as:

– ensuring a decent standard and quality of life, eradicating poverty among workers, lowering poverty;

– support of high rates of economic development and introduction of innovative models of development; high and balanced socio-economic development of the country and its regions;

– creating favorable conditions to prevent the outflow of human and intellectual capital outside the country;

– increasing the value of labor and the employee, creating conditions for decent work;

– providing opportunities for quality lifelong learning;

– creation of conditions and opportunities for providing quality medical services;

– achieving and maintaining the necessary level of protection of human and civil rights and freedoms;

– preservation of civil peace and social harmony, promotion of ethno-confessional dialogue, maintenance of political, social and economic stability;

– proper functioning of the system of effective counteraction to threats to man and society;

– improvement of public policy on preservation and development of human potential;

– achieving a balance of interests between government and society;

– improving the efficiency of the public administration system, balance and harmonization of national security and social policy;

– increasing the level of social responsibility in society;

– implementation of the principles of social justice and social responsibility;

– effective public control over the activities of the state;

– harmonization of social relations, humanization of relations between people, growth of public trust, mutual assistance, cooperation, social partnership, solidarity, cohesion.

The introduction of European approaches to social security in Ukraine will require a radical change in the very essence of public policy in the research area. The cornerstone of the Ukrainian government's activity should be to ensure proper protection of citizens and society as a whole from threats to their well-being and prosperity, and to create proper conditions for normal life and confidence in the future. Measures to ensure social security should, first of all, be of a preventive nature in order to prevent illegal actions and social disturbances.

Developed human potential, decent work, high quality of working life, social responsibility, social justice, public control, etc. are the main conditions and opportunities for

social security. Achieving abovementioned will create benefits for the social development of human, society and the state, the foundation of state independence, achieving a decent standard and quality of life and overcoming poverty, protecting the social interests of the individual, society, state from internal and external threats.

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ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

PRIVACY PROTECTION IN THE NEW EU REGULATIONS ON THE USE OF UNMANNED AERIAL SYSTEMS

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DOI: 10.13165/PSPO-20-24-11

Annotation. The new European Union Regulations on the use of unmanned aerial systems (UASs) is another but not the last step in regulating the use of the technology. One of their purposes is to mitigate risks on privacy and protection of personal data, arising from the operation of UASs. While the 'U-space' system, among others, including remote identification is at the development stage only, privacy-related aspects in the Regulations (EU) 2019/945 and 2019/947 may already be analysed. The authors hold that to achieve effective protection of privacy in the field of the use of UASs, it is essential to ensure effective identification of UAS operator, therefore the exceptions of the requirement to equip the UASs with remote identification add-ons could be a loophole for abuse.

Keywords: unmanned aerial system, privacy, EU.

INTRODUCTION

The abundance of relatively new regulation on data protection (which undoubtedly is closely connected with privacy[1]) (namely General Data Protection Regulation, hereinafter – GDPR) (European Parliament, Council 2016) and the use of unmanned aerial systems (hereinafter – UASs) at the European Union (hereinafter – EU) level proves the existence of a threat to privacy that is being caused by the modern technologies. For example, recital of the General Data Protection Regulation (hereinafter - GDPR) which came into force a few years ago, states: "*Rapid technological developments and globalisation have brought new challenges for the protection of personal data"*. Recital of the Commission Implementing Regulation (EU) 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircraft

[1] Despite the distinction between privacy and data protection laid down in the Charter, the jurisprudence has justifiably considered privacy to be at the core of data protection (Kokott, Sobotta 2013).

(hereinafter – Regulation 2019/947) also stresses the risks to privacy and protection of personal data that are caused by the operation of UASs equipped with sensors able to capture personal data (European Commission 2019b). The specificity of the use of UASs and the threat to privacy caused by it could be confirmed by the fact that recital of Regulation (EU) 2018/1139 distinguishes the use of UASs in a separate paragraph and states that „the rules regarding UAS should contribute to achieving compliance with relevant rights guaranteed under Union law, and in particular the right to respect for private and family life, set out in Article 7 of the Charter of Fundamental Rights of the European Union, and with the right to protection of personal data, set out in Article 8 of that Charter and Article 16 TFEU, and regulated by Regulation (EU) 2016/679 of the European Parliament and the Council" (European Parliament, Council 2018). The EU legislation is a constituent part of the legal systems of Member States and has supremacy over the national laws (Mikelsone 2013), therefore, it could be said that the most detailed regulation on the protection of privacy when using unmanned aerial systems (hereinafter – UASs), also data protection is set at the European Union level.

Even though the Regulation 2019/947 is in effect and shall apply from 1 July 2020, Lithuania has not yet harmonised its national "Rules for the use of unmanned aircrafts" (2014) with the new EU regulation, but it will have to be done sooner or later. The authors aim to determine how effectively privacy is protected in the context of the use of UASs at the EU level, precisely in the recent Regulation 2019/947. Such systematic analysis is timely as it could serve for the adoption of national laws related to the use of UASs. To achieve the aim not only Regulation 2019/947 but also Commission Delegated Regulation (EU) 2019/945 of 12 March 2019 on unmanned aircraft systems and third-country operators of unmanned aircraft systems (European Commission 2019a) (hereinafter – Regulation 2019/945) is analysed, as the latter lays down the requirements for remote identification of UASs, which is very important in helping to determine the operator of the UAS and, accordingly, together with other factors, serves for more effective privacy protection in the use of UASs.

THE MAIN THEORETICAL ASPECTS OF THE EU REGULATIONS ON THE USE OF UASs

EU legislation connected with UASs is quite comprehensive. Before moving to specific regulation on the use of UASs, it is also necessary to mention Regulation (EU) 2018/1139 (European Parliament, Council 2018). Even though this regulation is not dedicated specifically

for the protection of the right to private life, but this legislation, among other rules, is also meant to govern the use of UASs, emphasizes the need for the protection of privacy during such use. The word „privacy" in this legislation is used twelve out of thirteen times particularly in the context of the use of UASs. Thus, the Regulation (EU) 2018/1139 serves for protection of privacy in such use by setting the tasks that should be achieved, which are: to set requirements concerning the registration of UASs and their operators, to establish national registration systems in which basic data of UASs and their operators should be stored; also, by setting the limitation to the application of the Regulation in setting national rules on operations of the UAS for protection of public security, privacy and data protection; by giving precise technological requirements for purposes of privacy, personal data protection, such as easy identification of the aircraft and the nature and purpose of the operation and compliance with limitations, prohibitions or conditions on geographical zones, certain distances from the operator or certain altitudes. Thus, following these aims, Regulations 2019/945 and 2019/947 have been adopted.

Privacy-related "fuses" in the Regulation 2019/945

The recent Regulation 2019/945 which shall apply from 1 July 2020 has divided UASs into classes in terms of their technical characteristics. As in this research privacy question concerns, the table below illustrates the application of the requirement for relevant classes of UASs to be equipped with remote identification add-ons. Such requirement is related with identification of UASs, as without this, considering the specificity of UASs (that there is quite problematic to identify the operator of UAS, to determine the purpose of such operation (Pūraitė, Bereikienė, Šilinskė 2017) liability for the privacy breaches would be impossible. Regulation 2019/945 specifies the requirements for pilots and operators of UASs, also indicates which class UASs have to be equipped with remote identification add-ons. These add-ons allow the upload of the UAS operator registration number, ensures, in real-time during the whole duration of the flight, the direct periodic broadcast from the UAS using an open and documented transmission protocol, of the UAS operator registration number, the geographical position of the UAS and its height above the surface or take-off point, the geographical position of the remote pilot or, if not available, the take-off point (European Commission 2019a).

Depending on the class of the UAS, different technical requirements apply. As Table 1 indicates, it is required that only the UASs of class C1, C2, C3 were equipped with remote identification add-ons.

Table 1. Classes of UASs and the requirement of a direct remote identification equipment

	C0	C1	C2	C3	C4
Direct remote identification add-on	-	+	+	+	-

Source: authors Pūraitė, A., Šilinskė, N.

Whereas there is no such requirement for UASs of class C0 and C4. As the UASs of these two classes are technically simpler than the UASs of class C1, C2, C3, they are more accessible to the majority of people. However, it does not mean that they could be less dangerous in terms of possible privacy breaches as they all are capable of carrying a sensor able to capture personal data.

Privacy protection-related aspects of the operation of UASs in the Regulation 2019/947

Another step in achieving the latter-mentioned tasks enshrined in the Regulation (EU) 2018/1139 is the recent adoption of the Regulation 2019/947 which lays down detailed provisions for the operation of unmanned aircraft systems as well as for personnel, including remote pilots and organisations involved in those operations (European Commission 2019b). This regulation is an important step towards realistic insurance of the protection of privacy in the field of the use of UASs. The Regulation (EU) 2019/947 includes requirements for the implementation of three foundations of the U-space system, namely registration, geo-awareness, and remote identification, which, after fully completed, will solve one of the most important privacy-relating issues – possibility to identify the UAS (and accordingly its pilot/operator), without which, in the authors' opinion, the liability for the breaches of privacy in this field would be impossible.[2] However, rules and procedures for the marking and identification of unmanned aircraft and the registration of operators of unmanned aircraft or certified unmanned aircraft are only to be established therefore their effectiveness conclusively cannot be evaluated at the current stage. Furthermore, it is important to stress that Regulation

[2] Recital point 13 of the Regulation 2019/947 (European Commission 2019b) obliges to establish rules and procedures for the marking and identification of unmanned aircraft and for the registration of operators of unmanned aircraft or certified unmanned aircraft; point 14 of the recital: „operators of unmanned aircraft should be registered where <...> the operation of which presents risks to privacy, protection to personal data...", point 16 of the recital states that if an operator oprates UAS equipped with a sensor able to capture personal data, he/she should be registered considering the risks to privacy and personal data.

2019/947 is without prejudice to the possibility for Member States to lay down national rules to make subject to certain conditions the operations of unmanned aircraft for reasons falling outside the scope of Regulation (EU) 2018/1139, including protection of privacy and personal data under the Union law (European Commission 2019b). This is the ground for national authorities to decide on additional rules concerning the use of UASs to assure effective protection of privacy to the extent which is necessary for particular jurisdiction depending on understanding of privacy in that specific state.

Important thing is that concerning privacy protection, the minimum mass of 300 g is no longer relevant (whereas in the national rules such weight is the threshold below which these rules, except for the requirements of maximum flight height, are not applied (The rules for the use of unmanned aircraft 2014). It means that if the UAS is equipped with a sensor able to capture personal data, considering the risks to privacy and protection of personal data, operators of unmanned aircraft should be registered, despite the weight of the UAS. However, this rule is not applied for UASs considered to be toys (European Commission 2019b) within the meaning of Directive 2009/48/EC of the European Parliament and the Council on the safety of toys (European Parliament, Council 2009).

Table 2. The conditions of operation of different class UASs in different „Open“ category flight sub-categories directly or indirectly related to privacy protection

	A1	**A2**	**A3**
Classes of UAS allowed to fly in a particular sub-category	C0, C1 and separately indicated UASs	C2	C2, C3, C4 and separately indicated UASs
Completion of an on-line training course including privacy and data protection questions for pilots required	C1 only	+	+
Requirements for a certificate of remote pilot competency	-	+	-
Overflight of uninvolved persons allowed	C0 and separately indicated UASs	+	+
Operation distance from residential, industrial, commercial, recreational areas is set	-	-	150 meters

Source: *authors Pūraitė, A., Šilinskė, N.*

The Regulation 2019/947 defines three categories of flights and different requirements applied to them: “open”, “specific” and “certified”. The first, “open” category is divided into three sub-categories: A1, A2 and A3, based on operational limitations, requirements for the remote pilot and technical requirements for the UASs

Table 2 demonstrates that the least requirements are set for the flights of A1 category carried out by UASs of the class C0 and A3 category flights operated by UASs of the class C4 (for UASs' class requirements see Table 1). Combining the data presented in Table 1 and Table 2 it could be said that these two types of UASs are the most threatening to privacy because neither class C0 nor class C4 requires the UASs to be equipped with the direct remote identification including direct periodic broadcast functions.[3] Furthermore, the operators/pilots of the flights of A1 category operating C0 class UASs are not required to complete an on-line training course including privacy and data protection questions, overflight of uninvolved persons is allowed (which means that the UAS of such type could be used to record details of persons' private life), operation distance from residential, industrial, commercial, recreational areas is not set (it means that such UAS could be operated in these areas).

Even though A3 category flights require higher competences of the operator (completion of an on-line training course including privacy and data protection questions is required) class C4 UAS, the flights of which are treated as falling under the category of A3 flights, is also not required to have the feature of direct remote identification. Regulation 2019/947 states that the low-risk operations should be allowed to be conducted in the 'open' category because UASs of class C4 is simpler than other classes of UASs, they have achieved the good level of safety, such aircraft are often used by model aircraft operators, therefore, should not be subject „to disproportionate technical requirements" (European Commission 2019b). Provided that UAS of class C4 is equipped with a photo/video camera, there is a trace of safeguard of privacy applicable in the situation like this in the point 14 and 16 of the recital of Regulation 2019/947 which obliges operators of UASs to be registered if they operate an unmanned aircraft, operation of which presents risks to privacy, protection of personal data, security or the environment, in other words, if the UAS in operation is equipped with a sensor able to capture personal data (European Commission 2019b).[4] However, it is questionable whether the latter provision could serve for the protection of privacy. Even though the rules and procedures for

[3] This function ensures, in real time during the whole duration of the flight, the direct periodic broadcast from the UA using an open and documented transmission protocol, of the following data, in a way that they can be received directly by existing mobile devices within the broadcasting range: the UAS operator registration number, the unique physical serial number of the UA, the geographical position of the UA and its height above the surface or take-off point, the route course measured clockwise from true north and ground speed of the UA, the geographical position of the remote pilot (European Commission 2019a).
[4] However, this should not be the case when the unmanned aircraft is considered to be a toy within the meaning of Directive 2009/48/EC (European Parliament, Council 2009).

the registration of operators of unmanned aircraft are only to be established, and evaluation of their effectiveness is currently impossible but already now the question how the registration of operators, for example, of UASs of class C4, could serve for privacy protection if, for example, UASs of class C4 do not have remote identification function, arises.

The table 2 shows that the least requirements are set for the flights operated by UASs of class C0 and C4 respectively in A1 and A3 subcategories of the „Open" category of flights not only because UASs of these classes are not required to be equipped with remote identification add-ons, but also because the operations in earlier-mentioned sub-categories almost do not have restrictions. It is also important to note that „open" category flights do not require any prior authorization or operational declaration (European Commission 2019b).

As further will be seen, all the abovementioned factors play a role in evaluating the effectiveness of the legislation in terms of privacy protection but also in the determination of possible ways to breach privacy and, accordingly, liability questions.

OTHER PROBLEMATIC ASPECTS OF PRIVACY PROTECTION IN THE REGULATIONS 2019/945 AND 2019/947 AND SUGGESTIONS FOR THEIR CORRECTION

As Regulation 2019/947 has come in force, the foundation for the effectiveness of privacy protection in the field of the use of UASs has been laid down. The most important thing that has been done - the need and grounds for remote identification of UASs has been enshrined. Without identification of the operator of the UAS, effective protection of privacy is not possible as the person liable for privacy breaches remains unknown. As the deriving legislation concerning the implementation of "U-space" (it shall implement registration, geo-awareness, and remote identification) has not yet been created, it is impossible to predict its quality and effectiveness. However, the authors believe that registration and remote identification possibilities in the use of UASs are essential and shall make a huge contribution to the effectiveness of privacy protection. However, it should be noted that the requirement for remote identification is not applied to all types of UASs. By imposing an obligation to make sure that each operator of UAS equipped with a video recorder is registered, a declarative tribute to privacy is given. Furthermore, an exception to the requirement of remote identification is made for UASs considered as toys and C4 class UASs. Therefore the provisions of Regulation 2019/947 presuppose an idea that remote identification is for assurance of physical safety

(aircraft of class C4 are allowed to be conducted in the 'open' flight category which sets minimum requirements for the conduction of flights and does not require to have remote identification function only because of „the good level of safety achieved" (European Commission 2019b), whereas registration of operators serves for privacy protection (obligation for the operators to register themselves if they operate UASs equipped with a sensor able to capture personal data (European Commission 2019b). However, the authors believe that precisely the requirement that UASs were equipped with remote identification add-ons serves best for privacy protection. Therefore the requirement for all UASs to have remote identification add-ons must be set as remote identification add-on is the main technical tool allowing effective assurance of privacy protection in the use of UASs. The only possible exception could be made for toy models of UASs only because of the principle of proportionality (to avoid disproportionate requirements that would harm economic and social interests). However, as the toy models can also carry a camera and collect information on private life, the rule requiring for a pilot of a toy model to stay at the visual line of the UAS and be identifiable (for example, he/she should wear a bright-coloured vest) must be set.

The authors hold that the exceptions to the obligation for UASs to have remote identification add-ons provide a basis for abuse, as the UAS pilot having an intention to gather information on a private life may use UAS for such illegal purpose easily avoiding identification and, accordingly, liability for illegal actions. This is because the operator cannot be identified and because of another reason: if the law enforcing bodies in the future would have the right to neutralise UASs being operated illegally, it could be quite problematic from a distance to distinguish whether the UAS in operation is the one falling within the exception of the requirement of remote identification add-on or whether the UAS is being used in violation of legal requirements. Regulation 2019/947 states that lower requirements for class C4 aircraft are introduced for the reason that such type of an aircraft has achieved a good level of safety and is comparatively simpler than other classes of unmanned aircraft, therefore, higher requirements would be disproportionate (European Commission 2019b). However, such a legislator's attitude is open to criticism because it should focus not only on the physical safety of the operations of UASs but also on privacy protection the effectiveness of which is currently questionable.

Even though Regulation 2019/947 mentions overflight of uninvolved persons, residential areas, assemblies of people as criteria worth considering on UAS flights, it is obvious that the criteria are also associated with flight safety, but not the protection of privacy. Therefore it is

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
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worth considering including in national legislation private home areas as the areas above which UAS operation has additional restrictions (for example, permission to cross the home territory only if unavoidable, but not repetitive overfly or continuous flying above the territory).

Furthermore, besides the suggested rules, the law enforcement agencies' right to neutralise the UASs in case of the breach of the requirements for identification should be enshrined. However, technical ways and possibilities for the neutralisation of the illegally used UASs are the topics of other, technical, sciences but the legal grounds of effective enforcement of such rules must be set. To avoid possible disputes concerning such actions, the rules for the enforcement agencies' right to neutralise UASs should be short and clear, determining precise indications of the existence of the infringement. For example, if it was impossible to remotely identify the UAS and its operator is not in a visual line from the UAS (or is not recognisable) – these should be the conditions allowing to neutralise the UAS without any further investigation (presuming that the requirements of being identifiable for operators of toy models are set).

When responsible for the UAS operation person is determined, another very important step in the application of liability for the privacy-related breaches is evidence preservation. As, for example, criminal liability requires proof of the offender's fault - intention to gather private information (even direct intention must be proved).[5] Thus, without the recorded material it is impossible to prove this element of liability. Timely acting in evidence preservation is essential for privacy protection to be effective. For this purpose, it is necessary to empower the competent authority to preserve the evidence at the scene of the event (especially having in mind that remote identification add-ons shall be able to transfer information on the geographical position of the remote pilot or, if not available, the take-off point) (European Commission 2019a), as later evidence preservation would be impossible because the UAS pilot would simply hide, destroy or deny the existence of the video record. The content of the video would normally be the main evidence in civil and criminal proceedings allowing the court to decide whether the UAS pilot just flew the UAS over the private home area or was observing it intentionally.

[5] „A person shall be punishable for commission of a crime or misdemeanour through negligence solely in the cases provided for separately in the Special Part of this Code" (Criminal Code of the Republic of Lithuania 2000); see also *S.B.,V.B., R.B.* [2011] PK-72-635/2011.

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
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PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
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CONCLUSIONS

The most important thing for privacy protection in the use of UASs is the possibility to identify the operator of the UASs which enables the responsible institutions or injured party to claim for the responsibility of the fault person.

The new legislation at the EU level, Regulations 2019/945 and 2019/947, establish the tool of identification of UASs and oblige that particular types of UASs were equipped with remote identification add-ons. Even though the wording of such obligation presupposes that such obligation is to ensure the safety of the operation of UAS (because the reason why UASs of C4 class are not required to be equipped with such add-on as is, according to the legislator, that UASs of class C4 are simpler than other classes of UASs and they have achieved the good level of safety) but it also serves for the protection of privacy.

The Regulation 2019/947 enshrines obligation for the operators to register themselves if they operate UASs equipped with a sensor able to capture personal data which is a measure dedicated precisely for the protection of privacy. However, it seems that this measure is only declarative but not practically effective as it is doubtful that an operator willing to illegally collect private information will register himself/herself, whereas operating the type of UAS which is not required to be equipped with remote identification add-on, would enable secret surveillance of privacy subject without the possibility to identify the operator of the UAS. In other words, the exceptions open the possibility of abuse, also, aggravates the work of responsible institutions as it would be difficult from a distance to determine if a particular UASs, flying without remote identification add-on is the one, which falls under the exception of the requirement to be equipped with the add-on, or not. For this reason, in the authors' opinion, the requirement of remote identification add-ons should apply to all types of UASs, except for toys models. However, the operation of toy models of UASs should be allowed only in open areas where the UAS's operator would be in a visible line from the UASs and should be identifiable by, for example, a bright-coloured west, bright ligaments, etc. If it is impossible to remotely identify the operating UAS and its operator is not visible, the right of responsible institutions to neutralise such UAS should be enshrined in the legislation.

Evidence preservation is another important aspect concerning privacy protection in the use of UASs which should be considered when applying the Regulations. As the identification of the operator of UAS is not sufficient to claim for the responsibility of him/her. Without

preserving the records made by a camera mounted on the UAS, proving the intentional fault of the operator would be impossible.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

LAW ENFORCEMENT OFFICIALS' USE OF FORCE: CHOICE OF MEANS AND LEGAL CERTAINTY

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DOI: 10.13165/PSPO-20-24-12

Annotation. The research analyses law enforcement officials' (namely, police, rescue service, environmental protection, and local authorities)[1] use of supervision measures and direct coercion and how this concept manifests in legal acts. The main focus is two-fold: the right and ability of the official to choose the proper means of direct coercion and the legal certainty regarding its use, especially when used in self-defence. The legal analysis adopts a comparative approach and the analysis is further supplemented by expert surveys.

Keywords: public order, competent law enforcement agency, direct coercion, use of force, special equipment, self-defence, professional assistance, Estonia.

INTRODUCTION

During the writing of this article, the government of the republic has declared a state of emergency in Estonia and temporarily reintroduced border control and the guarding of the state border. In such an atmosphere the providing of vital services receive extra attention, and therefore it is of utmost relevance to deal with the competence of different law enforcement institutions to provide public order, their authorisation to apply the measures of state supervision and direct coercion to defend themselves[2], provided it may not always be possible for the police to render (professional)[3] assistance to other institutions due to fulfilling their own duties. According to the Law Enforcement Act (LEA) the police may apply direct coercion.[4] Other law enforcement institutions may apply it only in the cases stated in law. Direct coercion

[1] The article provides an overview of the following law enforcement officers: police, rescue official (destroyer of explosive ordnance), environmental inspector, local authority official.
[2] In Law enforcement law there is a principle that a person's constitutional rights can only be encroached upon following the principle of *ultima ratio*, meaning all other measures have reached their limits.
[3] According to § 6 subsection 6 of the LEA, police renders professional assistance if it has to do with the application of direct coercion.
[4] According to the Law Enforcement Act valid in Estonia, physical force, a special equipment or a weapon (direct coercion) may only be used by the police. The special that are allowed are handcuffs, shackles, binding means, a service animal, a technical barrier, a means to force a vehicle to stop, a water cannon etc. Police service weapons are firearm, gas and pneumatic weapons, a cut-and-thrust weapon and an electric shock weapon.

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

is predominantly applied in cases asking for quick intervention in which penalty payment and substitutive enforcement are insufficient to achieve the desired aim. By its nature, the application of direct coercion is an administrative act that is preceded by an order to counter threat, which means it is an administrative act. A warning must be given before direct coercion is applied.

Legislators will to provide institutions a right to apply direct coercion has been contradictory. On one hand, it was found that only as few law enforcement institutions (hereinafter LEIs) as possible should have the right to apply force that is monopolised by the state. On the other hand, it was explained that if a LEI has a right to apply such means of state supervision which also stipulates the application of direct coercion, then this LEI should also have a right to apply direct coercion.[5][6] The LEA came into force in 2014 in Estonia, but its compatibility with sectoral special acts of law has not been studied much. The LEA is a general law regulating the protection of public order, therefore, according to the principle of legal clarity, the requirements of the law-enforcement law must be reflected in sectoral special and primary acts of law. The principle of legal clarity means that legal provisions should be written clearly enough the person reading them could understand which legal consequence follows certain activity or inactivity.[7] Legal certainty means legal norms related clarity[8], also for the one applying the norm. The article studies three law enforcement institutions - city and local government councils (LGC), Environmental Inspectorate (EI) and Rescue Board (RB). Those institutions have been chosen since the laws are contradictory when the content of their duty to provide public order, the applied measures and their right to apply direct coercion are concerned. The LGC has a right to conduct state supervision and apply measures according to 20 different acts of law, but it has no right to apply direct coercion[9], the EI inspectors have the supervision competence according to 26 acts of law, but there are significant contradictories concerning the allowed means of direct coercion. Finally, the tasks of explosive ordnance

[5] Government of the Republic. 2007. In the explanatory notes to the draft legislation of the Law Enforcement Act. Pp 105. [Online material] Available at: https://www.riigikogu.ee/tegevus/eelnoud/eelnou/8a9c2286-06fc-65d2-957b-bd9e11a940c4/Korrakaitseseadus [Accessed on 05.05.2020].
[6] For example, in § 44 subsection 6 it is stated that in the event of enforcing the prohibition on stay, one may apply direct coercion.
[7] Editorial Board: Madise, Ü., Kalmo, H., Mälksoo, R., Narits, R., Pruks, P., Raidla, J., Vinkel, P. 2017. Commented version of the Constitution of the Republic of Estonia. Pp 105 [Online material] Available at: https://www.pohiseadus.ee/ [Accessed on 05.05.2020].
[8] *Ibid*, pp 153.
[9] For example, according to §s 55-56 of the LEA, LGC and the police have similar right to conduct supervision of the complying with the general requirements for behaviour in public place, but the police have a right to apply more measures and they can also exercise direct coercion.

disposal (EOD) technicians have been stated in a decree, not in an act of law, and from amongst the means of direct coercion, they have a right to use physical force and a firearm.

The application of direct coercion encroaches upon people's constitutional freedoms, but its excessive use degrades human dignity. Both theoretical and practical training are needed to guarantee purposeful application of direct coercion. The police curricula have such training in the volume of ca 270 academic hours (ca 10 ECTS).

The need to apply direct coercion may also arise in the event of performing self-defence. While fulfilling their duties, law enforcement officials may find themselves in a situation in which they are attacked. At the moment, there are no regulations that would deal with the justified application of direct coercion in the event of performing self-defence.

DATA AND METHODOLOGICAL APPROACH

The **research** topic deals with the city and local governments' public order officials', Rescue Board's EOD technicians' and the Environmental Inspectorate's inspectors' competence to conduct state supervision, incl. their right to apply direct coercion. The **aim** is to give an overview of the need and possibility to increase the rights of the law enforcement officials conducting state supervision.

In order to reach the aim, the following research questions were posed:

1. According to the acts of law, which possibilities do the LGC, EI and RB have to apply the measures of state supervision and use the means of direct coercion, and what is their real need for it?
2. Is it possible to use the means of direct coercion allowed in state supervision while performing self-defence?
3. Are the valid curricula sufficient for the EI inspectors to acquire the necessary knowledge and skills needed for the legal application of direct coercion?

Research tasks: 1. To provide an overview of the acts of law regulating the state supervision competence of the LGCs, RB and EI, incl. their right to apply direct coercion. 2. To give an overview of the bases of the application of direct coercion and its means, and to find out the LEIs' need to have a right to apply additional means, incl. to use means of direct coercion while performing self-defence. 3. To find out whether the current curricula have direct coercion related training in a sufficient volume to provide the LEIs with the competence necessary for their work. 4. To develop recommendations to amend acts of law and curricula.

The article is compiled using a combined research **methodology**. Legal provisions are

used to give a systematic overview of the current situation and of the needs for change (descriptive research[10]), and recommendations are given to amend laws. Documents' review helps to give an overview of the standards of the Estonian Qualification Authority[11], the LEI curricula implemented at the Estonian Academy of Security Sciences; recommendations are given to make amendments. Experts of the areas are interviewed. The sources used refer to Estonian acts of law, explanatory notes to the drafts of law, constitution, commented versions of the Law Enforcement Act and the Penal Code, decisions of the Supreme Court and relevant scientific papers.

LAW ENFORCEMENT AGENCIES' RIGHT TO APPLY DIRECT COERCION

Fundamentals for the application of direct coercion

The Law Enforcement Act (hereinafter LEA) states the general rules for applying direct coercion, the specific laws define the peculiarities of different law enforcement agencies and the means of direct coercion allowed for them, however, the bases for applying direct coercion cannot be extended with specific laws since these can only specify and constrain[12].

After the Law Enforcement Act was enforced in 2014, there was a clear system of administrative coercive measures – now there was a regulatory framework for applying direct coercion in addition to penalty payment and substitutive enforcement. The application of direct coercion is justified mostly in urgent threat situations where guaranteeing the fulfilling of an obligation to ascertain and counter a threat or to eliminate a disturbance with administrative coercive measures is impossible or not possible at the right time.[13] This is an administrative measure which aims to counter disturbances, prevent their harmful consequences and guarantee the taking of an offender in to custody.[14] Direct coercion is applied only to enforce the obligation directly connected with a person – a person is forced to do something, no one is acting instead of them. In the case of obligations not related to persons, penalty payment or substitutive enforcement is used[15].

[10] Lagerspetz, M. 2017. Ühiskonna uurimise meetodid. Sissejuhatus ja väljajuhatus. Tallinn: Tallinn University Press, pp 87.
[11] Estonian Qualifications Authority, 2018. Occupational qualification standards. Available at: https://www.kutsekoda.ee/et/kutseregister/kutsestandardid/otsing [Accessed on 11.05.2020].
[12] Explanatory notes of the LEA 49, pp 107.
[13] Explanatory notes to LEA 49, pp. 102, LEA § 76 subsection 1.
[14] Koolmeister, I., Orion, K. 1998. Haldussund kehtivas õiguses. Juridica, VIII, pp. 382
[15] Laaring, M. 2010. Direct Coercion as an Administrative Coercive Measure in the Police and Border Guard Act and the Public Order Defence Act Bill. Juridica, VIII, pp. 552, 554.

The application of direct coercion has to be:

- Appropriate and in accordance with the aim / suitable for achieving the aim.
- Unavoidable, requires the smallest possible involvement.
- Proportionate towards the aim, not more burdensome than the legal right being protected.

The means of administrative coercion can be used multiple times, they can be changed if needed and they are used until the desired aim has been reached. Before applying the coercion (except for in urgent matters) the parties involved need to be issued a precept (delivered an administrative act) to fulfil the obligation, a deadline for fulfilling the obligation must be stated, also the other party must be warned for the coercive measure to be used. Enforcement is allowed when the period for challenging the administrative act has passed or it has been issued for immediate execution and the person has not fulfilled their obligation yet[16].

Direct coercion is applied by the police, other law enforcement agencies are allowed to do so only in the cases stated in specific acts of law.[17] Initially it was desired to allow only a few law enforcement agencies to apply direct coercion to avoid the possible uncontrollable wilfulness of public authority. Another explanation for that was the lack of special skills, means and weapons related training.[18] However – if a law enforcement agency has a competency to conduct state supervision and an authorisation to apply the measures stated in the LEA, then they also have a right to apply direct coercion to enforce the measures.[19] The LEA provides 22 special measures for the exercising of which one may apply direct coercion until it is unavoidable to achieve the aim.[20] There is also an opportunity to apply direct coercion to enforce a general measure – a precept.[21] Direct coercion cannot be applied to obtain statements, opinions or explanations[22], since it is interpreted as torture.[23]

Means of direct coercion are divided into physical force, special means and weapons[24]. The levels of direct coercion are defined from the most lenient towards harsher dependent on

[16] LEA § 74-78, Laaring, M., Pars, S., Kranich, H., Nuka, E. Kiviste, J., Mikiver, M., Roosve, T., Vanaisak, Ü. 2017. *Korrakaitseseadus. Kommenteeritud väljaanne*. Tallinn: Estonian Academy of Security Sciences, pp. 301.
[17] LEA § 75 subsection 1.
[18] Explanatory notes to LEA 49, pp. 105.
[19] *Ibid.*
[20] LEA 2019.
[21] LEA § 28 subsection 3.
[22] LEA § 76 subsection 3.
[23] Oestmann, P. 2012. Lawful and Unlawful Torture in ius commune Criminal Procedure. Juridica, I, pp. 52-62.
[24] LEA § 74.

the presumable seriousness of the applicable measure, the regulations have been developed as a system with internal steps, whereas in the case of the most serious means, the bases for applying coercion are significantly narrower.[25] There are three procedural steps related to direct coercion (the steps can be avoided only due to the urgent need to counter an immediate serious threat or eliminate a disturbance [26]first a valid administrative act must be issued to the addressee to obligate them to counter an immediate threat or eliminate a disturbance, then the person is warned and informed of the circumstances of not fulfilling the administrative act and of which means of direct coercion is going to be applied, the third step is the act of applying coercion[27], which means the application of force is first expressed with orders and prohibitions that in the final step are guaranteed with the application of direct coercion.[28]

Physical force is applied in order to physically influence a person, animal or object[29], whereas force is directly carried from the applier of which to the object of direct coercion. For example, holding, pushing, taking a person away, blocking an animal attack, knocking down doors and hand-to-hand fighting techniques. Special means are mainly used to increase or direct the influence of physical force. Special means are directly listed in the act of law, but there are countless things that could be used as special means, for example, a service car or tools used to open doors. It is impossible to list all means specifically, however, the type of the means can be determined according to their aim.[30] According to Weapons Act § 3 subsection 1 clause 1, subsection 2, weapons of officials or service weapons are prescribed by law to government authorities exercising public authority for the performance of their duties.[31] Service weapons are divided into firearms, gas, cut-and-thrust, pneumatic and electric shock weapons.[32]T he means of direct coercion can be applied together, they can be changed if needed, but one always has to make sure the application of force is not excessive.[33]

[25] Laaring 2010, pp. 552.
[26] LEA § 76 subsection 2.
[27] Laaring 2010, pp. 552.
[28] Jäätma, J. 2015. Ohutõrjeõigus politsei- ja korrakaitseõiguses: kooskõla põhiseadusega. Doctoral dissertation. University of Tartu Press. Pp. 163.
[29] LEA, 2019.
[30] Explanatory notes to LEA 49, pp. 103.
[31] *Weapons Act* (2001), RT I, 13.03.2019, 142.
[32] Minister of the Interior, 2018. The types of service weapons and their ammunition and munition and the procedure for the handling of and for handing over service weapons, their ammunition and munition and components of firearms. Regulation RT I, 12.09.2018, 6, § 2.
[33] Kuurberg, M. 2016. Estonia Marks 20 years as Party to the Convention on Human Rights. Juridica, VII, pp. 528.

Supreme Court emphasises that the application of a special measure is reasonable only when the more lenient measures have become exhausted or such measures are not suitable due to the peculiarity of the given situation. In the event of the existence of bases to apply a special measure, the officials have to avoid harming people's health, causing pain and degrading them in an extent that is greater than absolutely necessary in the given moment.[34]

First the public order official can intervene by just being present and communicating with people. This does not influence the people's freedoms intensively, but has a preventive influence on the person liable for public order. The application of physical force undermines a person's dignity intensively, it causes pain and bodily injuries. Performing kicks or suffocation techniques can cause fatal injuries or death. If handcuffs are applied too tight or a gas weapon is used, pain is caused, but they rarely cause bodily injuries. Cut and thrust weapons (telescopic baton) can cause pain if kicks are made to muscles. Kicks to the heart, spine and head are forbidden since these can cause fatal injuries or death.

Kiviste has compiled a learning material concerning the influence of the means of direct coercion (see Figure 1).

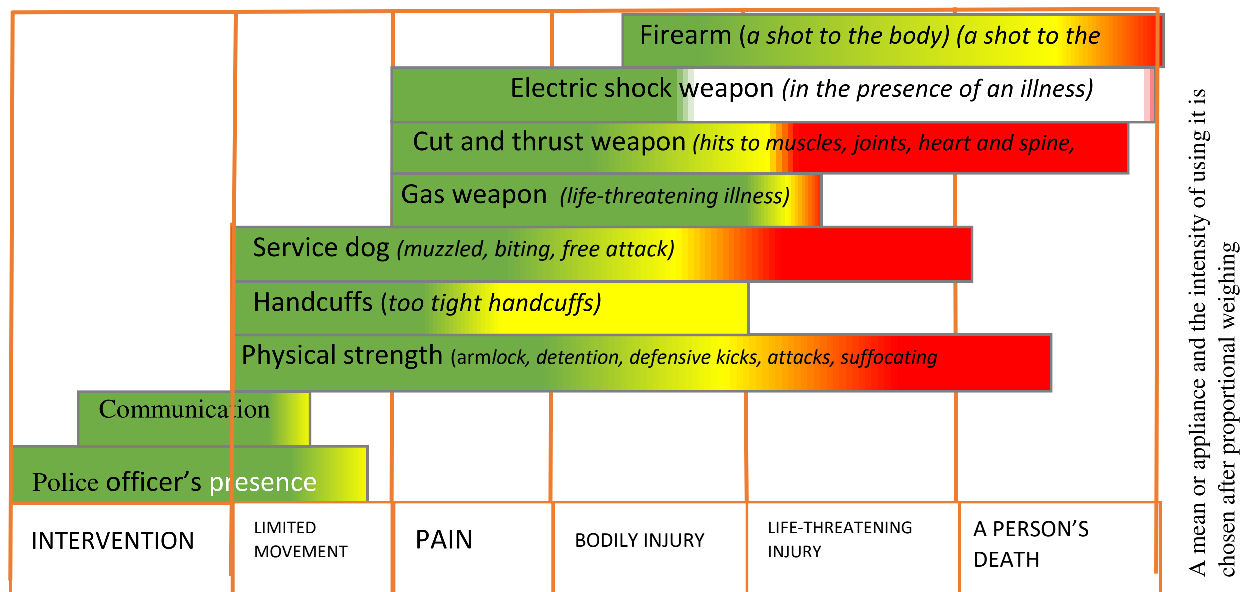

Figure 1. The choosing of means for direct coercion and the application of it (Laaring, et al., 2017, pp. 284; compiled by Jaak Kiviste) [35]

[34] Administrative matter of Taivo Ild and Lea Nõmme (2008) 3-3-1-65-07, pp. 20.
[35] Laaring, *et al*., 2017, pp. 284; compiled by Jaak Kiviste.

A person who finds a public order official has violated their rights or restricted their freedoms, can challenge the activities of the public order official. The challenge is reviewed by the city or rural municipality council. Upon the dismissal of a challenge or if the person finds that their rights have also been violated upon conducting the challenge proceedings, it is possible to file an appeal to the court to protect their rights. In addition to that, it is possible to bring disciplinary proceedings against a public order official for the wrongful breach of their official duties. For unlawful use of violence, it is possible to punish a public order official for the abuse of authority pursuant to criminal procedure[36].

Legal basis to conduct state supervision

Law enforcement agency is an institution, body or person, who according to a law or regulation has been assigned to conduct state supervision. In Estonia, competent law enforcement agencies are the ministries, agencies/boards and inspections, but also those city and rural municipality governments where there has been established a respective public order official or a unit. According to the Law Enforcement Act, state supervision is an activity of a law enforcement agency which aim is to prevent a threat, ascertain and counter a threat or to eliminate a disturbance.[37]

Law enforcement agencies can ascertain and counter a threat or eliminate a disturbance only when they are active and apply respective measures. The measures of state supervision are, like any other activity in administrative procedure, dividable to issue state supervision related administrative acts.[38] Those administrative acts are meant for achieving a certain legal outcome, and for acts which aim is not to create rights or obligations, but to create factual consequences (e.g. notifying or the application of direct coercion).[39] Jurisdictional rules stated in special laws define the supervisory tasks of law enforcement institutions[40]; at the same time, they are authorised to apply general and special measures of state supervision. There are all together 25 measures defined in the LEA, two of which are general measures and 23 special measures.[41] Special measures are divided into those related with the processing of personal

[36] Penal Code (2001) RT, 29.06.2018, 4, § 291.
[37] Laaring *et al.,* 2017, pp. 13.
[38] Laaring *et al.,* 2017, pp. 16.
[39] Explanatory notes to draft legislation 49 SE, pp. 46, ref Laaring et al., 2017, pp. 76.
[40] Laaring, M. 2015. Eesti korrakaitseõigus ohuennetusõigusena, pp 77-78. Doctoral dissertation. University of Tartu Press.
[41] Special laws may state additional measures, e.g. test transaction according to § 52[1] of the Alcohol Act, or removal from driving license according to § 91 of teh Traffic Act.

data, those applicable with regard to person suspected of state of intoxication and other measures. Those measures relate to the measures considered as more serious encroachments of people's constitutional rights, e.g. the prohibition on stay, stopping of vehicle, security check, examination of person, entry into premises, taking into storage of movable, etc. Special measures have been listed according to the extent of the encroach upon the basic rights, starting from the least serious and moving towards the more serious ones. Both the prohibition on stay and the detention of a person are both restrictions on the freedom of movement, but the first is temporary and less intrusive measure and therefore it has been listed before detention.[42]

It must be emphasised that direct coercion is not a measure of state supervision, but instead a means to force a person to comply with the measure. If an EI official has been entitled to exercise direct coercion, then the special law shall list the exact means the EI officials may use.

Environmental Inspectorate's inspector's competence to conduct state supervision proceedings

Environmental Inspectorate is an administrative unit under the Ministry of Environment which main task is to conduct state supervision and apply state's coercive measures on the basis and to the extend specified by law. An EI inspector may have a necessity to exercise direct coercion upon conducting state supervision according to 26 special laws. EI inspectors may apply measures with different intensity, starting from questioning and requiring of documents to the examination of premises and the detention of a person. The need to apply means of direct coercion may also arise when performing self-defence if an inspector's life is in danger due to performing their professional duties. The problem lies in a fact that the acts of law allowing EI inspectors apply direct coercion are contradictory. For example, according to the so called EI stem law, the Environmental Supervision Act, inspectors are allowed to carry a service weapon and use a service dog and handcuffs upon protecting standing crop, game and fishery resources. At the same time, according to the Hunting Act, they are allowed to apply physical force but cannot use a service dog; however, according to the Nature Conservation Act and Waste Act they may only apply physical force. According to the Product Conformity Act and Liquid Fuel Act, application of direct coercion is not allowed at all. This situation causes unnecessary uncertainty upon performing official duties - in line with the principle of legal certainty, a regulation should give its implementer clear directions.

[42] Laaring *et al.,* 2017, pp 135.

According to the currently valid acts of law, the means of direct coercion EI inspectors may use are physical force, handcuffs, service animal (dog) and a firearm. The results of the interviews carried out with the heads of the EI bureaus in different counties in 2019 revealed that the use of those means, apart from the service animal, is seen as necessary. They found it was important to amend the list of allowed means with the following: means of forcing a vehicle to stop, a cut -and-thrust and a gas weapon, binding means and an electric shock weapon (see Figure 2).

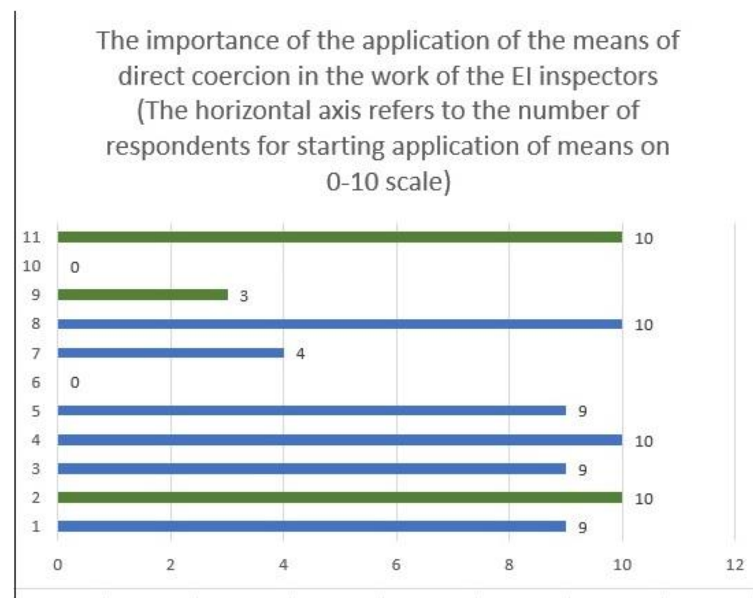

Figure 2. The importance of direct coercion according to the heads of different bureaus, the lower scale indicates the importance of the application of the means. 10 refers to “extremely important” and 0 to “not important at all” (compiled by the author).

The need to apply direct coercion is mostly seen in the areas of fishing, hunting and forestry where the damages are great, and the offenders do not obey and are aggressive towards the inspectors and try to escape. There has also been a need to apply direct coercion while entering premises or stopping a vehicle.[43]

City and rural municipality public order official’s competence to conduct state supervision proceedings

§ 53[1] subsections 1 and 2 of the Local Government Organisation Act state that a local government may form a law enforcement unit of a rural municipality or city, or appoint an

[43] Read more: Vanaisak, Ü., 2019. Inspectors Of The Environmental Inspectorate Confused With The Right To Apply Direct Coersion. Proceedings Estonian Academy of Security Sciences, 1: Security: From Corner To Corner, pp 199-235,Tallinn: Estonian Academy of Security Sciences.

official who engages in law enforcement. The main function of such body is to participate in ensuring public order and to exercise supervision over compliance with the rules adopted by the rural municipality or city council in the jurisdiction determined by the local government (Local Government Organisation Act, 1993). The problem lies in a fact that city and rural municipality public order officials have the competence to conduct state supervision according to 19[44] different acts of law, but upon comparing the tasks of other law enforcement agencies brought in the same acts of law, the list of special measures the LGCs can apply is insufficient for conducting their duties, also they do not have the right to exercise direct coercion to force persons to comply with a measure. For example, according to the Alcohol Act, Waste Act, Environmental Supervision Act, Law Enforcement Act and Nature Conservation Act the LGC has the right to apply measures similar to those applied by the inspection officials of the Environmental Inspection and the Tax and Customs Board and police officers, but unlike the LEIs, the LGCs cannot exercise direct coercion. In 2017 the Ministry of the Interior initiated a draft legislation to entitle LGC public order officials to more rights, e.g. the right to apply measures when dealing with persons suspected of state of intoxication and direct coercion if necessary. The draft legislation has not become a law yet. Giving the LGCs the right to use direct coercion in order to enforce measures is necessary since at the moment they cannot finish the task the state has assigned them. In order to exercise direct coercion, the LGC often calls the police who cannot come and help them since they have their own duties, and therefore the disturbance remains unsolved.[45]

The Rescue Board's explosive ordnance disposal technician's competence to conduct state supervision proceedings

The Rescue Act (RA) is a primary law of the rescue sector which regulates the tasks of rescue institutions and also provides explanations for such important terms of the field as rescue work or rescue incident. According to the RA, a rescue official must conduct EOD activities during which it is allowed to apply the measures of state supervision and use the means of direct coercion. All employees of the EOD centre and bomb squads are rescue officials with the occupational qualification of an EOD technician level 4, 5 or 6.

Table 1. Professional tasks of an EOD technician compared to the key concepts brought in the Law Enforcement Act (compiled by the author)

[44] Read more: Ü. Vanaisak. 2018. City and rural municipality public order officials as bodies conducting state supervision proceedings – the needs and opportunities for increasing their rights, pp 27-71.
[45] LEA, 2019, § 6.

Rescue Act	**Statute of the Rescue Board's EOD centre**	**Law Enforcement Act**
Direct coercion is applied by a rescue official. (§ 24[1]).		Law enforcement agency may use direct coercion (§ 75 subsection1).
Rescue service agencies are the Rescue Board and the Emergency Response Centre (§ 4).		Authorised (special) law enforcement agency (§ 6 subsection 1).
Explosive ordnance disposal (§ 3 subsection 1[2]).	carrying out of EOD activities (section 2.1.4)	Law enforcement and state supervision (§ 2 subsection 1, 4).
?	compiles codes of conduct to be used in the event of risk of explosion and carries out prevention work (section 2.2.8)	Prevention of a threat (§ 5 subsection 7).
?	responds to bomb threats and findings which may result in a risk of explosion (section 2.2.3); carries out explosive detection activities to protect VIPs, during police operations and after explosions (section 2.2.5); uses bomb dogs when looking for explosives (section 2.2.4).	Determining a suspicion of a threat (§ 5 subsection 6).
?	identifies a source of risk and liquidates ammunition and explosives (section 2.2.2); guarantees responsiveness to a CBRN threat and attack (section 2.2.11).	Determining and/or countering of a serious threat (§ 5 subsection 4).
The Rescue Board may apply the general and special measures of state supervision stated in §s 30, 32, 44, 49, 50, 51 of the LEA + duty to grant use of a thing needed for EOD, relocation of a car, restriction of radio communication and other necessary activities (§s 15; 13[1] subsection 1; 13[2] subsections 2, 3; 16; 20, 21).		List of general and special measures (§s 24-53).
Rescue official of the Rescue Board has a right to use the means of direct coercion (§s 24[1]-26).		Means of direct coercion (§s 74, 78[1]-81).

Explosive ordnance disposal is an activity related to countering a bomb threat, an ammunition threat and a threat of explosion. Grammatically and from the viewpoint of law-enforcement law it means the countering of serious danger. The most significant criteria of serious danger are a threat to a person's life, a threat to a proprietary benefit of great value, or a threat of the occurrence of a serious environmental damage. Therefore, a threat that really exists and has to be countered (e.g. a 100 kg bomb has been found on a plane, a criminal is wearing an explosive belt). However, the work of an EOD technician involves a lot more than what is stated in the RA, and all their tasks related to the providing of public order should be stated in the RA. Rescue officials of the EOD centre also deal with risk prevention and determining of the suspicion of threat (see Table 1).

For example, the determining of the suspicion of threat involves carrying out explosive

detection related activities for VIPs, using of bomb dogs when looking for explosives etc. At the moment, the (state supervision related) tasks of EOD technicians have been brought in the statute of the EOD centre. The more intensive the encroachment on persons' constitutional rights, the more precise must be the legal regulation for the content and extent of the intervention. A person must know that the public order official dealing with them is competent, and the official must feel confident they act according to the law and in the legal extent.

Based on the current RA, the means of direct coercion an EOD technician may use are physical force, special means and service weapons. The special means of a rescue official are an explosive device for special purposes which is not used against a person and a service dog that can be used at explosive ordnance disposal to detect explosive material and explosives, and while carrying out rescue work to find a person and determine a threat. The Rescue Board's service weapons are firearms.

On 19 December 2019, a draft legislation to amend the Rescue Act and the Weapons Act was initiated. According to the explanatory notes to the draft, the officials who have the occupational qualification of an EOD technician shall have a right to carry and use a firearm. The amendment is connected with the right to use a firearm while performing self-defence, not with the right to use means of direct coercion while enforcing the measures of state supervision. Therefore, should an EOD technician need to apply direct coercion to enforce the prohibition on stay while determining the explosives threat, then in the future the only legal means to be used is physical force.

In November 2019, the EOD commanders participated in a two-day training session held at the Estonian Academy of Security Sciences where they focused on the theoretical bases of public order related intervention and its practical implementation. After the training, the participants were asked to answer to a questionnaire in the LimeSurvey environment. The questionnaire was forwarded to 12 EOD commanders. 9 fully completed questionnaires were later received. The respondents' length of service in the area of EOD was 9-27 years, the average length of service was 16.5 years; therefore, the respondents had a great work experience and their answers had a practical value. The results of the survey revealed that the state supervision measures they are allowed to use are not sufficient for fulfilling the professional tasks of an EOD technician. Also, the list of the means of direct coercion needs amending.

First the respondents were provided with a list of the special measures stated in the Law Enforcement Act, and then they were asked to evaluate the importance of using them on a 5-

point scale, on which 5 means very important and 1 not important at all. All respondents marked it was the most important to have a right to apply the examination of premises and movables, and be allowed to enter into premises. Applying the taking into storage of movable, security check, prohibition on stay and the establishment of identity were seen almost as important (8 respondents out of 9). Seven respondents of nine stated it was important to stop a vehicle, question and require documents and establish identity by obtaining data from electronic communications undertaking. More than a half of the respondents (5 of 9) said it was also important to apply the detaining of a person. Establishment of identity by using monitoring equipment and by a special establishment measure were not marked as important. According to the current

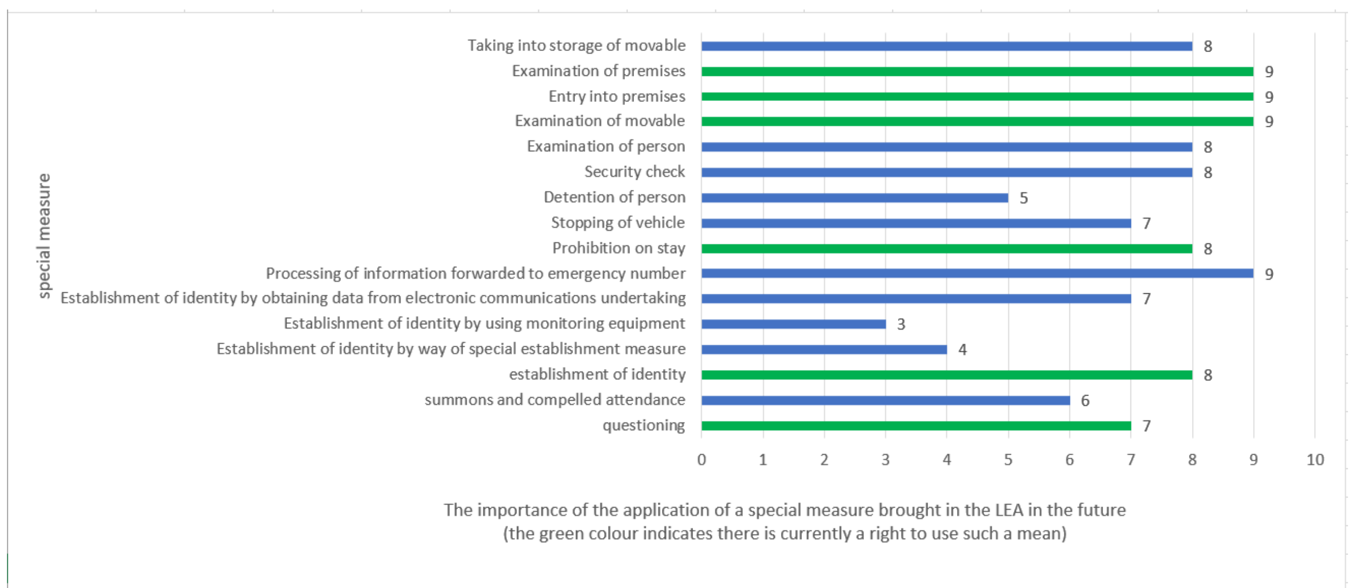

Figure 3. The importance of applying special measures in explosive ordnance disposal, based on the questionnaire carried out among EOD commanders (compiled by the author).

Rescue Act, EOD technicians have a right to question persons and require documents, establish identity, apply the prohibition on stay, enter into premises and examine movables and properties. EOD technicians should also have a right to carry out security check, examine persons and movables, take a movable into storage and detain a person (see Figure 3).

The respondents were asked to evaluate the need to use the means of direct coercion. The most important for the respondents was the right to use a gas weapon (8 respondents of 9), this was followed by the right to use binding means, technical barrier, a service animal, a firearm and physical force (6-7 respondents of 9). More than a half of the respondents brought out that EOD technicians should also have a right to force a vehicle to stop, use handcuffs and a pneumatic weapon. Using an electric shock weapon and a cut-and-thrust weapon has not been

brought out as important (4 and 2 respondents respectively). From amongst the means of direct coercion listed in the Law Enforcement Act, the EOD technicians can at the moment apply physical force, use a service animal and a firearm. According to the Rescue Act, they may also use an explosive device for special purposes that is not used against people (see Figure 4).

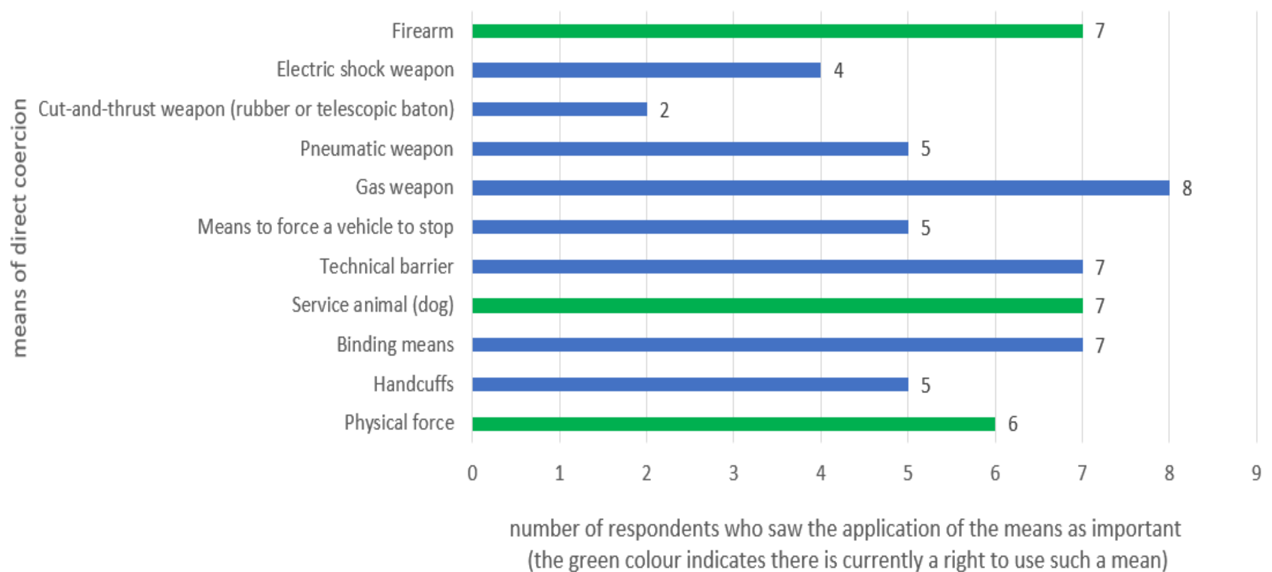

Figure 4. The importance of the means of direct coercion in explosive ordnance disposal (based on the questionnaire carried out among EOD commanders, compiled by the author).

RIGHT TO PERFORM SELF-DEFENCE AND THE USE OF THE MEANS OF DIRECT COERCION IN SELF-DEFENCE

During after work hours, a public order official can rely on criminal law related self-defence like a regular person.[46] Self-defence is divided into necessity (an act to avert a direct or immediate danger to the legal rights of the person or of another person) and act of necessity (the damaging of attacker's legal rights with the most lenient means in the defender's hands that has to meet the dangerousness of the attack)[47] and is in conformity with the theory of self-defence according to which the representative of the state powers, just like any other citizen, has a right to defend themselves in terms of self-defence. [48]

[46] Sootak, J., Pikamäe, P., 2015. Karistusseadustik. Kommenteeritud väljaanne, pp 103-110. Kirjastus Juura.
[47] Soo, A., Sootak, J. 2014. Right of Self-Defence in the Case-Law of the Criminal Chamber in the Past Decade. Juridica, II, pp. 145.; Penal Code 2019, § 28.
[48] Sootak, J. 2007. Crisis Resolution in the Estonian Legal System, from a Penal Law Aspect. Juridica, II, pp. 85; also see Table 2.

Table 2. Self-defence in different theories (Soo & Tarros 2015, pp. 712; Teder 2014, pp. 8-9; Sootak 2007, pp. 85; Kühl 2002, lk 112-113; compiled by Vanaisak).

Theory	Content and explanation
Public theory	The self-defence defined in criminal law is a general rule and the special rule defined in the specific law shall be applied
Criminal law related theory	The rights of the representative of state powers to apply legitimate self-defence arise from criminal law and they cannot be narrowed down with specific laws
Personal protection theory	The representative of state powers, just like any other citizen, has a right to defend themselves in terms of self-defence
Theory of separation	The criminal law related justifications and the authorisations arising from specific laws fall under different law branches and therefore do not legally depend on each other

On 17 March 2014, Indrek Teder, the Chancellor of Justice, proposed to ministers to legalise the police official's self-defence regulation and to analyse what was related to the State Liability Act. The same should also apply for other law enforcement officials who might risk with their life and health when fulfilling their duties.[49] Public authorities also have the constitutional right to defend the state and to live.[50] The analysis also has a connection with the EI inspectors, public order officials and RB EOD technicians, who may, while carrying out their duties, face a situation in which they are attacked. In a situation where the attack is caused by the official's official activity, not a person. For example, upon detaining a person, the suppression of a person's resistance transforms into the blocking of an attack against an official.[51] It is important that while fulfilling one's duties, one first has to rely on the regulations for the application of direct coercion as stated in the LEA. In situations which do not allow the application of direct coercion, but in which it is inevitable to protect the official's own life and health, the officials can rely on the penal law related regulation for self-defence.[52] According to the principle of legal clarity, a legal provision should provide officials' with clear instructions and certainty they act adequately.[53] For example, assistant police officers have state guarantees if violence is used with regard to them in connection with the performance of their duty and they have been injured, what is more, it has been clearly stated that they can use a firearm or an electric shock weapon for self-defence.[54] While on duty, a prison service official may use self-

[49] Chancellor of Justice. 2014. To legalise the police official's self-defence regulation, and to analyse what was related to the State Liability Act. Teder 2014, pp. 1. [Online material] Available at: https://www.oiguskantsler.ee/et/seisukohad/seisukoht/m%C3%A4rgukiri-politseiametnike-h%C3%A4dakaitse%C3%B5igus-ja-vahetu-sunni-rakendamine [Accessed on 13.05.2020].
[50] Constitution of the Republic of Estonia § 13, 16; Teder 2014, pp. 4.
[51] Teder 2014, pp. 8, 9.
[52] Teder 2014, pp. 16.
[53] Teder 2014, pp. 3; commented version of the Constitution of the Republic of Estonia § 12, subsection 16.
[54] Assistant Police Officer Act 2019, § 35, 38.

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

defence equipment and physical force to ensure their own safety.[55] The current Environmental Supervision Act[56] and Local Government Organisation Act[57] do not have such regulations. In December 2019, the Ministry of the Interior initiated a draft legislation to amend the Rescue Act and the Weapons Act. As a result of this amendment the rescue officials with the occupational qualification of an EOD technician may carry a service weapon upon fulfilling their duties (e.g. while conducting the EOD activities, attending CBRNE threats and attacks and while dealing with explosives). However, they could only use it while performing self-defence[58]. In a broad sense, the planned amendment is relevant, but then the only means of direct coercion EOD technicians may use are physical force, service animal and an explosive device for special purposes.[59] In the sense of public order protection, the work of EOD technicians is connected with the determining or countering serious threat[60], which means that while doing so they might face a situation in which they not only need to use a firearm to perform self-defence but need to do so to achieve a public order protection related aim.

CURRICULA NEED TO BE AMENDED WITH A SECTION ON DIRECT COERCION

The document analysis sample consists of curricula implemented at the Estonian Academy of Security Sciences[61], in addition to that, existent occupational qualification standards[62] are reviewed and compared with the police's direct coercion related training. It is aimed to give an overview to find out whether there is a sufficient amount of fundamental principles of the right of interference in the training, incl. the theoretical and practical part of the application of direct coercion, also recommendations for amending the documents are

[55] Imprisonment Act (2001), RT I, 06.05.2020, 1, § 71 subsection 2.
[56] Environmental Supervision Act (2001), RT I, 13.03.2019, 2.
[57] Local Government Organisation Act (1993), RT I, 29.06.2018, 1.
[58] Explanatory notes to the LEA 49, pp 9.
[59] A service animal is used… and an explosive device must not be used against people. *Rescue Act*, § 24[1]-26.
[60] In the sense of § 5 subsection 4 of the LEA, serious threat mostly means threat to a person's life, physical freedom, physical inviolability, threat of terror, great proprietary or environmental threat.
[61] Estonian Academy of Security Sciences, 2019. *Police Officer's curriculum.* [Online material] Available at:https://www.sisekaitse.ee/sites/default/files/inline-files/04.1_Politseiametniku%20%C3%B5ppekava%202018.pdf [Accessed on 12.05.2020]; Estonian Academy of Security Sciences, 2020. *EOD technician's curriculum.* Tallinn: Estonian Academy of Security Sciences Estonian Academy of Security Sciences, 2020; Estonian Academy of Security Sciences, 2019. *Supervisory official's training programme. Continuing education curriculum.* Tallinn: Estonian Academy of Security Sciences Estonian Academy of Security Sciences, 2019; Estonian Academy of Security Sciences, 2016. *Level 5 training for public order officials. Advanced training curriculum.* Tallinn: Estonian Academy of Security Sciences.
[62] Estonian Qualifications Authority, 2018. Occupational qualification standards. Available at: https://www.kutsekoda.ee/et/kutseregister/kutsestandardid/otsing [Accessed on 11.05.2020].

given.

Occupational qualification standard is a document that describes the job and the combination of the skills, knowledge and attitudes (aka competence requirements)[63] needed to successfully perform the job. Occupational qualification standard is used to compile new curriculum, incl. when assessing the outcomes to be achieved. The Estonian Qualification Authority has developed occupational standards for city and rural municipality public order officials and for EOD technicians that meet the requirements of the European Union Qualification Framework (EQF)[64]. There are no occupational standards developed for EI inspectors.

The curricula describe the achieved aims that are based on the competences described in the occupational standard. First a threshold level is determined (basic level), if a student manages to exceed this level, he/she has successfully completed the curriculum and achieved the described learning outcomes. [65]The volume of the module focusing on direct coercion and security tactics in the police official's curriculum implemented at the Estonian Academy of Security Sciences is 9 ECVET (234 academic hours), and the optional service dog module 8 academic hours. There is also training focusing on the legal basis of the application of direct coercion and the providing of first aid in the volume of app. 30 hours. Law enforcement experts suggest that depending on which means of direct coercion a public service official who is not a police officer should use, their training should include at least: legal bases for the application of direct coercion and the providing of first aid (24 hours), rules of security tactics (10 hours), the use of physical force, special means, a cut-and-thrust and a gas weapon (40 hours), the use of a fire arm (40 hours). The volume of the training would then be 124 hours, 114 of which would be practical.

According to the current acts of law, EI inspectors have a right to apply physical force, handcuffs and a service weapon while on duty. Learning outcomes of the curriculum for EI inspectors[66] and the description of the learning content support the using of physical force, handcuffs and a firearm, but there is nothing about using a service dog as a special means. The

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[63] *Ibid.*
[64] *Ibid.*
[65] Pilli, E., 2009. *Väljundipõhine hindamine kõrgkoolis, pp 9-18.*[Online material] Available at: http://dspace.ut.ee/bitstream/handle/10062/16496/hindamisraamat.pdf [Used 12.05.2020].
[66] Estonian Academy of Security Sciences, 2019. *Supervisory official's training programme. Continuing education curriculum.* Tallinn: Estonian Academy of Security Sciences Estonian Academy of Security Sciences, 2019.

current volume of direct coercion related training in their curriculum is little and only allows to demonstrate the acquired skills and practice some techniques; however, no skills are neither formed nor consolidated in such a short time. In dangerous situations where the application of direct coercion might be necessary, EI inspectors have to make decisions that are based on reflex movements.[67] In order to consolidate reflex skills the so-called repetition method is used. The repetition method is based on repeating one and the same movement; therefore, to acquire a basic skill, the student has to repeat one and the same movement continuously to stay cool and polish the motor program of their muscles.[68] If the list of the means of direct coercion applicable by EI inspectors were made more versatile (see Figure 1), and the right to use the means to force a vehicle to stop, cut-and thrust weapon, baton or a telescopic baton and a gas or an electric shock weapon were added, then the training volume should definitely be increased, recommendations are brought in table 3.

From amongst the means of direct coercion brought in the LEA, EOD technicians may use physical force, a service animal and a firearm.[69] According to the RA they may also use an explosive device for special purposes which is not used against a person. EOD technicians brought out a need to use more means of direct coercion (see Figure 3). In 2020 the occupational qualification standards and curriculum for EOD technicians were amended. The curriculum features the following topics in a sufficient volume: legal bases for applying direct coercion, providing of first aid to a person injured in the course of applying direct coercion, ways of using a service animal. Particular attention is paid on service weapon related training (52 hours of practical training). The training should also include the use of physical force, a gas and a pneumatic weapon and handcuffs, see recommendations in table 3.

Since the LGC public order officials have no right to apply direct coercion, the respective competences must be added to the occupational standard and the curriculum must be amended with the respective outcomes. LGC public order officials should have a right to apply physical force and use such special means as handcuffs, a gas weapon and a cut-and-thrust weapon, see table 3.

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[67] Birzer, M. L. 2003. Theory of Andragogy Applied to Police Training. Journal: *Policing: An International Journal of Police Strategies & Management 26/1,* pp. 29-42. Emerald Publishing.
[68] Kiveste, R. 2012. Politsei väljaõppe metoodika äkkrünnakute lahendamiseks, pp 17. Master's thesis. Estonian Academy of Security Sciences.
[69] *Rescue Act*, § 24[1] – Use of direct coerscion. Online material] Available at: https://www.riigiteataja.ee/en/eli/ee/520032019001/consolide/current#para24b1 [Used 13.05.2020].

Table 3. Amending of the direct coercion related training for public order officials who are not police officers (compiled by the author).

LGC public order official	Occupational qualification standard	Outcomes, topics and volume of the curriculum
		CURRENT
LGC public order official	The occupational qualification standard does not reflect the competence for the application of direct coercion.	Outcomes: - In the scope of their competence, conducts state supervision concerning the requirements for behaviour in a public space. - In the scope of their competence, applies the measures of state supervision and compiles documents. Volume: 28 hours (theoretical training, does not include fundamentals for the application of direct coercion).
EI inspector	No occupational qualification standard.	Outcomes: - Associates the principles of administrative proceedings and law enforcement law upon applying public order measures. - Upon applying public order measures, considers the requirements for legality. Volume: 6 hours - Knows the fundamentals of security tactics and the legal limits for the application of physical force. - Uses techniques for the application of physical force and basic kicking techniques. - Can use handcuffs and handle their service weapon. Volume: 21 hours.
RB EOD technician	The occupational qualification standard does not reflect the competence for the application of direct coercion.	Outcomes: - Knows the most important legal provisions and safety instructions of the fields of rescue and EOD and bordering fields, uses the legal provisions database upon solving a real-life situation. Volume: 15.6 hours. - BLS (Basic life support) – using a pocket mask performs basic resuscitation activities on a resuscitation dummy. Volume: 23.4 hours. - Knows the possibilities and functions of a dog upon responding to a bomb incident; - Explains the possibilities of using a dog to increase the safety of an EOD technician. Volume: 7.8 hours. - Explains the handling of service weapons according to valid regulations; - Uses a service weapon lawfully and safely, uses suitable tactics and fulfils the set shooting norms. Volume: 78 hours, 52 of which involve practice.
		NEEDS AMENDING
LGC public order official	Applies direct coercion purposefully and proportionally in order to enforce a state supervision measure.	Outcome: A public order official applies direct coercion purposefully and proportionally in order to enforce a state supervision measure. Topics: - Legal bases for the application of direct coercion, incl. rendering help to the injured. - Documenting. - Falling techniques, standing, distance and movement. - Detention techniques. - Breaking free of different holds. - Using of handcuffs and conducting security check. - Using of a cut-and-thrust and a gas weapon, different kicking techniques, blocking a cut-and-thrust weapon attack. Volume of contact classes: Lecture-seminar – 4 academic hours Practical exercises – 32 academic hours Demonstration – 2 academic hours. Individual learning: Documenting of the application of direct coercion, self-check tests – 10 academic hours
EI inspector	-	The aforementioned shall be added 40 academic hours of firearm training, and the training for the use of a service animal.
RB EOD technician	Applies direct coercion purposefully and proportionally in order to enforce a state supervision measure.	The curriculum shall be added the outcomes and topics related to the use of physical force, handcuffs, a gas weapon and a pneumatic weapon.

In order to guarantee the legal application of state supervision measures and direct

coercion, it is reasonable to state the requirements for becoming a public order official and the requirements for their training in the law. For example, there is a similar regulation in the Assistant Police Officer Act.[70]

CONCLUSIONS

Recommendations made and examples given by the EI heads of bureaus illustrate the need to homogenise the EI's application of the means of direct coercion brought in different acts of law, and to have a more detailed regulation for the use of the means of direct coercion while performing self-defence. Experts suggest inspectors should additionally have a right to use the following means of direct coercion - handcuffs, a gas weapon, a cut-and-thrust weapon, means to force a vehicle to stop. The current regulations are contradictory and there are deficiencies, the discords encourage uncertainty and therefore it might happen a situation remains unsolved. The exhaustive list of means of direct coercion should be brought in the Environmental Supervision Act.

The current RA and the planned amendments do not include an exhaustive list of the public order related activities carried out by EOD technicians. If the legislator and stake holders do not wish to consider EOD technicians as public order officials of a competent law enforcement agency, then there is no basis to give them the right to apply measures and use direct coercion "on the bases and pursuant to the procedure provided by the Law Enforcement Act". In such a case, EOD technicians work as typical administrative authority who have a right to issue administrative acts and take administrative actions, e.g. to conduct EOD they have a right to enter an owner's dwelling without previously obtaining a permit from the administrative court, or take the substances, materials and devices necessary for EOD following the principles of the duty to grant use of a thing. According to the author, it is not a reasonable solution, especially in those possible situations in which the police cannot support the work of EOD technicians due to fulfilling their own duties. One possible solution would be to provide EOD technicians with police training that would include the knowledge and skills of an EOD expert and police officer. In such case the principle of legal clarity is guaranteed since there would be clear provisions regulating officials' intervention and people could be confident that their rights are encroached on by competent officials. The questionnaire held among practitioners indicated that there is a need to amend the list of allowed special measures, EOD commanders suggest it

[70] *Assistent Police Officer Act* § 8 – training of assistent police officer and candidate for assistent police officer. Online material] Available at: https://www.riigiteataja.ee/en/eli/512052020001/consolide#para8 [Used 13.05.2020]

is important for them to carry out the examination of persons, security check, stop a vehicle and to take a movable into storage. From amongst the means of direct coercion, they said it would be necessary to add the right to use a gas weapon, binding means, handcuffs, a technical barrier, means to force a vehicle to stop and a pneumatic weapon (at the moment they are allowed to use physical force, a firearm and a service animal).

Currently city and rural municipality public order officials have no right to use direct coercion all. However, their supervision duties expect them to use physical force, handcuffs, a gas and a cut-and-thrust weapon the least. If we compare the duties of the LGC and the police to do with the checking of the compliance with the requirements stated in the Alcohol Act[71] and those related to the behaviour in a public place[72], it is evident the list of allowed measures should definitely be amended by adding the right to check and establish intoxication and the right to take people to recover from intoxication, but also the right to conduct security check and the right to examine a person.

The assignment of additional powers to apply measures and direct coercion is necessary since due to fulfilling their duties the police cannot always render assistance to other LEI, especially in a situation of crisis.

Self-defence regulation needs to be defined for all LEIs, it should be reflected in the primary laws of each area - Environmental Supervision Act, Rescue Act and Local Government Organisation Act.

The introduction of each additional measure, especially when it comes to the implementation of a specific means of direct coercion, has to bring about changes in the content and volume of training.

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[71] *Liquid Fuel Act* (2003), RT I, 15.03.2019, 16, § 49-50.
[72] LEA 2019, § 57^1-57^2.

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ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinių straipsnių rinkinys
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Scientific articles

II DALIS

PART 2

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

TRAINING OPTIONS FOR IMMIGRANTS FACING INDUSTRY 4.0 PROGRESS IN THE U.S.: ANALYSIS OF CALIFORNIA STATE

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DOI: 10.13165/PSPO-20-24-13

Annotation. Industry 4.0 is changing the nature of work and shaping new requirements for employees, requiring them to perform new roles with new required skills, mostly connected with digitalization and IT. The US has one of the biggest number of industrial robots and immigrants in the world, and has developed immigration policies. In this article based we analyze what are current options for immigrants in California, the USA to get re-training or new work skills to prepare for new roles in workforce in anticipation of changes due to Industry 4.0 progress. Study is done using content analysis of training documents in California State.

Keywords: Immigrants; Industry 4.0; Training; U.S.

INTRODUCTION

As Industry 4.0 progresses through the World, there are different viewpoints among different groups of population on how it will affect current workforce and future jobs (Weber, 2016; Eberhard, *et al.,* 2017; Hirschi, 2018; David & Dorn, 2013). Many developed countries face high inflows of migrants, which become a part of their labor markets. Min *et al.* (2019) highlight that there will be significant changes among industries as Industry 4.0 will directly or not directly affect all levels of workforce. Therefore, migrants should be integrated into labor market and requirements risen by Industry 4.0. As Brown and Lauder (2006) stress out, policy-makers often shape neoliberal governance in response to the need to reform and thus improve education in order respond to rapid global change, and to secure a place in world labor market. Moreover, Kurki *et al.* (2018) analyzing a case of Finland revealed that migrants are involved in the integration process and participating in integration training programs to get educated and

employed but from other side they still stay "just immigrants" what harms society generally. Analyzing a case of Germany, which has the highest rate of immigrants in Europe, Thomsen *et al.* (2013) found out that assignments of immigrants to job search training and combined training programs are not efficient and should be reconsidered.

United States is the leading country of immigrants in the world, fulfilling its labor market with immigrants. In addition, according to CityLab, there are 29 mega-regions around the world that have populations of five million or more and generate economic output of more than $300 billion. These mega-regions are the powerhouses of the global economy (Florida, 2019). Eight out of these mega-regions are located in the United States. Therefore, training possibilities are very important for immigrants that they could be full members of the society and could be integrated into the labor market. For the immigrants already settled in the United States, there are several major avenues that available in order to get a chance to obtain better paying jobs, qualify for the jobs that they were occupying in their home country or get training to qualify for new skilled jobs: government, state funded or organized programs, nonprofit or community based organizations, and on-job training, apprenticeship or union based programs. All these categories vastly differ depending on the State across the United States. Typically, they are more clustered in the regions where are more immigrants or immigrants tend to move to the places where infrastructure is more adapted to their needs. California has the biggest number of immigrants and two mega-regions; therefore, it was taken as example for study analyzing training possibilities for immigrants in the U.S.

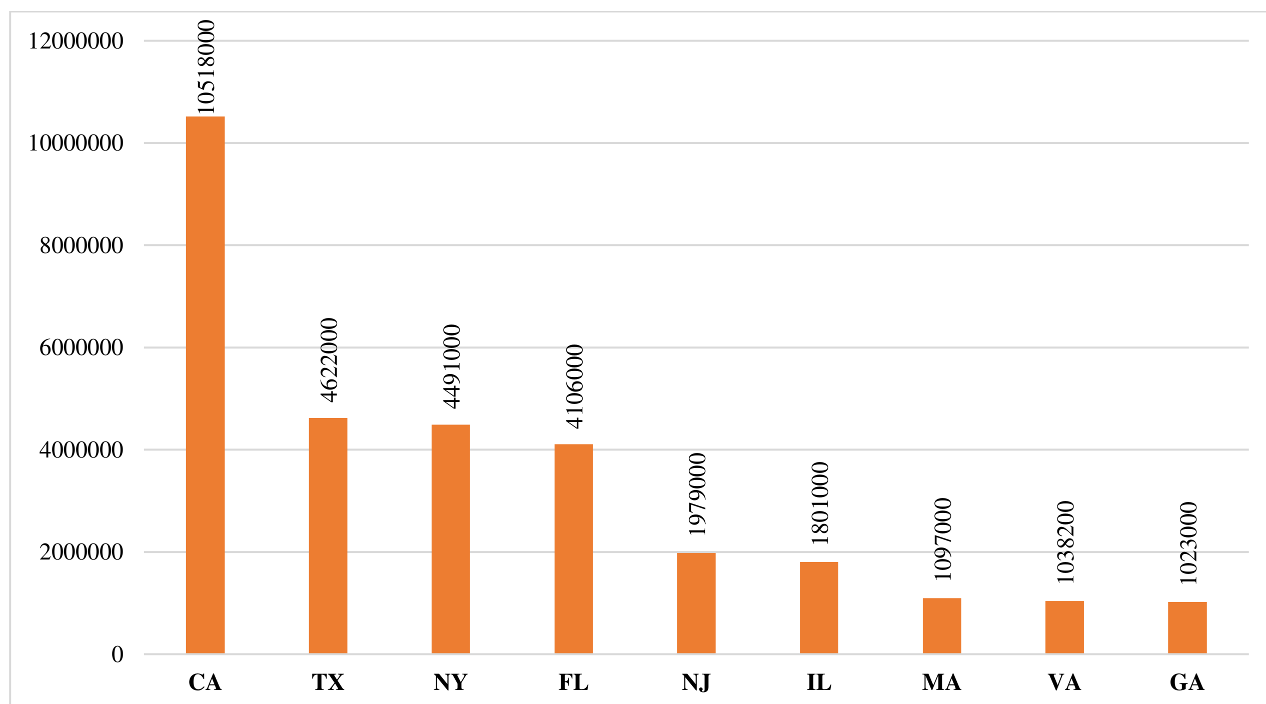
The aim of the article is to reveal training possibilities, existing for immigrants facing Industry 4.0 progress in California, the U.S.

Methods of the research. To reach the aim, content analysis of documents presenting training services in California was used.

MIGRATION OVERVIEW IN THE U.S.

The U.S. is a leading country of immigrants in the world. The term "immigrant" (or "foreign born") here refers to people residing in the United States who were not U.S. citizens at birth. This population includes naturalized citizens, lawful permanent residents (LPRs), certain legal nonimmigrants (e.g., persons or student on work visas), those admitted under refugee or asylum status, and persons illegally residing in the United States. Immigrants make up about one sixth of the United States' workforce (Bernstein & Vilter 2018).

According to Migration Policy Institute tabulation of data from the U.S. Census Bureau's pooled 2014-2018 American Community Survey, total Immigrant Population in the United States is 43,537,500 (U.S. Immigrant Population by state and county, 2018). Nine out of 52 States each houses more than a million immigrants. These states are California, Texas, New York, Florida, New Jersey, Illinois, Massachusetts, Virginia and Georgia (see Figure 1).



Source: U.S. Immigrant Population by state and county. *Migration Policy Institute*, 2018

Figure 1. States having immigrant population over 1 million in the U.S.

Based on estimates from American Immigration Council Staff, nearly 25 percent of college-educated immigrants (or around 2 million people) are either unemployed or are working in the jobs that don't require more than high school education (How Experts Are Addressing Immigrant Underemployment and Why it Matters, 2018); therefore, the concern for shortage of skilled workforce required for Industry 4.0 could be lessened by providing more accessible retraining or recertification for skilled immigrants. The main barriers to get better paying, skilled jobs for immigrants are limited English proficiency and lack of recognition for foreign education and training; therefore, difficulty transferring foreign credentials and job experiences into the US job markets (Bernstein & Vilter 2018).

We separated nine states that has the most immigrants. Simultaneously, the same eight states (excluding Virginia) have economic output over $300 Billion (see Table 1).

Table 1. Mega-regions in the U.S.

Mega-region	Cities	States	Population	Economic Output
1. Bos-Wash	New York, Washington D.C., Boston	NY, DC, MA, NJ	47.6M	$3,650B
3. Chi-Pitts	Chicago, Detroit, Cleveland, Pittsburgh	IL, MI, OH, PA	32.9M	$2,130B
5. SoCal	Los Angeles, San Diego	CA	22M	$1,424B
7. Texas Triangle	Dallas, Houston, San Antonio, Austin	TX	18.4M	$1,227B
11.NorCal	San Francisco, San Jose	CA	10.8M	$925B
15.Char-Lanta	Charlotte, Atlanta	NC, GA	10.5M	$656B
16.Cascadia	Seattle, Portland	OR, WA	8.8M	$627B
23.So-Flo	Miami, Tampa	FL	9.1M	$470B

Source: Florida, R. The real powerhouses that drive the Word's economy. *Citylab,* 2019

Therefore, implementation of Industry 4.0 will affect the majority of immigrants in these states. To prepare for work in the Industry 4.0, immigrants have to find a way to re-train for the jobs that would be accepted in the Industry 4.0. As the state, California has the most immigrants and hosts two economic mega-regions; therefore, it is taken for analysis in this paper.

IMMIGRANTS IN CALIFORNIA

In 2018, the most current year of data, 27% of California's population was foreign born, more than double the percentage in the rest of the country (How Experts Are Addressing Immigrant Underemployment and Why it Matters, 2018). Foreign-born residents represented at least one-third of the population in five California counties: Santa Clara (39%), San Francisco (36%), San Mateo (35%), Los Angeles (34%), and Alameda (33%) (Johnson, Sanchez, 2020). Based on American Immigration Council analysis of U.S. Census Bureau's 2017 American Community Survey, 24.7% of immigrants in California has college degree or higher, 18.6% has some college education, 19.6% high school diploma only and 34.4% did not finish high school (Immigrants in California, 2017).

Based on information from American Immigration Council (2017), 6.6 million immigrants made up 33.9% of labor force in California in 2015. The industry that the most immigrants were occupied in was manufacturing. 930,261 (45.6% of all workers) were immigrants in that industry. Looking at occupation, 53.3% of production workers were immigrants, 43.0% - of construction and extraction, 41.3% - computer and mathematical science in California in 2017 (Immigrants in California, 2017).

Even though California is the most populated state by immigrants, it is not leading in automation of manufacturing among the other USA states in total count of robots. According

to Tuttle (2017), California is in the fourth place among the states by total count of robots at 17,844. However, the population is so huge it has in average only 1.2 robot per 1000 workers. The robots are concentrated only in several areas of California (see Table 2).

Table 2. Number of robots per 1000 workers in California State (Liu, 2019)

Place in the U.S.	Region	Number of robots per 1000 workers
1	Los Angeles - Long Beach - Santa Ana	6.91
8	San Jose - Sunnyvale - Santa Clara	1.438
15	Riverside - San Bernardino - Ontario	1.042
18	San Diego - Carlsbad - San Marcos region	0.95

Source**:** Tuttle, B. Half of America's Robot Workforce Is Located in Just 10 States. *Money,* 2017

These regions are most susceptible to automation and artificial intelligence effect on workforce. However, latest Brookings Institute report indicates that by 2030 in Los Angeles - Long Beach - Santa Ana region's 45.6% of share of tasks of all occupations will be affected by machines; San Jose - Sunnyvale - Santa Clara region - 40.4%; Riverside - San Bernardino - Ontario region - 47.6%; San Diego - Carlsbad - San Marcos region - 45.0% (Muro, Maxin, & Whiton, 2019). It demonstrates importance of growing robotization. Therefore, it is important to analyze what choices immigrants have to retrain, improve their qualifications and skills in anticipation of upcoming changes in workforce demands.

CALIFORNIA STATE TRAINING OPPORTUNITIES

Governmental programs

The main program for immigrants is called Find Jobs & Training (California Immigrant Guide)[1]. It is dedicated for newly arrived immigrants to find job and training and helps with legal immigration advice. Employment Development Department State of California agency (EDD)[2] offers a variety of training services and programs at no cost, designed to benefit job seekers and individuals, employers and businesses, and workforce partners (Employment Development Department State of California) [3]. EDD centers are located very conveniently in every major city of California and offers no cost interview training, workshops and job placements assistance. However, as of now, it is not designed to assist high skilled workers with obtaining higher skilled work or compete for high paying job.

[1] https://immigrantguide.ca.gov/en/FindJobsAndTrainin-g
[2] https://www.edd.ca.gov/Jobs_and_Training/Training_I-nformation.htm
[3] https://www.edd.ca.gov/Jobs_and_Training/Training_I-nformation.htm

As California has many rural areas with seasonal workers that mostly are immigrants, state agency La Cooperativa offers education and employment services in rural areas through its member organizations. Their programs help farm workers with job readiness and training programs. La Cooperativa and its members implement the National Farmworker Jobs Program in California (La Cooperativa Compesina de California) [4]. Because seasonal workers' earnings belong on the length of the season and climate change, La Cooperativa offers training and opportunities for farm workers to obtain jobs that are not seasonal assuring earning throughout the year. As seasonal workers tent to have less education and less English proficiency, the training is provided for entry level jobs and ESL classes. In addition, La Cooperativa offers bilingual training and serves people who are not English speakers.

Several factors limit immigrant ability to be enrolled into these programs. The most important is that majority of immigrants have limited English proficiency (Bernstein & Vilter, 2018; Skills and Training for New Americans: Creating a Thriving Economy that Works for All of Us, 2016; English Innovations, 2019). Most of English proficiency adult education programs are fully funded by the federal or local government; however, currently there are not enough Adult Education centers to meet the needs of all interested. The limited English proficiency also limits immigrants' options to apply to job training or re-training programs due to lack of understanding of job-related terminology.

To help with the search of Adult Education, there is a state website https://caladulted.org/. All users can find an adult school or community college in their area; learn about adult education programs and student supports, access program guidance and updates. However, the most affordable adult education is provided by Adult Schools[5]. Through a vast array of programs and courses, most of them offered free or at very low cost, California Adult Schools assist all adults—including parents, older adults, disabled adults, and recent immigrants—deal with the complexities of life in California. The system of nearly 400 schools makes it convenient and affordable for all students to reach their educational, training, career and personal goals (California Adult Schools: Learning for Life) [6]. As many federal and state programs, adult schools are very helpful step to get newly arrived immigrant to settle and get a first-time job in the United Sates; however, adult schools are not offering training required for

[4] http://www.lacooperativa.org/services-offered/
[5] https://caladulted.org/
[6] https://caladulted.org/

high skill jobs. Therefore, they are not helpful when looking for training or certification for high skilled and high paying job.

One of the affordable and useful organizations to help with English as a second language learning and variety of short-term training courses are community colleges (Lowe & Casner-Lotto, 2014). The best way to find nearest community college is to search in California Community Colleges website. Community colleges are educational institutions unique to United States that are located very conveniently and widely in the US. Community colleges not only offer two-year college degrees and secondary/high school graduation certification, but also English as a Second Language classes and many technical and vocational training that helps immigrants to re-train or learn new job skills to better position themselves in the job markets (Lowe & Casner-Lotto, 2014).

The California Community Colleges is the largest system of higher education in the nation, with 2.1 million students attending 113 colleges (California Community Colleges) [7]. The draw back here is the cost. Even though community college has comparably lower cost for residents of the region, the cost might be too high for newly arrived and not adapted yet immigrants. Nevertheless, community colleges offer courses that are transferable to Universities and, because of the much lower education cost than in Universities, could be a good start to obtain bachelor's degree for higher reaching immigrants to compete for high skilled and high pay job.

Moreover, there are 15 California Community Colleges that participate in pilot program that started in 2017-2018 year and offers specialized Bachelor's Degrees (Santa Rosa Junior College) [8]. These degrees are not offered in any UC (University of California) [9] or CSU (California State University) [10]. Degrees like Biomanufacturing in Mira Costa[11] and Solano[12] colleges, Industrial Automation in Bakersfield[13] college or Interaction Design in Santa Monica[14] college. With new roles immerging during Industry 4.0 implementation, Community

[7] https://www.cccco.edu/
[8] https://transfer.santarosa.edu/ca-community-colleges-offering-bachelors-degrees
[9] https://www.universityofcalifornia.edu/
[10] https://www2.calstate.edu/
[11] http://www.miracosta.edu/
[12] http://www.solano.edu/
[13] https://www.bakersfieldcollege.edu/
[14] http://www.smc.edu/Pages/Home.aspx

Colleges might become affordable and conveniently located educational institutions for existing immigrants to re-train for a high skilled jobs.

Assistance of Nonprofit Organizations

Nonprofit organizations in California are playing huge role in new immigrants' ability to orient themselves in host country's infrastructure. There are variety of nonprofit organizations that organize English learning courses and vocational training for immigrants for no or low cost. For example, The Immigrant Learning Center[15], Upwardly Global[16], Canal Alliance[17], Center for Employment Training[18], Mission Language and Vocational School Inc.[19], and many others. However, the variety of nonprofit organizations help mostly newly arrived immigrant to adjust to the new country, get basic training and find entry jobs. Their main concern is to assist low income, low skilled immigrants with their settlement in new country. They are not concerned about existing immigrants obtaining better paying jobs in the evolving highly competitive Industry 4.0 job market.

Many religion-based groups offer assistance for immigrants with English language skills and vocational development as well. For example, Catholic Family Center[20], Catholic Charities[21], Jewish Vocational Services[22], and others. However, as with nonprofit organizations, the training would concentrate on entry level jobs and adjustments to new kind of living in the host country.

The main focus of ethnicity-based communities is to preserve national identity, culture and language while immigrants strive to adapt in the host country. The irony is that, when new arrivals come to the US, first they get in touch with their ethnic community to find some common ground at the beginning of their not easy journey in adaptation to the new culture, new customs, new infrastructure, and sometimes new language. The ethnic community might help with providing new arrivals with low-skilled job opportunities to help them survive at the beginning, but there is no organized help from the community in providing information or guidance about availability of English language or vocational training resources in the

[15] https://www.ilctr.org/programs
[16] https://www.upwardlyglobal.org/
[17] https://canalalliance.org/
[18] https://cetweb.edu/
[19] https://www.mlvschool.org/mission-statement
[20] https://www.cfcrochester.org/our-services/welcoming-refugees-and-immigrants/
[21] https://www.catholiccharitiesusa.org/our-ministry/immigration-refugee-services/
[22] https://www.jvs.org/

immediate area. Therefore, there is tendency for new immigrants, especially who is not English language proficient, to stay among their ethnic groups for too long and become reluctant to get adapted to the new culture. These people rather work low-skilled jobs than face the challenge to find the available resources for training.

On-job Training, Apprenticeship or Trade Union based programs

On the other hand, more and more young immigrants come to US to find their new future - they strive to go into the world to learn new things and to acquire new skills that would help them to get high paid jobs. Besides government offered, nonprofit or community-based programs, these people can also benefit from on-job training, apprenticeship or Trade Union based programs. On-job training helps immigrants grow in the business. Usually, employees start from the lowest position in the company at the base salary and with the provided on-job training works their way up to higher-skilled jobs with better pay. This type of training is beneficial to both employee and employer as employee gains necessary skills for advancement in his/her career and employer retains the employee who has the right training for the particular job in the company (Bleich, 2019; Tismal, Awais, and Shoaib, 2016). This type of training might be very beneficial when company or industry adjust immerging new roles for Industry 4.0. If company strategically plans to retain its current workforce when the roles shift adjusting to Industry 4.0 requirements, company's HR or training departments can develop on-job training programs to offer existing employees, if they are willing, to re-train for the continuous employment in the Industry 4.0 company.

Another program sponsored by State of California Department of Industrial Relations is Apprenticeship. Apprenticeship is an industry-driven, high-quality career pathway where employers can develop and prepare their future workforce, and individuals can obtain paid work experience, classroom instructions, and a portable, nationally recognized credential (Apprenticeship Program Information) [23]. Apprenticeship is a worker-training model that combines on-job training with classroom instructions. This type of training is not very widely popular in the US, but is recognized as one of beneficial training tools for both employee and employer (Steinberg & Schwartz, 2014).

[23] https://www.dir.ca.gov/databases/das/results_aiglist.asp?varCounty=%25&varType=%25&Submit=Search

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

According to Department of Industrial Relation (Apprenticeship Program Information), there are 660 apprenticeship programs in the state of California. The programs train for such professions as Avionics Technician, CNC Machine Operator, Cyber Security Machinist, Engineer Technician - Robotic/Automation and several more that would benefit employers when new Industry 4.0 roles become available. Immigrants here has opportunities to learn high-level skills and advance in their career while working and getting class education at the same time. While most of the apprenticeship programs are being organized by the company, some of them are created by labor unions. Apprenticeship is also one of the opportunities for companies or industries to prepare work force for emerging Industry 4.0 roles as well as existing immigrants to take advantage of getting training while working.

There are new models emerging for developing the employment skills of immigrants through contextualized English language programs that build vocabulary specific to an industry or employer, as well as integrated education and training programs, which can combine adult education and technical skills training so that immigrants could build both sets of skills concurrently (Skills and Training for New Americans: Creating a Thriving Economy that Works for All of Us, 2016; English Innovations, 2019). This training path would fit more to new immigrants or the immigrants who has training and experience but limited English proficiency to be able to apply their knowledge and experience in the US job markets.

CONCLUSIONS

As having the most immigrants in the world, the US has history of integrating them into its workforce and lifestyle. We could conclude that there are many avenues for immigrants to seek education and training to acquire new skills for changing workforce. There is no doubt that new training programs will immerge, or existing programs will adjust in preparation to new roles required to work in Industry 4.0.

To analyze what training and leaning is available for immigrants, it needs to be noted that in the United States, if you are legally living in the country, there are no restrictions to attend training or learning programs for any legal resident of the US. However, the difficulties that immigrants face when looking for the programs or participating in them are English language proficiency, lack of information on how to find these programs, and lack of understanding what re-training or educational gaps needs to be filled in order to meet United States' licensing for skilled workers (Morse & Chanda, 2018).

At the moment, California has much to offer to immigrants who wants to get education or re-training to acquire new skills for existing jobs. However, not all immigrants are either willing or can afford to explore these opportunities; on the other hand, most affordable training/education programs are very high in demand and cannot accommodate all who wants to attend. There is a need for more and understandable information to reach immigrants and more affordable programs/education for immigrants to be able to participate in the competitive workforce of California, what could be highlighted as further research direction. In addition, comparing to many home countries, the existing immigrants are already earning more and their life quality is much better in the United States; therefore, many immigrants have no desire to reach for the better paying, high skilled jobs if it will require additional educational or/and financial input.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

APLINKAI DRAUGIŠKAS DARBUOTOJŲ ELGESYS DARBO VIETOJE

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DOI: 10.13165/PSPO-20-24-14

Anotacija. Žvelgiant iš organizacijų vadybos prizmės, draugiškas aplinkai elgesys laikomas vienu esminių veiksnių, lemiančių organizacijų vystymosi raidą ir sėkmę dabartinėje darbo rinkoje bei verslo aplinkoje. Žvelgiant iš darbuotojų perspektyvos, jie gali atsakingai (neatsakingai) elgtis tiek namų, tiek darbo aplinkoje. Šiame straipsnyje apibūdinamas draugiškas aplinkai darbuotojų elgesys darbo vietoje, pagrindžiama jo svarba. Taip pat analizuojama išorinių, vidinių bei socialinių ir demografinių veiksnių įtaka darbuotojų draugiškam aplinkai elgesiui darbo vietoje.

Pagrindinės sąvokos: darbuotojų elgsena, draugiškas aplinkai elgesys, aplinkosaugos problemos, ekologinės problemos.

ĮVADAS

Aplinkosauginės problemos tapo vienu iš svarbiausių iššūkių su kuriuo susiduria XXI a. visuomenė, verslas ir kiekvienas individas. Iš literatūros duomenų matome, kad kasmet pasaulio vidutinė oro temperatūra didėja jau net keli dešimtmečiai. Vadovaujantis įvairiais IPCC scenarijais, apskaičiuota, kad, lyginant su 1990 m., vidutinė pasaulio temperatūra nuo 1980 m. iki XXI a. pabaigos kils nuo 1,8° C (1,1–2,9° C) iki 4° C (2,4–6,4° C) (Scientific facts, 2007, IPCC, 2007).

Žmogus nuo pramonės revoliucijos perversmo pradžios pradėjo keisti atmosferos cheminę sudėtį ir taip sustiprino šiltnamio efektą. Klimato šiltėjimas gali sukelti katastrofinius padarinius ateityje: kylantis vandenyno lygis, ledynų tirpimas, vegetacijos pokyčiai, intensyvėjančios sausros, kintantis kritulių kiekis, dažnėjantys upių potvyniai, stichiniai reiškiniai – atogrąžų ciklonai, uraganai, liūtys, speigai, sausros (Bansal ir Gangopadhyay,

2003). Visi šie globaliniai atšilimai, klimato kaita ir kiti kataklizminiai reiškiniai vyksta dėl verslo, visuomenės ir kiekvieno individo veiklos (Scientific facts, 2007; IPCC, 2007).

Svarbu pabrėžti, kad kalbant apie žmogaus veiklą turime omenyje ne tik jo elgesį namuose ar gamtoje, bet ir elgseną darbo vietoje (Sridhar ir Jones 2013). Manoma, kad visa ši veikla ateityje atsigręš prieš pačius žmonės, kurie dabar neatsakingai ir atsainiai, „laisva ranka" elgiasi su gamta ir jos ištekliais (Bansal ir Gangopadhyay 2003). Tačiau, svarbu paminėti, kad bėgant dešimtmečiams vis dažniau tiek darbe, tiek namuose bei žiniasklaidoje girdime „rūšiavimas", „elektros energijos taupymas", „atsakingas apsipirkimas", apsipirkimo metu atsisakymas vienkartinių maišelių, atsisakymas automobilio ar pasirinkimas ekologiškesnės transporto priemonės ar pan. (Bansal ir Gangopadhyay 2003; Sridhar ir Jones 2013). Visa tai atspindi skatinamą draugišką aplinkai elgesį tiek namų sąlygomis, tiek darbo vietoje. Taip yra todėl, kad jei žmogus nesusirūpins savo poveikiu aplinkai ir prieš naudojant vienus ar kitus resursus nesusimąstys apie keliamą žalą aplinkai, ateityje visuomenėje bus keliami dar didesni iššūkiai. Vis dažniau pastebime, kad versle vis daugėja organizacijų, kurios skatina draugišką elgesį su aplinka darbe. Pavyzdžiui, kuria ekologiškas kosmetikos pakuotes, ekologiškų produktų vystymą skatina ar pan. Tačiau galime pastebėti, kad ne tik organizacijos savo veikla skatina draugišką aplinkai elgesį. Vis daugiau įmonių yra suinteresuotos skatinti darbuotojus elgtis draugiškai su aplinka, pavyzdžiui, rūšiuoti atliekas, naudoti ekologiškus produktus, nesirinkti vienkartinių maišelių ar pan. Neretai vis dažniau pastebime, kad ypatingai didelį suinteresuotumą turi organizacijų vadovai, siekdami sukurti darbe puikų darbo aplinkos klimatą, kuris skatintų elgtis atsakingai ne tik pačią organizaciją, bet ir jos darbuotojus. Toks organizacijos elgesys, padėtų ir motyvuotų darbuotoją vis labiau skatinti tiek save, tiek kolegas vystyti draugišką elgesį darbe. Vis dažniau organizacijų darbuotojų kalboje girdime terminą „socialinė atsakomybė" skatinant draugišką elgesį darbo vietoje (Tang, E., Fryxell, G. E., Chow, C. S. F., 2004). Tačiau galima būtų teigti, kad beveik kiekviena organizacija turi tik jai vienai būdingas nusistovėjusias tradicijas, vertybes, politiką, tam tikras nuostatas, teisės bei etikos normas, kas ir atspindi organizacinę socialinę atsakomybę. Dauguma organizacijų turi aiškų požiūrį į tai, kas laikoma „geru" ir „blogu" darbuotojų ir įvairių bendruomenės grupių draugišku elgesiu darbo vietoje. Taip pat svarbu paminėti ir tai, kad jei darbuotojas jaučia, kad organizacijos draugiškos elgesio darbe vertybės ir jo vertybės sutampa, tikėtina, kad jis bus patenkintas ir lojalus įmonei.

Skirtingoms verslo sritims yra aktualios skirtingos socialinės atsakomybės formos, elgsena darbo vietoje, vystant draugišką aplinkai elgesį darbo vietoje, priklausomai nuo veiklos pobūdžio. Organizacinė kultūra ir vystomas draugiškas aplinkai elgesys darbo vietoje apima visa tai, kas glaudžiai siejasi su organizacija, pradedant nuo vystomų vertybių, darbuotojų tarpusavio santykių, sukuriamos darbo aplinkos, darbuotojų aprangos, bendravimo su klientais, baigiant socialine atsakomybe darbo vietoje.

Literatūros duomenimis galime teigti, kad darbuotojų elgesys ir požiūris į aplinką buvo plačiai ištirtas išsivysčiusiose šalyse (Bodur ir Sarigöllü 2005; Shabnam 2013). Vis dažniau darbuotojai elgiasi etiškai ir atsakingai tiek perkant, tiek parduodant ar naudojant produktą, inventorių, būtent taip išreikšdami savo asmeninę atsakomybę vystant draugišką elgesį darbo vietoje (De Pelsmacker ir kt., 2005; Shaw ir Shiu, 2002). Daug firmų investavo į aplinkai nekenksmingų produktų gamybos projektus, kad sukurtų įmonėje draugišką aplinkai terpę darbo vietoje. Įmonės priverstos pakeisti savo rinkodaros strategiją (Chen ir Chang 2013), nes didėja tiek darbuotojų, tiek vartotojų susidomėjimas tokiais produktais, kurie yra ekologiški, netestuoti su gyvūnais ar pagaminti būtent tokia metodika, kuri taupo, saugo aplinką, gamtą bei kitus resursus (Sinkin ir kt., 2008). Išsaugant draugišką elgesį darbo vietoje, socialinę atsakomybę bei kultūrą, įmonė sukuria konkurencinį pranašumą, kitų įmonių atžvilgiu (Walls ir kt., 2011).

Mokslinė problema. Kaip pasireiškia draugiškas aplinkai darbuotojų elgesys darbo vietoje ir kokie veiksniai jį lemia?

Tiek įmonių socialinė atsakomybė, tiek organizacinė kultūra, kurią stengiamasi įmonėje sukurti, kuriant draugišką aplinkai elgesį darbo vietoje bei jų įtaka organizacijos veiklos rezultatams ir kiekvienam jos darbuotojui atskirai, yra aktualios šiuolaikinės organizacijos valdymo proceso dalys. Tačiau Lietuvoje vadovai retai pasitelkia socialinę atsakomybę bei organizacinę kultūrą organizacijų veiklai skatinti ir plėtoti draugišką aplinkai elgesį darbo vietoje, taip sukurdami konkurencinį pranašumą prieš kitas įmones. To išdava – nepakankamas organizacinės kultūros bei socialinės atsakomybės panaudojimas įmonės veikloje, kuriant draugišką aplinkai elgesį darbo vietoje.

Naujumas. Taip pat apžvelgus literatūrą, pasak tyrėjų, manoma, kad ne tik įmonės vertybės, kultūra ir vystomas draugiškas elgesys darbo vietoje yra lemiamasis faktorius, bet ir asmenybės bruožai yra neatsiejami nuo draugiško aplinkai elgesio vystymo darbo vietoje (Patel ir kt., 2017). Anot Wango 2010 m., vadovo pareiga yra padėti darbuotojams įvertinti savo

asmenines savybes, silpnybes ir stipriąsias puses bei atskleisti darbuotojams atsakomybę ne tik prieš kitus, bet ir prieš patį save. Be to, poreikiai turi pakilti iki aukščiausio lygio funkcionavimo, kur svarbiausi žmogaus poreikiai turėtų būti komandinis darbas, lojalumas, atsakingumas, sąžiningumas ir lygybė, darantys įtaką draugiškam elgesiui darbo aplinkoje. Tačiau aiškus atsakymas yra tas, kad tam tikslui įgytos asmenybės savybės ne visada skatina etišką ir kultūringą organizacinį klimatą. Kol kas nėra aiškios mokslinės literatūros apie tai, ar asmenybės bruožai ar demografiniai ypatumai yra susiję su draugišku elgesiu darbo vietoje. Tyrėjai neatskleidžia ar asmenybės bruožai lemia atsidavimą organizacijai (Guagnano ir kt., 1995). Taigi kyla klausimas – kokie veiksniai lemia aplinkai draugišką darbuotojų elgesį darbo vietoje. Straipsnis parengtas naudojant mokslinės literatūros palyginamąją analizę ir apibendrinimą.

Straipsnio tikslas – atskleisti aplinkai draugišką darbuotojų elgesį darbo vietoje ir jį lemiančius veiksnius.

Tyrimo metodai. Literatūrinės analizės apžvalga.

TEORINIS KONTEKSTAS

Šiame skyriuje pateikiama draugiško aplinkai elgesio analizė bei aptariami vidiniai ir išoriniai draugišką aplinkai darbuotojo elgesį skatinantys veiksniai bei sociodemografinės charakteristikos kaip svarbus draugišką aplinkai darbuotojo elgesio lemiantis veiksnys.

Draugiškas aplinkai darbuotojų elgesys darbo vietoje

Tvaraus vystymosi šalininkų siekiamybė, kad draugiškas aplinkai darbuotojų elgesys taptų viena iš esminių kiekvieno individo vertybių. Draugiškas aplinkai darbuotojų elgesys darbo vietoje paprastai suprantamas kaip elgesys, kuriuo sąmoningai siekiame išsaugoti švaresnę aplinką, taupyti naudojamus tiek atsinaujinančius, tiek neatsinaujinančius resursus, naudoti mažiau aplinką teršiančius resursus (Soyez, 2012). Draugiškas aplinkai darbuotojų elgesys darbo vietoje skatina elgtis teisingai, atsakingai bei sąmoningai. Vis dažniau žmonės yra skatinami elgtis draugiškai su aplinka, taupyti energijos šaltinius, naudoti netoksiškas medžiagas, mažinti atliekas, naudoti tas pačias valymo priemones ar tirpiklius kelis kartus, užuot pilant į kanalizaciją (Kollmussas ir Agyemanas, 2002, 240 p.).

Draugiško aplinkai darbuotojų elgesio plėtojimas darbo vietoje glaudžiai susijęs su ekonomikos plėtra. Viena vertus, ekonomikos plėtra reikalauja daugiau gamtos išteklių, o kita

vertus, stipri ekonomika turi daugiau galimybių naudoti švaresnes technologijas, sklandžiau ir greičiau spręsti aplinkos apsaugos klausimus (Soyez, 2012). Vystant draugiško aplinkai darbuotojų elgesio darbo vietoje sistemą yra užtikrinama verslo plėtra, sumažinamos žaliavų ir energijos sąnaudos, mažinamos atliekų tvarkymo išlaidos, pasiruošiama griežtėjantiems teisiniams reikalavimams, gerinamos darbo sąlygas ir mažinami nelaimingų atsitikimų skaičiai darbe bei gerinami santykiai su įvairiomis suinteresuotomis šalimis (Gooch, 1995).

Viena vertus, kad įmonė galėtų vadintis „žalia" ar draugiška aplinkai įmone, nepakanka taikyti vien tik elementarias praktikas. Įmonė turėtų imtis sudėtingesnių iniciatyvų, tokių kaip planavimas ar strategijos kūrimas tam kad saugoti gamta. Pavyzdžiui, įsidiegti energiją taupantį apšvietimą, naudoti elektromobilius, rūšiuoti, taupyti vandenį, naudoti biologiškai skaidrius ar greitai irstančius, pagamintus iš krakmolo maišelius darbo vietoje. Įmonė turėtų stengtis organizuoti gamybos procesus taip, kad sunaudotų mažai elektros energijos, sutaupytų vandens (Soyez, 2012 m.). Daugelis įmonių sėkmingai vieną ar kitą veiksmą daro, ir tai yra sveikintina startinė pozicija. Tačiau visgi įmonė pasieks geriausią rezultatą, kai draugiškas aplinkai elgesys bus vystomas struktūruotai, planuotai ir nuolatos.

Aplinkai draugiško elgesio vystymas darbo vietoje turėtų būti suskirstytas į aiškius, visiems suprantamus žingsnius, turėti aiškią viziją. Pirmasis žingsnis – planavimas. Įmonė turi nustatyti savo įtakos sferoje esančius aplinkos apsaugos aspektus (Hendry, 2006). Labai svarbu atkreipti dėmesį į įmonės veiklos, gaminių ar paslaugų elementus, galinčius veikti aplinką. Tam reikia aplinkos apsaugos požiūriu „inventorizuoti" visą įmonės veiklą ir teritoriją, identifikuoti kas įmonėje yra daroma „gerai", o kas „blogai", kokios yra naudojamos medžiagos, technologiniai procesai, kokios yra susidarančios atliekos. Reikia įvertinti ne tik tai, kas vyksta įmonės teritorijoje, bet ir kur dedamos atliekos, kokios naudojamos subrangovinės paslaugos (Guagnano ir kt., 1995). Antrasis žingsnis – draugiško aplinkai elgesio vystymas darbo vietoje: įgyvendinimas ir vykdymas. Įmonėje turi būti sukurta ir įdiegta struktūra pajėgi valdyti aplinkos apsaugos priemones. Vadovybė turi skirti reikalingus žmonių, techninius ir finansinius išteklius, o draugiško aplinkai elgesio vystymas turi tapti viena iš įmonės valdymo grandžių (Stern ir kt. 1993). Be to, tikslinga paskirti ir įgaliotą darbuotoją, kuris užtikrintų draugišką aplinkai elgesį darbo vietoje, jo priežiūros organizavimą, koordinavimą. Įgyvendinti draugišką aplinkai elgesį darbo vietoje neįmanoma, jeigu įmonės padalinių darbuotojai nėra tinkamai parengti ir apmokyti. Jie turi žinoti ir suvokti aplinkos apsaugos politiką, žinoti savo pareigas ir įgaliojimus. Būtent todėl ne mažiau svarbi dalis yra švietimas ir informavimas. Trečiasis

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
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PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
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žingsnis – tikrinimas ir koregavimas. Įmonė turi nustatyti reguliarias procesų ir veiklos, galinčių reikšmingai paveikti aplinką, tiek draugišką aplinkai elgesį darbe, tiek už jo ribų, stebėjimo ir matavimo procedūras bei rinkti atitinkamus duomenis. Be šių veiksmų, įmonė pati periodiškai turi atlikti draugišką aplinkai elgesio vystymo vidaus auditą, kad įsitikintų, ar veikia taip, kaip numatyta: jeigu ne – koreguoti veiksmus (Soyez 2012; Guagnano ir kt. 1995; Stern ir kt. 1993, Steg ir Vlek 2009; Trivedi ir kt., 2015; Leeuw ir kt. 2015). Ketvirtasis žingsnis – sistemos veikimo analizė. Ją periodiškai turi atlikti įmonės vadovybė, remtis faktais pagrįsta informacija bei duomenimis. Dažnai nutinka taip, kad įmonė išsikelia tikslą nuolat mažinti energijos sąnaudas, bet nefiksuoja tikslių suvartojimo rodiklių. Vadinasi visos pastangos, taip pat ir planavimas ir organizavimas negeneruos norimo rezultato (Leeuw ir kt. 2015). Todėl tikslūs duomenys reikalingi, ne tik įsitikinti kaip viskas veikia ir ar veikia, bet ir matuoti ir sekti efektyvumą.

Literatūroje vieningai sutariama, kad labai svarbu skatinti draugišką aplinkai elgesį darbo vietoje (Soyez, 2012). Draugiško elgesio vystymas darbo vietoje leidžia savo organizaciją perkelti į aukštesnį brandumo lygį. Jeigu draugiško elgesio vystymas darbe vykdomas organizuotai, koordinuotai, tai įmonė gali užtikrinti geriausią veiklos rezultatą mažiausiomis sąnaudomis ilgalaikėje perspektyvoje, išsaugant gamtą ir jos resursus.

Veiksniai, lemiantys draugišką aplinkai darbuotojų elgesį darbo vietoje

Veiksniai, skatinantys asmenis įsitraukti į draugišką aplinkai elgesį darbo vietoje, yra intensyviai tiriami pastaruoju laikotarpiu (Stern ir kt. 1993; Steg ir Vlek 2009; Leeuw ir kt., 2015). Kadangi aktyviai ieškoma sprendimų, kaip išspręsti aplinkos problemas, daugėja diskusijų ir bandoma formuoti aiškią nuomonę, kodėl asmuo privalo vykdyti draugišką aplinkai elgesį darbe. Iki šiol literatūroje tirta keletas aspektų. Ekonomistai ištyrė išorinių veiksnių įtaką asmens elgesiui darbo vietoje ir jų efektyvumą darbe bei pasiūlė, kad siūlomas draugiškas aplinkai elgesys darbe ir jo nesilaikymas, galėtų būti pagrįstas atlygiu ar bausme. Kita suformuota nuomonė yra psichologų (Soyez 2012; Guagnano ir kt. 1995). Jie mieliau sieja psichologinius kintamuosius su elgesiu ir pateikia tokias priemones kaip sąmoningumas, švietimas ir įtikinėjimas imtis vystyti draugišką aplinkai elgesį darbe ir savo kaip asmenybės su aplinka elgesio pokyčius (Guagnano ir kt., 1995). Kiti autoriai tiria darbuotojų demografinius, veiksnius kaip turintis didelę įtaką aplinkos elgsenai darbo vietoje (Soyez 2012; Guagnano ir

kt., 1995). Šiuo atveju tiriama aplinkos elgesio priklausomybė nuo demografinių veiksnių, tokių kaip amžius, lytis, socialinė klasė, išsilavinimas ir kt. (Van Liere ir Dunlap, 1980).

Kaip jau minėta, aplinkai draugišką darbuotojų elgesį darbe apima, tokie veiksniai kaip išoriniai, vidiniai bei demografiniai. Visi šie veiksniai plačiau bus aptarti tolimesniuose skyriuose.

Vidiniai veiksniai

Draugiškas aplinkai darbuotojų elgesys darbo vietoje gali būti skatinimas šių vidinių veiksnių: socialiniai veiksniai (socialinės normos, asmeninės normos), pažinimo veiksniai (supratimas apie aplinką, ketinimas veikti, suvoktas elgesys, kontrolė) ir emociniai veiksniai (vertybės, požiūris į aplinka) (Blok ir kt., 2015).

Socialiniai veiksniai

Socialinius veiksnius sudaro socialinės ir asmeninės normos. Normos gali būti apibrėžiamos kaip individualūs lūkesčiai dėl asmens elgesio, ypatinga socialinė padėtis (Schwartz ir Leonard, 1977). Asmeninės normos atspindi savo įsitikinimus, kaip elgtis. Socialinės normos atstovauja grupės bendrą įsitikinimą apie tai, kaip grupė turėtų elgtis ar elgiasi (Thøgersen, 1999).

Pažinimo veiksniai

Antroji vidinių veiksnių grupė yra susijusi su kognityviniais veiksniais, kuriuos sudaro supratimas apie aplinką ir suvoktas elgesys, kontrolė. Aplinkosaugą galima suvokti kaip aplinkos problemų pažinimą ir pripažinimą (Grob, 1995). Todėl tikimasi, kad kuo daugiau žmonių žinos apie aplinkos problemas, tuo daugiau vystys draugišką aplinkai elgesį (Becker, 1978; Borden ir Schettino, 1979; Hines ir kt., 1987; Katzevas ir Johnsonas, 1984). Šį santykį patvirtina ir Vanas Birgelen ir kt. (2009), kurie padarė išvadą, kad ekologiškas pirkinys buvo teigiamai susijęs su darbuotojų supratimu apie aplinkosaugines problemas.

Emociniai veiksniai

Paskutinė vidinių veiksnių grupė yra susijusi su bendromis vertybėmis, aplinkos vertybėmis ir požiūriu į aplinką. Mokslininkai (De Groot ir Steg, 2008; Schultz ir Zelezny, 1998; Stern, 1999) panaudojo Schwartz modelį, kad galėtų klasifikuoti vertybes ir vertinti jų

priklausomybę dėl draugiško aplinkai elgesio darbo vietoje (Schwartz, 1994; Schwartz ir Markas, 1992). Modelis pateikia dešimt tipų universaliųjų vertybių, kurios buvo suskirstytos į keturias didesnes grupes: 1) atvirumas, 2) konservatizmas (tradicionalizmas), 3) savęs peržengimas (altruizmas) ir 4) savęs tobulinimas (saviugda). Tyrimai rodo, kad altruizmą skatinantys žmonės labiau yra linkę vystyti draugišką aplinkai elgesį darbo vietoje, nei likusių žmonių grupių atstovai (Dietz ir kt., 1998). Literatūroje pateikiama, kad altruistinės vertybės daro teigiamą poveikį asmens normoms, skatina draugišką elgesį su aplinka ir turi teigiamą poveikį darbo vietoje (Wall ir kt., 2007).

Išoriniai veiksniai

Antroji veiksnių grupė yra išoriniai. Galima vystyti draugišką aplinkai elgesį darbo vietoje jei tik yra reikalingos sąlygos ir infrastruktūra, tokios kaip: dėžutės perdirbimas darbo vietoje, aplinka, kurioje darbuotojams leidžia reguliuoti šildymą, ar yra galimybė pirkti tvarius produktus ir t. t. Išoriniai veiksniai yra iš esmės susiję su darbo vietoje esančiomis situacijomis ir lyderio palaikymu (Blok ir kt., 2015).

Fliegenschnee ir Schelakovsky (1998) padarė tokią išvadą, kad išoriniai veiksniai vaidina pagrindinį vaidmenį skatinant draugišką aplinkai elgesį darbo vietoje. Kuo mažiau galimybių sukuriama darbo vietoje, tuo mažiau žmonių yra linkę vystyti draugišką aplinkai elgesį darbo vietoje. Pavyzdžiui, naujausiuose tyrimuose paaiškėjo, kad darbuotojams turėti galimybę rūšiuoti į darbe esančias šiukšliadėžes yra labai svarbus veiksnys (Derksen ir Gartrell, 1993). Iš esmės, išoriniai veiksniai skirstomi į situacinius veiksnius ir lyderystę.

Lyderystė darbo vietoje ir draugiško aplinkai elgesio darbo vietoje ryšys

Atlikus mokslinius tyrimus pastebėta, kad vienas efektyviausių atradimų socialinėje psichologinėje literatūroje yra tas, kad tiek vyrai, tiek moterys, nepriklausomai nuo metų, socialinės padėties ar išsilavinimo mokosi stebėdami kitų elgesį ir vėliau patys inicijuoja ir palaiko panašius elgesio modelius. Dabartiniai tyrimai rodo, kad organizacijų kultūra gali būti „perduota“ darbuotojams per vadovų modeliavimą (Blok ir kt., 2015). Pastebėta, kad viską galima sužinoti ir išmokti stebint kitų elgesį. Šiuo analizuojamu atveju, viskas veikia tokiu principu: jei vadovas yra organizacijos lyderis, darbuotojai mokosi būtent iš jo, jie elgsis būtent taip, kokį lyderio kuriamą elgesio modelį matys organizacijoje (Fliegenschnee ir Schelakovsky, 1998).

Taikydami nuoseklų draugiško aplinkai elgesio modelį darbo vietoje, vadovai signalizuoja darbuotojams, kad toks elgesys, kurį jie demonstruoja yra vertinamas ir laukiamas darbo vietoje (Derksen ir Gartrell, 1993). Taigi, darbuotojai sužino, kad toks elgesys, kurį mato iš vadovų – lyderių, sukels norimas pasekmes, todėl bus motyvuoti tuo užsiimti. Darbuotojai stebėdami, kaip jų vadovai elgiasi su aplinka, atsižvelgiant į aplinką, jie sužino:

1. Kad toks elgesys yra vertinamas, kokio yra tikimasi ir kad už jį bus tinkamai atlyginama;
2. Darbuotojai įsitikina, kad jie gali elgtis panašiai, norint pasiekti gerų, pelningų rezultatų.
3. Be to, darbuotojai patiria emocinę motyvaciją, kai jie stebi, kaip jų vadovai entuziastingai užsiima draugiška aplinkai gerove, stengdamiesi sumažinti klimato kaitos problemas.

Taigi, emocinė motyvacija skatina mus veikti, siekti savo tikslų, padeda bendrauti ir suprasti kitus žmones, nepriklausomai nuo lyties, amžiaus ar socialinės padėties, turi didelę įtaką siekiant aukštesniųjų tikslų įmonėje, kuriant draugišką aplinkai elgesį darbo vietoje. Emocinė motyvacija yra užkrėtimas, reiškiantis automatinį ir nesąmoningą procesą, kuris harmonizuoja ir imituoja daugelį veiksnių (Derksen ir Gartrell, 1993). Dėl to emocijos, kurios perduodamos tarp asmenų, turi labai didelę įtaką, o dar didesnę turi, jei emocijas perteikia organizacijos vadovas – lyderis (Blok ir kt., 2015).

Lyderiai tiek tiesiogiai, tiek netiesiogiai gali paveikti savo darbuotojų elgesį, siekiant išvystyti įmonėje draugišką aplinkai elgesį. Kai vadovai – lyderiai:

1. Dalijasi savo vertybėmis (idealizuota įtaka);
2. Įtikina savo pasekėjus, kad jie gali pasiekti aukštumas, kurios anksčiau buvo laikomos beveik neįmanomomis (įkvepianti motyvacija);
3. Padėti darbuotojams galvoti apie problemas naujais ir novatoriškais būdais (intelektinė stimuliacija);
4. Užmegzti ryšius su savo darbuotojais (individualizuotas požiūris).

Kai darbuotojai patiria šią teigiamą emociją, jie tampa energingi, įkvėpti ir motyvuoti įsitraukti, kuriant draugišką aplinkai elgesį darbo vietoje.

Situaciniai veiksniai darbo vietoje ir draugiško elgesio darbo vietoje ryšys

Remiantis literatūros apžvalga, matoma, kad išoriniai veiksniai yra teigiamai susiję su draugiško elgesio aplinka vystymu darbo vietoje. Poortinga ir kt. (2004 m.) atlikę tyrimus padarė išvadą, kad draugiškas aplinkai elgesys darbe yra teigiamai susiję su situaciniais veiksniais ir lyderio palaikymu, norint vystyti draugišką elgesį darbo vietoje. Taip pat literatūroje teigiama, kad darbuotojams norint vystyti draugišką elgesį su aplinka, turi būti sudarytos tam tikros sąlygos darbe, kad motyvuotų darbuotojus.

Socialiniai ir demografiniai veiksniai

Atsižvelgiant į elgesio su aplinka naudą darbo vietoje, tyrimai parodė, kad skirtingi socialiniai ir demografiniai veiksniai, skirtingai susiję su aplinkos elgsena darbo vietoje. Mokslininkai (Moll ir kt., 2014) tyrimo metu nustatė, kad skirtinga lytis, metai, išsilavinimas ir šeimyninė padėtis yra skirtingai susiję su aplinkos elgsena darbo vietoje. Tyrime tiriamas elgesio su aplinka ir demografinių veiksnių ryšys (Moll ir kt., 2014). Socialinių ir demografinių rodiklių įtaka tiesioginiam ir netiesioginiam aplinkos elgesiui darbo vietoje priklauso nuo įvairių veiksnių, tokių kaip: energijos ir kitų teršalų naudojimas, aplinkos elgesio supratimas, skirtingo elgesio skatinimas.

Lyties ir draugiško aplinkai elgesio darbo vietoje ryšys

Daugelis mokslininkų teigė, kad vyrai ir moterys, turintys skirtingą požiūrį, pasaulėžiūrą, vaidmenis šeimoje ir įgūdžius, taip pat demonstruoja skirtingą elgesį darbo aplinkoje (Kinnear ir kt., 1974). Tačiau stebimas santykis su kintama lytimi yra dviprasmiškas. Teigiama, kad moterys labiau nei vyrai žino, kas yra draugiškas aplinkai elgesys darbo vietoje ir rūpinasi aplinka tiek darbe, tiek namuose (Webster, 1975). Mokslininkai įrodė, kad tai yra tiesiogiai susiję su elgesiu, kuris skatinamas namuose (Kinnear ir kt., 1974). Taigi, jei moteris labiau rūpinasi namuose draugišku elgesiu su aplinka, tikėtina, kad šį elgesį su aplinka taip pat labiau linkusios bus formuoti ir darbe (Webster 1975; Banerjee ir McKeage, 1994). Kita vertus, vyrai dažniau praleidžia laiką ne namuose, todėl turi daugiau galimybių išmokti apie aplinkos problemas, kurios yra iškilusios, dėl draugiško aplinkai elgesio nebuvimo darbo vietoje ir to padarytus padarinius ir pasekmes. Šis veiksnys taip pat yra labai svarbus kintamasis. Tyrimai parodė, kad moterys sąmoningiau reaguoja į aplinką nei vyrai (Xiao ir Hong, 2010).

Mokslininkas Lee (2009) tyrime analizavo lyčių skirtumus paauglių kontekste (Kinnear ir kt., 1974). Šis tyrimas taip pat patvirtino, kad paauglės, kaip ir suaugusios moteris, labiau formuoja draugišką elgesį su aplinka nei paaugliai berniukai.

Amžiaus ir draugiško aplinkai elgesio darbo vietoje ryšys

Nagrinėjant ryšį tarp amžiaus ir draugiško elgesio su aplinka, tyrimai rodo tiek teigiamią ryšį (Kheiry ir Nakhaei, 2012), ir tiek neigiamą ryšį (Kinnear et al., 1974). Taip pat literatūroje yra įrodymų, kad nėra jokio ryšio tarp elgesio su aplinka ir amžiaus (Kinnear ir kt., 1974; Kheiry ir Nakhaei, 2012). Literatūros analizė rodo, kad jaunesni darbuotojai labiau linkę į draugišką su aplinka elgesį darbo vietoje nei vyresni darbuotojai (Kheiry ir Nakhaei, 2012).

Išsilavinimo ir draugiško aplinkai elgesio darbo vietoje ryšys

Išsilavinimo lygis yra dar vienas demografinis kintamasis dabartiniuose tyrimuose. Manoma, kad tai yra tiesiogiai susiję su draugiška aplinkai elgsena darbo vietoje (Paco ir Raposo, 2009). Ankstesnių tyrimų metu šis kintamasis sulaukė daugiausiai dėmesio iš visų demografinių kintamųjų (Paco ir Raposo, 2009). Mokslininkai pastebėjo, kad išsilavinę žmonės apie aplinką jau sužinojo mokykloje ar net darželyje (Scott ir Willits, 1994).

Statusas šeimoje ir draugiško aplinkai elgesio darbo vietoje ryšys

Tyrimai parodė teigiamą ryšį tarp šeimyninės padėties ir elgesio aplinkoje (Jacob ir kt., 2009). Tyrėjų teigimu, ištekėjusios moterys labiau linkusios skatinti draugišką elgesį su aplinka darbo vietoje nei vedę vyrai. Draugiškas aplinkai elgesys darbo vietoje yra ryškesnis dėl skirtingų biologinių, kultūrinių ir socialinių vaidmenų.

Lyties bei šeimyninės padėties ir draugiško aplinkai elgesio darbo vietoje ryšys

Remiantis moksline literatūra, draugiškas elgesys su aplinka darbo aplinkoje buvo aktualiausias moterims su vaikais ir jauniems respondentams (Witkowski ir Reddy, 2010). Be to, nustatyta, kad moterys, turinčios vaikų, labiau linkusios į elgesį su aplinka, nei tos, kurios neturi vaikų. Manoma, kad motinos rūpestis vaikais skatina jų elgesį ir darbo aplinkoje (Bell ir Brown, 2010). Tačiau literatūra rodo, kad ekofeminizmas kartą per tą laiką buvo „išpūstas“. Nepaisant to, trūksta empirinių tyrimų dėl lyties ir šeimyninės padėties atsižvelgiant į ekologišką vartojimą apskritai ir ypač į elgesį su aplinka (Samdahl ir Robertson, 1989).

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
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Darbo stažas darbo vietoje ir draugiško aplinkai elgesio darbo vietoje ryšys

Atlikus literatūros apžvalgą, matome, kad vyrauja labai stiprus santykis tarp darbo stažo ir draugiško elgesio su aplinka (Webster, 1975). Pasak mokslininkų, kuo daugiau patirties turi darbuotojas, manoma, tuo labiau jis skatina draugišką aplinkai elgesį su aplinka darbo vietoje.

IŠVADOS

Atlikus literatūros duomenų analizę, galima teigti, kad aplinkai draugiško darbuotojų elgesio skatinimas darbo vietoje yra šių laikų problema, kurią įmonės stengiasi išspręsti taikydamos įvairius veiksnius. Draugiško elgesio vystymas darbo vietoje turėtų būti suskirstytas į aiškius, visiems suprantamus žingsnius, turėti aiškią viziją, kad jis būtų veiksmingas darbo vietoje ir visiems įmonės darbuotojams aiškiai suprantamas. Atlikus literatūros analizę, matoma, kad draugišką aplinkai elgesį darbo vietoje lemia trys pagrindiniai veiksniai. Pirmasis – išoriniai veiksniai, kuriuos apima: lyderystė ir situaciniai veiksniai. Antrasis – vidiniai veiksniai, kuriuos apima: socialiniai veiksniai (socialinės normos, asmeninės normos), pažinimo veiksniai (supratimas apie aplinką, ketinimas veikti, suvoktas elgesys, kontrolė) ir emociniai veiksniai. Trečiasis – socialiniai ir demografiniai veiksniai, kuriuos apima: lytis ir šeimyninė padėtis, statusas šeimoje, amžius, išsilavinimas, darbo stažas darbo vietoje.

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PRO-ENVIRONMENTAL BEHAVIOR IN THE WORKPLACE

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Summary

From the perspective of organizational management, pro-environmentally behavior is considered to be one of the key factors determining the development and success of organizations in the current labor market and business environment. From the perspective of employees, they can act responsibly (irresponsibly) in both the home and work environment. This article describes the pro-environmentally behavior of employees in the workplace and justifies its importance. The influence of external, internal and social and demographic factors on employee-friendly behavior in the workplace is also analyzed.

Keywords: employee behavior, pro-environmentall behavior, environmental issues, ecological issues.

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

EFEKTYVESNIS VALSTYBĖS VALDYMO STIPRINIMAS SAVIVALDYBĖSE

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DOI: 10.13165/PSPO-20-24-15

Anotacija. Efektyvesnis valstybės valdymo stiprinimas savivaldybėse yra būtinas. Rimta problema yra neįdarbinti piliečiai. Darbo tikslai yra aptarti ir siūlyti problemos sprendimą valstybės veiksmų planui tobulinti. Efektyvesnis valstybės valdymo stiprinimas savivaldybėse yra labai svarbus, todėl sukurti pasiūlymus yra būtina. Darbo uždaviniai yra šie: svarstyti situaciją, eksperimentuoti valdymą, siūlyti išspręsti problemą, padaryti išvadas. Pagrindiniai metodai yra eksperimentas ir modelis valstybės stiprinimui, sukurti siūlymus ir išvadas problemos sprendimui. Tyrimo rezultatai straipsnyje Efektyvesnis valstybės valdymo stiprinimas savivaldybėse atskleidė, kad neįdarbinti piliečiai turi būti įdarbinti.

Pagrindinės sąvokos: projektų valdymas; saugumas; pasienis; darbas; įdarbinimas; valstybės valdymas.

ĮVADAS

Efektyvesnis valstybės valdymo stiprinimas savivaldybėse yra mokslinis darbas, kurio naujumas ir aktualumas yra ekperimentas dėl neįdarbintų piliečių problemos sprendimo naudojant modelį ir siūlymus, todėl darbas yra rimtas ir taikomas šių laikų Europos valstybėms. Problema yra neįdarbinti piliečiai, kadangi nesukurtos darbo vietos visiems įdarbinti; problemą gali spręsti Efektyvesnis valstybės valdymo stiprinimas savivaldybėse mokslo darbas, mokslinis straipsnis.

Šio mokslo darbo **tyrimo objektas** yra siūlymai įdarbinimo sprendimams dėl piliečių įdarbinimo, kad valstybė galėtų efektyviai stiprėti.

Darbo **tikslai**: aptarti neįdarbintų piliečių įdarbinimo problemą (užimtumo problemą) ir siūlyti problemos išsprendimą, paruošti patirtį ir sukurti siūlymus valstybės veiksmų planui tobulinti. Darbo tikslus siekia Efektyvesnis valstybės valdymo stiprinimas savivaldybėse, kad neįdarbintų piliečių įdarbinimo problemą sprendžiant valstybė būtų saugi pasienyje ir valstybės valdymas būtų efektyvus, projektų valdymas stiprintų valstybę, piliečiai stiprintų valstybę.

Tyrimui vykdyti yra svarbūs šie **uždaviniai**: pirmas, svarstyti ir eksperimentuoti problemos sprendimą, antras, siūlyti spręsti problemą, trečias, padaryti išvadas ir siūlymus. Visi

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

šie uždaviniai yra būtini moksliniam darbui, kadangi valstybė efektyviai stiprės, kai neįdarbinti piliečiai bus įdarbinti įmonėse ir įstaigose, arba valstybės dokumentuose tokie piliečiai būtų pripažinti dirbančiais iki tol, kol bus įdarbinti įmonėse ir įstaigose. Tai yra labai svarbu valstybės ciklui, procesams valstybėje, kad valstybė efektyviai stiprėtų dėl visų gyventojų gerovės ir naudos.

Tyrimo **metodika** ir **metodai**: mokslinio straipsnio autoriaus žinios, nes iš patyrimo empirinio tyrimo metodas yra vertinga patirtis šiam mokslo darbui ir siūlymams, po studijų Lietuvos vadybos akademijoje Personalo tarnybų vadovo specialybę, aprašomasis metodas, savarankiškas šio straipsnio autoriaus eksperimentas ir mokslinio straipsnio modelis, kad piliečiai būtų įdarbinti ir valstybėje būtų užtikrinta gerovė kiekvienam piliečiui, apibendrinimas, siūlymai problemai išspręsti; todėl, toks valdymo nuolatinis modelis yra būtinas dėl nuolatinės krypties efektyvumo valstybėje ir valstybėse. Valdymo nuolatinis modelis padeda spręsti problemą, kad neturintys darbo piliečiai būtų įdarbinti. Valdymo nuolatinis modelis bus siūlomas valstybės institucijoms, įmonėms ir įstaigoms, kad galėtų efektyviai sukurti darbo vietas ir suteikti darbą gyventojams, valstybės piliečiams, formuoti problemos išsprendimus, paruošti dokumentus darbo vietų suteikimui dėl įdarbinimo tikslo pasiekimo. Naudojant Valdymo nuolatinio modelio galimybes Valdymo nuolatinis modelis turi būti vykdomas su valstybės programomis, nes Valdymo nuolatinis modelis stiprina valstybės strateginių tikslų įgyvendinimo galimybes, valstybės valdymas tampa efektyvesniu. Valstybėje būtina efektyviau valdyti dėl savivaldybių stiprinimo, savivaldybių saugumo užtikrinimo toliau nuo pasienio ir arčiau pasienio. Valdymo nuolatinio modelio tikslas ir kryptis yra piliečių įdarbinimas, todėl Valdymo nuolatinis modelis yra būtinas valstybės strateginiuose planuose ir strateginiame planavime, kad piliečiai būtų įdarbinti ir gautų atlyginimus kiekvieną mėnesį prekių ir paslaugų pirkimui, valstybės valdymo efektyvumo siekimui, visų ministerijų valstybėje valstybės tobulinimui.

Šis mokslo darbas yra vertingas dėl siūlymų; mokslo darbas yra savarankiškai ruošiamas valstybės veiksmų planui tobulinti, kad valstybėje visi piliečiai būtų įdarbinti ir tuomet valstybė galės efektyviai stiprėti.

Šiame mokslo darbe yra sprendžiama **problema**, kad valstybė galėtų efektyviai stiprėti. Valstybės valdymas bus efektyvesnis ir valstybė stiprės efektyviau jei šis mokslo darbas bus naudojamas sprendžiant įdarbinimo valstybėje dabartines ir naujas galimybes. Kadangi valstybėje yra daug neįdarbintų piliečių ir kaip juos įdarbinti nebuvo ištirta, tokia situacija lemia

mokslinio darbo Efektyvesnis valstybės valdymo stiprinimas savivaldybėse problemos naujumą ir aktualumą dabartinei gerovei įgyvendinti valstybėje. Šio mokslinio darbo aktualumas, naujumas ir rimtumas gerins visos dabartinės visuomenės naudą ir gerovę, užtikrins teisingesnius sprendimus valstybės ateityje. Darbas yra naujas, kadangi įdarbinimo problema nėra išspręsta, valstybės veiksmų planą yra būtina tobulinti šiuo mokslo darbu; darbas yra svarbus piliečiams, valstybei ir valstybėms Europoje stiprinti.

ĮDARBINIMO SPRENDIMAI SAVIVALDYBIŲ VALDYMO STIPRINIMUI

Nors ir yra žinoma, kad valstybėje yra neįdarbintų piliečių, bet valstybė, įstaigos ir įmonės gali įdarbinti piliečius, kai yra siūlomos galimybės. Pirma, Valdymo nuolatinis modelis yra dėl efektyvesnio valdymo savivaldybėse valstybėje; antra, tarptautinių projektų valdymu galima sukurti du faktorius: pirmas tarptautinių projektų kuriamas faktorius yra tai, kad ilgalaikiai dviejų ar daugiau valstybių tarptautiniai projektai gali būti vykdomi ir savivaldybėse netoli valstybės valstybinės sienos, antras tarptautinių projektų kuriamas faktorius yra tai, kad ilgalaikiai tarptautiniai projektai teikia visuomenei daug galimybių savivaldybėse prie valstybės sienos; trečia, darbo vietų turi būti sukurta tiek, kiek yra gyventojų valstybėje; ketvirta, pasienio teritorijos yra svarbios visai valstybei. Savivaldybių prie valstybinės sienos ir kitų rajonų ir miestų savivaldybių saugumas ir tvarka yra būtini valstybei. Gyventojai neįdarbinami jei įmonės ir įstaigos neteisingai valdo įdarbinimą. Įdarbinimas prasideda, kai įmonės ir įstaigos sukuria darbo vietas arba sukuria darbo vietas darbui dirbti projekte. Darbo vietos turi būti sukuriamos reguliariai; nuolatinis modelis yra ypatingai svarbus valstybei, įmonėms ir įstaigoms. Valdymo nuolatinis modelis yra pradžia, ko reikėtų problemai spręsti ir toliau siekiant problemą išspręsti, kad valstybės valdymas būtų efektyvesnis ir valstybė visada stiprėtų tiek, kiek reikia pažangiai valstybei, kuri rūpinasi savo piliečiais kiekvieną dieną nuo gimimo ir sulaukus garbingų senatvės metų ilgų dešimtmečių senatvėje. Valstybei yra naudinga būti pažangiai valstybei, todėl valstybė turi įdarbinti neįdarbintus gyventojus. Tarptautinių projektų galimybės ir pasienio saugumo problemų sprendimai yra būtini gyventojų įdarbinimui valstybėje.

1. Valdymo nuolatinis modelis yra dėl efektyvesnio valdymo visose savivaldybėse, kad valstybė turėtų efektyvesnį valdymą; Valdymo nuolatinis modelis yra valstybei Europoje. Valdymo nuolatinis modelis turi būti vykdomas su valstybės programomis. Valdymo nuolatinis modelis stiprina valstybės strateginių tikslų įgyvendinimo galimybes ir valstybę, valstybės

ISSN 2029-1701
ISSN 2335-2035 (Online)
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valdymas tampa efektyvesniu ir siekiančiu didinti valstybės piliečių gyvenimo gerovę ir naudą dėl valstybės efektyvaus valdymo galimybių. Įmonės ir įstaigos turi naudoti Valdymo nuolatinį modelį dėl darbo suteikimo gyventojams, piliečiai turintys darbą valstybei suteiktų daugiau galimybių valstybėje valstybę valdyti efektyviau, nedirbantys iki 18 metų, ir tie gyventojai, kurie gauna pensijas kiekvieną mėnesį suteikia džiaugsmo valstybei, kad įmonės ir įstaigos galėtų efektyviai dalyvauti valstybės valdyme, teikti paslaugas gyventojams, efektyviai valdyti gamybą valstybėje, žemės ūkio pramonę ir kitas pramones, kurios valstybėje yra vystomos, kad valstybė būtų valdoma efektyviau kiekvienoje miesto ir kiekvienoje rajono savivaldybėje. Socialinės apsaugos, sveikatos apsauga, miškų ir žemės ūkio valdymo efektyvumas ir pramonės valdymo efektyvumas yra svarbus kiekvienam gyventojui gyvenime; valstybėje būtina efektyviau valdyti dėl savivaldybių stiprinimo, savivaldybių saugumo užtikrinimo toliau nuo pasienio ir arčiau pasienio. Įstaigų ir įmonių projektai yra vienas iš būdų, siekiant efektyvesnio valstybės valdymo savivaldybių stiprinimui ir gyventojų gerovei. Valdymo nuolatinis modelis yra būtinas valstybės strateginiam veiklos planui, valstybės veiksmų planui, strateginių planų programose ir dokumentuose, strateginio plano kryptyje valstybės perspektyvai ir valstybės ateičiai kurti ir vystyti. Valdymo nuolatinio modelio tikslas ir kryptis yra piliečių įdarbinimas, Valdymo nuolatinis modelis yra būtinas valstybės strateginiuose planuose ir strateginiame planavime, kad piliečiai būtų įdarbinti ir gautų atlyginimus kiekvieną mėnesį prekių ir paslaugų pirkimui, valstybės stiprinimui, valdymo efektyvumo siekimui, visų ministerijų sričių ir atsakomybių valstybėje valstybės pažangai pasaulyje tobulinti ir stiprinti. Vietiniams projektams tobulėjant ir turint tarptautinių tikslų, tarptautinių projektų bus vis daugiau valstybėje, projektai nėra tik vietiniai, jei paslaugas teikia dviejų ar daugiau valstybių savivaldybėms ar valstybėms, tarptautiniai projektai turi pasaulio valstybių ypatybių dėl teisinių aspektų, socialinių kultūrinių ir verslo ir pažangos naudojimo savo valstybės stiprinimui; pavyzdžiui, žemės ūkio produkcija yra parduodama kaimyninei valstybei, vadinasi buvo valstybių ir savivaldybių susitarimai ir tarptautinės sutartys dėl produkcijos tiekimo ir saugojimo, bei gyventojų įdarbinimo. Valstybės strateginiuose planuose nėra tik prekybos sritys, bet ir kitos sritys, kurios yra svarbios kiekvienam gyventojui gyvenime; valstybės valdymo strategijos turi tikti piliečių įdarbinimui; valstybės valdymo sistemoms tobulinti Valdymo nuolatinis modelis yra reikšmingas. Kadangi strategijų įgyvendinimo būdų yra daug, Valdymo nuolatinis modelis gali būti naudojamas valdymui gerinti. Kiekviena strategija turi stiprinti valstybę, Valdymo nuolatinis modelis yra naudojamas valdymo efektyvumui, kad

piliečiai būtų įdarbinti, nes piliečiai tobulina valstybės valdymą, kai turi galimybių, mėnesiniai atlyginimai suteikia daug galimybių valstybės stiprėjimui. Valstybės tarptautiniai projektai yra būtini valstybei, valstybės įstaigų ir įmonių specialistai, atsakingi už strategines galimybes, turi siekti gerinti kiekvieno piliečio valstybėje gerovę, analizuoti ir spręsti rizikas, tobulinti resursus, kurti įvairias darbo vietas, kurti darbo vietas ir tarptautiniuose projektuose.

2. Tarptautinių projektų valdymu galima sukurti du faktorius. Pirmas tarptautinių projektų kuriamas faktorius, ilgalaikiai dviejų ar daugiau valstybių tarptautiniai projektai gali būti vykdomi ir savivaldybėse netoli valstybės valstybinės sienos; tarptautinio projekto tikslas ar keli tikslai yra analizuojami. Pirma, tarptautinių projektų tikslai gali būti vienodi dvejose valstybėse. Antra, kai projekte yra keli tikslai, vienas ar daugiau tikslų gali būti tikslinami tarptautinio projekto vykdymo metu, tačiau visi tikslai negali būti pakeisti naujais. Jei yra būtina keisti visus projekto tikslus, tuomet būtų rekomenduojama paruošti naują tarptautinį projektą tikslų įgyvendinimui. Trečia, kai kurie tikslai gali būti skirtingi dvejose skirtingose valstybėse, tačiau pagrindinis tikslas ar pagrindiniai tikslai turi išlikti nepasikeitę projekto vykdymo visame laike. Dėl skirtingų valstybių kultūrinių ir socialinių, valstybės ūkio, bei ekonominių skirtumų tarptautiniuose projektuose gali būti vienas ar keli skirtingi tikslai, tačiau jie turi būti toje pačioje sistemoje, vystymosi srityje.

Antras tarptautinių projektų kuriamas faktorius yra tai, kad ilgalaikiai tarptautiniai projektai teikia visuomenei daug galimybių savivaldybėse prie valstybės sienos. Pirma, valstybėje visuomenė gali tobulėti sparčiau negu kaimyninėje valstybėje, kurioje taip pat yra vykdomas bendras dviejų valstybių tarptautinis projektas. Tobulėjant socialiniam ir ekonominiam vystymuisi valstybėje, valstybė gali konsultuoti kaimyninę valstybę dėl socialinio ir ekonominio valstybės vystymosi galimybių; jei tai vyktų, valstybių tarptautinis bendradarbiavimas būtų tobulinamas, ir dėl to tobulėtų problemų sprendimai, kai problemų būtų, pavyzdžiui valstybių pozicija dėl ankstesnio pavyzdžio taros naudojimo (maisto produktų pakuotėms) mažinimo parduotuvėse gali būti skirtinga, kai viena valstybė anksčiau įgyvendina problemos sprendimą ir išsprendimą, bet kita valstybė analizuoja kaimyninės valstybės patirtį, siekdama aplenkti kitą valstybę paruošdama efektyvesnį sprendimą vėliau. Tačiau, Europos Parlamento ir Tarybos Direktyvoje (ES) 2019/882 2019 m. balandžio 17 d. Europos Sąjungos oficialusis leidinys (2019 6 7 L 151/91) IV Skyriuje Paslaugų teikėjų pareigos 13 straipsnyje Paslaugų teikėjų pareigos 1. buvo reglamentuota, kad „Paslaugų teikėjai užtikrina, kad jų paslaugos būtų projektuojamos ir teikiamos pagal šios direktyvos prieinamumo

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
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reikalavimus“[1]. Europos Parlamento ir Tarybos Reglamente (ES) 2018/848 2018 m. gegužės 30 d. Europos Sąjungos oficialusis leidinys (2018 6 14 L 150/31), 23 straipsnio, Surinkimas, pakavimas, vežimas ir laikymas, dokumente yra pabrėžti „ekologiški produktai ir perėjimo prie ekologinės gamybos laikotarpio produktai“[2]. Europos Parlamento ir Tarybos Direktyvoje (ES) 2019/904 2019 m. birželio 5 d. Europos Sąjungos oficialusis leidinys (2019 6 12 L 155/14) 12 straipsnio, Specifikacijos ir gairės dėl vienkartinių plastikinių gaminių, dokumente pabrėžta, „ką šios direktyvos tikslais reikėtų laikyti vienkartiniu plastikiniu gaminiu“[3]; teisingai vertinant, tai yra nauja galimybė, kad būtų įdarbinta daug naujų darbuotojų darbui maisto pramonės įmonėse ir įstaigose. Antra, jei visuomenė valstybėje gali tobulėti sparčiau negu valstybės institucijos prognozavo, tuomet tarptautinių projektų tikslai būtų tobulinami efektyviai taip pat, tačiau būtų rekomenduojama nekeisti pagrindinio tikslo tarptautiniame projekte, nes tai gali būti susiję ne tik su ekonominiais reiškiniais, bet ir su darbuotojų motyvacija tęsti tą patį projektą. Kai darbuotojai žino pagrindinį tikslą, tuomet yra lengviau siekti efektyvumo ir pasiekti tarptautinio projekto efektyvumą. Trečia, kai valstybėje institucijos tobulėja sparčiau, tuomet gali būti ruošiami nauji projektai, pavyzdžiui vienerių metų projektai ir ilgalaikiai projektai valstybės visuomenei tobulinti. Švietimo projektai, kultūriniai projektai, bei ekonominės srities projektai gali tobulinti visuomenę, kad visuomenės vystymasis neatsiliktų nuo valstybės aukščiausių institucijų planų ir tikslų visuomenės gerovei ir gyvenimo kokybei tobulinti. Kai yra įgyvendinamas tarptautinis projektas, naujų vietinės reikšmės projektų paruošti yra būtina, kad vietos savivaldybėje gyventojai gautų naudą iš vietinio projekto ir geriau suprastų tarptautinio projekto specifiką, tikslus ir naudą, bei

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[1] DIREKTYVOS EUROPOS PARLAMENTO IR TARYBOS DIREKTYVA (ES) 2019/882 2019 m. balandžio 17 d. dėl gaminių ir paslaugų prieinamumo reikalavimų (Tekstas svarbus EEE), Europos Sąjungos oficialusis leidinys 2019 6 7 L 151/91. eur-lex.europa.eu [2020-04-25].

[2] EUROPOS PARLAMENTO IR TARYBOS REGLAMENTAS (ES) 2018/848 2018 m. gegužės 30 d. dėl ekologinės gamybos ir ekologiškų produktų ženklinimo, kuriuo panaikinamas Tarybos reglamentas (EB) Nr. 834/2007, Europos Sąjungos oficialusis leidinys 2018 6 14 L 150/31. eur-lex.europa.eu [2020-05-26].

[3] EUROPOS PARLAMENTO IR TARYBOS DIREKTYVA (ES) 2019/904 2019 m. birželio 5 d. dėl tam tikrų plastikinių gaminių poveikio aplinkai mažinimo (Tekstas svarbus EEE), Europos Sąjungos oficialusis leidinys 2019 6 12 L 155/14. eur-lex.europa.eu [2020-05-27].

kad gyventojai galėtų būti geriau paruošti dalyvavimui tarptautiniame projekte, kai

dalyvavimas tarptautiniame projekte yra būtinas arba rekomenduojamas gyventojams. Kai yra vykdomas upės ar ežero švaros projektas, gyventojai gali daug sužinoti iš vietinės savivaldybės ir gali dalyvauti daug ar daugiau gyventojų negu buvo planuota. Jei gyventojai žino, kada ir kokie tvarkymo darbai vyksta, tuomet gyventojai tobulina žinias apie saugą, prevenciją, ir naują tvarką prie upės ar ežero, bei jie keis savo elgesį saugodami upę ir ežerą. Gyventojų informavimas ir švietimas yra būtinas, kad projekto tikslas būtų įvykdytas efektyviai. Dėl nepalankių oro sąlygų projektų įvykdymas gali vėluoti, tačiau jei nauji darbuotojai yra įdarbinami ir tarptautinis projektas yra papildomas naujais resursais, esant naujam projekto rėmėjui, ir kai gyventojai leidžia panaudoti savo ūkiuose turimą techniką, tuomet dėl naujų galimybių įgyvendinimo tarptautinis projektas gali būti baigtas nepavėluotai. Taigi, įgyvendinti ilgalaikių tarptautinių projektų tikslus yra sudėtinga, tikslai gali būti analizuojami, kad galima būtų valdyti savivaldybes efektyviau.

Savivaldybės, kurios yra toli nuo valstybės valstybinės sienos, gali stiprinti savivaldybes esančias netoli pasienio teritorijų. Bet kuri savivaldybė gali kurti bendrus projektus, tačiau jei viena savivaldybė yra toli nuo tos, su kuria yra vykdomas bendras projektas, tuomet kitos savivaldybės taip pat gali dalyvauti projekte ir tuomet projekto rezultatai gali pasiekti toli esančios savivaldybės gyventojus netoli valstybinės sienos. Jei dvi savivaldybės, esančios toli viena nuo kitos, vykdo projektą, tuomet tarp jų esanti savivaldybė ar savivaldybės gali taip pat dalyvauti tame pačiame projekte pagal papildomas sutartis, kad galėtų įvykdyti kai kurias užduotis, pavyzdžiui: susisiekimo, bendradarbiavimo tobulinimo, viešojo valdymo tobulinimo. Tuo būdu savivaldybės sukuria daug naujų darbo vietų ir gyventojai gali dalyvauti projekte, įgyti patirties, gavę informaciją iš vietinės savivaldybės žinoti apie savivaldybės stiprėjimą, gyvenimo sąlygų gerinimą vietovėse. Savivaldybių saugumas ir viešoji tvarka gali būti tobulinami, kai savivaldybės vykdo bendrus projektus. Pažymėtina, kad Europos institucijos Tarybos Rekomendacijoje 2016 m. vasario 15 d. (2016 2 20 C 67/5), dėl ilgalaikių bedarbių integracijos į darbo rinką, buvo rekomenduota komisijai: „12. Remti ir koordinuoti savanoriškas iniciatyvas ir įmonių, dalyvaujančių ilgalaikių bedarbių tvarios integracijos į darbo rinką procese, aljansus“[4]. Gerinant gyvenimo sąlygas valstybėje, Europos Parlamento ir Tarybos Direktyvoje (ES) 2019/1158 2019 m. birželio 20 d. Europos Sąjungos oficialusis leidinys (2019 7 12 L 188/86), 4 straipsnio, Tėvystės atostogos, dokumente reglamentuota „2. Teisė į tėvystės atostogas suteikiama netaikant reikalavimo turėti ankstesnio darbo ar tarnybos stažo“[5]. Toliau gerinant gyvenimo sąlygas, Europos Parlamento ir Tarybos Reglamente

2019/127 2019 m. sausio 16 d. Europos Sąjungos oficialusis leidinys (2019 1 31, L 30/76), 1 Skyriuje, Tikslai ir užduotys, 1 straipsnyje, Įsteigimas ir tikslai, dokumente pabrėžiamas įgyvendinimas „3. rengiant užimtumo politiką ir skatinant administracijos ir darbuotojų dialogą“[6], kadangi ir tokia priemonė galėtų gerinti naujų darbuotojų įdarbinimą įmonėse ir įstaigose. Jei viename iš projekto vykdymo etapų yra būtinas kitos savivaldybės dalyvavimas, tuomet savivaldybė taip pat gali tobulinti saugumą ir tvarką savo

[4] TARYBOS REKOMENDACIJA 2016 m. vasario 15 d. dėl ilgalaikių bedarbių integracijos į darbo rinką (2016/C 67/01), Europos Sąjungos oficialusis leidinys 2016 2 20 C 67/5. eur-lex.europa.eu [2020-04-25].

[5] EUROPOS PARLAMENTO IR TARYBOS DIREKTYVA (ES) 2019/1158 2019 m. birželio 20 d. dėl tėvų ir prižiūrinčiųjų asmenų profesinio ir asmeninio gyvenimo pusiausvyros, kuria panaikinama Tarybos direktyva 2010/18/ES, Europos Sąjungos oficialusis leidinys 2019 7 12 L 188/86. eur-lex.europa.eu [2020-05-27].

[6] EUROPOS PARLAMENTO IR TARYBOS REGLAMENTAS (ES) 2019/127 2019 m. sausio 16 d. kuriuo įsteigiamas Europos gyvenimo ir darbo sąlygų gerinimo fondas (EUROFOUND) ir panaikinamas Tarybos reglamentas (EEB) Nr. 1365/75, Europos Sąjungos oficialusis leidinys 2019 1 31 L 30/76. eur-lex.europa.eu [2020-05-26].

savivaldybėje savarankiškai arba gavusi patirties iš projektą vykdančių savivaldybių. Savivaldybės turi įdarbinti tiek darbuotojų, kiek reikia visos visuomenės gerovei kurti savivaldybėse; valstybių institucijos taip pat gali sukurti daug naujų darbo vietų specialistams, pareigūnams, darbuotojams, ir tiems, kurie mokosi specialybės. Visi piliečiai valstybėse turi būti dirbantys; didinti su projektais susijusių ir kitokių darbo vietų skaičių kiekvienoje valstybėje yra būtina ilgai nedelsiant, kad visi piliečiai būtų įdarbinti. Tik puikus vadovavimas didina darbo vietų skaičių, gyventojai gauna darbą ir gali turėti puikias galimybes efektyviai dalyvauti visuomenės gyvenime ir kurti gerovę valstybėje net ir tuomet, kai projektas jau buvo įgyvendintas, tačiau jo nauda tęsiasi. Tik efektyvus vadovavimas užtikrina gyventojams savivaldybės stiprėjimą ir naudą visiems gyventojams, kurie dirba projekte ir tiems, kurie dirba darbe, kuris nėra darbo vieta projekte, gerovę ir naudą ir tiems piliečiams, kurie neįdarbinti. Tarptautiniai ir kitokie projektai, kurie yra vykdomi mieste, kuris yra toli nuo valstybinės sienos, gali tobulinti ir tas savivaldybes, kurios yra netoli valstybinės sienos.

Efektyvesnis savivaldybės valdymas yra susijęs su kitomis savivaldybėmis. Jei projektas yra vykdomas daug mėnesių ar kelerius metus, tuomet projekto naudą gali gauti miesto ir rajono savivaldybių gyventojai, pavyzdžiui kai kurie rajono savivaldybės gyventojai dirba mieste, kai

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
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kurie miesto savivaldybės gyventojai dažnai vyksta į rajoną. Tarptautinius ir vietinių savivaldybių projektus, kurie vyks kelerius metus, būtina planuoti pagal dabartinius reikalavimus ir pagal prognozes, pavyzdžiui dėl to, kad miesto ir rajono gyventojų skaičius gali būti kitoks po kelerių metų. Kai kurie gyventojai išvyksta gyventi į miestą, kai kurie į rajoną, ir į užsienį. Jei vietinio ir tarptautinio projekto tikslas buvo gerinti žemės ūkio produkcijos saugojimą, po kelerių metų gali paaiškėti, kad projektą yra būtina tęsti arba plėsti, arba perkelti į naują projektą vykdymo tęsimui. Pabrėžtina, kad Europos Parlamento ir Tarybos Reglamente (ES) 2019/1796 2019 m. spalio 24 d. Europos Sąjungos oficialusis leidinys (2019 10 31 L 279 I/5) buvo numatytas fondas darbo vietų paramai „jei dėl tų atleidimų vietos, regioninė ar nacionalinė ekonomika patiria didelį neigiamą poveikį“[7]. Taip pat reglamentuota ir Europos Parlamento ir Tarybos Direktyvoje (ES) 2018/958 2018 m. birželio 28 d. Europos Sąjungos oficialusis leidinys (2018 7 9 L 173/31), 5 straipsnyje, Nediskriminavimas, dokumente pabrėžta, kad „nuostatos nebūtų nei tiesiogiai, nei netiesiogiai diskriminacinės dėl pilietybės ar gyvenamosios vietos“[8]. Toliau, Europos Parlamento ir Tarybos Reglamente (ES) Nr. 1305/2013, 2013 m. gruodžio 17 d., Europos Sąjungos oficialusis leidinys (2013 12 20 L 347/500), I Antraštinėje Dalyje, Tikslai ir Strategija, II Skyriuje, Užduotis, tikslai ir prioritetai, 5 straipsnyje, Sąjungos kaimo plėtros prioritetai, dokumente pabrėžiama, kad darbuotojai yra būtini „1) a) inovacijų skatinimui, bendradarbiavimui ir žinių bazės vystymui kaimo vietovėse“[9]. Jei projektas nebuvo įgyvendintas laiku, arba jei buvo nuspręsta pradėti vykdyti naują projektą, kuriame yra būtina tęsti jau pradėtą projektą, tuomet naujas projektas yra vykdomas

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[7] EUROPOS PARLAMENTO IR TARYBOS REGLAMENTAS (ES) 2019/1796 2019 m. spalio 24 d. kuriuo iš dalies keičiamas Reglamentas (ES) Nr. 1309/2013 dėl Europos prisitaikymo prie globalizacijos padarinių fondo (2014–2020 m.), Europos Sąjungos oficialusis leidinys 2019 10 31 L 279 I/5. eur-lex.europa.eu [2020-04-25].

[8] EUROPOS PARLAMENTO IR TARYBOS DIREKTYVA (ES) 2018/958 2018 m. birželio 28 d. dėl proporcingumo patikros prieš priimant naujas profesijų reglamentavimo nuostatas, Europos Sąjungos oficialusis leidinys 2018 7 9 L 173/31. eur-lex.europa.eu [2020-05-27].

[9] EUROPOS PARLAMENTO IR TARYBOS REGLAMENTAS (ES) Nr. 1305/2013 2013 m. gruodžio 17 d. dėl paramos kaimo plėtrai, teikiamos Europos žemės ūkio fondo kaimo plėtrai (EŽŪFKP) lėšomis, kuriuo panaikinamas Tarybos reglamentas (EB) Nr. 1698/2005, Europos Sąjungos oficialusis leidinys 2013 12 20 L 347/500. eur-lex.europa.eu [2020-05-26].

projekto vykdymo užduotis planuojant naujais būdais, pavyzdžiui, projektas yra vykdomas įgyvendinti pirmojo ir naujojo projekto darbo užduotis, suderinant technikos naudojimo galimybes, planuojant darbuotojų skaičių, kad būtų gauta didelė nauda visuomenei. Visuomenė yra visi gyventojai valstybėje, kiekvienas valstybės pilietis yra svarbus valstybei ir valdymo efektyvumui valstybėje. Projektai turi būti efektyviai vykdomi miesto ir rajono savivaldybėse.

3. Darbo vietų turi būti sukurta tiek, kiek yra gyventojų valstybėje; darbo vietos turi keistis į šiuolaikiškesnes darbo vietas, bet darbo vietų skaičius neturi mažėti valstybėje, kadangi valstybėje gyvena įvairių valstybių piliečiai. Valstybė turi garantuoti, kad jie bus įdarbinti tiek, kiek reikia gerai gyvenime gyventi ir pensijoms gauti, sulaukus tinkamo amžiaus. Pabrėžtina, kad pasaulyje tampa populiaru neteisingai įvardinti resursus ir daug sprendimų priimti dėl įmonių ir įstaigų technikos, įrangos, finansų, negu kurti gerovę kiekvienam piliečiui visuomenėje valstybėje. Kai kuriose įmonėse ir įstaigose robotai ir kitokios technikos, įrengimai, technologiniai ištekliai, ir programos yra resursai; kai kurie iš tokių resursų turi dirbtinio intelekto, kuris konkuruoja su žmonių darbu, tačiau, pabrėžtina, kad net ir išmaniausi robotai nėra susiję su atsakingu rūpinimusi šeima, vaikais, darbu pensijai užsitikrinti su valstybės pagalba, ir kitomis atsakomybėmis, kurias turi tik žmonės. Valstybės yra stipresnės jei visada kuria naujas darbo vietas nevėluodamos. Valstybėse yra vėluojama kurti naujas darbo vietas, kadangi valstybėse neteisingai paskirstytas ir planuojamas laiko valdymas įvairių resursų valdymui ir priežiūrai įmonėse ir įstaigose. Įmonės ir įstaigos turi gebėti valdyti įvairius resursus dėl gyventojų įdarbinimo valstybėje. Tokiose valstybėse būtų sukurta daug garantijų valstybei išlikti stipriai daug metų, krizių regionuose laikotarpiais tokios valstybės ypatingai naudingos šalia esančioms valstybėms. Darbo vietos turi būti ne tik sukurtos, bet ir turi būti paruošti planai, kur darbuotojas būtų perkeltas jei darbo vieta būtų nereikalinga; jei taip įvyktų, tuomet ta pati įmonė ar įstaiga gali perkelti darbuotoją dirbti projekte, ir vėliau sukurti naują darbo vietą arba naują darbo vietą kitoje įmonėje ar įstaigoje. Valstybė, kuri kuria darbo vietas piliečiams, užtikrina, kad valstybės valdymo strategijos ir valstybės programos yra įgyvendinamos kiekvieno piliečio gerovės gerinimui ir valstybės garantijų užtikrinimui kiekvienam piliečiui valstybėje, kadangi visuomenė yra visi piliečiai valstybėje ir kiekvienas žmogus valstybėje yra svarbus valstybės gerovei kurti kiekvienam piliečiui. Valstybės valdymas efektyvus tuomet, kai valstybėje piliečiai yra įdarbinti tiek metų, kiek yra būtina vidutinėms pensijoms įgyti, nes fondų yra daug, pavyzdžiui: Europos darnaus vystymosi fondas

(EDVF), kuris yra pabrėžtas Europos Parlamento ir Tarybos Reglamente (ES) 2017/1601 2017 9 26 Europos Sajungos oficialusis leidinys (2017 9 27 L 249/6), II Skyriuje Europos Darnaus Vystymosi Fondas, 3 straipsnyje, Tiksle 2, pavyzdžiui: „Vykdant EDVF veiklą padedama siekti Darbotvarkėje iki 2030 m. nustatytų darnaus vystymosi tikslų, ypač skurdo panaikinimo tikslo“[10]. Šioje vietoje yra pabrėžtinas Komisijos Deleguotasis Reglamentas (ES) 2019/379 Europos Sajungos oficialusis leidinys (2019 3 11 L 69/1), kadangi minėtas reglamentas buvo priimtas „atsižvelgiant į didelius valstybių narių skirtumus“[11]. Skurdui mažinti yra priemonė ir vyresniems žmonėms. Gaunantiems ir gausiantiems pensijas viena iš garantijų sumažinti skurdą,

[10] EUROPOS PARLAMENTO IR TARYBOS REGLAMENTAS (ES) 2017/1601 2017 m. rugsėjo 26 d. kuriuo sukuriamas Europos darnaus vystymosi fondas (EDVF), EDVF garantija ir EDVF garantijų fondas, Europos Sajungos oficialusis leidinys 2017 9 27 L 249/6. eur-lex.europa.eu [2020-04-25].

[11] KOMISIJOS DELEGUOTASIS REGLAMENTAS (ES) 2019/379 2018 m. gruodžio 19 d. kuriuo iš dalies keičiamas Deleguotasis reglamentas (ES) 2015/2195, kuriuo dėl fiksuotųjų vieneto įkainių ir fiksuotųjų sumų, susijusių su Komisijos kompensuojamomis valstybių narių išlaidomis, nustatymo papildomas Europos Parlamento ir Tarybos reglamentas (ES) Nr. 1304/2013 dėl Europos socialinio fondo, Europos Sąjungos oficialusis leidinys 2019 3 11 L 69/1. eur-lex.europa.eu [2020-05-27].

kurią reglamentuoja Europos Parlamento ir Tarybos Reglamentas (ES) 2019/1238 2019 birželio 20 d. Europos Sajungos oficialusis leidinys (2019 7 25 L 198/53), I Skyriuje, Bendrosios Nuostatos, VIII Skyriuje Išmokėjimo Etapas, 58 straipsnyje, Išmokų forma, kai numato pasirinkti „vienos ar kelių formų išmokas“[12]. Valstybėje negali būti skurdo ir valstybė turi garantuoti tiek pinigų piliečiams, kiek jų yra būtina gauti gyvenimui gyventi be skurdo dabar ir sulaukus pensijų mokėjimų; tuomet valstybės dokumentais būtų kuriama šiuolaikinė visuomenė su visais piliečiais ir gyventojais valstybėje, kiekvienam nuo gimimo ir garbingos senatvės metais, ir kiekvienam garantuojant lygias galimybes dėl paslaugų pirkimų gyvenime.

Įstaigos ir įmonės turi gebėti suteikti tiek darbo vietų, kiek yra gyventojų. Darbo vietų skaičiaus didinimas priklauso nuo vadovų ir valdymo kompetencijų. Įmonėse ir įstaigose galima surasti daug darbo vietų, kuriose turi dirbti daugiau žmonių. Efektyvesnis valdymas yra tuomet, kai įmonės ir įstaigos ne tik įgyvendina tikslus, bet ir pertvarko sutartyse funkcijas, kad viena darbo vieta tektų ir naujam darbuotojui (specialistui ar besimokančiam specialistui) ir

būtų sukurta ar planuojama ir trečioji darbo vieta. Tokiu būdu, labai daug darbo vietų galima dalinti į dvi ar tris darbo vietas, kad valstybėje nedelsiant neliktų neįdarbintų gyventojų ir piliečių. Įmonės ir įstaigos turi suteikti tiek darbo vietų, kiek yra gyventojų valstybėje.

4. Pasienio teritorijos yra svarbios visai valstybei. Visi miestų ir rajonų savivaldybių gyventojai turi būti įdarbinti, kad savivaldybės prie valstybinės sienos būtų saugesnės, kai yra efektyvūs valstybės valdymo rezultatai. Efektyvūs valstybės valdymo rezultatai nepasiekiami tol, kol valstybėje yra neįdarbintų piliečių. Neįdarbinti piliečiai turi gauti tiek naudos gyvenime ir gerovės, kiek ir dirbantys piliečiai, nes valstybės efektyvus valdymas bus tuomet, kai piliečiams gyvenime valstybė garantuoja gerovės naudas, kad piliečiai turėtų tiek daug pinigų, kiek jų reikia gyvenimui gyventi kiekvienais žmogaus gyvenimo metais, kiekvieną mėnesį nusipirkti visas paslaugas (įskaitant ir maisto produktus, sveikatos paslaugas, švietimo paslaugas, prekes rūpinimuisi sveikata esant sveikam, paslaugas šeimai ir šeimos ūkiui), kiek gali nusipirkti ir dirbantis žmogus. Pasienio saugumo problemų yra daug, tačiau dalį problemų tikrai galima išspręsti jei valstybė įdarbins visus piliečius valstybėje. Galbūt gali būti sukurtos darbo vietos ir jaunesniems, tačiau nuo 20 metų kiekvienam piliečiui valstybė turi garantuoti įdarbinimą iki pensijos suteikimo metų, kad kiekvienas pilietis valstybei būtų labai svarbiu, o piliečiai galėtų nusipirkti tiek paslaugų, kiek yra būtina gerai gyvenime gyventi net ir tuomet, kai turės laukti naujo įdarbinimo arba nebedirbti gaudami vidutinio dydžio pensijas kiekvieną mėnesį. Sergantys, ilgai atostogaujantys, prižiūrintys vaikus ir dėl kitokių priežasčių nedirbantys turi gauti atlyginimus kiekvieną mėnesį, valstybė ar įmonė ir įstaiga moka atlyginimus tokiems žmonėms, arba tokie žmonės turi būti laikomi įdarbintais tik valstybės dokumentuose valstybės iniciatyva ir iš valstybės kiekvieną mėnesį gauti atlyginimus, kad jie galėtų nusipirkti tiek paslaugų, kiek yra būtina kiekvieną mėnesį ir galėtų pasiruošti įdarbinimui įstaigose ir įmonėse, kai tik jie galės dar kartą pradėti dirbti. Kai visi valstybės piliečiai dirba, tuomet savivaldybės prie valstybės valstybinės sienos savivaldybių gali efektyviai tobulinti valstybės valdymą. Toliau esančios savivaldybės gali stiprinti saugumą tiek kiek reikia stiprinti visoje valstybėje ir siekti efektyvumo. Saugumą yra būtina tuomet stiprinti, kai jis neatitinka normų ir yra žemas; piliečiai ir gyventojai turi turėti galimybes saugiai gyventi valstybėje ir valstybę stiprinti. Prezidentas ir vyriausybė sprendžia kiek valstybės saugumą yra būtina stiprinti, kadangi valstybės saugumas, valstybės vidaus saugumas, visuomenėje viešosios tvarkos saugumo normos ir saugumo situacijos ir saugumo aplinkybės yra sprendžiamos valstybės institucijose dalyvaujant valstybės vadovui ir vyriausybės ministrui pirmininkui,

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bei įstatymų leidžiamųjų institucijų pirmininkams,

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[12] EUROPOS PARLAMENTO IR TARYBOS REGLAMENTAS (ES) 2019/1238 2019 m. birželio 20 d. dėl visos Europos asmeninės pensijos produkto (PEPP), (Tekstas svarbus EEE), Europos Sąjungos oficialusis leidinys 2019 7 25 L 198/53. eur-lex.europa.eu [2020-05-26].

ministerijų vadovams, pareigūnams iš atsakingų už saugumo efektyvumą institucijų. Saugumas pasienio teritorijose yra svarbus visos valstybės saugumui.

Savivaldybių prie valstybinės sienos ir kitų rajonų ir miestų savivaldybių saugumas ir tvarka yra būtini valstybei. Visa valstybė gyvens geriau, kai rajonų ir miestų savivaldybės garantuos kiekvienam gyventojui įdarbinimą. Kai kurie piliečiai negali dirbti, bet valstybė jiems turi mokėti 80 procentų vidutinio atlyginimo dydžio atlyginimus kiekvieną mėnesį iki tol, kol jie galės dirbti ir bus įdarbinti; kadangi pinigai yra būtini kiekvienam neįdarbintam piliečiui, kad galėtų nusipirkti valstybės produktus, paslaugas valstybėje kiekvieną mėnesį; valstybės valdymas yra efektyvus, jei visi piliečiai turi vienodas galimybes gyvenimui gyventi valstybėje. Jei trys procentai piliečių negalėtų dirbti, už juos atlyginimus sumokėtų valstybė arba dirbantieji valstybėje iš specialaus fondo, nes tik tuomet galima valstybę valdyti efektyviai. Tarybos Sprendime (ES) 2018/1215 2018 7 16 (2018 9 5 L 224/7), dėl valstybių narių užimtumo politikos gairių Priede 5 gairė Darbo jėgos paklausos didinimas, buvo pabrėžta, kad „Mokesčių našta nuo darbo jėgos turėtų būti perkelta kitiems apmokestinimo šaltiniams, kuriais mažiau varžomas užimtumas ir augimas, atsižvelgiant į mokesčių sistemos perskirstomąjį poveikį, kartu apsaugant pajamas, reikalingas tinkamai socialinei apsaugai ir augimo skatinimo išlaidoms padengti“[13]. Daugiau, Europos Parlamento ir Tarybos Reglamente (ES) 2019/128 2019 m. sausio 16 d. Europos Sajungos oficialusis leidinys (2019 1 31 L 30/93), I Skyriuje, Tikslai ir Užduotys, 2 straipsnyje, Užduotys, dokumente pabrėžta „h) gerinti ir didinti žmonių galimybes įsidarbinti“[14]. Dar daugiau, Europos Parlamento ir Tarybos Sprendime Nr. 1672/2006 2006 m. spalio 24 d. Europos Sajungos oficialusis leidinys (2006 11 15 L 315/4), 5 straipsnyje, 2 skirsnyje, Socialinė apsauga ir įtrauktis, pabrėžta „a) gerinti socialinės atskirties ir skurdo problemų, socialinės apsaugos ir įtraukties politikos supratimą“[15]. Todėl, bendri dviejų ar daugiau įmonių ir įstaigų projektai didintų gyventojų įdarbinimo efektyvumą. Rajonų ir miestų savivaldybių gyventojai bus saugesni, kai valstybės įstaigos ir įmonės įdarbina ne mažiau negu 97 procentus piliečių; likusius 3 procentus piliečių valstybė turi įdarbinti valstybės

biudžeto ir valstybės fondų iniciatyva arba pripažinti dirbančiais iki tol, kol jie laukia įdarbinimo, kad neįdarbinti įmonėse ir įstaigose piliečiai kiekvieną mėnesį valstybės iniciatyva galėtų gauti 80 procentų vidutinio dydžio atlyginimus, kurie vėliau garantuotų vidutinio dydžio pensijas. 16 metų turinčių gyventojų užimtumas darbu jau galėtų būti įdomiu valstybėje, pavyzdžiui kai mokyklose yra mokoma karjeros valdymo, kad jie galėtų efektyviai pradėti dirbti nuo 18 ar 20 metų. Ne mažiau negu 97 procentai gyventojų nuo 20 metų turi būti įdarbinta įmonių ir įstaigų iniciatyva, valstybės iniciatyva. Valstybės svarbiausi tikslai, strategijos, valstybės programos, ir valstybės uždaviniai yra susiję su saugumo užtikrinimu valstybėje; taigi, visi piliečiai gaunantys atlyginimus kiekvieną mėnesį gali efektyviai stengtis užtikrinti saugumą kiekvieną dieną valstybėje. Visose savivaldybėse valstybė būtų saugi tiek, kiek visa visuomenė gali rūpintis saugumu valstybėje. Valstybė turi įdarbinti piliečius, kai įstaigos ir įmonės nesugeba dažnai kurti darbo vietas šiuolaikinėje valstybėje; įmonės ir įstaigos turi dažnai apmokyti personalo

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[13] TARYBOS SPRENDIMAS (ES) 2018/1215 2018 m. liepos 16 d. dėl valstybių narių užimtumo politikos gairių, Europos Sąjungos oficialusis leidinys 2018 9 5 L 224/7. eur-lex.europa.eu [2020-04-25].

[14] EUROPOS PARLAMENTO IR TARYBOS REGLAMENTAS (ES) 2019/128 2019 m. sausio 16 d. kuriuo įsteigiamas Europos profesinio mokymo plėtros centras (CEDEFOP) ir panaikinamas Tarybos reglamentas (EEB) Nr. 337/75, Europos Sąjungos oficialusis leidinys 2019 1 31 L 30/93. eur-lex.europa.eu [2020-05-26].

[15] EUROPOS PARLAMENTO IR TARYBOS SPRENDIMAS Nr. 1672/2006/EB 2006 m. spalio 24 d. nustatantis Bendrijos užimtumo ir socialinio solidarumo programą – Progress, 2006 11 15 Europos Sąjungos oficialusis leidinys 2006 11 15 L 315/4. eur-lex.europa.eu [2020-05-27].

tarnybą, visus aukštesnius vadovus gebėjimų ir kompetencijų sukurti naujas darbo vietas ir įdarbinti darbuotojų (specialistų, pareigūnų, studijuojančių specialybę, darbininkų) kad ne mažiau negu 97 procentai piliečių valstybėje būtų dirbantys dėl valstybės vidaus saugumo užtikrinimo. Valstybės vidaus saugumas visose savivaldybėse turi būti efektyvus, kad galima būtų efektyviai saugoti valstybės teritorijos valstybinę sieną ir valstybę. Kadangi valstybės saugumui ir tvarkai užtikrinti yra būtina įdarbinti visus piliečius; visi valstybės gyventojai yra svarbūs miesto savivaldybėms ir rajono savivaldybėms, ir visai valstybei, kad valstybė būtų pažangi pasaulyje ir Europoje stiprėjimui.

Taigi, Efektyvesnis valstybės valdymo stiprinimas savivaldybėse yra mokslo darbas, įdarbinimo valdymas turi būti vienu iš svarbiausių valstybės prioritetų. Darbo išvadose yra

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pateikiamos išvados ir siūlymai, kad galima būtų įdarbinti neįdarbintus piliečius valstybės stiprinimui ir valstybės veiksmų plano tobulinimui. Tyrimo rezultatai yra siūlymai valstybei stiprinti, valstybės valdymui efektyvinti; šį straipsnį ir siūlymus būtina taikyti piliečių įdarbinimui valstybėje ir valstybėse, siūlymus būtina ruošti taikymui valstybės veiksmų plano tobulinime, valstybės stiprinimui.

IŠVADOS IR SIŪLYMAI

Problema yra neįdarbinti piliečiai, nesukurtos darbo vietos visiems įdarbinti. Problemą sprendė šis mokslinis darbas Efektyvesnis valstybės valdymo stiprinimas savivaldybėse; kadangi daug piliečių yra neįdarbinta, juos būtina įdarbinti. Šio mokslo darbo tyrimo objektas yra siūlymai sprendimams dėl piliečių įdarbinimo; šios išvados ir siūlymai ir šis mokslinis darbas yra valstybės stiprėjimui ir gyventojų gerovei. Efektyvesnis valstybės valdymo stiprinimas savivaldybėse yra svarbus piliečių naudai ir gerovei valstybėje įgyvendinti tobulinant valstybės veiksmų planą. Valdymo nuolatinis modelis yra pradžia, ko reikėtų problemai spręsti ir toliau siekiant problemą išspręsti, kad valstybės valdymas būtų efektyvesnis ir valstybė visada stiprėtų tiek, kiek reikia pažangiai valstybei, kuri rūpinasi savo piliečiais kiekvieną dieną nuo gimimo ir sulaukus garbingų senatvės metų ilgų dešimtmečių senatvėje. Valstybei yra naudinga būti pažangiai valstybei, todėl valstybė turi įdarbinti neįdarbintus gyventojus. Tarptautinių projektų galimybės ir pasienio saugumo problemų sprendimai yra būtini gyventojų įdarbinimui valstybėje. Darbe yra svarbios šios išvados ir siūlymai.

1. Valdymo nuolatinis modelis yra todėl, kad yra būtina nuolatinė kryptis valstybėje. Naudojant Valdymo nuolatinio modelio galimybes, valstybei yra siūloma ir rekomenduojama, kad valstybė kuo skubiau įdarbintų neįdarbintus piliečius, kad nuo 20 metų piliečiai būtų dirbantys, arba valstybės dokumentuose neįdarbinti piliečiai būtų laikomi dirbančiais ir gautų 80 procentų vidutinio dydžio atlyginimus kiekvieną mėnesį iki tol, kol piliečiai laukia naujo įdarbinimo, nes problemą yra būtina spręsti anksti ir problemą yra galima spręsti ir išspręsti tobulinant valstybės veiksmų planą. Valdymo nuolatinis modelis turi būti vykdomas su valstybės programomis, nes Valdymo nuolatinis modelis stiprina valstybės strateginių tikslų įgyvendinimo galimybes, valstybės valdymas tampa efektyvesniu ir siekiančiu didinti valstybės piliečių gyvenimo gerovę ir naudą. Valstybėje būtina efektyviau valdyti dėl savivaldybių stiprinimo, savivaldybių saugumo užtikrinimo toliau nuo pasienio ir arčiau pasienio. Valdymo

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nuolatinio modelio tikslas ir kryptis yra piliečių įdarbinimas, todėl Valdymo nuolatinis modelis yra būtinas valstybės strateginiuose planuose ir strateginiame planavime, kad piliečiai būtų įdarbinti ir gautų atlyginimus kiekvieną mėnesį prekių ir paslaugų pirkimui, valstybės valdymo efektyvumo siekimui, visų ministerijų valstybėje valstybės tobulinimui. Taigi, valstybei yra rekomenduojama naudoti ir Valdymo nuolatinį modelį.

2. Dėl skirtingų valstybių kultūrinių ir socialinių, valstybės ūkio, bei ekonominių skirtumų tarptautiniuose projektuose gali būti tokių tikslų, kokių reikia valstybės valdymo efektyvumui siekti. Ilgalaikiai tarptautiniai projektai teikia visuomenei daug galimybių savivaldybėse prie valstybės sienos. Tikslai gali būti analizuojami, kad galima būtų valdyti savivaldybes efektyviau. Savivaldybės, kurios yra toli nuo valstybės valstybinės sienos, turi gebėti saugoti savivaldybes esančias netoli pasienio teritorijų. Tik efektyvus vadovavimas užtikrina gyventojams naudą visiems gyventojams, kurie dirba projekte ir tiems, kurie dirba darbe, kuris nėra darbo vieta projekte, gerovę ir naudą ir tiems piliečiams, kurie neįdarbinti. Todėl, įmonėms ir įstaigoms yra rekomenduojama sukurti darbo vietas ir garantuoti gyventojų gerovę, kad visi piliečiai efektyviai stiprintų valstybės valdymą.

3. Darbo vietų planavimas įmonėse ir įstaigose yra reikšmingas, nes turi būti paruošti planai, kur darbuotojas būtų perkeltas jei darbo vieta būtų nereikalinga. Valstybės valdymas efektyvus tuomet, kai valstybėje nėra skurdo ir valstybė užtikrina tiek pinigų piliečiams, kiek jų yra būtina gauti gyvenimui gyventi be skurdo dabar ir sulaukus pensijų mokėjimų. Valstybės dokumentais turi būti kuriama šiuolaikinė visuomenė su visais piliečiais ir gyventojais valstybėje, kiekvienam nuo gimimo ir garbingos senatvės metais, ir kiekvienam užtikrinant lygias galimybes dėl paslaugų pirkimų gyvenime. Darbo vietų skaičiaus didinimas priklauso nuo įmonių ir įstaigų vadovų ir valdymo kompetencijų. Todėl įmonėms ir įstaigoms yra siūloma nuolatos tobulinti valdymo kompetencijas gyventojų įdarbinimui valstybėje.

4. Efektyvūs valstybės valdymo rezultatai nepasiekiami tol, kol valstybėje yra neįdarbintų piliečių. Neįdarbinti piliečiai turi gauti tiek naudos gyvenime ir gerovės, kiek ir dirbantys piliečiai, nes valstybės efektyvus valdymas bus tuomet, kai piliečiams gyvenime valstybė garantuoja gerovės naudas, kad piliečiai turėtų tiek daug pinigų, kiek jų reikia gyvenimui gyventi kiekvienais žmogaus gyvenimo metais, kiekvieną mėnesį nusipirkti visas paslaugas (įskaitant ir maisto produktus, sveikatos paslaugas, švietimo paslaugas, prekes rūpinimuisi sveikata esant sveikam, paslaugas šeimai ir šeimos ūkiui), kiek gali nusipirkti ir dirbantis žmogus. Pasienio saugumo problemų yra daug, tačiau dalį problemų tikrai galima išspręsti jei

valstybė įdarbins visus piliečius valstybėje. Valstybė turi garantuoti įdarbinimą iki pensijos suteikimo metų, kad kiekvienas pilietis valstybei būtų labai svarbiu. Kai kurie piliečiai negali dirbti, bet valstybė jiems turi mokėti 80 procentų vidutinio atlyginimo dydžio atlyginimus kiekvieną mėnesį iki tol, kol jie galės dirbti ir bus įdarbinti įmonėse ir įstaigose; pinigai yra būtini kiekvienam neįdarbintam piliečiui, kad galėtų nusipirkti valstybės produktus, paslaugas valstybėje kiekvieną mėnesį; valstybės valdymas yra efektyvus, jei visi piliečiai turi vienodas galimybes gyvenimui gyventi valstybėje. Jei trys procentai piliečių negalėtų dirbti, už juos atlyginimus sumokėtų valstybė arba dirbantieji valstybėje iš specialaus fondo. Valstybės svarbiausi tikslai, strategijos, valstybės programos, ir valstybės uždaviniai yra susiję su saugumo užtikrinimu valstybėje; taigi, visi piliečiai gaunantys atlyginimus kiekvieną mėnesį gali efektyviai stengtis užtikrinti saugumą kiekvieną dieną valstybėje. Valstybės saugumas visose savivaldybėse turi būti efektyvus, kad galima būtų efektyviai saugoti valstybės teritorijos valstybinę sieną ir valstybę. Valstybės saugumui ir tvarkai užtikrinti yra būtina įdarbinti visus piliečius. Taigi, įmonėms ir įstaigoms yra siūloma naudoti Valdymo nuolatinį modelį ir suteikti piliečiams ir gyventojams darbą valstybėje.

Šie siūlymai turės teigiamos įtakos valstybėms, kad galėtų nedelsiant spręsti įdarbinimo problemą ir kiekvienos Europoje valstybės valdymas būtų efektyvesnis valstybės stiprėjimui. Atsakingos institucijos ir gyventojai gali stiprinti valstybės valdymą, kadangi valstybė nėra institucijų dokumentai, bet gyventojų ir piliečių valstybėje kuriama valstybė pagal valstybės dokumentus, valstybės tikslus dokumentuose. Efektyvesnis valstybės valdymas yra piliečių valdymas valstybėje valstybei, kad valstybė taptų šiuolaikiška ir pažangi ir stipresnė valstybė, saugesnė valstybė kiekvienam gyventojui ir piliečiui. Valstybėje yra būtina įdarbinti visus piliečius valstybės valdymo efektyvumui visose savivaldybėse; todėl valstybės veiksmų planą yra būtina tobulinti dėl gyventojų užimtumo darbu. Efektyvesnis valstybės valdymo stiprinimas savivaldybėse yra mokslinis straipsnis.

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ISSN 2029-1701
ISSN 2335-2035 (Online)
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ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
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MORE EFFECTIVE STRENGTHENING TO GOVERN THE COUNTRY IN MUNICIPALITIES

Gintaras Kavarskas
Mykolas Romeris University

Summary

More Effective Strengthening To Govern The Country In Municipalities is necessary. The serious problem is the unemployed citizens. The aims are on discussing and making proposals for the solution to the problem in order to improve the actions plan of the country. More Effective Strengthening To Govern The Country In Municipalities is very significant, therefore it is necessary to make proposals. The tasks of the work are these: to discuss the situation, to experiment to govern, to propose to solve the problem, to conclude. The main methods are the experiment and the model to strengthen the country, to make suggestions and conclusions for the solution to the problem. The results of the research in the article, More Effective Strengthening To Govern The Country In Municipalities, revealed that the unemployment citizens ought to be employed.

Keywords: management of projects; security; border; work; employment; governing a country.

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

KRIMINALISTIKA LIETUVOJE 1990-2020: NUO NAUJŲ PARADIGMŲ PAIEŠKOS IKI REALIZUOTŲ MOKSLINIŲ KONCEPCIJŲ IR ATEITIES ĮŽVALGŲ

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DOI: 10.13165/PSPO-20-24-16

Anotacija. Kriminalistikos istorija Lietuvoje turėjo savo specifiką, kuri buvo susieta ne tik su mokslo raida, bet ir valstybės kūrimu, tam tikru istoriniu paveldu bei geopolitine situacija. Kalbant apie Lietuvos kriminalistikos istorijos trečiąjį etapą, reikia pastebėti, kad jis prasidėjo po Nepriklausomybės atkūrimo 1990 m. kovo 11 d., kada keičiasi valstybės politiniai ir socialiniai bei ekonominiai vektoriai, jos institucijų sandara ir teisinis reglamentavimas, pradeda formuotis naujos teisėsaugos struktūros, atsiranda ir poreikis naujam kriminalistikos supratimui ir taikomųjų kriminalistikos metodų, būdų ir rekomendacijų diegimo į kovos su nusikalstamumu sritį praktikai. Sąlyginai šį trisdešimt metų apimantį Lietuvos kriminalistikos istorijos etapą autoriai pabandė schematiškai apžvelgti suskirstydami jį dešimtmečiais, turint tikslą parodyti kiekvieno dešimtmečio savitumo išskirtinius bruožus, vertinant teisinio reglamentavimo pokyčius, institucinę raidą, mokslo ir studijų plėtrą, tuo pačiu ir pagrindžiant tokį skirstymą bei pateikti savas įžvalgas, kaip tai darė kiekvieno kito dešimtmečio pradžioje, dėl tolesnio Lietuvos kriminalistikos vystymo krypčių.

Pagrindinės sąvokos: Lietuvos kriminalistikos istorija, teisinė bazė, kriminalistinės institucijos, studijos, tyrimai, mokslo programos, bendra Europos kriminalistikos erdvė.

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
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ĮVADAS

Kriminalistikos istorija Lietuvoje turėjo savo specifiką[1], kuri buvo susieta ne tik su valstybės kūrimu, bet ir tam tikru istoriniu paveldu bei geopolitine situacija. Kriminalistikos raidą Lietuvoje galime suskirstyti į tris pagrindinius etapus:

- Nuo Nepriklausomybės atkūrimo 1918 m. iki 1940 m;
- Sovietinį etapą nuo 1940 iki 1990 m. (su 1941-1944 m. Vokietijos okupacijos periodu);
- Šiuolaikinį etapą nuo 1990 m. iki mūsų dienų.[2]

Kalbant apie Lietuvos kriminalistikos istorijos trečiąjį etapą, reikia pastebėti, kad jis prasidėjo po Nepriklausomybės atkūrimo 1990 m. kovo 11 d., kada keičiasi teisinis reglamentavimas, pradeda formuotis naujos teisėsaugos struktūros, atsiranda ir poreikis naujam kriminalistikos supratimui ir taikomųjų kriminalistikos metodų, būdų ir rekomendacijų diegimo į kovos su nusikalstamumu sritį praktikai.

Straipsnio pagrindinis tikslas – apžvelgti Lietuvos kriminalistikos istorijos etapą jį suskirstant dešimtmečiais, siekiant parodyti kiekvieno dešimtmečio savitumą, vertinant teisinio reglamentavimo pokyčius, institucinę kriminalistinių įstaigų raidą, mokslo ir studijų plėtrą, tuo pačiu ir pagrindžiant tokį skirstymą, taip pat pateikti įžvalgas, dėl tolesnių Lietuvos kriminalistikos vystymo krypčių.

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[1] Būtina akcentuoti, kad XIX a. pabaigoje ir XX a. pradžioje, kada formavosi mokslinė kriminalistika, Lietuvos, kaip nepriklausomos valstybės, nebuvo. Apie kriminalistikos raidos etapus žr.: Malevski, H. Kriminalistikos mokslo atsiradimo ir formavimosi prielaidos bei raida / P. Ancelis, R. Ažubalytė, L. Belevičius, M. Gušauskienė, G. Juodkaitė-Granskienė, R. Jurgaitis, R. Jurka, H. Malevski, R. Merkevičius, I. Randakevičienė, J. Zajančkauskienė. *Sąžiningas baudžiamasis procesas: probleminiai aspektai*. Vilnius: Industrus., 2009, p. 399 – 435; Малевски, Г. Периодизация истории становления и развития криминалистики / *Проблемы современного состояния и пути развития органов предварительного следствия*. Материалы Всероссийской научно-практической конференции 28-29 мая 2010 г. Часть 2. Академия Управления МВД России. Москва, 2010, p. 247-255. Kalbant apie kriminalistikos raidos etapus būtina pasakyti, kad po I pasaulinio karo pasaulyje prasidėjo antrasis kriminalistikos raidos etapas, o Lietuvoje anais laikais reikėjo kurti valstybės pamatus ir „įsisavinti" jau sukurtus ir parengtus kovos su nusikalstamumu metodus, būdus ir priemones. Plačiau apie Lietuvos kriminalistikos formavimasi žr.: Palskys, E. *Lietuvos kriminalistikos istorijos apybraižos /1918-1940/.* Vilnius: LPA, 1995.

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MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
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PIRMASIS KRIMINALISTIKOS ISTORIJOS DEŠIMTMETIS (1990-2000 m.).

Vienu iš pagrindinių tikslų po Nepriklausomybės atkūrimo buvo poreikis įvertinti viešojo saugumo situaciją, nusikalstamumo būklę ir jo dinamikos tendencijas, nusikaltimų aiškinimo ir tyrimo proceso aprūpinimą kriminalistikos rekomendacijomis, šiuolaikine technika ir informacinėmis technologijomis. Pirmaeiliu dalyku tampa funkcionuojančių Lietuvoje kriminalistikos paradigmų verifikavimas, jų derinimas ir harmonizavimas su vykstančiomis teisėsaugos institucijų reformomis.

Atsiranda poreikis kuo greičiau perorientuoti teisėsaugos pareigūnų rengimą sukuriant pačią rengimo filosofiją, steigiant arba reorganizuojant mokslo ir studijų institucijas, formuojant mokslinį-pedagoginį personalą. Atkūrus Lietuvos nepriklausomybę tam atsirado ir naujos galimybės. Tikslas buvo plėtoti kriminalistikos mokslą orientuotą į vakarietišką kriminalistikos mokslo koncepciją, jo plėtros principus ir dėsnius. Šiems uždaviniams spręsti reikėjo naujoviškai mąstančių žmonių – mokslininkų ir praktikų, susibūrusių į vienaminčių kolektyvą, sugebantį atsiliepti į laikmečio iššūkius, derinantį patirtį ir veržlumą, gebėjimą ne tik spręsti sudėtingus uždavinius, bet ir prognozuoti galimus problemos vystymosi scenarijus, pasitelkiant strateginį kriminalistinį mąstymą. Šiame etape ypatingą reikšmę turėjo susipažinimas su Vakarų ir Vidurio Europos šalių kriminalistine didaktika, moksliniais ir taikomaisiais kriminalistikos aspektais bei jų kaip savotiško instrumento panaudojimas verifikuojant Lietuvos kriminalistikos mokslą, kriminalistinę didaktiką ir kriminalistikos rekomendacijų taikymą praktikoje.

Lietuvos kriminalistikoje suveikė švytuoklės principas, pradžioje buvo stiprus noras atsikratyti viso sovietinio paveldo ir perimti vakarietišką koncepciją ir moksle (vesternizacijos sindromas), ir didaktikoje, ir praktinėje veikloje. Bet laikui bėgant mokslinėje bendruomenėje įsitvirtina pragmatinis požiūris į situaciją. Mes pastebėjome, kad nors vakarų šalių kriminalistikos mokslas daugelyje sričių yra pažengęs toliau į priekį nei Rytų Europos kriminalistikos mokykla, ypač taikant naujas technologijas, tačiau tam tikros sritys (kriminalistikos teorija ir metodologija, kriminalistikos metodika) pakankamai stipriai atsiliko. Mes supratome, kad būtina pabandyti kurti savo kriminalistikos koncepcijos modelį išnaudojant kaip Rytų Europos, taip ir vakarų šalių kriminalistikos mokyklų pasiekimus, patiems tampant savotišku idėjų tiltu.

Lemiamu faktoriumi šiame kriminalistikos tarpsnyje tapo Lietuvos Policijos akademijos įkūrimas 1990 m. balandžio 28 d. su stipria kriminalistikos katedra, kurioje susikoncentravo geriausios to meto Lietuvos kriminalistikos mokslo pajėgos. Būtina pabrėžti, jog Lietuvos policijos akademija buvo universiteto statusą turinti aukštoji mokykla, ir tai buvo unikalus pavyzdys tarp Vidurio ir Vakarų Europos policijos mokyklų, kas padėjo kokybiškiau ir sparčiau spręsti studijų ir mokslo organizavimo klausimus, panaudojant ir užsimezgusius tarpuniversitetinius tarpusavio bendradarbiavimo ryšius, turėti teisės krypties doktorantūros teisę.

Teisinio reglamentavimo pokyčiai. Kalbant apie atskiras su kriminalistika susijusias sritis, paminėtinas jos istorijos kontekste, pradėsime nuo teisinio reglamentavimo pokyčių. Po Nepriklausomybės atkūrimo nedelsiant ir net skubos tvarka prasidėjo teisinės sistemos pertvarkos procesai. Šie procesai ir susieta su jomis valstybės institucijų pertvarka pradiniame etape neturėjo vieningos strategijos ir mokslinio pagrindimo, kas sukeldavo tam tikrų problemų[3]. Tik po Lietuvos Respublikos Konstitucijos 1992 m. ir 1993 m. gruodžio 14 d. Lietuvos Respublikos Seimo nutarimo „Dėl teisinės sistemos reformos metmenų ir jų įgyvendinimo“[4] priėmimo ši veikla įgauna kryptingumą. Nesigilinant į visos problematikos aptarimą akcentuosime dėmesį tik į kai kurias, mūsų manymu, reikšmingas sritis.

Aptardamas Lietuvos Respublikos baudžiamojo proceso įstatymų raidą atkūrus Lietuvos Nepriklausomybę, prof. Eugenijus Palskys rašė: „į įrodymų sąrašą įrašyta ir specialisto išvada, taigi faktinių duomenų, kurie gali būti įrodymais byloje, labai padaugėjo. Tai padidino kvotėjo, tardytojo ir teismo pažintines galimybes, jų rankose radosi daugiau veiksmingų įrodinėjimo priemonių, įrodinėjimas tapo patikimesnis. Baudžiamosiose bylose atsirado galimybė kaupti ne vienos ar tik kelių rūšių įrodymus, o daug daugiau ir įvairesnių jų šaltinių. Kokybiškai naujų procesinių veiksmų ir įrodymų rūšių panaudojimas garantuoja labai svarbų kompleksinio įrodomosios informacijos kaupimo baudžiamojoje byloje principą, sudaro patikimesnes procesines prielaidas tiesai byloje nustatyti“.[5]

[3] *Ancelis, P., Grigolovičienė, D.* Baudžiamojo persekiojimo raida atkūrus Lietuvos nepriklausomybę prieš patvirtinant Teisinės sistemos reformos metmenų naują redakciją. *Jurisprudencija*. 2004, 61 (53).
[4] Lietuvos Respublikos Seimo 1993 m. gruodžio 14 d. nutarimas Nr. I-331 “Dėl teisinės sistemos reformos metmenų ir jų įgyvendinimo” [žiūrėta 2020-06-22]. <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.5660?jfwid=-je7i1t1yb>.
[5] Palskys, E. Lietuvos Respublikos baudžiamojo proceso įstatymų raida 1990-1994 metais. *Kriminalinė justicija*. 1995, IV: 99.

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

Vertinant nūdienos situaciją specialių žinių panaudojimo nusikaltimų tyrime procesinio reglamentavimo požiūriu, deja, negalime pasakyti, kad į mokslininkų rekomendacijas buvo atsižvelgta.

Pagrindinė painiava, mūsų nuomone, atsirado, kai 1993 m. baudžiamojo proceso kodekse atsirado specialisto išvada kaip savarankiška įrodymų rūšis, nes nebuvo išgrynintos sąvokos, nepakankamai diferencijuota ir praktiškai niveliuota pati eksperto ir specialisto samprata; supainiotos eksperto ir specialisto funkcijos. Prisiminkime, kaip korektiškai ir moksliškai argumentuotai prof. E.Palskys kalbėjo apie kriminalistinių rekomendacijų peraugimo į baudžiamojo proceso normas tendencijas ir bendrai apie patį baudžiamąjį procesą: „*dabartinis LR BPK atrodo kaip blogai sudėliota mozaika: šalia atgyvenusių, pasenusių teisės normų jame nemažai ir visiškai naujų, pažangių, tarsi iš kitos civilizacijos perkeltų normų. Natūralu, kad tos normos prieštarauja kitoms, todėl kodeksas nėra vieninga loginiais vidiniais ryšiais susieta sistema, konceptualus norminis aktas*“[6]. Specialios žinios visada buvo kriminalistikos ir baudžiamojo proceso atstovų akiratyje. Būtina pažymėti, kad aname dešimtmetyje Lietuvos policijos akademijos kriminalistikos katedros mokslininkai nagrinėjo tam tikrus probleminius specialių žinių aspektus, tame tarpe ir disertaciniame lygyje[7].

Nagrinėjant kriminalistinius specialių žinių taikymo klausimus mes negalėjome neįvertinti jų teisinio reglamentavimo[8]. Netylėjo ir Vilniaus universiteto mokslininkai, aktyviai diskutavę procesinių ir neprocesinių įrodymų rinkimo būdų atribojimo, ikiteisminio tyrimo teisėjo įvedimo teismuose, eksperto ir specialisto teisinio statuso skirtumų ir kitais aktualiais klausimais.[9] Būtina pažymėti, kad naujas Lietuvos Respublikos baudžiamojo proceso kodeksas

[6] Kurapka, V.E., Matulienė, S. Profesoriaus Eugenijaus Palskio teorinio palikimo įžvalgos ir jų realizacija Lietuvos Respublikos baudžiamojo proceso kodekse. *Baudžiamasis procesas: nuo teorijos iki įrodinėjimo*. Vilnius, 2011, p. 11-50.

[7] Malevski, H. *Įvykio vietos apžiūra ir įvykio vietos tyrimas: naujas kriminalistinės koncepcijos modelis* . Daktaro disertacija. Vilnius, 1997; Juškevičiūtė, J. *Specialių žinių panaudojimas tiriant nusikaltimus: būklė ir raidos perspektyvos*. Daktaro disertacija. Vilnius, 1998.

[8] Malevski, H. *Kriminalistiniai įvykio vietos apžiūros uždaviniai ir problemos* //Lietuvos Respublikos baudžiamųjų įstatymų reforma. Respublikinės mokslinės konferencijos pranešimų tezės (1990 m. spalio 30-31 d.). Vilnius, 1990, p.95-97; Malevski, H., Juškevičiūtė, J. Dėl specialių žinių termino apibrėžimo. *Kriminalinė justicija*. 1997, 6: 35-45; Malevski, H. Įvykio vietos tyrimas : šiuolaikinės problemos ir raidos perspektyvos. *Jurisprudencija*. 1998, 10 (2): 179-185; Kurapka, E., Malewski, H. Zarys koncepcji rozwoju kryminalistyki na Litwie. *Problemy współczesnej kryminalistyki*. Tom III. Pod. red. E. Gruzy i T. Tomaszewskiego. Prace naukowe Zakładu kryminalistyki Wydziału prawa i administracji Uniwersytetu Warszawskiego i Polskiego Towarzystwa Kryminalistycznego. Warszawa, 2000, s. 207-212.

[9] Rinkevičius, J. Įrodymų rinkimo būdai baudžiamajame procese. *Jurisprudencija*. 1998, 10(2): 58-63.

buvo priimtas tik 2002 m., o iki jo įsigaliojimo 2003 m. gegužės 1 d. jame buvo padaryti dešimtys patikslinimų ir pataisymų. Ilgai trukę įstatymleidystės procesai turėjo neigiamos įtakos ne tik teisėsaugos institucijų reformai, kovos su nusikalstamumu būklei, bet ir kriminalistikos plėtrai.

Pokyčiai kriminalistinėse institucijose. Šis dešimtmetis buvo sudėtingas visoms teisėsaugos institucijoms, tame tarpe ir kriminalistinėms. Savo veiklas turėjo apsibrėžti visos, tuo metu veikusios ekspertinės įstaigos, kurios praėjo nemenką reorganizacijų bangą.

Teismo ekspertizės mokslinio tyrimo institutas, 1958 metais įsteigta ekspertinė įstaiga, atliko teismo ekspertizes ir dirbo mokslo tiriamąjį darbą kriminalistikos ir teismo ekspertizės srityse. Institutas kaip ekspertinė, o kartu ir mokslinė institucija tapo mokslinių tyrimų ekspertologijos ir specialių žinių taikymo baudžiamajame procese lyderiu, jo mokslininkai aktyviai dalyvavo naujojo Baudžiamojo proceso kodekso kūrimo darbo grupės veikloje, Lietuvos valiutos – lito įvedimo ekspertiniame vertinime. 1995 m. Teismo ekspertizės mokslinio tyrimo institutas tapo Europos teismo ekspertizės institucijų asociacijos (toliau - ENFSI) nariu.

1991 m. Vidaus reikalų ministerijos Ekspertinis-kriminalistinis skyrius reorganizuotas į Lietuvos Respublikos vidaus reikalų ministerijos Policijos departamento Kriminalinės policijos vyriausiosios valdybos Kriminalistinių ekspertizių biurą. Kriminalistinių ekspertizių biuras šiuo laikotarpiu atliko labai svarbų vaidmenį aprūpinant ekspertinius padalinius šiuolaikine kriminalistine technika, užmezgant dalykinius bendradarbiavimo ryšius su JAV, Vokietijos, Švedijos, Lenkijos ir kitų šalių ekspertinėmis įstaigomis, sudarant sąlygas darbuotojams kelti kvalifikaciją užsienio kriminalistikos centruose.

Dar viena ekspertinė įstaiga - Teismo medicinos biuras, kuris tik palaipsniui išgrynino savo veiklą. 1992 metais Vidaus reikalų bei Teisingumo ministerijos ir Generalinės prokuratūros iniciatyva psichiatrinės ekspertizės atlikimas buvo pavestas bendram Teismo medicinos ir psichiatrijos centrui, 1994 m. šis centras buvo reorganizuotas, įkuriant savarankišką Valstybinę teismo psichiatrijos tarnybą prie Sveikatos apsaugos ministerijos. Teismo medicinos biuras greta praktinės ekspertinės veiklos vis daugiau dėmesio ėmė skirti ir mokslo tiriamajam darbui.

Kriminalistikos mokslininkai aktyviai įsijungė į diskusiją apie ekspertinių įstaigų reformos problemas Lietuvos teisinės sistemos reformos kontekste. Buvo atkreiptas dėmesys į

tai, kad yra nekoordinuojama ekspertinių įstaigų plėtra, susimaišė respublikinis, žinybinis, regioninis lygmuo ir ekspertų specializacija, naujos ekspertinės institucijos plėtojamos stichiškai, jų vis daugėja, lėšos naudojamos, o poreikiai panaudoti specialias žinias nepatenkinami. Sparčiai plintant šiai neigiamai tendencijai, buvo įžvelgta, kad tolesnė tokia šių svarbių institucijų plėtra be aiškios koncepcijos yra negalima ir kuo greičiau koreguotina.[10]

Kriminalistikos mokslo raida. Pristatant pirmuosius mokslinius tyrimus, reikia pažymėti, kad 1993 m. Lietuvos policijos akademijos Kriminalistikos katedros mokslininkai ne tik konstatavo, kad dabartinis kriminalistikos mokslo lygis Lietuvoje neatitinka europietiškų standartų, pasenusi jos kaip mokslo sistema, kriminalistikos technika vis labiau atsilieka nuo nusikaltimų tyrimo praktikos, jos poreikių. Pirmajame Lietuvos policijos akademijos mokslo darbų tome buvo pagrįsti (ir numatyti) konkretūs uždaviniai kriminalistikos mokslininkams, pristatytos būsimų mokslo programų įžvalgos – pradedant įvykio vietos tyrimo, ekspertologijos, gynėjo kriminalistinės taktikos, kriminalistinės charakteristikos ir kitomis atskiromis aktualiomis problemomis, baigiant pačia kriminalistikos vystymosi Lietuvoje savarankiška koncepcija[11].

Atsižvelgiant į tai buvo pradėtos vykdyti mokslo programos. Jau nuo 1991-1992 m. Lietuvos policijos akademijoje buvo bandoma mokslo tiriamąjį darbą konsoliduoti ir koncentruoti per bendras katedrų, tame tarpe ir kriminalistikos, programas. Tai buvo reikšmingas postūmis Lietuvos kriminalistikai. 1994–1997 m. atliktas nusikalstamumo Lietuvoje tyrimas mokslo programoje „Nusikalstamumas ir kriminalinė justicija“ buvo pirmas tokio pobūdžio mokslinis darbas nepriklausomoje Lietuvoje, mes tada rašėme, jog jis turėtų būti tęsiamas nuolat, kad kauptume informaciją ir kad galėtume sėkmingai iš kriminalistikos bei kriminologijos pozicijų prognozuoti nusikalstamumo pokyčius, ateičiai numatyti jo prevencijos ir kontrolės pagrindines kryptis, kurti ir tobulinti nusikaltimų aiškinimo bei tyrimo strategiją. Tyrimai buvo vykdomi kriminologijos, kriminalistikos, baudžiamosios teisės ir baudžiamojo proceso mokslų srityje, tai buvo siekis pažvelgti į nusikalstamumo fenomeną kompleksiškai, ne tik pasidalinti teorinėmis įžvalgomis, bet ir pasiūlyti praktinius sprendimus

[10] Kurapka, E., Malevski, H. Dėl kai kurių ekspertinių tarnybų reformos problemų. *Jurisprudencija*. 1999, 12(4): 88-96.
[11] Juškevičiūtė, J., Kuklianskis, S., Kurapka, E., Malevski, H., Pošiūnas, A., Žurauskas, A. Kriminalistikos vystymosi Lietuvoje perspektyvos. *Kriminalinė justicija*. 1993, 1: 65–70.

teisėsaugos institucijoms, pateikti naujų, laikmetį atitinkančių teisės aktų ir net kodeksų projektus. Kriminalistikos srityje aktyviai darbavosi prof. Eugenijus Palskys, prof. Samuelis Kuklianskis, prof. Pijus Pošiūnas, o taip pat doc. Hendryk Malevski, doc.Vidmantas Egidijus Kurapka ir kiti, tada dar tik jauni, o dabar žinomi ir patyrę mokslininkai.[12]

Vykdant šią programą buvo padėti pagrindai pirmosioms po Nepriklausomybės atkūrimo Lietuvoje apgintoms daktaro disertacijoms kriminalistikos klausimais.[13] Per šį dešimtmetį buvo parengta daugiau nei šimtas mokslo straipsnių taikomaisiais ir teoriniais kriminalistikos klausimais. Vyko tarptautinės mokslinės konferencijos Lietuvoje, o Lietuvos kriminalistai vis aktyviau dalyvavo užsienyje rengiamose konferencijose, kurių metų buvo pristatomi Lietuvos kriminalistų atliekami tyrimai. Pagrindinis mokslininkų dėmesys buvo nukreiptas į taikomuosius kovos su nusikalstamumu aspektus ir į kriminalistinę didaktiką.

Kriminalistikos didaktika. Sovietmečiu Lietuvoje funkcionavo VRM struktūroje Minsko aukštosios milicijos mokyklos Vilniaus fakultetas, dvi vidurinės pakopos specializuotos VRM mokyklos ir milicijos mokymo centras, kuriose skirtinga apimtimi buvo dėstoma kriminalistika ir kitos disciplinos. Jų bazėje buvo įkurta Lietuvos policijos akademija turėjusi per trumpą laiką parengti ne tik naujomis vertybėmis grindžiamą pareigūnų rengimo koncepciją, bet ir paruošti atitinkamas mokymo programas, užtikrinti jas atitinkamomis metodinėmis ir didaktinėmis priemonėmis. Kriminalistinės didaktikos aspektu paminėtina originali pakopinė kriminalistikos dėstymo sistema, pilnai atitikusi įvairaus lygio pareigūnų rengimo poreikius, pristatyta ir teigiamai įvertinta tarptautinės kriminalistikos bendruomenės. Apie šį kriminalistikos dėstymą teisėsaugos pareigūnams Lietuvoje jau buvo nemažai rašyta tiek nacionalinėje[14], tiek užsienio mokslinėje spaudoje.[15] Lietuvos policijos akademijos

[12] Kurapka, V.E., Malewski, H., Matulienė, S., Juodkaitė-Granskienė, G., Gorbatkov, A. Kriminalistika Lietuvoje 1918-2018 m. *Kriminalistika ir teismo ekspertologija: mokslas, studijos, praktika*. Odesa, 2018, p.44.

[13] Malevski, H. *Įvykio vietos apžiūra ir įvykio vietos tyrimas: naujas kriminalistinės koncepcijos modelis* . Daktaro disertacija. Vilnius, 1997; Juškevičiūtė, J. *Specialių žinių panaudojimas tiriant nusikaltimus: būklė ir raidos perspektyvos*. Daktaro disertacija. Vilnius, 1998; Barkauskas, A. *Nusikaltimo tyrimo versijų šiuolaikinė koncepcija ir jos plėtros kryptys*. Daktaro disertacija. Vilnius, 2000; Burda, R. *Nusikaltimai ekonomikai: sampratos modeliavimas ir šiuolaikinė tyrimo metodikos koncepcija*. Daktaro disertacija. Vilnius, 2000.

[14] Kurapka, V.E. Kriminalistikos dėstymo Lietuvos policijos akademijoje modelis. *Policijos pareigūnų dorovės bei psichologijos savybės ir jų ugdymas*. Tarptautinės mokslinės-metodinės konferencijos medžiaga. Vilnius, 1994.

[15] Malewski, H. Nauczanie kryminalistyki w Litewskiej akademii policji. *Policyjny biuletyn szkoleniowy*. Szczytno, 1996, 3-4: 80-82.

Kriminalistikos katedros mokslininkų buvo parengtos pagrindinės kriminalistikos programos pakopiniam mokymui, tarp jų nemažas kiekis kitų specializuotų mokymo programų. Šių programų privalumas - buvo ženklus praktinių užsiėmimų kiekis. Mokymo procese, ypač pravedant praktinius užsiėmimus, aktyviai dalyvavo patyrę teisėsaugos darbuotojai. Pagal susitarimą su pagrindinėmis ekspertinėmis įstaigomis dalis užsiėmimų vyko jų bazėje susipažindinant su esama technika ir naudojamais metodais. Šiame dešimtmetyje buvo surengta nemažai vizitų į Vokietijos, Lenkijos, Švedijos ir kitų šalių aukštasiąs policijos mokyklas ir universitetus tikslu susipažinti su kriminalistinio ciklo disciplinų dėstymu.

Svarbus kriminalistikos didaktikai faktas – 1998 m. buvo išleistas kriminalistikos vadovėlis lietuvių kalba „Kriminalistikos technikos pagrindai“.[16]

Aptariamame dešimtmetyje Lietuvos policijos akademijos kriminalistikos katedroje buvo sukurtas originalus prietaisas nematomiems kojų pėdsakams fiksuoti nuo įvairių paviršių, kuriuo buvo aprūpinti visi Lietuvos policijos komisariatai, o prietaisas tapo universalių kriminalistinių lagaminų komplektacijos dalimi.

ANTRASIS KRIMINALISTIKOS ISTORIJOS DEŠIMTMETIS (2001 – 2010 m.)

Šį dešimtmetį galima apibūdinti kaip proveržio kriminalistikos moksle bei diskutuotinų sprendimų teisiniame reglamentavime ir instituciniame modeliavime laikotarpį. Kartu būtina pabrėžti, kad šio dešimtmečio pabaigoje kriminalistikos didaktikai buvo suduotas stiprus smūgis – Mykolo Romerio universitete buvo panaikinta kriminalistikos katedra.

Pradžioje norime paminėti, kad dar 2000 m. šio dešimtmečio kriminalistikos mokslo problematika ir ateities uždaviniai buvo pristatyti moksliniame straipsnyje „Kriminalistikos mokslas vykdant teisės reformą Lietuvoje“, kur buvo vertinta kriminalistikos mokslo būklė, įvardinti kriminalistikos prioritetai ir suformuluoti kriminalistikos vystymo koncepcijos metmenys. „Šie metmenys turėtų apimti kriminalistikos raidos modelį ir šiuolaikinę jos sistemą bei santykį su kitais mokslais, kriminalistikos mokymo, teisinės bazės kūrimo ir tobulinimo, kriminalistikos valdymo klausimus, padėti spręsti nusikaltimų tyrimo praktikos problemas.“[17]

[16] Kurapka, E., Malevski, H. Palskys, E., Kuklianskis, S. *Kriminalistikos technikos pagrindai.* Vilnius: Eugrimas, 1998.
[17] Kurapka, E., Malevski, H. Kriminalistikos mokslas vykdant teisės reformą Lietuvoje. *Jurisprudencija*. 2000, 18(10): 5.

Teisinio reglamentavimo pokyčiai ir jų įtaka kriminalistikai. 2003 m. Lietuvoje įsigaliojo šie pagrindiniai norminiai aktai, reglamentuojantys specialiųjų žinių taikymą tiriant nusikalstamas veikas: Lietuvos Respublikos baudžiamojo proceso kodeksas (toliau – ir BPK) ir Lietuvos Respublikos teismo ekspertizės įstatymas (toliau – ir TEĮ). Šiuose norminiuose aktuose buvo naujai reglamentuojamos specialiųjų žinių naudojimo formos. Pasikeitė ir pagrindinių specialiųjų žinių naudojimo formų (ekspertizė ir specialisto išvada) samprata ir procesinis reglamentavimas. Reikia pasakyti, jog ne visose užsienio šalyse, o tiksliau, tik nedaugelyje jų terminas „specialios žinios" yra apibrėžtas įstatyme. Lietuvoje specialių žinių apibūdinimą randame TEĮ 3 straipsnyje: „**Specialios žinios** – išsilavinimo ir specialaus pasirengimo arba profesinės veiklos dėka įgytos išsamios mokslo, technikos, meno ar bet kokios kitos žmonių veiklos srities žinios, reikalingos ekspertizei atlikti"[18]. Nors ir tapęs teisės norma, toks specialių žinių supratimas, mūsų nuomone, iš vienos pusės, pernelyg abstraktus (bet kokia kita veikla), iš kitos – per siauras (ekspertizei atlikti). Pagal tokią logiką, specialių žinių gali turėti tik ekspertas, tačiau BPK 89 str. sako, jog ir specialistas yra reikiamų specialių žinių ir įgūdžių turintis asmuo, kuriam pavedama atlikti tyrimą ir pateikti išvadą arba paaiškinimus jo kompetencijos klausimais. Dėl pasitaikančių įstatymų spragų, nevienodo jų komentavimo, nepakankamai išdiskutuotų klausimų kriminalistinėje literatūroje, mūsų nuomone, specialių žinių sampratos negalima nagrinėti atskirai nuo specialių žinių panaudojimo formų ir subjektų problematikos, bandant įnešti aiškumo į susidariusią painiavą tiek teoriniuose darbuose, tiek teisiniame reglamentavime, tiek teisės normų taikymo praktikoje. Nors apie jos sprendimo kryptis profesorius E. Palskys rašė daugiau kaip prieš keturis dešimtmečius. Viename savo pirmųjų mokslinių straipsnių jis pastebėjo, kad „specialisto sąvoka <...> bus nepilnai atskleista, jei nebus bent trumpai nusakyta, kuo specialistas skiriasi nuo eksperto. Lyginant specialisto ir eksperto sąvokas, nesunku pastebėti, kad jos yra labai panašios. Ir specialistas, ir ekspertas yra asmenys, turintieji tam tikros srities specialių žinių. Kiekvienas ekspertas yra, be abejo, specialistas bendra gyvenimiška prasme, ekspertas gali būti specialistas, bet ne kiekvienu atveju prireikia specialistą kviesti dalyvauti

[18]Lietuvos Respublikos Teismo ekspertizės įstatymas Nr. IX-1161//Valstybės žinios. 2002.10.29. Nr. 112-4969.

byloje ekspertu. Specialistas nuo eksperto skiriasi veiklos tikslais, jos turiniu, procesinių teisių ir pareigų pobūdžiu, jų apimtimi ir kt.“[19]

Šiai problematikai skirtuose moksliniuose straipsniuose buvo rašoma, kad turint tikslą pasiekti geriausių rezultatų rengiant norminius aktus, įstatymo leidėjas neturėtų atmesti praktinės patirties reikalavimų bei neignoruoti mokslininkų, dirbančių šioje srityje, patirties ir žinių. Įvertinus dabartinį baudžiamąjį procesą, kuriame dalyvauja ekspertas ir specialistas kaip šio proceso dalyviai, pritariame nuomonei, kad BPK „praktiškai suvienodino eksperto ir specialisto teises ir pareigas“ bei „suskirstė specialias žinias ir įrodymus į dvi klases“, o iš kitos pusės – neliko teorinio ir praktinio poreikio greta teismo ekspertizės egzistuoti specialisto išvadai[20].

Pokyčiai kriminalistinėse institucijose. Mūsų vertinimu, jie buvo nesubalansuoti ir gana prieštaringi: nuo mokslo institucijos perorientavimo į praktinę žinybinę ekspertinę įstaigą iki diametrialiai priešingo proceso – ekspertinės įstaigos tapsmo universiteto mokslo institutu. Taip, Teismo ekspertizės mokslinio tyrimo institutas buvo pertvarkytas į Lietuvos teismo ekspertizės institutą, o 2000 m. reorganizuojamas į Lietuvos teismo ekspertizių centrą prie Lietuvos Respublikos teisingumo ministerijos, tuo pačiu netenkant mokslo institucijos statuso. 2001 m. vietoje Teismo medicinos ekspertizės biuro įkuriamas Mykolo Riomerio universiteto Teismo medicinos institutas, vėliau tapęs teismo medicinos mokslo centru, kuriame pradėtos vykdyti mokslo programos, projektai su pasaulio mokslo institucijomis, sukuriama šiuolaikinė mokslinė bazė ir, to pasėkoje, aktyviai rengiami mokslininkai, ginamos disertacijos [21] Deja, šis

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[19] Kurapka, V.E., Matulienė, S. Profesoriaus Eugenijaus Palskio teorinio palikimo įžvalgos ir jų realizacija Lietuvos Respublikos baudžiamojo proceso kodekse. *Baudžiamasis procesas: nuo teorijos iki įrodinėjimo* (prof. dr. Eugenijaus Palskio atminimui). Vilnius, 2011, p.23.

[20] Kurapka, E., Malevski, H. Kriminalistikos mokslas vykdant teisės reformą Lietuvoje. *Jurisprudencija*. 2000, 18(10): 5; Malewski, H., Kurapka, E. Opinia specjalisty i jej miejsce w procedurze karnej Litwy. *Logiczne podstawy opiniowania ekspertyz dokumentów a praktyka*, ed. by Z. Kegel,. Wrocław: Katedra Kryminalistyki Wydziału Prawa, Administracji i Ekonomii Uniwersytetu Wrocławskiego, 2006, p. 197–203; Burda, R., Juškevičiūtė, J. Specialių žinių naudojimo formų Lietuvos baudžiamajame procese optimizavimas. *Jurisprudencija*. 2006, 11(89): 19–26.

[21] Jakubėnienė, M. *Metalizacijos pėdsakų sužalojimuose nustatymas rentgeno fluorescencijos ir atominės sugerties spektrinės analizės metodais*. Daktaro disertacija. Vilnius, 2004; Benošis, A. *Alkoholinio neblaivumo ir mirtingumo sąsajų teismo medicininiai, teisiniai, socialiniai aspektai*. Daktaro disertacija. Vilnius, 2004; Petreikis, P. *Mirtinos galvos smegenų traumos: griuvimų ir kritimų klinikiniai ir teismo medicininiai aspektai*. Daktaro disertacija. Vilnius, 2005; Raudys, R. *Teismo medicininiai tyrimai (ekspertizės) išžaginimų atvejais: buvusio prievartinio lytinio akto įrodymas ir pasekmės moters sveikatai*. Daktaro disertacija. Vilnius, 2005; Gincman-Dorošenko, J. *Smurtas prieš vaikus teismo medicininiu požiūriu*. Daktaro disertacija. Vilnius, 2005; Šniepienė, G. *Mirčių, susijusių su narkotinių medžiagų vartojimu, socialiniai ir teismo medicininiai ypatumai Klaipėdos apskrityje 1993-2002 m*. Daktaro disertacija. Vilnius, 2005; Bojarun, R. *Individo biologinio amžiaus nustatymas pagal nuolatinių dantų šaknų mikrostruktūrą*. Daktaro disertacija. Vilnius, 2006; Stonkus, V.

pagreitį įgavęs procesas sustojo, kai 2009 m. institutas reorganizuojamas į Valstybinę Teismo medicinos tarnybą prie Lietuvos Teisingumo ministerijos, vėliau prie Sveikatos apsaugos ministerijos. Taigi, antrąjį atkurtos Nepriklausomos Lietuvos istorijos dešimtmetį viskas baigėsi tuo, kad Lietuvoje neliko ekspertinės mokslo institucijos, tiesa, iš institucijų funkcijų nebuvo išbrauktas mokslo tiriamasis darbas.

Stabilus išliko Lietuvos policijos Kriminalistinių tyrimų centras (toliau - KTC), persikėlęs į naujai pastatytą ir modernia technika aprūpintą pastatą. 2004 m. Kriminalistinių tyrimų centras paskirtas nacionaliniu EURODAC padaliniu ir pradėjo vykdyti prieglobsčio prašytojų, nelegalių migrantų ir neteisėtai kertančiųjų Lietuvos valstybinę sieną daktiloskopinių duomenų tvarkymo funkciją. KTC tapo pirmąja šalies institucija, saugiu S-TESTA ryšio tinklu sujungta su Europos Komisija. 2005 m. KTC įstojo ir tapo ENFSI nariu. Šiuo metu specialistai aktyviai dalyvauja ENFSI penkių darbo grupių veikloje. 2007 m. KTC suteiktas akredituotos įstaigos statusas ir jis tapo pirmąja kriminalistinių tyrimų įstaiga Lietuvoje, akredituota pagal tarptautinį standartą ISO/IEC 17025:2005. 2008 m. prie KTC prijungtas Lietuvos policijos kinologijos centras kaip Odorologinių tyrimų ir kinologijos valdyba.

XX ir XXI a. sandūroje, kaip ir kitose Europos valstybėse, Lietuvoje pribrendo poreikis turėti organizaciją, kurioje galėtų būti išklausomi ir derinami įvairių kriminalistikos mokslo pasiekimus ir rekomendacijas naudojančių institucijų (policijos, prokuratūros, ekspertinių tarnybų bei universitetų kriminalistikos ir baudžiamojo proceso katedrų) tikslai ir interesai. Visa tai paskatino įsteigti Lietuvos kriminalistų draugiją (toliau – LKD). LKD iniciatyvinės mokslininkų, teismo ekspertų ir kitų teisėsaugos institucijų (policijos, prokuratūros ir net teismų) atstovų grupės buvo įsteigta 2001 m. gruodžio 3 d. ir užregistruota Lietuvos Respublikos Teisingumo ministerijoje 2002 m. sausio 21 d. LKD yra visuomeninė, nepolitinė ir nepelno siekianti organizacija, turinti savo organizacinę struktūrą ir savivaldą. Steigiamojo draugijos susirinkimo metu Tarybos pirmuoju pirmininku buvo išrinktas, o vėliau ir antrai kadencijai perrinktas prof. dr. Hendryk Malevski, tuo metu Lietuvos Teisės Universiteto

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Narkotinių ir psichotropinių medžiagų nustatymas stiklakūnyje. Daktaro disertacija. Vilnius, 2007; Kisielius, G. *Kaukolės skliauto lūžių mechanizmo nustatymas kaulo šlifuose*. Daktaro disertacija. Vilnius, 2008.

(vėliau - Mykolo Romerio universiteto) Kriminalistikos katedros vedėjas. Pagrindinis Draugijos tikslas - suburti Lietuvos kriminalistikos mokslo ir praktikos specialistus bei kitus asmenis, plėtoti jų interesus mokslinėje, techninėje, švietėjiškoje, informacinėje bei kitose srityse, glaudžiai susijusiose su kriminalistikos mokslu. Šis tikslas nusako ir LKD misiją.[22]

Lietuvos kriminalistai aptariamame dešimtmetyje užmezgė dalykinius ir kartu draugiškus ryšius ne tik su artimiausiais kaimynais, bet ir su dešimčių Europos šalių aukštųjų mokyklų, ekspertinių bei kitų teisėsaugos institucijų kolegomis. Tam tikrais aspektais LKD veikla yra geriau žinoma užsienyje, nei Lietuvoje. Ypač tai pasakytina apie vieną iš reikšmingiausių organizuojamų LKD renginių - tarptautines mokslines praktines konferencijas „Kriminalistika ir teismo ekspertizė: mokslas, studijos, praktika“, kurios tapo bendradarbiavimo ir diskusijų platforma tarp Rytų, Vidurio ir Vakarų Europos mokslininkų ir praktikų.

Kriminalistikos mokslo raida. Negalime nepaminėti Mykolo Romerio universitete 2001–2004 m. vykdytos tarpžinybinės mokslo programos „Nusikalstamumo Lietuvoje dinamika, prognozė, kontrolės kryptys ir šiuolaikinė kriminalistikos koncepcija“. Programos vykdyme dalyvavo Lietuvos teisės universitetas, Vilniaus universitetas, Teisės institutas, Matematikos ir informatikos institutai. Šios programos paskirtis buvo visapusiškai ir objektyviai išanalizuoti nusikaltimų tyrimo koncepciją, nuolat teikti Lietuvos Respublikos Seimui, Vyriausybei ir teisėsaugos institucijoms moksliniais tyrimai paremtas rekomendacijas ir siūlymus dėl teisinės sistemos reformos Lietuvoje spartinimo, kriminalinės justicijos darbo efektyvinimo ir nusikaltimų tyrimo rezultatų didinimo. Kompleksinių tyrinėjimų programa apėmė tris pagrindines kryptis: kriminologinę, kriminalistinę ir teisinę- organizacinę, jos mokslinis naujumas ir originalumas tuomet buvo tame, kad buvo siekiama integruoti įvairių socialinių mokslų žinias kompleksiškai tiriant problemą. Buvo parengta ir apginta 12 daktaro disertacijų, išleisti 5 vadovėliai ir monografijos, 58 straipsniai užsienio mokslo leidiniuose, 91 mokslinis straipsnis Lietuvos mokslo leidiniuose, padarytas 51 pranešimas mokslinėse konferencijose.[23]

[22]Plačiau žr. Malewski, H., Kurapka, E., Matulienė, S., Juodkaitė-Granskienė, G. Die Gesellschaft der Kriminalisten Litauens -Bruecke zwischen den kriminalisten Schulen Ost-, Mittel- und Westeuropas. *Kriminalistik.* 2016, 8-9: 525-531.

[23] Kurapka, V.E., Malewski, H., Matulienė, S., Juodkaitė-Granskienė G., Gorbatkov, A.. Kriminalistika Lietuvoje 1918-2018 m. Straipsnių rinkinys: *Kriminalistika ir teismo ekspertologija: mokslas, studijos, praktika*. Odesa, 2018, p.45.

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
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PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

Vykdant programos antroje kryptyje „Šiuolaikinė nusikaltimų tyrimo koncepcija ir jos kriminalistinis užtikrinimas“ (vadovai prof. V. E. Kurapka ir prof. H. Malevski) buvo pasiekti šie svarbiausi rezultatai: suformuluoti kriminalistikos mokslo plėtros Lietuvoje pagrindai; parengti ir realizuoti taikomieji kriminalistikos, kaip nusikaltimų tyrimo funkcijas užtikrinančios disciplinos, pagrindai, rengiamos naujų nusikaltimų rūšių tyrimo metodikos ir mokslinės-praktinės rekomendacijos; pasiūlyta nusikaltimų tyrimo prognostinė koncepcija (procesiniai, kriminalistiniai ir organizaciniai aspektai); pateikti įstatymų projektai bei siūlymai tobulinti baudžiamojo proceso įstatymus, atliktos projektų mokslinės ekspertizės.

Per šį dešimtmetį buvo parengtos ir apgintos 12 daktaro disertacijos įvairiais kriminalistikos klausimais.[24]

2005–2008 m. Mykolo Romerio universiteto mokslininkai atliko tyrimą dėl kriminalistikos bei teismo ekspertizės žinių ir jų taikymo lygio Lietuvoje[25].

Sukaupta mokslinių projektų, ir ypač tarpžinybiniu formatu, sėkmingo vykdymo patirtis lėmė, jog Lietuvos mokslininkai (Mykolo Romerio universiteto mokslininkų grupė kartu su kitais projekto partneriais Vilniaus universitetu ir Teisės institutu) dalyvavo Valstybinio studijų fondo finansuojamame 2008–2010 m. projekte „Nusikalstamumo grėsmės ir šiuolaikinės žmogaus saugumo vadybos technologijos“ pagal prioritetinę mokslo tyrimų kryptį „Piliečiai ir valdymas žinių visuomenėje“. Projekto vadovai prof. V. E. Kurapka ir prof. V. Justickis.

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[24] Krikščiūnas, R. *Kriminalistikos metodų ir rekomendacijų panaudojimas civilinėje teisenoje: teoriniai ir metodiniai aspektai.* Daktaro disertacija, Vilnius, 2002; Ryngevič, R. *Kriminalistinės lingvistikos teoriniai pagrindai ir jos metodų bei rekomendacijų taikymas teismo ekspertizėje*. Daktaro disertacija, Vilnius, 2002; Kažemikaitienė, E. *Lietuvos Respublikos kriminalistinė informacinė sistema: dabartinė būklė ir naujas modelis*. Daktaro disertacija, Vilnius, 2003; Matulienė, S. *Kriminalistinė nusikaltimų charakteristika nusikaltimų tyrimo metodikoje: teorinių ir praktinių problemų šiuolaikinė interpretacija*. Daktaro disertacija, Vilnius, 2004; Latauskienė, E. *Nusikaltimų, susijusių su narkotinėmis ir psichotropinėmis medžiagomis, ikiteisminio tyrimo metodikų koncepcija: teorinis modelis ir kriminalistinės galimybės*. Daktaro disertacija, Vilnius, 2004; Terehovičs, V. *Nešaunamojo ginklo tyrimo metodologijos problemų sprendimas kriminalistikoje – šiuolaikinis požiūris* Daktaro disertacija, Vilnius, 2004; Novikovienė, L. *Šiuolaikinės kriminalistinės profilaktikos koncepcijos formavimas ir taikymo tendencijos Lietuvoje*. Daktaro disertacija, Vilnius, 2005; Lipnickas, E. *Kyšininkavimo tyrimo metodika.* Daktaro disertacija, Vilnius, 2006; Radzevičius, E. *Specialių žinių panaudojimas tiriant nusikalstamus darbų saugos taisyklių reikalavimų pažeidimus: teorija ir praktika Lietuvoje.* Daktaro disertacija, Vilnius, 2006; Šatienė, G. *Korupcijos socialinės ir teisinės apibrėžties įtaka korupcinių veikų tyrimo metodikų koncepcijos pokyčiams*. Daktaro disertacija, Vilnius, 2009. Disertacinio lygmens moksliniai tyrimai kriminalistikos srityje buvo vykdomi ir Vilniaus universitete: Juodkaitė-Granskienė, G. *Teismo ekspertizės išvadų formulavimas ir vertinimas*. Daktaro disertacija, Vilnius, 2003; Gorbatkov A. *Kontrabandos tyrimas*. Daktaro disertacija, Vilnius, 2005.

[25] Kurapka, E. V., Malevski. H., Kažemikaitienė, E. Kriminalistikos ir teismo ekspertizės žinių poreikio ir jų taikymo praktikos Lietuvoje vertinimas. *Jurisprudencija*. 2007, 12 (102): 22–31.

Įgyvendinę šiame projekte numatytus tikslus ir uždavinius, projekto mokslininkai parengė monografiją „Nusikalstamumo grėsmės ir žmogaus saugumas“. Buvo išskirtos trys tuo metu Lietuvoje svarbios išsamaus tyrimo kryptys: smurtinis nusikalstamumas, taip pat smurtas šeimoje, prieš mažamečius ir pan., vagystės (Lietuvoje labiausiai paplitę nusikaltimai), taip pat iš butų, žaibiškos vagystės ir pan. ir nusikaltimai transporto eismo saugumui. Remiantis atliktais tyrimais Lietuvoje ir pasauline praktika, buvo siūloma optimizuoti ekspertinių įstaigų veiklą valstybėje jas sujungiant į tam tikrus institutus. Išvadose pabrėžiama, kad specialių žinių panaudojimas yra neatsiejama veiksmingo ir kokybiško nusikalstamos veikos atskleidimo dalis, ypač tiriant sunkius ir labai sunkius nusikaltimus ir priimant sprendimus dėl jų. Apibendrinus specialiomis žiniomis gautus duomenis buvo nustatytos nusikalstamumo grėsmės ir žmogaus saugumo vadybos spragos bei rekomenduoti galimi iškeltų problemų sprendimo būdai.[26]

Kriminalistikos didaktika. Kaip pasiūlytos studijų dalykų programos atrodė įžengus į XXI amžių, vykstant sudėtingiems integracijos procesams, reikalaujantiems apgalvotos įvairių sričių harmonizavimo politikos?

Kriminalistikos žinių poreikio spartesnė plėtra ir mokslo žinių diferenciacijos ir integracijos procesai atvedė prie to, kad pats kriminalistikos dalykas bei supratimas apie patį kriminalistikos mokslą pasikeitė. Savo ruožtu, tai negali neatsispindėti ir kriminalistikos didaktikoje. Iš vienos pusės, rinkos ekonomika darė įtaką didesnei civilistikos panaudojimo sričiai, iš kitos pusės – šioje sferoje dirbančių mokslininkų ir praktikų siauras požiūris į kriminalistikos galimybes (arba net kriminalistikos žinių nereikalingumą), o taip pat nepakankamas teisės studentų informuotumas apie kriminalistikos mokslą lėmė pastebimas kriminalistikos kurso siaurinimo ar net jos atsisakymo tendencijas. Pastebėtas ir net kai kurių kriminalinės justicijos pareigūnų, mokslininkų, universitetų administratorių netoliaregiškas požiūris į kriminalistiką, kartais nulemtas subjektyvių aplinkybių, kartais nepakankamai gilaus mokslinio problematikos suvokimo ar principinės, mūsų nuomone, labai diskutuotinos pozicijos apie materialiosios (baudžiamoji teisė), procesinės (baudžiamasis procesas) teisės ir kriminalistikos santykį. Tai buvo galima pastebėti Vakarų Europos šalyse seniau, dabar tai

[26] *Nusikalstamumo grėsmės ir žmogaus saugumas*. Vilnius: MRU, 2010, p. 12.

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
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PUBLIC SECURITY AND PUBLIC ORDER
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būdinga buvusiam postsovietiniam (Rytų ir Vidurio Europos valstybių) blokui. Deja, Lietuvoje taip pat nebuvo išvengta kriminalistikos didaktikos deformacijų: dešimtmečio pabaigoje kriminalistikos kursas buvo pastoviai siaurinamas, kol kriminalistika tapo alternatyviai pasirenkamu dalyku Mykolo Romerio ir Vilniaus universitetuose, Mykolo Romerio universiteto Teisės fakultete, nežiūrint į keliolika apgintų disertacijų kriminalistikos problematikoje, suburtą stipriausią Lietuvoje kriminalistikos mokslininkų kolektyvą ir vykdomus svarbius mokslo projektus, buvo likviduota kriminalistikos katedra.

Būtina pabrėžti, kad tuo metu Jungtinėse Amerikos Valstijose ir kai kuriose Vakarų Europos šalyse „ratas“ apie kriminalistikos studijas apsisuko. To pasėkoje kriminalistikos kaip visuomenės socialinio užsakymo reikšmė, teisingiau, jos supratimas, vėl kilo, kas netrukus atsiliepė ir teisininkus rengiančių aukštųjų mokyklų programose, universitetų, kuriuose viena ar kita forma buvo dėstoma kriminalistika arba teismo ekspertizė, skaičius didėjo.[27] O ir teorinėje literatūroje vėl pabrėžiant kriminalistikos vaidmenį buvo akcentuojama kiek primiršta mintis, kad baudžiamasis procesas siūlo normatyvinius modelius, tam tikras abstrakcijas, nustato tam tikras ribas, tačiau neparodo, kaip tai reikia padaryti, o kriminalistika visa tai pripildo būtinu turiniu.[28]

Reikia pastebėti, kad didesnis dėmesys civiliniam, arbitražo procesui, ypač rungtyniškumo principo realizavimas sudaro galimybes ir platesniam kriminalistikos pasiekimų taikymui šiose srityse, apie ką irgi pastaruoju metu nemažai rašoma.[29]

Vienas pagrindinių kriminalistikos vystymosi dėsnių yra tas, kad kriminalistikos rekomendacijas apsprendžia kovos su nusikalstamumu praktikos poreikiai ir šios praktikos tobulinimas remiantis kriminalistikos mokslu. Literatūroje pabrėžiama, jog turi būti išskirti dėsningumai, maksimaliai priartinti prie tyrimo praktikos ir suformuluoti taip, jog jų žinojimą

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[27]Textbook of Criminalistics. Volume 1: General Theory. Kharkiv: Apostille Publishing House LLC, 2016, p. 435-444.

[28]Шепитько, Ю.В. Криминалистика XX1 века: предмет познания, задачи, тендеции в новых условиях. *Современное состояние киминалистики*. Сбоник научных трудов.Харьков: Апостиль, 2012, с.45.

[29]Курапка, В.Э., Билевичюте, Е., Матулене, С., Дерешкявичюс, Е. Осуществление принципа состязательности в деятельности представителя защиты в Литве с примеением средств криминалистики. *Перспективы развития уголовно-процессуального права и криминалистики*. Материалы 2-й международной научно-рпактической коференции (Москва 11-12 апреля 2012 г.). Москва: ИД «Юриспруденция», 2012.

būtų galima panaudoti nusikaltimų tyrimo procese, jų formuluotė turi būti suprantama praktikai.[30]

Lietuvoje buvo rašyta apie kriminalistikos reikšmę ne tik baudžiamajame bet ir administraciniame, civiliniame procesuose, arbitražo veikloje.[31]. Taipogi pasisakėme ir pasisakome, kad kriminalistikos kaip mokymo (studijų) disciplinos neįvertinimas universitetinėse teisininkų studijose nepadės, o tiksliau trukdys, įgyti pakankamų profesionalių žinių, reikalingų teisininkui plačiame teisinių specialybių (profesinės veiklos) spektre[32]. Kaip šios mūsų įžvalgos atsispindėjo pastarojo dešimtmečio Lietuvos kriminalistikos „realijose“?

TREČIASIS KRIMINALISTIKOS ISTORIJOS DEŠIMTMETIS (2011-2020 m.)

Labai norėtųsi jį apibūdinti kaip kriminalistikos renesanso Lietuvoje laikotarpį, turint omenyje ir tarptautinėje erdvėje vykstančius (pasidėjusius) integracijos intensyvėjimo, harmonizacijos būtinumo supratimo ir pirmųjų ES iniciatyvų pradėti bendros Europos kriminalistikos erdvės kūrimo laikotarpį.

Teisinis reglamentavimas – nuo nacionalinio į europinį lygį. Europos Sąjungos Taryba 2016 m. birželio 9 d. patvirtino Tarybos išvadas ir veiksmų planą dėl tolesnių veiksmų, atsižvelgiant į kuriamą Europos kriminalistinių tyrimų erdvę.[33] Anksčiau, dar 2011 m. buvo patvirtinta tokia Europos kriminalistikos 2020 vizija: „Siekdamos skatinti policijos ir teisminių institucijų bendradarbiavimą visoje Europos Sąjungoje, kad iki 2020 m. būtų sukurta Europos kriminalistikos erdvė, valstybės narės ir Europos Komisija bendradarbiaus siekdamos pažangos šiose srityse, kad būtų užtikrintas sąžiningas, nuoseklus ir veiksmingas teisingumo administravimas ir piliečių saugumas.

[30]Центров, Е.Е. Закономерности криминалистики и особенности использования сведений о них в процессе расследования преступлений. *Современное состояние и развитие криминалистики*. Сборник научных трудов. Харьков: Апостиль, 2012, c.31.
[31]Bilevičiūtė, E., Dereškevičius, E., Kurapka, K. Криминалистические основы деятельности адвоката-уполномоченного представителя в административном процессе Литвы (Advokato-įgaliotojo atstovo kriminalistinė veikla Lietuvos administraciniame procese). *Криминалистика и судебная экспертиза: наука, обучение, практика* (Criminalistic and forensic examination: science, studies, practice). 8-я (внеочередная) международная научно-практическая конференция, Санкт-Петербург, 2012.
[32]Kurapka, E., Malevski, H. Kriminalistiklehre an Universitäten – Notwendigkeit, Realität oder Problem? *Kriminalistik Unabhängige Zeitschrift für die kriminalistische Wissenschaft und Praxis*. 2005, 1: 47-50.
[33] Council of the European Union. Council Conclusions and Action Plan on the way forward in view of the creation of an European Forensic Science Area [žiūrėta: 2020-06-22]. <http://data.consilium.europa.eu/doc/document/ST-10128-2016-INIT/en/pdf>.

Reikia pastebėti šios vizijos įgyvendinimo mechanizmas lyg ir patvirtintas, tačiau mažai nagrinėtas, inicijuojami tik atskiri ENSFI tyrimai, kurie aprėpia tik teismo ekspertizės problematiką. Mūsų nuomone, reikia atsižvelgti į dar vieną aplinkybę: Europoje yra nevienodas pats kriminalistikos mokslo sampratos ir sistemos vertinimas ir su tuo susiję skirtumai kriminalistikos metodų naudojimo teisiniame reglamentavime. Iš kitos pusės ES šalyse nėra žinomi tyrimai Rytų Europos, itin NVS šalyse, nebandoma ieškoti būdų įtraukti ne ES šalis į bendros kriminalistikos erdvės kūrimo tyrimus, siejant su integralaus visuomenės saugumo tyrimų poreikiu. Šiems klausimams skyrėme taip pat nemažai dėmesio[34].

Kriminalistinių institucijų raida. Kaip šie procesai vyko Lietuvoje? Kalbant apie ekspertines institucijas, jos visos nebeturi mokslinės įstaigos statuso, priklauso skirtingoms ministerijoms, kas sukelia problemų veiklos koordinavime, dėl to dešimtmečio pradžioje buvo bandoma jas reformuoti, tačiau net ir Ministro Pirmininko sudaryta darbo grupė nesugebėjo pasiūlyti reformos realizavimo mechanizmo, nes nebuvo sutarta dėl pagrindinių tikslų ir siekiamų rezultatų. Būtina pasakyti, kad šis klausimas (visų ekspertinių įstaigų jungimas į vieną instituciją) yra sprendžiamas skirtingai net mūsų artimiausių kaimynų. Skirtingai šią koncepciją vertina ir Lietuvos kriminalistai, bet jie vieningi viename, Lietuvai yra reikalinga stipri kriminalistinė mokslinė institucija, kuri ne tik taptu lyderiu ir koordinatoriumi mokslo srityje, bet ir užtikrintų pamatuotą užsienio šalių pažangios patirties diegimą (implementaciją) į mūsų kasdieninę veiklą. Vis tik ekspertinių įstaigų veikloje stipriau pasireiškė tendencija įsitraukti į tarptautinius projektus, ENFSI veiklą. Pavyzdžiui, LTEC nuo 2010 m. yra akredituotas pagal tarptautinį standartą ISO 17025 „Tyrimų, bandymų ir kalibravimo laboratorijų kompetencijai keliami bendrieji reikalavimai". Tai reiškia, kad LTEC yra kompetentinga gauti techniškai patikimus duomenis ir rezultatus, kad LTEC veikia taikydama išorinės akreditavimo institucijos pripažintas taisykles, patikimus, pripažintus ir patvirtintus (validuotus) tyrimo metodus ir kokybės vadybos sistemą. Lietuvos teismo ekspertizės centro direktorė G.Juodkaitė-Granskienė buvo išrinkta ENFSI Viceprezidente.

[34]Bilevičiūtė, E., Kurapka, V.E., Malevski, H., Matulienė, S. Europos teismo ekspertizės 2020 vizija: prioritetiniai tikslai ir galimos jų įgyvendinimo kliūtys. *Kriminalistika ir teismo ekspertologija: mokslas, studijos, praktika*. Vilnius: Lietuvos teismo ekspertizės centras, 2016, 12: 50-66; Bilevičiūtė, E., Kurapka, V.E., Malevski, H., Matulienė, S. Kriminalistikos vizija 2020 ir naujos įžvalgos dėl jos ateities. *Kriminalistika ir teismo ekspertologija: mokslas, studijos, praktika*. Vilnius: Lietuvos teismo ekspertizės centas, 2017, 13(1): 31-45.

KTC yra specializuota ir vienintelė Lietuvos policijoje specialiąsias policijos funkcijas vykdanti policijos įstaiga, kurios tikslas – užkardant, atskleidžiant ir tiriant nusikalstamas veikas ir kitus teisės pažeidimus, taikant specialiąsias žinias, atlikti objektų tyrimus ir ekspertizes, dalyvauti formuojant ir įgyvendinant

Lietuvos policijos sistemos strategiją visuomenės saugumo ir specialiųjų žinių panaudojimo srityje. KTC pagrindiniai veiklos tikslai ir funkcijos yra sietinos su laboratorinių objektų tyrimų ir ekspertizių atlikimo kokybės, jų trumpų atlikimo terminų užtikrinimu; su sunkių bei labai sunkių nusikaltimų padarymo vietų apžiūros kokybės užtikrinimu; su nuolatiniu Centro specialistų kvalifikacijos tobulinimo įgyvendinimu ir atitinkamu jų kompetencijos lygio užtikrinimu; su daktiloskopinių duomenų ir DNR registrų, kulkų ir tūtelių kolekcijų, kitų kriminalistinių kolekcijų, kartotekų ir duomenų bazių, naudojamų nusikalstamoms veikoms atskleisti tvarkymu; su kokybės vadybos sistemos bei akreditacijos palaikymu ir stebėsenos vykdymu; su Europos Tarybos sprendimo 2008/615/TVR dėl tarpvalstybinio bendradarbiavimo gerinimo, visų pirma kovos su terorizmu ir tarpvalstybiniu nusikalstamumu srityje nuostatų įgyvendinimu; su dalyvavimu Nacionalinės narkotikų kontrolės ir narkomanijos prevencijos 2009–2016 metų programos priemonėse, skirtose stabdyti ir mažinti neteisėtą narkotinių ir psichotropinių medžiagų bei jų pirmtakų (prekursorių) pasiūlą ir paklausą, narkomanijos plitimą, stiprinant asmens ir visuomenės sveikatą bei saugumą.

Valstybinė teismo medicinos tarnyba (toliau - VTMT) nuo 2012 m. akredituota pagal tarptautinį standartą LST EN ISO/IEC 17025:2005 atlikti Nacionalinio akreditacijos biuro prie Ūkio ministerijos akreditavimo pažymėjime nurodytus teismo medicinos tyrimus. VTMT įdiegta kokybės vadybos sistema užtikrina, kad įstaigoje atliekamų tyrimų metodai, darbuotojų kvalifikacija ir darbo kokybė atitinka standarte LST EN ISO/IEC 17025 nustatytus reikalavimus. VTMT yra teismo medicinos gydytojų ruošimo bazė, kurioje rengiami būsimieji teismo medikai – Vilniaus universiteto Medicinos fakulteto teismo medicinos studijų rezidentai. VTMT dalyvauja Lietuvos sveikatos mokslų, Mykolo Romerio, Vytauto Didžiojo universitetų studentų mokymo procese dėstant teismo medicinos dalyką.

2014 m. įsigaliojus Lietuvos Respublikos teismo ekspertizės įstatymo pakeitimams naujų funkcijų įgijo **Teismo ekspertų veiklos koordinavimo taryba.** Teismo ekspertų veiklos koordinavimo taryba sudaroma iš teismo ekspertizės įstaigų, teisėsaugos institucijų, valstybės

institucijų, mokslo ir studijų institucijų atstovų. Teismo ekspertų veiklos koordinavimo tarybos sudėtį ir nuostatus tvirtina teisingumo ministras. Taryba yra kolegiali visuomeniniais pagrindais veikianti institucija, kuriai Lietuvos Respublikos teismo ekspertizės įstatymu pavesta koordinuoti teismo ekspertizės įstaigų ir privačių teismo ekspertų veiklą bei spręsti svarbiausius teismo ekspertų veiklos klausimus. Vykdant šias funkcijas: teikia pasiūlymus Teisingumo ministerijai dėl teisinio reguliavimo tobulinimo teismo ekspertizės srityje; nagrinėja skundus dėl Teismo ekspertų profesinės etikos kodekso pažeidimų ir šio Įstatymo nustatyta tvarka priima sprendimus; koordinuoja teismo ekspertizės įstaigų ir teismo ekspertų veiklą; tvirtina teismo ekspertizės rūšių sąrašą; derina teisėsaugos institucijų, teismo ekspertizės įstaigų ir kitų ekspertinius tyrimus atliekančių įstaigų, privačių teismo ekspertų interesus teismo ekspertizės srityje; atlieka kitas įstatymų ir kitų teisės aktų nustatytas funkcijas.

Vykdydama jau pavestas funkcijas Taryba 2014 m. patvirtinto teismo ekspertų profesinės etikos kodeksą, privalomą visiems sąrašiniams teismo ekspertams, 2016 m. patvirtino efektyvaus teismo ekspertizių atlikimo organizavimo veiksmų planą, teismo ekspertizės rūšių sąrašą, teikė rekomendacijas teismams bei privatiems teismo ekspertams teismo ekspertizių atlikimo, vertinimo klausimais.[35] Nors Taryba sugeba spręsti tam tikrus klausimus, bet iš jos buvo tikimasi ženkliai daugiau.

Mokslinė veikla – Europos bendros kriminalistinės erdvės link. Jau minėjome, kad Lietuvos kriminalistų draugija savo svarbiausią tarptautinį renginį - tarptautines mokslines praktines konferencijas „Kriminalistika ir ekspertologija: mokslas, studijos, praktika“, atsižvelgiant į dalyvaujančių konferencijose užsienio šalių kriminalistų pasiūlymus, pradėjo kas antrus metus rengti užsienyje. Nuo 2012 metų konferencija buvo organizuota Rusijoje (2014), Ukrainoje (2014, 2018), Lenkijoje (2016).

2017 m. rugsėjo 14-16 d. d. eilinės XIII tarptautinės konferencijos, vykusios Lietuvoje (Palanga), metu buvo pasirašytas Memorandumas įkurti Europos Nacionalinių kriminalistikos asociacijų Federaciją, kuri vienytų institucijas, savo veikloje susijusias su kriminalistikos ir ekspertologijos moksline ir praktine problematika ir aktyviau prisidėtų prie bendros Europos

[35]Teismo ekspertų veiklos koordinavimo taryba [žiūrėta 2020-06-22]. <http://www.ltec.lt/lt/teismo-ekspertu-veiklos-koordinavimo-taryba>.

kriminalistikos erdvės kūrimo. Nuo 2018 metų tarptautinė praktinė konferencija buvo įvardinta kaip tarptautinis kriminalistų kongresas, kuris pirmą kartą susirinko Ukrainoje (Odesa). 2019 m. Kongresas įvyko Kaune, kur preliminariai buvo apsvarstyti Europos Nacionalinių Kriminalistikos Organizacijų Federacijos steigimo dokumentai.

Kalbant apie kriminalistinės ir ekspertinės veiklos reglamentavimą, Lietuvos mokslininkai pastebėjo, jog atsirado nekorektiška baudžiamojo proceso normų žinybinė teisėkūra. Pavyzdžiui, Lietuvos Respublikos Generalinio prokuroro įsakymu patvirtintose rekomendacijose dėl užduočių specialistams ir ekspertams skyrimo (su pakeitimais 2012 m., 2014 m., 2018 m.) patvirtinimo[36], pasireiškia specialisto atliekamo tyrimo ir ekspertizės niveliavimo tendencija, ne tik atkartojant, bet ir sustiprinant BPK paliktą šių sąvokų adekvatumą, o ne mėginant šias sąvokas, paaiškinti ir pakomentuoti, taip mėginant padėti ikiteisminio tyrimo pareigūnams teisingai jas vartoti, kas ir būtų rekomendacijų prasmė. Šiose rekomendacijose apstu normų, kurios sukelia daug diskusijų. Atsižvelgiant į tai, kad ekspertizę skiria ikiteisminio tyrimo teisėjas ar teismas, kai jis nusprendžia „kad nusikalstamos veikos aplinkybėms nustatyti būtina atlikti specialų tyrimą, kuriam reikalingos mokslo, technikos, meno ar kitos specialios žinios“, rekomenduoti vadovautis rekomendacijomis vargu ar galima, o sukelti painiavą pavyksta[37]. Tenka apgailestauti, kad į šių rekomendacijų svarstymą, o gal į bendro sutarimo pasiekimą nebuvo įtraukta Lietuvos advokatūra, kuri sekant rekomendacijų logika, turėtų priimti „savas“ rekomendacijas

Kalbant apie mokslo programas ir disertacinius tyrimus, būtina pasakyti, kad 2011 m. buvo laimėtas Lietuvos mokslo tarybos konkursas ir pradėta vykdyti nauja mokslinių tyrimų programa „Specialių žinių taikymo nusikaltimų tyrime mokslinė koncepcija ir jos realizavimo mechanizmas“. Vykdant šią programą tyrimai parodė, kad Lietuvai būdingos ir net labiau pasireiškia tokios ekspertinės ir kriminalistinės veiklos problemos, kurios turi būti neatidėliotinai sprendžiamos. Būtina nustatyti ir iki galo įgyvendinti kriminalistinių

[36]Lietuvos Respublikos generalinio prokuroro 2011 m. sausio 18 d. įsakymas Nr.I-14 „Dėl rekomendacijų dėl užduočių specialistams ir ekspertams skyrimo patvirtinimo“.
[37]Apie įstatymo normų „pakitimą“ žinybiniais aktais teisingai rašė ir P. Ancelis, kuris teigė: „kelia nerimą tai, kad einama ne tiesiai, o aplinkiniais keliais, tai yra iš esmės nekoreguojant BPK normų toliau kaitaliojamos rekomendacijos, įsakymai, instrukcijos ir kt. Šie norminiai aktai sukelia dar didesnę painiavą, todėl ikiteisminio tyrimo pareigūnų suvokiami ir taikomi nevienodai“. Plačiau žr.: Ancelis, P. Baudžiamojo proceso normų įtaka užtikrinant žmogaus ir visuomenės saugumą. *Nusikalstamumo grėsmės ir žmogaus saugumas*. Vilnius: Mykolo Romerio universiteto Leidybos centras, 2010, p.339.

laboratorijų akreditavimo ir personalo sertifikavimo standartus. Tai patvirtina ir Europoje vykstantys procesai bei veiksniai. Svarbiausias iš jų – Europos Sąjungos tarybos pamatinis 2009 m. lapkričio 30 d. sprendimas 2009/905 „Dėl kriminalistinių laboratorinių tyrimų paslaugų tiekėjo akreditacijos“[38]. Reikia pasakyti, jog kai kurios Lietuvos ekspertinės įstaigos šį procesą jau įgyvendino (Lietuvos teismo ekspertizės centras, Kriminalistinių tyrimų centras, Valstybinė teismo medicinos tarnyba)[39].

Pagrindinis tyrimo akcentas šioje mokslo programoje – specialių žinių taikymas Lietuvoje: nuo šiandienos praktikos iki reformos mokslinės koncepcijos, atskleidžiant svarbiausias ekspertinės veiklos problemas, pateikiant savą mokslinės specialių žinių taikymo reformos koncepcijos sampratą bei požiūrį, kaip ją įgyvendinti. Programos išvados kartu pagrindė ir naujų tyrimų galimybes. Itin tai pasakytina apie ambicingą iššūkį Lietuvos mokslininkams – parengti ir vykdyti naują mokslo programą kaip realizuoti Europos teismo ekspertizės (kriminalistikos) viziją.[40]

Tęsiant pateiktas įžvalgas mokslininkai toliau vykdė Lietuvos Mokslo Tarybos finansuojamą projektą “Europos kriminalistikos vizijos 2020 įgyvendinimo Lietuvoje koncepcija ir pagrindinės veiklos kryptys” (MIP-089/2014) (mokslinis vadovas prof. V. E. Kurapka, pagrindiniai vykdytojai prof. S. Matulienė, prof. E. Bilevičiūtė, prof. H. Malevski, dokt. S.Stankevičiūtė, dalyvavo vykdant doc. G.Juodkaitė-Granskienė, doc. Ž. Navickienė). Šio projekto tyrimai parodė didelį norminės bazės harmonizavimo poreikį ir teigiamą jo potencialą skatinant teisėsaugos institucijų bendradarbiavimą visoje Europoje, bei parodė tokio harmonizavimo kryptis bei spręstinas problemas, kad iki 2020 m. būtų sukurta Europos kriminalistikos erdvė[41].

[38]Tarybos pamatinis sprendimas 2009/905/TVR “*Dėl kriminalistinių laboratorinių tyrimų paslaugų teikėjų akreditacijos*” [žiūrėta 2020-06-22].< http://eur-lex.europa.eu/legal-content/LT/TXT/?uri=CELEX% 3A32009F0905>.

[39]Juodkaitė – Granskienė, G., Malevsk,i H. Merkevičius, R. Teismo ekspertizės reglamentavimas – būklė ir perspektyvos. *Kriminalistika ir teismo ekspertizė : mokslas, studijos, praktika*. 2011, VII (1): 9-21.

[40]*Specialių žinių taikymo nusikaltimų tyrime mokslinė koncepcija ir jos realizavimo mechanizmas.* Vilnius: Mykolo Romerio universitetas, 2012, p. 195-198.

[41]Bilevičiūtė, E., Kurapka, V. E., Matulienė, S., Navickienė, Ž. *Harmonization of Application of Special Knowledge Legal Regulation Creating the Common European Forensic Science Space (Subjects and Forms)*, 2nd International Multidisciplinary Scientific Conference on Social Sciences and Arts SGEM2015, Conference Proceedings, Aug 26 - Sept 01. Book 2, Vol. 1., p. 569-576.

Tyrimas patvirtino hipotezę, kad šis ES politikos posūkis ne tik tapo (turi tapti) lemiamu žingsniu kriminalistikos plėtroje, bet ir parodė anksčiau neidentifikuotą kriminalistikos harmonizavimo poreikį ir jos vaidmuo žmonių saugumo užtikrinime. Dabar jau pripažįstama, kad tik kriminalistikos ir apskritai teisės mokslų harmonizavimas gali užtikrinti pamatinių demokratinės visuomenės vertybių – laisvės ir saugumo – egzistavimą[42]. Mokslo programos vykdytojai pasiūlė, kad, atsižvelgiant į teisinės bazės harmonizavimo poreikį Europos lygmenyje, būtina aktyvinti diskusijas ir realizuoti jų rezultatus dėl BPK ir TEĮ normų, reglamentuojančių specialių žinių taikymą, tikslinimo, siekiant jų atitikimo tarptautiniams standartams.

Įgyvendinant Europos Sąjungos Tarybos 2016 m. birželio 9 d. nutarimą dėl Veiksmų (priemonių) plano kuriant bendrą Europos ekspertizės erdvę projekto vykdytojai laikė tikslingu taip pat kartu rengti ir svarstyti pasiūlymus į Lietuvos nacionalinį Veiksmų (priemonių) planą, kuris apimtų ne tik taktinius veiksmus iki 2018 metų, bet savyje jungtų 2 lygius (nacionalinį ir Europos), kelis etapus (2017–2018 m. – taktinio lygio veiklos, skirtos realizuoti „Veiksmų planą“, 2020 m. harmonizuotos vizijos realizavimas, 2020–2025 m. – kriminalistikos erdvės kūrimo strategija) ir problemų blokus (politinį administracinį arba kriminalistinės politikos, teisinį (nacionalinių ir ES aktų rengimas ir analizavimas, mokslinį (mokslinių tyrimų plėtra, bendri moksliniai projektai ir t.t.), didaktinį (specialistų rengimas, kvalifikacijos kėlimas ir jų strategijos), organizacinį techninį). Deja, šios įžvalgos adresatų nepasiekė, o ir Vizijos įgyvendinimas numatytais terminais vėluoja.

Kalbant apie tarptautinius projektus, reikia pasakyti, kad turime ir Lietuvos „pėdsaką“ tarptautinėse mokslo programose kriminalistikos problematika. Vienas iš veiksmingų veiksnių siekiant užkirsti kelią su narkotikais susijusiems nusikaltimams yra tiriamųjų projektų metu išvystytų mokslinių idėjų tolimesnis plėtojimas jas pritaikant visuomenės saugumo srityje. Sėkmingas šių idėjų įgyvendinimo praktikoje pavyzdys yra 2008–2012 metais Danijos technologijos universiteto mokslinio tiriamojo projekto „Xsense“ metu išvystyta idėja, kad multi-kolometrinės sensorinės sistemos gali būti panaudotos ir visuomenės saugumo srityje –

[42]Kurapka, V. E., Bilevičiūtė, E., Matulienė, S., Stankevičiūtė, S. Europos kriminalistikos 2020 vizijos įgyvendinimo Lietuvoje mokslinė koncepcija: problemų medis. *Kriminalistika ir teismo ekspertologija: mokslas, studijos, praktika*. 2015, 11: 453-456.

nelegalių cheminių medžiagų: sprogmenų ir narkotikų, greitam nustatymui iš oro mėginių. Šios kokybiškai naujos idėjos įgyvendinimui bei jos praktiniam pritaikymui teisėsaugos institucijų veikloje buvo suburta tyrėjų grupė, kuri susivienijo 6 šalių: Danijos, Didžiosios Britanijos, Vokietijos, Olandijos, Švedijos ir Lietuvos intelektualines pajėgas: 3 universitetai (Kranfildo (Jungtinė Karalystė), Danijos technikos ir Mykolo Romerio universitetų mokslininkai), 3 privačios firmos bei Olandijos muitinė ir Lietuvos policijos kriminalistinių tyrimų centras. Daugianacionalinės komandos parengtas projektas buvo teigiamai įvertintas Europos Komisijos. Tad nuo 2013 metų liepos 27 d. pradėtas vykdyti FP-7 projektas „Sensorinė sistema nelegalių cheminių medžiagų nustatymui“ (*Sensor system for detection of criminal chemical substances*).[43] 2017 baigus projektą, teisėsaugos pareigūnai gavo naują techninę priemonę kovai su nelegalia prekyba narkotikais.[44]

Nesustojo ir tyrimai disertaciniame lygmenyje, nors tempai ir sulėtėjo, kam neigiamą poveikį turėjo ir sumenkęs dėmesys kriminalistikos studijoms universitetų teisės fakultetuose bei kriminalistikos dalyko apimčių, o tuo pačiu – pedagoginio krūvio, mažėjimas.[45] Tam įtakos turėjo ir vienintelės Lietuvoje kriminalistikos katedros likvidavimas 2008 m.

Kriminalistikos didaktika. Mūsų manymu, dėmesys kriminalistikos didaktikai, kuri turėtų atspindėti realioje praktikoje vykstančius pokyčius, kartu būtų jungiamąja grandimi tarp kriminalistikos kaip mokslo, studijų disciplinos ir praktinės veiklos, turi tik didėti. Savo ruožtu, diskusija apie tai, kam, kokioje apimtyje ir kaip dėstyti kriminalistiką, padėtų ir pačios kriminalistikos mokslo reikšmės suvokimui, to pasėkoje vėl teigiamai darytų įtaką praktikai.

Literatūroje jau pasirodo pasiūlymų, kad į kriminalistikos kaip studijų dalyko sistemą būtų įtrauktas dalykas (modulis) sąlyginiu pavadinimu „Taikomoji kriminalistika teisinėje

[43] *Europos kriminalistikos bendros erdvės 2020 vizijos įgyvendinimo Lietuvoje mokslinė koncepcija*. Mokslo studija. Vilnius, 2016, p.243-245

[44] Juškevičiūtė, J., Ilgauskienė, I., Matulienė, S., Kurapka, V.E. Technology innovation in the detection of drugs. *Criminal justice and security in Central and Eastern Europe: safety, security, and social control in local communities*. Maribor: Faculty of Criminal Justice and Security, University of Maribor, 2016, p. 74.

[45] Šatas, M. *Prokuroro ir ikiteisminio tyrimo pareigūno bendradarbiavimas tiriant sunkius nusikaltimu.* Daktaro disertacija. Vilnius, 2011; Navickienė, Ž. *Ikiteisminio tyrimo organizavimo modelis kriminalistikos taktikoje*. Daktaro disertacija. Vilnius, 2011; Dereškevičius, E. *Kriminalistikos metodų taikymas gynėjo procesinėje veikloje: nuo teorijos iki metodikos*. Daktaro disertacija. Vilnius, 2013; Bučiūnas, G. *Slaptas sekimas – tinkamos pusiausvyros paieška tarp visuomenės teisės būti saugia ir asmens teisės į privatumą*. Daktaro disertacija. Kaunas, 2014.

praktikoje“, kur atsirastų vietos ir naujoms, aktyviai tyrinėjamoms kriminalistikos galimybėms teisinės veiklos ir teisės taikymo srityse.[46]

Taip, pavyzdžiui, Lietuvoje išleistame naujausiame kriminalistikos vadovėlyje „Kriminalistika. Taktika ir metodika“, yra skyrius „Kriminalistinių mokslinių diskusijų pėdsakais“, su skyriais „Kriminalistinės gynybos taktika ir metodika“, „Psichofiziologinis tyrimas“, „Netradicinis nusikaltimų tyrimo metodas – nusikaltėlio profilis“.[47]

Kalbėdami apie kriminalistikos didaktiką negalime neatkreipti dėmesio į specialistų rengimo sistemos problematiką. Daugelyje Europos šalių, atsižvelgiant į Bolonijos deklaracijos nuostatas, aukštosios mokyklos studijas vykdo trimis lygiais: bakalauro, magistrantūros, doktorantūros. Žinoma, kiekviename lygyje studijų programos, tame tarpe ir kriminalistikos dalyko studijos, turi savo specifiką, kuri, beje, pasireiškia ir užsienio šalyse. Kai kuriose valstybėse tai reglamentuota valstybiniais standartais, kur reglamentavimo lygmuo taip pat nevienodas – nuo bendrų apimties reikalavimų iki griežto studijų dalykų išvardijimo, nurodant tematikas bei akademinių valandų skaičių.

Įdomus dar vienas kriminalistikos didaktikos aspektas, ypač aukštosiose specialiosiose mokyklose bei universitetų magistrantūros studijose – kriminalistikos kurso specializacija, atsižvelgiant į būsimą darbą. Dažniausiai išskiriama ikiteisminio tyrimo tyrėjo, kriminalinės paieškos pareigūno, eksperto-kriminalisto specializacija, tai daroma tiek universitetams siūlant bazines, pavyzdžiui, magistro programas, kurios nebūtinai būna teisinės, ypač „klasikiniuose“ universitetuose, tiek organizuojant įvairius kriminalistikos ir teismo ekspertizės kursus arba atskirus su kriminalistika susijusius studijų modulius, kurie gali būti privalomi, alternatyviai arba laisvai pasirenkami, taip sudarant galimybę studentui pačiam modeliuoti savo karjerą. Yra sukuriami netgi atskiri kriminalistikos studijų padaliniai. Taip, Ukrainoje, pavyzdžiui, Nacionalinės vidaus reikalų akademijos Mokomasis-mokslinis tardytojų ir kriminalistų rengimo institutas rengia magistro lygio specialistus, bakalauro lygio specialistai rengiami Tardytojų rengimo fakultete, Ekspertų-kriminalistų rengimo fakultete.[48] Teisėsaugos pareigūnai jaučia kriminalistikos žinių stoką. Būtinumas mažiausiomis jėgomis spręsti

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[46] Волчецкая Т.С. *Перспективы развития современной криминалистики//Современное состояние и развитие криминалистики*. Сборник научных трудов. Харьков:Апостиль, 2012, с. 15.
[47] *Kriminalistika. Taktika ir metodika*. Vadovėlis.Vilnius: Mykolo Romerio universitetas, 2013.
[48]Nacionalinė vidaus reikalų akademijoje esančios studijų programos [žiūrėta 2020-06-22]. https://vstup.naiau.kiev.ua/kursant.

sudėtingesnius uždavinius reikalauja keisti teisėsaugos institucijų darbuotojų lavinimo struktūrą. Reikia daugiau darbuotojų, kurie kartu su aukštuoju teisiniu išsilavinimu turėtų ir kriminalistinį išsilavinimą, nes sparčiai didėja kriminalistinių žinių, užtikrinančių pažangių technologijų diegimą į teisėsaugos institucijų veiklą reikšmė. Mūsų nuomone, modeliuojant kriminalistikos dėstymą ir kvalifikacijos kėlimą, reikia atsižvelgti tiek į studentų, kurie dažnai studijas derina su darbu teisėsaugos institucijose, tiek į pareigūnų nuomones, aišku, atliekant specialius tyrimus. Dar geriau, kad tokie moksliniai tyrimai taptų tarptautiniais projektais, turint omenyje dabartines Europos integracines tendencijas. Verta tęsti ir bendrų tarptautinių vadovėlių leidybą, ko pavyzdžiu gali būti Lietuvos kriminalistų kartu su Ukrainos mokslininkais bendrai išleistas kriminalistikos vadovėlis anglų kalba[49].

Kokius kriminalistikos programų modulius šiuo metu Lietuvos universitetai siūlo studentui ar derinančiam studijas su praktika teisėsaugos pareigūnui? Visų pirma, norime pabrėžti eilę pozityvių pokyčių kriminalistinio teisinės bendruomenės išprusimo gerinimo srityje. Taip, nuo 2016 m. Mykolo Romerio universiteto Teisės fakulteto Teisės programos bakalauro nuolatinių studijų antrame kurse kriminalistikos dalykas iš alternatyviai pasirenkamo tapo privalomu. Mykolo Romerio universiteto Viešojo saugumo fakultete teisės ir valstybės sienos apsaugos programoje kriminalistiką studijuoja 3 ECTS kreditų apimtimi, jie taip pat turi galimybę pagilinti savo žinias teismo medicinoje (2-ame kurse studijuoja Teismo medicina ir pirmąją medicinos pagalba bei Balistinius tyrimus po 3 ECTS apimtimi). Šiame fakultete vykdomoje universitetinėje Policijos veiklos bakalauro studijų programoje, kriminalistika studijuojama du semestrus (9 ECTS apimtis). Taip pat yra dėstomas privalomas dalykas Pirmoji medicinos pagalba ir teismo medicinos pagrindai (3 ECTS apimtis). Studentai turi galimybę pagilinti savo žinias atskirų specialiųjų žinių srityse – jie gali pasirinkti šiuos dalykus: Balistiniai tyrimai, Teismo medicina ir psichiatrija, kuriems skiriama po 3 ECTS kreditus.

Nuo 2012 m. rudens Viešojo saugumo fakultete pradėta vykdyti nauja Teisės ir ikiteisminio proceso bakalauro studijų programa, kurioje dėstomi 4 kriminalistiniai dalykai, tai sudaro 24 ECTS kreditus. Vienas iš šių dalykų skirtas konkrečiai specialių žinių panaudojimui,

[49] *Textbook of Criminalistics*.Volume 1: General Theory. Kharkiv: Apostille Publishing House LLC, 2016, p. 416-451.

tai „Specialiosios žinios ikiteisminiame tyrime". Šis dalykas dėstomas 6 ECTS kreditų apimtyje (162 valandos), atitinkamai – 130 valandų auditorinėms studijoms ir 32 – savarankiškam darbui. Nuo 2020 m. planuojama nauja studijų programa „Teisė ir kriminalistika".

Pažymėtinas dar vienas svarbus faktas kalbant apie kriminalistikos didaktiką Europos bendros kriminalistikos erdvės kūrimo kontekste. Mykolo Romerio universiteto Teisės fakultete magistrantūros studijose, programoje Teisė (specializacija baudžiamoji teisė ir kriminologija) nuo 2015 studijų metų pradėtas dėstyti 6 ECTS apimties studijų dalykas „Ekspertologija". Šio dalyko tikslas - suformuoti žinių apie teorinius, procesinius ir organizacinius ekspertinės veiklos pagrindus sistemą, išsamiai supažindinti studentus su ekspertinių tyrimų galimybėmis, padėti įvaldyti ekspertizių skyrimo taktinius būdus, įtvirtinti medžiagos joms rengimo ir tyrimų išvadų vertinimo įgūdžius.

Kalbant apie kriminalistikos dėstymą Vilniaus universiteto teisės studijose, tenka konstatuoti, jog ten apsiribojama pasirenkamais kriminalistikos moduliais. Šio universiteto Teisės fakulteto studentai studijų laikotarpiu gali rinktis dalykus „Kriminalistika" (3 ECTS apimties), „Kriminalistikos taktika" (5 ECTS apimties), „Moksliniai įrodymai baudžiamajame procese" (5 ECTS apimties) ir „Nusikaltimų tyrimo metodika"[50]

Šis straipsnis yra įvadas į mokslo studiją apie įdomų ir reikšmingą Lietuvos kriminalistikai etapą transformacijos laikotarpyje. Šiame etape turėjome puikių pasiekimų, bet buvo ir rimtų klaidų. Kriminalistikos mokslas Lietuvoje ne tik sustiprėjo ir subrendo, jo rekomendacijos tapo normaliu kasdieniniu reiškiniu teisėsaugos institucijų veikloje, Lietuvos kriminalistikos mokslo pasiekimai tapo matomi Europoje ir galime teigti, kad per mūsų kriminalistikos kongresus „Kriminalistika ir teismo ekspertologija: mokslas, studijos, praktika", tapome savotišku traukos centru Vidurio ir Rytų Europoje.[51] Straipsnį apie kertinius kriminalistikos 1990-2020 m. momentus Lietuvoje norime užbaigti įžvalgomis apie galimus naujus mokslinius projektus ir bendrų pastangų būtinumą dėl realios 2030 kriminalistikos ir teismo ekspertologijos vizijos.

[50] Kurapka, V.E., Malewski, H., Matulienė, S., Juodkaitė-Granskienė, G., Gorbatkov, A. Kriminalistika Lietuvoje 1918-2018 m. *Kriminalistika ir teismo ekspertologija: mokslas, studijos, praktika*. 2018, 16: 49-50.
[51] Malewski, H., Kurapka, E., Matulienė, S., Juodkaitė-Granskienė G. Die Gesellschaft der Kriminalisten Litauens -Bruecke zwischen den kriminalisten Schulen Ost-, Mittel- und Westeuropas. *Kriminalistik*. 2016, 8-9: 525-531.

Mūsų įžvalgos apima tris pagrindines kryptis.

Būtina sukurti Lietuvos kriminalistinių ir ekspertinių institucijų sistemos efektyvaus valdymo mokslinę koncepciją ir jos realizavimo mechanizmą Europos pokyčių kontekste. Šiam tikslui pasiekti būtinas kompleksinis kriminalistikos mokslo, kriminalistinės didaktikos ir nusikalstamų veikų aiškinimo ir tyrimo praktikos tyrinėjimas (mokslo programos). Atliekant tyrimus šioje kryptyje būtina ištirti ir įvertinti Lietuvos kriminalistinių ir ekspertinių institucijų sistemos efektyvumą, vadybos kokybės lygį, jų komplementarumą, pateikti pasiūlymus dėl sistemos valdymo harmonizavimo., taip pat prognozuoti ir modeliuoti Lietuvos kriminalistinių ir ekspertinių institucijų sistemos raidą, užtikrinant Lietuvos strateginių tikslų darną naujojo ES teisinio reglamentavimo kontekste.

Dar viena kryptis, būtina peržiūrėti ir parengti kompleksinę struktūrizuotą pakopinę kriminalistikos mokymo ir kvalifikacijos kėlimo teisėsaugos bei justicijos pareigūnams mokslinę koncepciją ir jos realizavimo modelius, t. y. verifikuoti dabartinį Lietuvos teisėsaugos ir justicijos kriminalistinio mokslinimo lygį bei jo atitikimą ES Tarybos kriminalistikos 2020 vizijos (2011) ir jos realizavimo plano uždaviniams; atlikti Europos Sąjungos ir kitų šalių, atstovaujančių kitas svarbiausias kriminalistikos mokyklas (Vokietija ir Šveicarija, JAV, Didžioji Britanija, Rusija ir Ukraina) teisėsaugos ir justicijos kriminalistinio mokslinimo lygio analizę; parengti kriminalistikos didaktikos teorinius pagrindus, orientuotus į teisėsaugos ir justicijos modernizavimo poreikius; pasiūlyti kriminalistinio mokslinimo įgyvendinimo modelius pagal poreikius, nustatytas tikslines grupes bei reikalingas kompetencijas; pateikti pasiūlymus Lietuvos įstatymų leidėjui dėl kriminalistinės didaktikos koncepcijos įgyvendinimo siekiant efektyvinti nusikaltimų tyrimą ir prevenciją, bei pateikti mokslines įžvalgas dėl tarptautinio bendradarbiavimo galimybių harmonizuojant šią veiklą Europoje.

Na ir trečioji kryptis, kurioje turi susitelkti Lietuvos mokslininkai, tai sukurti Lietuvos kriminalistinės politikos mokslinę koncepciją teisėsaugos institucijų strategijose užtikrinant bendrą Europos viešojo saugumo erdvę. Būtina kompleksiškai ištirti Lietuvos teisėsaugos institucijų sistemos strategijų ir vykstančių reformų dabartinę būklę kaip kriminalistinės politikos koncepcijos kūrimo prielaidas, taip pat parengti teorinį ir metodologinį instrumentarijų siekiant harmonizuoti pagrindinių kriminalistikos mokyklų Europoje nuostatas ir praktiką bei suderinti jų taikymo procedūras, bei atskleisti kriminalistinių ir ekspertinių NVO

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

plėtros galimybes kaip vieną pagrindinių tendencijų tyrimas šiuolaikinėje ES kriminalistikos teisinėje erdvėje.[52]

Šiai dienai turime kalbėti ne tik apie kriminalinės politikos strategiją, kuri būtų orientuota į nusikalstamumo ir jį lydinčių reiškinių pažinimą ir kontrolę, siekiant efektyvinti bausmes, kas yra arčiau baudžiamosios teisės ir kriminologijos pažinimo objektų. Turime kalbėti apie kriminalistinę politiką ir jos įgyvendinimo strategiją, kuri turi būti nukreipta ne tik į nusikalstamumo ir jį lydinčių reiškinių pažinimą, bet ir orientuota į atitinkamų teisės aktų rengimą, vadybinių, organizacinių, metodinių, techninių bei kitų sąlygų numatymą ir kūrimą, prognozuojant ir reaguojant į nusikalstamumo pokyčius.

Tiek Lietuvoje, tiek kitose šalyse tik atskirų mokslininkų pasisakymuose yra kalbama apie kriminalistinę politiką. Teisinėje ir politinėje erdvėje kalbama apie „kovą su nusikalstamumu“, „nusikalstamumo kontrolę“, „nusikaltimų prevenciją“, „kriminalinę ar baudžiamąja politiką“ ir pan. Ankstesni atlikti moksliniai tyrimai, tame tarpe ir šio straipsnio autorių, apėmė tik atskirus Lietuvos kriminalistinės politikos ir jos įgyvendinimo taktikos klausimus, todėl būtina visapusiškai ištirti Lietuvos kriminalistinės politikos esamas atskiras pavienes priemones, sukurti kriminalistinių institucijų sistemos efektyvaus valdymo mokslinę koncepciją ir jos realizavimo mechanizmą Europos pokyčių kontekste. Šioje koncepcijoje būtų kompleksiškai ištirti Lietuvos kriminalistinių ir ekspertinių institucijų sistemos dabartinė būklė ir sukurtas bendros kriminalistinės politikos ir jos strategijos Lietuvoje mokslinis pagrindimas. Taip pat būtina ištirti ir įvertinti Lietuvos kriminalistinių ir ekspertinių institucijų sistemos efektyvumą, vadybos kokybės lygį, jų komplementarumą, pateikti pasiūlymus dėl sistemos valdymo harmonizavimo; prognozuoti ir modeliuoti Lietuvos kriminalistinių ir ekspertinių institucijų sistemos raidą, užtikrinant Lietuvos strateginių tikslų darną naujojo ES teisinio reglamentavimo kontekste; atskleisti kriminalistinių ir ekspertinių NVO plėtros galimybes šiuolaikinėje ES teisinėje erdvėje.

Dėmesys kriminalistikos mokslui Europoje leidžia tikėtis, jog jokie lokalinių reformų pavojai kriminalistikai kaip mokslui, praktinei veiklai ir studijų disciplinai jau negresia arba bus pakankamai efektyviai neutralizuoti. Kriminalistika Lietuvoje, pakankamai klaidžiojusi

[52] Ackermann, R., Kurapka, V.E., Malewski, H., Schepitko, V. Schaffung eines einheitlichen europaeischen kriminalistischen Raumes. *Kriminalistik.* 2020, 5.

klystkeliais, turi galimybę eiti kartu su kitomis Europos šalimis bendros Europos kriminalistikos erdvės kūrimo keliu. Norint turėti realią ir moksliniais tyrimais paremtą visos kriminalistikos plėtros Europoje viziją bent iki 2030 m., jau dabar reikia burti mokslininkų grupes, vienyti šioje kriminalistikos prognostikos srityje dirbančius mokslininkus projektinei mokslinei veiklai, panaudoti įvairiais formatais dirbančius kolektyvus, tame tarpe ir nevyriausybines kriminalistikos organizacijas, siūlyti savo mokslines paslaugas tarptautinėms (ir nacionalinėms) už mokslo politiką ir teisėsauginę veiklą atsakingoms institucijoms.

IŠVADOS

Šiame straipsnyje yra pateikti pagrindiniai kertiniai Lietuvos kriminalistikos raidos momentai atkūrus Nepriklausomą Lietuvą. Sąlyginai šį trisdešimt metų apimantį Lietuvos kriminalistikos istorijos etapą mes pabandėme schematiškai apžvelgti suskirstydami jį dešimtmečiais, turint tikslą parodyti kiekvieno dešimtmečio savitumo išskirtinius bruožus, vertinant teisinio reglamentavimo pokyčius, institucinę raidą, mokslo ir studijų plėtrą, tuo pačiu ir pagrindžiant tokį skirstymą bei pateikti savo įžvalgas.

Reziumuojant galima pasakyti, kad Lietuvoje 1990-2020 metais vykdyti kriminalistikos moksliniai tyrimai apėmė daug svarbių Lietuvos kriminalistinės politikos ir jos įgyvendinimo strategijos klausimų ir leido numatyti tolesnių tyrimų perspektyvas. Pirmajame dešimtmetyje (1990-2000 m.) neatidėliotinai svarbiu ir pirmaeiliu tampo poreikis kuo greičiau perorientuoti teisėsaugos pareigūnų rengimą, tiek sukuriant pačią rengimo filosofiją, tiek steigiant arba reorganizuojant mokslo ir studijų institucijas, formuojant mokslinį-pedagoginį personalą. Antrąjį dešimtmetį (2001 – 2010 m.) galima apibūdinti kaip proveržio kriminalistikos moksle bei diskutuotinų sprendimų teisiniame reglamentavime ir instituciniame modeliavime laikotarpį. Trečiasis dešimtmetis (2011-2020 m.) pasižymi kaip kriminalistikos renesanso Lietuvoje laikotarpis, turint omenyje tarptautinėje erdvėje vykstančius (pasidėjusius) integracijos intensyvėjimo, harmonizacijos būtinumo supratimo ir pirmųjų ES iniciatyvų pradėti bendros Europos kriminalistikos erdvės kūrimo laikotarpį.

Vertinant kriminalistikos mokslo vystymosi tendencijas, būtina sukurti Lietuvos kriminalistinių ir ekspertinių institucijų sistemos efektyvaus valdymo mokslinę koncepciją ir jos realizavimo mechanizmą Europos pokyčių kontekste, parengti kompleksinę struktūrizuotą pakopinę kriminalistikos mokymo ir kvalifikacijos kėlimo teisėsaugos bei justicijos pareigūnams mokslinę koncepciją, bei sukurti Lietuvos kriminalistinės politikos mokslinę

koncepciją teisėsaugos institucijų strategijose užtikrinant bendrą Europos viešojo saugumo erdvę.

Dėmesys kriminalistikos mokslui Europoje leidžia tikėtis, kad jokie lokalinių reformų pavojai kriminalistikai kaip mokslui, praktinei veiklai ir studijų disciplinai jau negresia arba bus pakankamai efektyviai neutralizuoti. Kriminalistika Lietuvoje, pakankamai klaidžiojusi klystkeliais, turi galimybę eiti kartu su kitomis Europos šalimis bendros Europos kriminalistikos erdvės kūrimo keliu.

Norint turėti realią ir moksliniais tyrimais paremtą visos kriminalistikos plėtros Europoje viziją bent iki 2030 m., jau dabar reikia burti mokslininkų grupes, vienyti šioje kriminalistikos prognostikos srityje dirbančius mokslininkus projektinei mokslinei veiklai, panaudoti įvairiais formatais dirbančius kolektyvus, tame tarpe ir nevyriausybines kriminalistikos organizacijas, siūlyti savo mokslines paslaugas tarptautinėms (ir nacionalinėms) už mokslo politiką ir teisėsauginę veiklą atsakingoms institucijoms.

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ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

Всероссийской научно-практической конференции 28-29 мая 2010 г. Часть 2. Академия Управления МВД России. Москва, 2010, p. 247-255.

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CRIMINALISTICS IN LITHUANIA 1990-2020: FROM THE SEARCH FOR NEW PARADIGMS TO REALIZED SCIENTIFIC CONCEPTS AND FUTURE INSIGHTS

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Summary

This article presents key moments of the development of Lithuanian Criminalistics after the restoration of Independent Lithuania. The authors tried to give a schematic overview of this thirty-year stage of history of Lithuanian Criminalistics by dividing it into decades, with the aim of showing the distinctive features of each decade, assessing changes in legal regulation and institutional development, development of the science and studies, also by justifying this division and providing authors' insights.

Criminalistics' research conducted in Lithuania in 1990-2020 covered many important issues of Lithuanian Criminalistics' policy and its implementation strategy and allowed to predict the perspectives of further research. In the first decade (1990-2000), urgent and paramount was the need to reorient the training of law enforcement officers, both by creating the philosophy of training itself and by establishing or reorganizing research and study institutions, forming scientific and pedagogical personnel. The second decade (2001-2010) can be described as a period of breakthrough in Criminalistics' science and a period of debatable decisions in legal regulation and institutional modeling. The third decade (2011-2020) is marked as the period of the renaissance of Criminalistics' science in Lithuania, considering the ongoing (intensifying) integration in international community, understanding the necessity of harmonization and the first EU initiatives to start the creation of a common European Criminalistics' space.

In the opinion of the authors, assessing the development trends of Criminalistics' science, it is necessary to develop a scientific concept of effective management of Lithuanian Criminalistics and expert institutions and the concept's implementation mechanism in the context of European change, to prepare a complex structured step-by-step scientific concept for qualification development of law enforcement officers, to create scientific concept for Lithuanian Criminalistics policy in law enforcement institutions' strategies in order to ensure a common European area of public security.

The focus on Criminalistics' science in Europe suggests that any threats to local Criminalistics as a science, practice and study discipline are no longer relevant or will be sufficiently effectively neutralized. Criminalistics in Lithuania, having wandered enough in the wrong ways, has the opportunity to go along with other European countries on the path of creating a common European Criminalistics' space.

The authors argue that in order to have a realistic and research-based vision for the development of Criminalistics in Europe by at least 2030, it is necessary to bring together teams of scientists working in the field of Criminalistics' prognosis for project research, using teams in various formats, including

non-governmental Criminalistics' organizations, to offer their scientific services to international (and national) institutions responsible for scientific policy and law enforcement.

Keywords: History of Lithuanian Criminalistics, legislation, Criminalistics' institutions, studies, research, research programs, common European Criminalistics' space.

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

SOCIO-ECONOMIC SUPPORT OF ENTREPRENEURSHIP IN UKRAINE

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DOI: 10.13165/PSPO-20-24-17

Annotation. The formation of economic business relations in Ukraine is a very problematic issue in terms of information, social and financial system of Ukraine. Enterprises, which are in the development stage or in the start-up stage, have a limited set of resources, but the use of information platforms and funding programs allows the innovative technologies using. It should be noted that entrepreneurship is a platform for both economic and social development of the country. The social platform of entrepreneurship reproduces working places, provides income to the labor force, contributions to extra-budgetary funds, providing the state with opportunities to pay pensions and social assistance. The cooperation of Ukrainian enterprises with international and state programs and platforms that allows them to occupy a market niche and get a high level in building a system of production and product quality, and supporting the social sector in accordance with EU countries. The object of the research is the socio-economic support of entrepreneurship in Ukraine. The aim of the article is to determine the degree and opportunities for improving socio-economic support for entrepreneurship in Ukraine. The methodological basis of the research is a fundamental principle of the system approach, methods of abstraction, analysis and synthesis, induction and deduction. In the article identifies the main problems of supporting socio-economic entrepreneurship in Ukraine. Suggested the strategy development of entrepreneurship and singled out the main elements of support of business segments. Generalized the main programs and areas of business support in Ukraine. Suggested a system of indicators for its assessment of state support for entrepreneurship.

Keywords: entrepreneurship, socio-economic supporting, investment, innovation.

JEL Classification codes: H32, M21, P43.

INTRODUCTION

In Ukraine, current development is not possible without strategic planning, taking into account the possibility of forming a stable socio-economic platform where the introduction of social innovations as ways to solve and mitigate existing social problems. Achieving a balance between the efficiency of a market economy and solving social problems is to create the conditions for business entities, producing products and services that affect the socio-economic indicators of the country. That is why socio-economic support of entrepreneurship is the main factor in the development of socially oriented market economy, which will form a successful

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

environment, a system of perfect competition, create new forms of stimulating labor efficiency, increase the country's export potential and rational use of resources and raw materials.

Entrepreneurship in Ukraine has special functions of updating the country's economic system, creating an investment and innovation environment, which will improve traditional management structures and open the direction of transformation, on the path of rationalization, efficiency, resource conservation and constant renewal of the national economy.

The aim of the article is to determine the degree and opportunities for improving socio-economic support for entrepreneurship in Ukraine.

Objectives:

1. To determine the role of socio-economic support for entrepreneurship in Ukraine.

2. Summarize the main problems of socio-economic support of entrepreneurship in Ukraine.

3. To highlight the main aspects and directions of socio-economic support of entrepreneurship in Ukraine.

Research methods. The methodological basis of the research is a fundamental principle of the system approach, methods of abstraction, analysis and synthesis, induction and deduction.

Results of the research. In the article identifies the main problems of supporting socio-economic entrepreneurship in Ukraine. Suggested the strategy development of entrepreneurship and singled out the main elements of support of business segments. Generalized the main programs and areas of business support in Ukraine. Suggested a system of indicators for its assessment of state support for entrepreneurship

PROBLEMS OF ENTREPRENEURSHIP

The main problems of entrepreneurship that arise due to the low level of state support (lack of new and improvement of existing legislation on approaches to forms of ownership and its protection, systems of tax, investment, innovation and pricing of business): [11]

- unregulated mechanism of state regulation and control of business activity;
- the presence of negative trends in the dynamics of performance indicators;
- the impossibility of assessing the contribution of state support in achieving socio-economic trends;
- limited access to information and advisory support;

- imperfection of training and retraining systems of labor resources for business running;

- uncertainty in savings regarding transaction costs, impact and assessment of negative trends;

- lack of proper systematic information on financial programs to support entrepreneurship.

Thus, the socio-economic support for entrepreneurship is an indicator of efficiency, which is based on the ratio of results from activities to resources expended. That's why the entrepreneurship support by the state will depend on the economical use of support, and will have a difference between the performance of the enterprise without support and at the expense of it [11].

Accordingly, a number of legislative and regulatory documents have been adopted in Ukraine [12; 14]:

1) Order of the Ministry of Economic Development and Trade of Ukraine dated October 16, 2018 № 1500 "On the establishment of the Office of Small and Medium Business Development under the Ministry of Economy, Trade and Agriculture of Ukraine" (posted for review of changes made by order of the Ministry of Economic Development Trade and Agriculture of Ukraine dated October 1, 2019 № 135);

2) Recommendations for long-term planning of small and medium business development at the level of regions and territorial communities

3) Order of the Cabinet of Ministers of Ukraine dated May 10, 2018 № 292-p "Some issues of implementation of the Strategy for the development of small and medium enterprises in Ukraine for the period up to 2020";

4) Order of the Cabinet of Ministers of Ukraine dated May 24, 2017 № 504-p "On approval of the Strategy for the development of small and medium enterprises in Ukraine for the period up to 2020";

5) Law of Ukraine "On development and state support of small and medium enterprises in Ukraine"

ENTREPRENEURSHIP DEVELOPMENT STRATEGY

Entrepreneurship development strategy should include five main aspects of development and support (Fig. 1) [4]:

1. the ability to analyze existing problems in development;

2. the need to determine on the basis of the problems of general needs of each business segment;

3. formation of a strategic vision of the problem and needs, strategic goals and priorities;

4. generalization of strategic operational tasks and tools to support entrepreneurship

5. formulation of expected results and targets of activity and support.

These elements of support for entrepreneurship in this relationship, form a holistic system of measures for the effective formation of change in accordance with the strategic vision and goals.

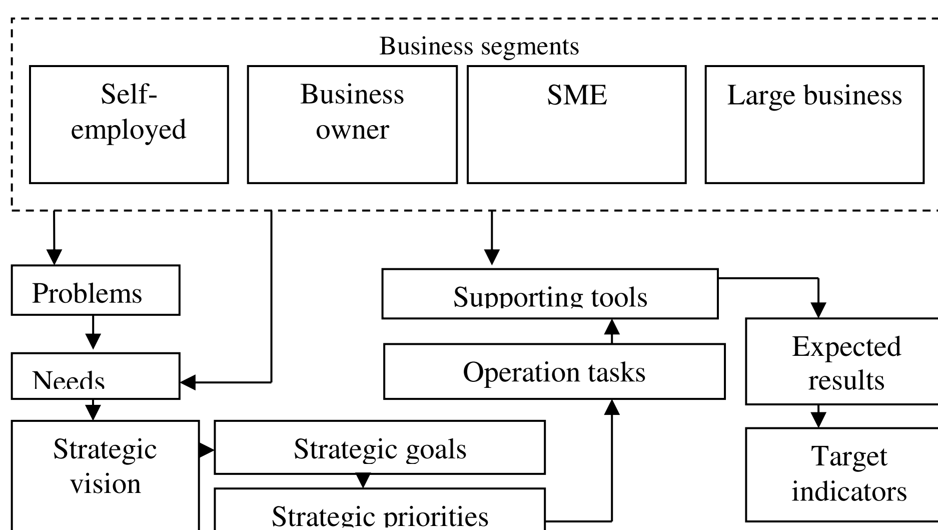

Figure 1. Elements of support for business segments [4]

The main directions of the strategy to support business segments are:

- priority growth of value added and labor productivity in all segments of entrepreneurship, as the main direction of development of the national economy and a corresponding increase in the share of profitable enterprises;

- "restrained" modernization of large business production in Ukraine through partial recovery;

- the possibility of self-employed growth in micro and small business segments;

- growth of the number of different business segments types due to the possible reduction of "tax optimizers";

- the probable adoption of changes to current legislation of Ukraine, which will stimulate an effective business structure forming[4].

Entrepreneurship support programs in Ukraine.

To help with financial issues, the Government of Ukraine has also systematized business support programs [5; 13]:

1. EU4Business;
2. EU programs to support the private sector in Ukraine - EU SURE (EU Support to Ukraine to Re-launch the Economy);
3. European Atomic Energy Community Horizon 2020 Research and Training Program (2014-2018);
4. EU Program "Competitiveness of Small and Medium Enterprises (COSME) (2014-2020)";
5. Fit for partnership with Germany (Fit for partnership with Germany) 4
6. Unlimit Ukraine by EBA - Small Business Development and Support Program;
7. Fit for Partnership with Germany Program;
8. Support for small and medium enterprises at the international level (international credit lines);
9. Banking products and programs to help small and medium enterprises;
10. Support for small and medium enterprises at the regional level;
11. Support for small and medium enterprises at the state level.

Based on analysing of the programs to support entrepreneurship in Ukraine, author drew up a map of possible strategic knowledge in the framework of EU initiatives and programs that form an innovative component of the development of enterprises in Ukraine (Table 1).

Achieving the goals of sustainable development and focusing on the main priorities of the business development strategy affects the coordination with national, regional and sectoral strategies and programs of the country. The strategy must also take into account the objectives of general economic and export policy of the state, which are based on the provisions of the foreign policy doctrine of the world.

That is why the main strategies related to the strategy of business development in Ukraine are identified [4; 7]:

1) Strategies for business development in the framework of Ukraine's foreign economic and foreign policy commitments ("Association Agreement between Ukraine and EU", "Ukraine's WTO Commitments", "Other national, regional sectoral and sectoral strategies and programs")

Table 1. Map of possible strategic knowledge in the framework of EU initiatives and programs [1; 2; 6; 10;13]

Parameters / Program	Information and consultations	Trainings	Internship and exchange of experience
EU4Business Network of Business Support Centers in Ukraine	Availability of Business Information Support Centers located in 15 regions of Ukraine and providing Ukrainian SMEs with information on their priorities in the market, conducting sectoral events, trainings and seminars to support business development. Availability of contact Business Support Centers in Ukraine		-
COSME IPR Helpdesk	European Center for Intellectual Property Rights for SMEs. The IPR Helpdesk includes free legal advice and information support on intellectual property, as well as training and webinars on intellectual property issues.		-
COSME Your Europe portal	Business portal about business rules in all EU member states. Your Europe portal provides information on: - Start and growth - Taxation - International Trade - Human resources - Product requirements - Government contracts -Environmental requirements	-	-
Horizon 2020	-	Improving business development skills and coaching: 1. Trainings on investment readiness, access to risky financing, networking with other program participants and large companies. 2. Coaching skills in business development, cooperation and fundraising.	-
COSME ERASMUS for young enterpreneurs (EYE)	-	-	EYE is a program for exchanging experiences between new and experienced entrepreneurs. If the business is not more than 3 years old or you are just planning to start your own business, EYE gives you the opportunity to go to an EU country for 1-6 months to gain experience in doing similar business..

2) Strategies for business development in the system of state strategic and program documents of Ukraine ("Comprehensive program for the development of the financial sector of

Ukraine until 2020", "Regional and local programs and strategies for business development, SMEs", "Strategy for technical regulation for 2020" ,"Transport Strategy of Ukraine for the period up to 2020", "Strategy for the development of the agricultural sector of the economy for the period up to 2020 "," Energy Strategy of Ukraine for the period up to 2030 ", "Strategy for Sustainable Development of Ukraine on - 2020 "," Strategy for overcoming poverty "," Strategy for improving the efficiency of economic entities of the public sector of the economy "," Regional development strategies "," State strategy for regional development until 2020 "," Strategy for reforming the public procurement system " "road map").

Thus, the development of entrepreneurship is always directly affected by the negative trend of the formation of key macroeconomic indicators that affect the social status of the country. This is a decrease in the level of GDP, which does not allow the use of domestic financial resources of the country, and as a consequence of a decrease in working capital of business entities and, accordingly, low purchasing power of the population.

Summarizing the areas of state support, author identified the following systems of indicators for its evaluation [2; 3; 4; 5; 8; 15]:

1) evaluation system for creating a network of infrastructure to support entrepreneurship (number of business incubators, investment and innovation companies, funds, credit unions, leasing companies, insurance companies, business centers, regional public associations, educational institutions, technology parks, information and consulting institutions);

2) system of evaluation of financial support (volumes of target funds from budgets, credits, grants, preferential taxation, financial support of regional funds, volumes of funds provided by the Ukrainian Fund for Entrepreneurship Support in financing regional programs and investment projects, foreign aid);

3) the system of social support indicators (job growth in enterprises in accordance with the selected priorities of business development, the number of jobs for different segments of the population, the ratio of unemployment and working places growth, reducing the level of shadow employment, the number of services provided by the state for training, retraining, consultations, productivity growth);

4) system of indicators for assessing the activity of entrepreneurship (volume of production, goods and services per capita, the amount of balance sheet profit, the amount of payments to the budget per 1 UAH of profit (budget efficiency), profitability, turnover per 1 UAH of produced and sold products).

Based on analyzing of the existing problems of business support and possible areas of support in Ukraine, author identified the following socio-economic aspects of business:

1. The possibility of forming optimal combinations of production factors and the most effective methods of using financial, material, economic, labor resources, etc.

2. Formation of a distribution system of national income (price factor of production).

3. Entrepreneurship, taking into account the social needs for goods and services, has the ability to effectively and fully meet the effective demand of the population.

4. The entry of business entities into foreign markets can contribute to the adaptation to the system of world economic relations of the national economy elements, and the formation of an open economy.

5. Entrepreneurship is a means of competition in the presence of innovation, narrow specialization and promotes the emergence of profitable products to meet individual rather than mass demand.

6. Priority for innovation as an incentive for solvency and competitiveness in meeting public demand.

7. Export orientation as an opportunity for price competition of enterprises with high technical and economic standards of products, goods and services.

8. International integration. Economic development of entrepreneurship affects the integration of individual districts, cities, regions and the country as a whole. According to this aspect is a stimulation of the processes of creating effective organizational and legal structures and forms of government.

9. Social orientation. Creating a system of social protection and social assistance, both to the population and businesses. The expansion of working places creates opportunities to increase tax revenues and social benefits.

CONCLUSIONS

Thus, the socio-economic support for entrepreneurship in Ukraine plays a key role in shaping the social orientation of the market economy and in creating a balance of market efficiency and solving social problems in the country. The existing socio-economic content of entrepreneurship is reflected in the created volumes of products, services provided to relatively important economic indicators of the country, and support of the formed market sector, which creates additional working places, addressing unemployment and social protection.

The strategy of business development in Ukraine should be include the possibility of analyzing the problems of development and generalization of needs in accordance with the strategic vision and obtaining the expected results and targets for performance evaluation and support. Creating and financing a business for each business segment in Ukraine is a very problematic issue from the point of view of the information and financial system of Ukraine. Businesses that are in the development stage or in the start-up stage have a limited set of resources, but the use of information platforms and funding programs allows the using of innovative technologies. The trade and economic cooperation of Ukrainian enterprises with international programs and platforms allows them to occupy a market niche and get high level in a building system of production and product quality in accordance with EU countries.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

THE CONCEPT OF SUSTAINABLE DEVELOPMENT AS THE BASIS FOR A NEW QUALITY OF ECONOMIC GROWTH

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DOI: 10.13165/PSPO-20-24-18

Annotation. The concept of sustainable growth emerged in response to challenges, threats and negative trends in the global economy. Instability of political processes, national macroeconomic imbalances, economic inequality, and social problems are key issues that require new approaches. In Ukraine, as in the rest of the world, a thorough study is required to correct the existing model of economic growth in order to more effectively address the problems of structural imbalances, social, gender, economic inequality and environmental issues. For the purpose of scientific analysis and formation of a holistic understanding of inclusiveness as a key priority creating the foundations for a new quality of economic growth in Ukraine the article analyzes the main directions of formation and implementation of the concept of sustainable development; identified key areas of economic growth in accordance with Global sustainable development Objectives; summarizes the stages of introduction and implementation of sustainable development Goals in the framework of the UN development Programme in Ukraine as a prerequisite for achieving the goals of inclusive development; the article substantiates the goal of sustainable development, which has the greatest potential for forming an inclusive society in Ukraine.

Keywords: economic growth, inclusiveness, sustainable development goals.

INTRODUCTION

It is very important to rethink how policy makers formulate and ensure national economic efficiency, and to find a structural way to solve the problem of slow growth and increasing inequality, to turn the current cycle of stagnation and destruction into a new one, in which greater social inclusion and stronger and stronger growth reinforce each other. Over the past few years, there has been a global consensus on the need for a more inclusive model of growth and development; however, for now, this consensus is only a way of thinking. Inclusive development remains more of a topic of discussion than a programme of action [1].

The relevance of the study is due to the fact that after the release of the National report «Sustainable Development Goals: Ukraine», in which the results of adaptation 17 global Sustainable Development Goals [2] with regard to the specific development of the national economy, is of particular importance for the presence of prerequisites for Ukraine's economy

transition to inclusive development and to develop proposals for the formation of the foundations for the new quality of economic growth. In these circumstances, aktualisierte new requirements for public policy economic growth and structural reforms in the economy, including: comprehensiveness and consistency of regulatory measures in creating mechanisms to promote economic growth; taking into account the features of integration of the national economy into the European and world economy and the impact of global economic trends on the national economy; orientation to the achievement of new quality of economic growth based on the basic principles of inclusive development, as embodied in the Sustainable Development Goals (SDG).

The article examines the content and features of inclusive economic development in Ukraine, as well as the possibilities of achieving it in countries with different States and levels of development of socio-economic processes.

The object of research is the essence and factors of sustainable socio-economic development as the basis of a new economy.

Purpose of research:

1) analyze the main vectors of development of inclusiveness and the forms of their manifestation in the global goals of sustainable development,

2) create a holistic understanding of inclusiveness as a key priority, creating the basis for a new quality of economic growth.

Apply method: 1) document analysis, statistical observations; 2) comparative analysis, generalization of data.

THE CONCEPT OF INCLUSIVE GROWTH

The concept of sustainable development is based on five main principles: the combination of nature conservation and social development; meeting basic human needs; achieving equality and social justice; ensuring social self-determination and cultural diversity; and maintaining an integrated ecosystem. These principles characterize the essence of the concept of sustainable development. The concept of sustainable development encompasses three main dimensions of well-being: economic, environmental and social, which together create synergies.

This is the sustainable development of a country and regions, for which economic growth, material production and consumption, as well as other activities of society occur within the

limits that are determined by the ability of ecosystems to recover, absorb pollution and support the livelihoods of present and future generations.

Stability indicators are individual pieces of information that display the state of the entire system. Consideration of these «fragments» helps to better understand the full picture of the current state of the system, to find out in which direction it is moving: improving, degrading or remaining unchanged [3].

But we must also take into account the fact that the «stability» parameter alone is not enough for economic growth: it should be inclusive, that is, one that has a positive impact on the well-being of the broadest possible segments of the population, and provides equal opportunities for the realization of human potential. The new quality of economic growth implies improving the quality of life of all citizens without increasing the use of natural resources beyond the ability of the environment to restore them. [4].

Responsible waste-free and resource-efficient consumption and production are directly related to the invention of new more effective forms of business organization and industrial activities. Unfortunately, the changes in domestic industrial production over the past quarter of a century have not brought Ukraine closer to achieving the goals of sustainable development and inclusiveness, causing deindustrialization of the national economy with all the negative and dangerous socio-economic consequences. Therefore, instead of a resource-based approach, it is advisable to apply an institutional-structural approach to identify the determinants of the functioning of industry, which takes into account not so much the availability of resources, but the effectiveness of their management, taking into account the conditions of its formation in the country [5].

Research on the content and features of inclusive economic development and the possibilities of achieving it in countries with different levels of socio-economic development has been at the center of scientific research in many countries and international organizations, including the Organization for economic cooperation and development (OECD), the *United Nations* Development Program (UNDP), the European Commission, the International Monetary Fund (IMF), the World Economic Forum (WEF), the World Bank, and the International Policy Centre for Inclusive Growth (IPC-IG). The main directions of scientific research in the framework of inclusive development research are to identify opportunities for ensuring equal access to resource markets and an impartial regulatory environment for various social groups, the formation of mechanisms for ensuring productive employment, increasing

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

income for excluded groups and overcoming poverty, developing new approaches to the consumption of limited resources and achieving inclusive growth in the long term.

Inclusiveness, in particular, is defined as one of the key priorities in the economic growth strategy «Europe 2020» [6]. In line with this strategy, the EU is working hard to resolve the crisis and create a more competitive economy with high employment levels. The Europe 2020 strategy aims to achieve priorities for smart, sustainable and inclusive growth.

Smart growth aims to improve the EU's performance in the following areas: education (encouraging people to learn and update their skills); research/innovation (creating new products/services that generate growth, jobs and help solve social problems); digital society (using information and communication technologies).

Sustainable growth is aimed at a resource-efficient, greener and more competitive economy, which means: a low-carbon economy that ensures efficient, sustainable use of resources; protecting the environment, reducing emissions and preventing loss of diversity; capitalizing on Europe's leadership in developing new green technologies and production methods; implementing efficient smart grids; mobilizing EU-scale networks to provide businesses (especially small manufacturing firms) with an additional competitive advantage; improving the business environment, in particular for small and medium-sized enterprises; helping consumers make informed choices.

Inclusive growth in the Europe 2020 strategy aims at high employment with economic, social and territorial cohesion by: increasing the level of employment in Europe - more better jobs, especially for women, young people and the older generation; helping people of all ages to accept and manage change through investment in skills and training; modernizing the labour market and social security system; spreading the results of growth to all parts of the EU [6].

All types of growth are interconnected. In particular, implementation of tasks for sustainable growth requires the achievement of the objectives of inclusive growth. As E. Ianchovichina and S. lundstrom rightly note, it is sometimes difficult to maintain this balance, since economic growth can cause negative external effects, such as increased corruption, which is a serious problem in developing countries. Despite this, the bulk of successful growth has an emphasis on inclusiveness, especially equal access to markets, resources, and an unbiased regulatory environment.

Analysis of various sources and scientific theoretical approaches to the interpretation of the concept of «inclusive growth» allows us to conclude that this category is considered in two

guises - as economic growth, the main goal of which is to reduce poverty and inequality, and as a process of expanding the involvement of the population in creating GDP, ensuring equal opportunities for realizing their human potential regardless of socio-economic conditions, gender, place of residence and ethnic roots.

Thus, the concept of inclusive growth assumes that each economic entity is important, unique, valuable to society and has the ability to meet its needs. So, the concept of inclusive growth assumes that each economic entity is important, unique, valuable to society and has the capacity to meet its needs. It is based on the priority of developing human resources, achieving full employment, improving the skills of employees, social security and sustainable development.

Inclusive growth is fundamentally different from standard economic growth, as it has broader goals than increasing income and GDP, shifts the focus to human development and improving human well-being and reducing poverty and inequality, and aims to increase engagement and active participation in the economy, not just on distribution results. The main aspects of inclusive growth are investment in human capital, job creation, structural transformation, progressive tax policy, social protection, non-discrimination, social integration and participation, and strong institutions. Therefore, the use of the inclusive growth approach makes it possible to understand that the welfare of society is formed not only from the growth of real GDP and material incomes of the population. In fact, this is a multidimensional concept that covers such areas of human life as education, health, personal security, ecology, and many others. The conceptual model of inclusive growth from the world economic forum assumes that almost all areas of economic and social activity are taken into account in the decision-making process.

INDEX OF INCLUSIVE DEVELOPMENT AND LEVEL OF WELL-BEING

In addition to the interactive model of inclusive growth, the world economic forum has also developed the Inclusive Growth and Development Index (IDI) [7]. The need to introduce a new index is justified by the fact that economic policy priorities should be reoriented to more effectively counteract the insecurity and inequality that accompany technological change and globalization. It sustained, inclusive progress, accompanied by income growth and broadening its economic opportunity, increase resilience and quality of life should be recognized as a

politicians main goal of economic development, not GDP growth. This includes new tools for evaluating the effectiveness of such policies.

The Inclusive Development Index is based on 12 indicators grouped into three groups that assess the level of economic development better than the GDP growth indicator. The three main parts of IDI are growth and development (including growth in GDP, employment, productivity, and life expectancy); inclusiveness (median household income, poverty and inequality levels); intergenerational equity and sustainability (savings, demographic load, public debt, and environmental pollution). According to WEF experts, the IDI index shows a more complete picture of economic development, if the goal of this development is primarily to constantly improve the standard of living of the population, and not just to increase the production of goods and services.

The WEF published its annual report, which ranked countries by the level of inclusive economic development. In the ranking of emerging economies, six European economies are among the top 10: Lithuania (1), Hungary (2), Latvia (4), Poland (5), Croatia (7), and Romania (10). These economies perform particularly well on Growth and Development, benefiting from EU membership, and Inclusion, with rising median living standards and declining wealth inequality. Ukraine in the ranking was on the 49th position among 77 countries. Researchers note that in Ukraine over the past 5 years, the number of people who are included in the process of economic growth and benefit from it has decreased by 6,8% [7]. Also, over the past five years, Ukraine's position on most IDI components has deteriorated. For example, the distribution of wealth in Ukraine is one of the most uneven among all developing countries.

The main destructive factor of inclusive growth was identified as the prolonged fighting in the East of the country, as it disproportionately affects the least well-off segments of the population and contributes to the outflow of labor resources from the country. Priority areas for improvement are improving professional training, reducing the administrative burden on creating new businesses, expanding funding for entrepreneurs, and strengthening the fight against corruption.

To achieve successful inclusive growth, WEF experts recommend that governments accelerate structural reforms (where necessary) and invest in human capital, in particular access to education, labour market flexibility, and gender equality.

The WEF report focuses on the fact that Ukraine has one of the highest levels of wealth inequality among all developing countries, but relatively low levels of income inequality and

poverty. These data indicate an extremely low level of domestic resources and the domestic economy and a lower level of equity in their distribution, which requires the introduction in Ukraine of progressive global approaches to the formation of a new quality of economic growth based on a significant potential for the implementation of Ukraine's priority global sustainable development Goals, which is closely correlated with the manifestations of inclusiveness in the growth of the national economy.

The need to find new ways to ensure qualitative change at the highest international level, as well as at the level of organizational structures and individual behavior, the need for changes in the political plane and the introduction of practical measures at all levels - all this has prompted concrete steps that have been transformed into the Global Goals of sustainable development, are closely linked to the concept of inclusiveness.

New sustainable development program - a list of global sustainable development goals that countries should achieve by 2030 - was approved by the UN General Assembly in September 2015. It contains 17 goals and 169 specific tasks. The goals of sustainable development and the concept of inclusive growth do not contradict each other and are mutually complementary. This thesis can be confirmed, in particular, in the formulation of the goals of Goal 8 «Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all» [8], according to which it is necessary to:

1) maintain per capita economic growth in accordance with national conditions and, in particular, GDP growth of at least 7% per year in the least developed countries;

2) achieve increased productivity in the economy through diversification, technological upgrading and innovation, including focusing on high-value-added and labour-intensive sectors;

3) promote development-oriented policies that promote productivity, decent jobs, entrepreneurship, creativity and innovation, and encourage official recognition and development of micro, small and medium-sized enterprises, including by providing them with access to financial services;

4) gradually increase the global efficiency of resource use in consumption and production systems throughout the period until the end of 2030, and strive to ensure that economic growth is not accompanied by environmental degradation, as envisaged in the ten-Year strategy of action for the transition to rational consumption and production patterns, with developed countries being the first to do so;

5) by 2030, ensure full and productive employment and decent work for all women and men, including young people and people with disabilities, and equal pay for work of equal value;

6) by 2020, reduce the proportion of young people who do not work, study or acquire professional skills;

7) take urgent and effective measures to eliminate forced labour, end modern slavery and human trafficking, ban and eliminate the worst forms of child labour, including the recruitment and use of child soldiers, and end all forms of child labour by 2025;

8) protect labour rights and promote safe and secure working conditions for all workers, including migrant workers, especially women migrants, and those without stable employment;

9) by 2030, develop and implement strategies to promote sustainable tourism that creates jobs, promotes local culture and produces local products

10) strengthen the capacity of domestic financial institutions to encourage and expand access to banking, insurance and financial services for all;

11) increase support provided under the «Aid for trade» initiative to developing countries, especially the least developed countries, including through the Expanded integrated framework for trade-related technical assistance to least developed countries;

12) by 2020, develop and implement a global youth employment strategy and implement the Global jobs Pact of the International labour organization.

INTRODUCTION AND IMPLEMENTATION OF THE CONCEPT OF SUSTAINABLE DEVELOPMENT IN UKRAINE

Ukraine has officially supported a number of international initiatives on the global *Sustainable Development Goals* [9-13]. Today, there is a national plan for the practical implementation of the SDG in life. The government of Ukraine has released the national report «*Sustainable Development Goals*: Ukraine», which defines the basic indicators for achieving the SDG. The report shows the results of adaptation of 17 global SDG taking into account the specifics of national development. Taking into account the principle of «don't leave anyone out» and using a wide range of information, statistical and analytical materials, a national SDG system was developed (86 development goals and 172 indicators for monitoring their implementation).

In order to achieve a new quality of economic growth in the country and ensure productive inclusion, attention is focused, in addition to Goal 8, which was mentioned above, on the implementation of the tasks laid down in Goal 9 «Industry, innovation and infrastructure». The combination of the two goals, as key aspects of realizing the potential of inclusiveness, provides:

- to ensure sustainable GDP growth based on the modernization of production, development of innovations, increase of export potential, output to foreign markets of products with a high share of added value (this indicator is planned for 2020 at the level of 25% compared to 19.2% in 2015);

- increase production efficiency based on the principles of sustainable development and the development of high-tech competitive industries (labor productivity growth rate – 99.1% and 104% in 2015 and 2020, respectively; material consumption in 2015 – 0.88, in 2025 – planned indicator at the level of 0.82);

- to promote reliable and safe working conditions for all employees, in particular through the use of innovative technologies in the field of labor protection and industrial safety (the number of victims of accidents at work in 2020 is planned to be reduced by 25%, and by 2025 – by 40%; the share of employees engaged in work with harmful working conditions, in the total number of full-time employees in 2025 is planned to be 17%);

- to create institutional and financial opportunities for self-realization of the potential of the economically active part of the population and the development of the creative economy (the number of employed employees of medium-sized and small businesses from 2015 to 2020 should increase by 1.8 million, the share of value added to production costs of medium - sized and small businesses, as a % of the total value added to production costs is planned to be 70% in 2020 compared to 59% in 2015);

- ensure the expansion of the use of electric transport and the corresponding network infrastructure (the share of electric transport in domestic traffic, up to 2020 at the level of 70%);

- ensure the availability of the Internet, especially in rural areas (the level of coverage of the population with Internet services in 2020 – 50 and by 2025 - 75 subscribers per 100 residents);

- to accelerate the development of high - and medium-technology sectors of the processing industry, which are based on the use of the chain «education – science – production» and the cluster approach in the areas: innovation ecosystem development; ICT development;

ICT in agriculture, energy, transport and industry; high-tech engineering, the creation of new materials; development of pharmaceutical and petrochemical industries.

The importance of the SDG for Ukraine is evidenced by the support of this initiative at the highest level. President of Ukraine Petro Poroshenko in his speech at the UN Summit for the adoption of sustainable development Goals post - 2015, which was held in framework of the 70th session of the UN General Assembly and during which a comprehensive vision for new development targets up to 2030, noted that to achieve the SDG at the national level, Ukraine will implement new programs and projects, which in practice will ensure macroeconomic stability, ecological balance and social cohesion. The SDG will serve as a common basis for further transformations in Ukraine.

CONCLUSIONS

Instead of the «traditional» model of economic growth in response to new challenges and trends in the world economy, scientists and economists propose the concept of inclusive growth. The main difference between the new concept is as follows: inclusive growth assumes that the well-being of society consists not only of the growth of real GDP and material incomes of the population, but also includes such areas of human life as education, health, personal security, ecology and many others. The concept of inclusive growth extends traditional models of economic growth, focusing on equality of human capital, the level and quality of life of people, the quality of the environment, social protection, food security, access to key resources, and the distribution of income and wealth.

The key objective of the inclusive growth model is to ensure equal access to resource markets and an impartial regulatory environment for various social groups, create mechanisms to ensure productive employment, increase the income of isolated groups and overcome poverty, develop new approaches to the consumption of limited resources and achieve inclusive growth in the long term.

Inclusiveness is closely linked to sustainable growth and the sustainable development goals:

- sustainable growth aims to create a resource-efficient, environmentally friendly and more competitive economy, which means: a low-carbon economy that ensures efficient and sustainable use of resources; protecting the environment, reducing emissions and preventing loss of diversity;

- the global sustainable development Goals are closely linked to the concept of inclusiveness. Ukraine's accession to the UN program and implementation of the SDG adapted to national conditions will make a significant contribution to the formation of an inclusive society in Ukraine and will create the basis for a new quality of economic growth.

Thus, the concept of inclusive growth expands traditional models of economic growth, focusing on equality of human capital, the level and quality of life of people, the quality of the environment, social protection, food security, access to key resources, as well as the distribution of income and wealth.

The author of the article substantiated that inclusiveness is a key aspect of creating the foundations for a new quality of economic growth, which characterizes the involvement of subjects in economic and related processes. This process involves all stakeholders - governments, civil society, the private sector and others. All of them should contribute to the development of an inclusive, comfortable world for everyone and work in close partnership.

In the course of the research, the main vectors of development of inclusiveness and forms of their manifestation in the global goals of sustainable development are identified. The vectors of development of inclusiveness include the social sphere (in the center - the person), economic (sustainable and balanced development, responsible consumption) and environmental.

According to the index of inclusive growth and development, the level of inclusive growth and development in Ukraine has been determined: over the past five years, its position in the rating has deteriorated. This country has one of the highest levels of wealth inequality among all developing countries, but relatively low levels of income inequality and poverty. In addition, Ukraine remains one of the poorest countries in Europe in terms of average well-being of the average adult. The main obstacles to inclusive growth in Ukraine are: internal and external labor migration, shadow/informal employment; limited opportunities for employment and income generation, uneven geographical and sectoral distribution of these opportunities; macroeconomic risks, significant variability of macroeconomic variables such as GDP, inflation, the real exchange rate, interest rates, which constrain or hinder investment in the country, reduce opportunities for full employment; political turmoil and instability, excessive levels of corruption in public administration, the scale of the shadow economy, the lack of an appropriate legal framework.

At the same time, Ukraine has taken a number of important steps to increase the level of inclusive growth and development. At the present stage, there is a national plan for practical

implementation of the ideas of sustainable development in life (*National Report «Sustainable Development Goals: Ukraine»*).

As a result of the research, the author identified the sustainable development Goals with the greatest potential for creating an inclusive society and ensuring economic growth in Ukraine (goals 8, 9). The combination of two goals creates a synergistic effect. Based on the analysis of the framework conditions, national policies, as well as global trends, it is revealed that the ICT sector is the area of activity with the greatest potential for economic growth, and the most important factor for increasing inclusion in order to achieve economic growth is to overcome gender gaps in the labor market. Based on the results obtained, the directions for improving the process of adaptation of global SDG in Ukraine were determined.

There are still many open questions concerning inclusiveness, implementation of the SDG in Ukraine, and economic growth. Further research is required in the area of managing the sustainable development of the country's socio-economic systems within the framework of efficient use of resources and preserving the balance of the environment, and developing recommendations for improving the monitoring system for this process.

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MRU MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

RESEARCH ON MAINTAINING BODY POSTURE STABILITY OF FUTURE STATUTORY OFFICERS

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DOI: 10.13165/PSPO-20-24-19

Annotation. The article reviews indices of maintaining body posture stability of the students, future statutory officers. The research was performed when the students under research were standing on a computerized balancing platform „Libra". The research was participated by 62 students (28 men and 34 women) already studying a discipline of martial self-defence. There were performed 3 tests: when standing on the platform with eyes open, with eyes closed and aiming at a target – simulating a shooting. Such tests were selected purposefully: statutory officers – police officers and border guards – have to use physical abuse or even a service weapon when performing their direct functions. In order to perform such actions correctly and resultatively, one of the conditions necessary is adequate coordination peculiarities, ability to maintain body posture stability in specific situations. During the research, the indices were recorded that characterize peculiarities of maintaining students' body posture stability – an area of deflection from the model line, deflection time, stability index. There were recorded particular tendencies of maintaining body posture stability, however, substantial difference of indices between male and female results we not identified.

Keywords: students; future statutory officers; men and women; balance stability; standing with eyes open, eyes closed, aiming at a target.

INTRODUCTION

Statutory officers - police officers and border guards - must be physically prepared, able to perform actions of martial arts properly[1]. In order to avoid injuries and perform duties properly, good coordination abilities, maintaining a stable body position are necessary. Body posture stability is a human's ability to maintain a proper body position when performing particular actions or when a human is influenced by external forces[2]. Development of this ability is especially important for the statutory officers, who are forced to use certain actions of

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physical abuse when maintaining public order, detaining offenders[3]. In order to maintain a stable position, it is necessary to be able to assess external impact and to coordinate a tension of human's muscles and tendons adequately to the forces[4]. A mechanism of movement execution is closely related to sophisticated physical and chemical processes taking place in human's organism. It is stated that an important role in this process is played by a musculoskeletal system tensed up in a balanced way on the one hand, and biochemical reaction taking place at a molecular level[5]. The path of human motoric development is long enough - from physically active games in childhood to a maturity period[6]. The quality of physical readiness and process of movements' learning is also of sufficient importance for human motoric formation because the ability to maintain a stable body position remains for the rest of the time[7],[8]. In the pre-pubertal period, balance indices of girls are better than those of boys, possibly influenced by earlier maturation of proprioceptive, visual and vestibular systems. In the process of maintaining body stability these systems play an important role[9]. In this regard, physical activity is an important circumstance, since more physically active people are characterized by a higher level of movement control skills[10]. Coordination abilities associated with coordination of movement precision, perception of time and speed of a moving object are changing with time - are improving with an increasing age[11]. The proprioceptive system is also influenced by such factors as muscle tension tone, skin tactility, strength of pressure in the feet and joints. It should be noted that weakening of sensory function negatively affects posture

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stability[12]. Even in elementary form, physical activity positively influences the process of development of people with motoric development disorders[13]. In the process of training of new movements and consolidation of those already mastered, the ability to maintain a stable body position plays an important role[14]. Actions of martial arts and even more so a precise shooting are particularly useful in the research of visually controlled movement, because it is strictly limited in space and time, creates unambiguous and separated results (hitting the target), and requires sophisticated psychomotoric skills dependent on high mental and physical coordination. Coordination abilities significantly affect the quality of performance of actions in duel sports. It was determined that strength and endurance training exercises are limiting a training of movement motoric, while improvement of action technique, competitive method and sparring are optimizing. The higher the level of technical and tactical readiness, the more accurately and faster the ability to perform various movements, actions. A positive correlation was established between reaction time and athletic achievements in duel sports[15]. The ability to maintain a stable body position has an impact significant enough on accurateness during shooting. Due to body fluctuations, the shots are more scattered from the centre of the target in vertical plane, and due to the movement of the arm with the weapon – in horizontal plane. According to the research authors, body fluctuation and pistol movement have almost no interdependence[16]. It was determined that maintaining a stable body position in relation to the horizontal plane is more difficult than in relation to the sagittal one[17]. This is due to the factors such as muscle contraction and reaction rate, morphology of human body parts and other

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features [18],[19]. Multiple, repetitive, specific exercises of duration up to 30 seconds with a total duration of up to 8-10 minutes positively affect the ability to maintain a stable body position on an unstable basis[20].

The vision factor significantly affects posture control[21]. Special training, in order to maintain a potentially more stable body position when aiming at the target after a certain amount of exercise, gives positive results[22]. It also should be noted that for the athletes of high athletic skill, systematic, specific training makes the impact of the visual function on maintaining a body stability less significant[23].

When developing and improving the abilities of body stability, it is important to know that improper physical exertion, exercise, can bring undesirable results at least temporarily. Physical activity, to which energy is provided in anaerobic way, does not significantly affect the maintenance of body stability under static conditions[24]. Running at a moderate intensity disrupts the stability of body posture more than walking[25]. Muscle fatigue[26], deeper and more rapid breathing under the influence of exercise[27], elimination of visual function[28] also aggravate the process of maintaining body balance. It should be clarified that increased breathing has a greater impact on posture stability in regard to the horizontal plane than to the sagittal one[29]. Residual phenomena of running affect body stability more negatively than cycling[30],[31].

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ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

Body stability is influenced by strong muscles that are correcting vertical position by the movements in the hip or ankle joint[32]. Most corrective body stability movements are carried out in these joints, and a little less – in the knee and hip joints[33]. Balance-keeping abilities can be trained. A human can maintain stable body position as long as he keeps the vertical perpendicular to the base of his body line. The increase in strength and endurance of the back muscles is strongly associated with posture stability and the lower the centre of person's overall body mass, the more stable the posture[34]. Human's head position also plays a significant role in maintaining body balance[35].

The purpose of this paper – to identify the ability of students, future officers, to maintain a stable body position under different conditions.

Methodology.

The article analyses body stability indices of 62 students (28 men and 34 women) with an average age of 20 years. The researched students have already studied the discipline of Martial self-defence. The balancing platform "Libra” was used to study the indices of dynamic body balance. It is interconnected with the computer whose program provided the intended indices:

- general area of deflection to the right (GAr) and to the left (GAl) side of the pre-set difficulty line;
- external area, the area of deflection to the right (EAr) and left (EAl) zone outside the limit of the specified line of difficulty level of the movement path;
- external time, the time when the subject remains on the outer right (ETr) and left (ETk) side beyond the line of difficulty level of the specified movement path;
- recovery time – the longest time when the subject remained outside the limit of the difficulty level of the specified movement path (right – RTr and left - RTl);
- the total values of general deflection (GAd+k), total external area (EAr+l) and total tilt (ETr+l) and total recovery time (RTr+l) and the sum of the times of these constituents (GT);
- body stability index (SI).

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Based on the average of all variables, the software calculates the stability index (SI), where 100 denotes the worst and 0 represents the best stability of the body. External area is expressed in relative units, and time – in seconds[36]. The subjects had to stand on the platform in such a way that the feet were parallel to each other, the legs were straight, the hands were lowered along the body but would not touch it. The research was conducted by using a feedback - the computer was positioned at a distance of 1 m at the eye level of the subject. When conducing the test with eyes closed, the deflection from the established model line was informed by an audible signal and partially by the administrator of the research. The test characteristics were explained to the subjects. Prior to each stage of the research (test), the subject was given a 30 s preliminary measurement. After a relaxation of 30 seconds, the subject performed a test that took 60 s. Three valid tests were carried out. The first test was performed by standing on the platform with eyes open (O), the second - with eyes closed (C) and the third - when aiming at the target, i.e. simulating pistol shooting (Sh). The research protocol was designed so that the subject fully recovered from the test. The scientific literature provides various data on the indices of the stability of the human body with respect to the horizontal and sagittal planes. There are claims that better are the stability indices in relation to the sagittal plane[37],[38] and others - that to the horizontal one[39], but in static conditions. Considering the findings of the researchers[40], [41] as well as the specifics of movements during self-defence actions or shooting, a priority was given to the research of stability changes in the horizontal plane (deflection to the right or to the left side).

Methods of mathematical statistics were used to process recorded indices, and analytical methods were used to discuss the results obtained.

RESEARCH RESULTS

No statistically significant difference was recorder between the majority of the subjects in the researched group when standing on the platform with their eyes open (Table 1). Only a few indices differed. Average result for the group of general deflection area to the right (GAr)

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was significantly higher than that of general deflection to the left (GAl) ($p<0,005$). Total values of general deflection (to the right and to the left) area (GAr+l) are higher ($p<0,001$) than total values of external area (EAr+l). Also, total values of external time (ETl+r) are higher ($p<0,001$) than values of recovery time (RTr+l) to the model path. In the male (M) group, there were statistically significant differences only between the same types of total indices - GAr+l were higher than EAr+l ($p<0.001$), and total indices - ETl+r were higher than RTr+l ($P<0.001$) (Table 1). By analogy to men, a reliably significant difference between the indices of the same group was in the female group as well.

There were more statistically significant differences in results among women. GAr indices are higher ($p<0,005$) than GAl and ETr are higher ($p<0,05$) than ETl. There was no statistically significant difference in body stability between the male and female groups when standing on the platform with their eyes open.

During the second test, when standing on the platform with eyes closed (Table 2), in both groups (M+W) and separately in the male (M) and female (W) groups, there were determined analogous statistically significant differences between the total indices GAr+l and EAr+l ($p<0,001$) and total indices ETl+r and RTr+l ($p<0,001$). There was no statistically significant difference between other indices in the male group. In the group of all subjects (M+W) and the group of women (W), there was a statistically significant difference in the number of indices that characterize greater body balancing ability.

Table 1. Stability indices for men and women standing on the platform with their eyes open (O).

	GAr	GAl	EAr	EAl	ETr	ETl	RTr	RTl	SI	GAr+l	EAr+l	ETr+l	RTr+l	GT
M+W	No.1	No.2	No.3	No.4	No.5	No.6	No.7	No.8	No.9	No.10	No.11	No.12	No.13	No.14
$\dot{x}$	115,6	88,9	21,1	16,5	7,5	6,0	1,5	1,3	12,2	204,5	37,6	13,6	2,8	16,3
Sx	6,3	6,6	3,4	2,9	0,7	0,7	0,1	0,1	0,8	9,7	5,5	1,2	0,2	1,3
p	No.1-2 0,005		No.3-4 0,302		No.5-6 0,122		No.7-8 0,148			No.10-11 0,001		No.12-13 0,001		
M ($\dot{x}$)	110,9	101,3	19,2	21,2	7,3	7,1	1,4	1,4	12,7	212,3	40,4	14,3	2,9	17,2
Sx	7,2	10,0	3,3	4,8	0,9	1,1	0,1	0,2	1,2	14,2	7,3	1,9	0,3	2,1
p	No.1-2 0,4		No.3-4 0,7		No.5-6 0,9		No.7-8 0,9			No.10-11 0,001		No.12-13 0,001		
W ($\dot{x}$)	119,6	78,2	22,8	12,4	7,8	5,1	1,6	1,1	11,8	197,9	35,1	12,9	2,7	15,6
Sx	10,1	8,5	5,7	3,4	1,0	0,8	0,2	0,2	1,1	13,5	8,1	1,5	0,3	1,7
p	No.1-2 0,005		No.3-4 0,123		No.5-6 0,05		No.7-8 0,069			No.10-11 0,001		No.12-13 0,001		
M-W*p	0,50	0,08	0,60	0,12	0,72	0,17	0,51	0,28	0,58	0,465	0,635	0,551	0,750	0,56

M+W* (total of all the subjects); M* (indices of men); W* (indices of women); M-W*p (t values - between indices of men and women)

There were differences in total indices of all subjects (M+W), GAr and GAl (p>0.005), EAr and EAl (p<0.01), ETr and ETl (p<0.01), RTr and RTl (p<0.005) and accordingly analogous (p<0.01); (p<0.05); (p<0.05); (p<0.01) indices of the female (W) group. There was no statistically significant difference between women and men.

Table 2. Stability indices for men and women standing on the platform with their eyes closed (C)

	GAr	GAl	EAr	EAl	ETr	ETl	RTr	RTl	SI	GAr+l	EAr+l	ETr+l	RTr+l	GT
M+W	No.1	No.2	No.3	No.4	No.5	No.6	No.7	No.8	No.9	No.10	No.11	No.12	No.13	No.14
ẋ	245,4	202	112	90,0	20,6	17,4	3,3	2,6	32,6	447,5	201,9	38,0	5,9	43,9
Sx	9,6	9,3	5,9	5,5	0,9	0,8	0,2	0,1	0,9	10,6	8,0	0,9	0,3	1,1
p	No.1-2 0,005		No.3-4 0,01		No.5-6 0,01		No.7-8 0,005			No.10-11 0,001		No.12-13 0,001		
M (ẋ)	238,5	201,8	107	90,7	20,2	17,3	3,1	2,6	32,0	440,3	197,4	37,4	5,7	43,1
Sx	12,1	15,0	7,2	8,8	1,2	1,3	0,2	0,2	1,4	16,9	12,0	1,6	0,3	1,8
p	No.1-2 0,06		No.3-4 0,17		No.5-6 0,11		No.7-8 0,21			No.10-11 0,001		No.12-13 0,001		
W (ẋ)	251,1	202	116	89,5	20,9	17,5	3,6	2,5	33,1	453,5	205,7	38,4	6,1	44,5
Sx	14,4	11,9	9,0	6,9	1,2	1,0	0,3	0,2	1,2	13,6	11,0	1,1	0,4	1,4
p	No.1-2 0,01		No.3-4 0,05		No.5-6 0,05		No.7-8 0,01			No.10-11 0,001		No.12-13 0,001		
M-W*p	0,52	0,98	0,42	0,91	0,67	0,88	0,20	0,73	0,55	0,542	0,613	0,591	0,460	0,54

M+W* (total of all the subjects); M* (indices of men); W* (indices of women); M-W*p (t values - between indices of men and women).

During the third test (Sh), when standing on the platform and aiming at the target, i.e. simulating a pistol shooting, statistically significant differences were found in almost all indices of the total (M+W) and female (W) group (No. 1 and 2; No 3 and 4, etc. - Table 3).

Table 3. Stability indices of men and women standing on the platform and aiming the weapon at the target (shooting- Sh)

	GAr	GAl	EAr	EAl	ETr	ETl	RTr	RTl	SI	GAr+l	EAr+l	ETr+l	RTr+l	GT
M+W	No.1	No.2	No.3	No.4	No.5	No.6	No.7	No.8	No.9	No.10	No.11	No.12	No.13	No.14
ẋ	155,9	88,3	33,3	18,1	12,6	6,3	2,7	1,4	15,5	244,2	51,4	19,0	4,1	23,0
Sx	10,0	8,0	3,7	3,2	1,2	0,8	0,3	0,2	0,9	9,9	5,4	1,4	0,3	1,7
p	No.1-2 0,001		No.3-4 0,002		No.5-6 0,001		No.7-8 0,001			No.10-11 0,001		No.12-13 0,001		
M (ẋ)	141,3	105,3	32,2	24,4	10,7	8,1	2,3	1,4	15,7	246,6	56,6	18,8	3,8	22,6
Sx	12,2	13,1	5,5	5,4	1,3	1,4	0,4	0,2	1,3	15,5	9,4	1,9	0,4	2,2
p	No.1-2 0,05		No.3-4 0,32		No.5-6 0,16		No.7-8 0,03			No.10-11 0,001		No.12-13 0,001		
W (ẋ)	167,9	74,3	34,3	12,9	14,2	4,9	3,0	1,3	15,3	242,2	47,2	19,1	4,3	23,4
Sx	15,1	9,4	5,0	3,5	2,0	0,9	0,5	0,3	1,2	12,9	6,2	2,0	0,5	2,5
p	No.1-2 0,001		No.3-4 0,001		No.5-6 0,001		No.7-8 0,01			No.10-11 0,001		No.12-13 0,001		
M-W*p	0,188	0,05	0,77	0,06	0,17	0,05	0,3	0,71	0,82	0,83	0,39	0,92	0,453	0,81

M+W* (total of all the subjects); M* (indices of men); W* (indices of women); M-W*p (t values - between indices of men and women).

In the male (M) group, there was observed a lower number of indices characterizing statistically significant differences in body balance retention ability compared to women in this test.

Only GA_r were higher that GA_l (p<0,05), GA_{r+l} were higher than EA_{r+l} (p<0,001), RT_r was higher than RT_l (p<0,03), and duration of ET_{l+r} was higher than RT_{r+l} (p<0,001). When compared to the results of the female study, this test showed higher GAl (p<0,05) and ET_l (p<0,05) in men.

In both groups of men (M) and women (W), there was a statistically significant difference in all indices of balancing ability when standing on a platform with eyes open and eyes closed (O-C) (Table 4). Having compared the results from the tests performed when standing on the platform with eyes open and simulating a shooting (O-Sh), a statistically significant difference was found between almost the same group of indices in women (W) and men (M) (Table 4). Unlike men, there was no statistically significant difference between EA_r indices recorded in these tests (O-Sh) in the female group. In the male (M) group, there were 4 statistically significant differences between 14 indices measured during the first and the third tests (O-Sh) (GA_r p<0,04; EA_r p<0,05; ET_r p<0,03 and RT_r. p<0,03). There were statistically significant differences (p<0,001) in all indices of the tests performed in the groups (M+W), (W) and (M) when standing on the platform with eyes closed (C) and simulating a shooting (Sh), with the exception of RT_r (Table 4).

Table 4. Difference between male and female stability indices (t values of the index) when standing on the platform and "shooting", with eyes open and eyes closed

	GAr	GAl	EAr	EAl	ETr	ETl	RTr	RTl	SI	GAr+l	EAr+l	ETr+l	RTr+l	GT
(M+W)	No.1	No.2	No.3	No.4	No.5	No.6	No.7	No.8	No.9	No.10	No.11	No.12	No.13	No.14
O-C	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001
O-Sh	0.001	0.954	0.02	0.707	0.001	0.776	0.001	0.655	0.01	0.005	0.075	0.01	0.01	0.01
C-Sh	0.001	0.001	0.001	0.001	0.001	0.001	0.086	0.001	0.001	0.001	0.001	0.001	0.001	0.001
(M) O-C	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001
O-Sh	0.04	0.811	0.05	0.565	0.03	0.57	0.03	0.952	0.100	0.107	0.176	0.098	0.062	0.076
C-Sh	0.001	0.001	0.001	0.001	0.001	0.001	0.117	0.001	0.001	0.001	0.001	0.001	0.001	0.001
(W) O-C	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001	0.001
O-Sh	0.010	0.753	0.133	0.925	0.005	0.839	0.006	0.617	0.03	0.02	0.244	0.016	0.013	0.012
C-Sh	0.001	0.001	0.001	0.001	0.01	0.001	0.31	0.001	0.001	0.001	0.001	0.001	0.01	0.001

M + W(total of all subjects); M* (indices of men); W* (indices of women); O-Sh (t - values - between test indices: eyes open and "shooting"); O-C (t-values - between test indices: eyes open and eyes closes); C-Sh (t-values- between test indices: eyes closed and "shooting").

DISCUSSION OF RESEARCH RESULTS

Researched future police officers have been studying the discipline of Martial self-defence. They had to maintain a certain level of physical readiness[42] during the study of this subject, however there was a possibility that their body stability maintaining indices might be lower than those of other study participants who actively trained in certain sports[43] ,[44]. While performing a visual comparison, the indices of our students and the students of the University of Physical education in Cracow [45], some tendencies of differences can be seen. In our group of the subjects the indices of GAr+l (204,5±77,3(SD)); EAr+l (37,6±33,3(SD)); ETl+r (13,6±9,4(SD)); SI (12,2±6,4(SD)) when standing on the platform with eyes open, visually are higher. It is likely that the relatively worse average results compared to the subjects of the University of physical education in Cracow were due to large differences in the body stability indices of our subjects. It was determined that morphological indices of the body and the level of physical readiness significantly affect the stability of the balance. The higher the centre of mass and the weaker the muscles of the torso, the more difficult it is to maintain a stable body position[46,47.]. The students who participated our study stood on the platform without shoes. The students, future police officers, are equipped with special uniform including high-heeled shoes stabilizing the ankle joint. It is likely that the stability indices in the sagittal plane would be different if the students were standing on the platform wearing the ankle stabilizing footwear that is partially similar to that of skiers[48].

Visual function significantly affects posture control[49],[50],[51]. Data from our research confirmed this statement. The subjects deflected more from the model line and spent more time in the "off-limits" zone when standing on the platform with their eyes closed than with their eyes open. This situation is recorded in both, female and male group. In both tests, (O) and (C),

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[42] Lietuvos Respublikos vidaus reikalų ministro įsakymas 2019 m. sausio 15 d. Nr. 1V-55 „Dėl Lietuvos Respublikos vidaus tarnybos statuto įgyvendinimo“ [interactive]. https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/8ae81cc2190111e9bd28d9a28a9e9ad9. [accessed 2020-05-05].
[43] Derave W, *supra* note 25.
[44] Zemková E., *supra* note 23.
[45] Tchórzewski D., *supra* note 17.
[46] Ángyán L., *supra* note 34.
[47] Saavedra S., Woollacott M., van Donkelaar P. Effects of postural support on eye hand interactions across development. *Experimental Brain Research.* 2007; 180(3): p. 557–567.
[48] Tchórzewski D., *supra* note 41.
[49] Keshner E.A., *supra* note 21.
[50] Mergner T, *supra* note 28.
[51] Zemková E., *supra* note 23.

there was no statistically significant difference between female and male indices. Average indices GAr recorded in the female group were relatively higher for each of the 3 tests (O, C, Sh) than for men. During the test (O), the average GAl indices recorded in women were lower than in the male group almost by 20 units. During the third test (Sh), there were recorded indices GAl and ETl, that were statistically significantly lower ($p<0.05$) in women compared to men. We cannot explain the reasons for this situation in detail. There is an evidence[52] that at a young age, women have better balance stability than men. In our research, apart from the above-mentioned difference between GAl and ETl indices of the (Sh) test, no evidence of a statistically significant difference between the rates of the female and male groups was found.

It is important for the officers to maintain a potentially more stable position of the body and weapon. This circumstance is of a particular importance when it comes to the use of a service weapon, as a stable body-gun interface determines a better result of standing shooting [53]. Attention should be paid to the fact that in almost all tests of our research there were recorded higher GAr than GAl and higher ETr than ETl. In the female group, a statistically significant difference in these indices was recorded during all three tests (O, C, Sh). In the male group it was recorded only between GAr and GAl and RTr and RTl during "shooting" (Sh). When testing experienced and novice shooters, there were detected more significant lateral oscillations [54]. While performing their functions, the officers have to detain offenders by using the actions of physical abuse, special means etc. All that requires for considerable physical efforts. While performing physical work that is intensive enough, an acidosis due lactate that is accumulated in the organism may lead to a significant increase in breathing, worsening of posture stability[55]. If officers would have to chase the offender at a run for a longer period of time, a fatigue is likely to impair their vision function, and ability to maintain a needed stable body position[56]. Maintaining a stable body position can also be aggravated by incorrect posture[57]. Due to tension of the neck muscles, a fatigue can provoke a prolonged feeling of

[52] Dorneles P. P., Pranke1 G. I., Mota C. B. Comparison of postural balance between female and male adolescents. *Fisioterapia Pesquisa*. 2013: 20 (3); 210-214.
[53] Sattlecker G., Buchecker M., Müller E., Lindinger S.J. Postural Balance and Rifle Stability during Standing Shooting on an Indoor Gun Range without Physical Stress in Different Groups of Biathletes. *International Journal of Sport Science & Coaching*. 2014, 9(1):171-184.
[54] Niinimaa V., ., *supra* note 22.
[55] Zemková E., ., *supra* note 23.
[56] Derave W., ., *supra* note 25.
[57] Fox C.R, ., *supra* note 35.

instability[58]. If an officer in such a state should defend himself against aggressive offenders, should use actions of martial self-defence or a service weapon, most likely the result would not be the most optimal. In order to improve the ability to maintain the stability of the body, constant physical exercise, possibly more varied, in regard to locomotion, physical exercises are required. It is necessary to pay attention to the nature of the exercise as well. According to data of researches, basketball representatives demonstrate a worse static balance than gymnastics representatives, and dynamic balance is worse than that of football representatives[59]. Future officer should include exercises that require quickness, sudden force into the physical skills training process. Such exercises, up to the individual threshold, would improve the speed of reaction and at the same time the ability to maintain the body in a stable state[60].

Considering the results obtained, in order to improve the physical character of coordination, it is advisable to use specific exercises and their complexes in the training process of future statutory officers to help develop the ability to maintain a stable position of the body in a variety of situations, especially non-standard ones.

CONCLUSIONS

Given unstable ground when standing with eyes open, eyes closed and aiming at the target, i.e. simulating a shooting, the stability abilities of women and men are similar, except when the weapon is aimed at the target. During the pistol "shooting ", the recorded indices of the deflection area to the outer zone (to the left side) in the female group are statistically reliably lower than in the male group. A similarly shorter left-side stay outside the specified difficulty level has been recorded.

The indicators of stability indices for the male and female groups are relatively similar. When standing with eyes closed, in women, the indices of deflection to the right of the total area, the area of deflection, the time of stay in it and the time of recovery from it are significantly higher than of deflection to the left. In simulated shooting, the total area of deflections to the right in both men and women is significantly larger than to the left.

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For both men and women, it is more difficult to maintain a stable body position with eyes closed than in other circumstances studied. There is seen a tendency for men to maintain a more stable body position during "shooting", in other words, to "lose" less stability than women (according to the difference in the indices in O and Sh of the researches).

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ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

SOCIETY RESILIENCE TO CONTEMPORARY THREATS: THE IMPACT OF EDUCATION

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DOI: 10.13165/PSPO-20-24-20

Annotation. The current unpredictable security environment has replaced the security and defense policies of EU and NATO member states by focusing more on the challenges of societal resilience. The resilience of society is based on human nature for survival and is influenced by intangible entities and the spheres of human life. Education, as the engine of the progress of civilization, can become one of the most dangerous threats to the state and society, as well as one of the most important means of increasing society's resilience to modern threats. The modern education strategy of national governments focuses on quantitative indicators that do not reflect the security interests of the state, society and individuals. In such circumstances, education may pose the greatest threat to security. The consequences of such an "effective" but not universal education make society's resilience weak in the face of modern threats such as cyber-attacks, extremism, terrorism, corruption and so on.

Keywords: society resilience, contemporary threats, national security, education.

INTRODUCTION

Society resilience has recently become a widely debated issue among both the academic community and military professionals. First of all, it is related to contemporary threats to national and global security. At the beginning of the 21st century, it became clear that, due to the diversity and rapidly changing nature of contemporary threats, national governments can only address security and defense issues through a united force of military and civil society. Strengthening the country's military capabilities, as well as the society's readiness to face the threats to the state's peace and welfare, has now become a top priority for national security. On the other hand, terrorists' attacks and hybrid threats such as cyber and information attacks are targeting the civil population and critical infrastructures what is bringing NATO member states into sharp focus the need to boost resilience through civil preparedness (Roepke, Thankey, 2019). But the concept of society resilience is very complex and encompasses a full range of interpretations, which in turn problematizes the process of strengthening resilience in society itself.

Traditionally resilience is understood as the ability of a system to absorb interference and rearrange as change occurs to maintain essentially the same function, structure, identity, and feedback (Walker B., Holling C. S., Carpenter S. R., Kinzig A., 2003). The principle of NATO's resilience is set out in Article 3 of the Treaty establishing the Alliance, which requires all “the Parties, individually and jointly, to maintain and develop their individual and collective capabilities to withstand armed attack, through continuous and effective mutual assistance and mutual assistance" (The North Atlantic Treaty,1949). The current unpredictable security environment has changed the focus on civil preparedness and today, the Allies are working to renew their position, not only because of NATO's military modernization, but also because of its common deterrence and defense stance. In 2016 at the Warsaw Summit, Allied leaders pledged to build resilience by meeting basic civil preparedness requirements such as government services, energy supply, communications and transport systems, food and water resources. In addition, the Warsaw Communiqué focused on developing a comprehensive political, civilian and military approach to the evolving complex security environment for crisis management and security cooperation (Warsaw Summit Communiqué, 2016, para.119). A comprehensive approach, as a key point in NATO and the EU's deterrence and defense policy, covers a wide range of activities, functions and attitudes, meaning a wide range of content from a particular phenomenon, as well as an individual or collective ability to understand that content. That means that first of all the basis of the society resilience is lying on the ability of individuals to understand the nature of contemporary threats and on their capacities to resist these threats acting in most proper way.

The role of education in addressing contemporary national and international security challenges is becoming a key factor in the successful implementation of the NATO and EU concept of societal resilience. For this reason, this article will focus on the importance of education in increasing and developing societal resilience. To perform this task, the situation in Lithuania will be analyzed, highlighting the main issues of the education system.

SOCIETY RESILIENCE AND EDUCATION: THEORETICAL BACKGROUND

The 21st century can be described as technological progress and globalization. These processes have brought many transformations that have been reflected in all areas of human life and have become a challenge to society as well as to nation states and their governments. According to Ch. Fjäder's (2014) idea of globalization created a "new world without borders",

but the open market and the technological revolution in telecommunications and information technology have made the world smaller and more dependent.

In a global world, threats to nation-states are becoming increasingly global, with more complex, unpredictable, and hybrid implications for both the national state and global community. Modern threats, dangers and risk factors affect all aspects of society's life - economic, political, social and cultural, which means that every state and society are becoming increasingly vulnerable. Resilience to modern threats must encompass absolutely all areas of life and all members of society, raising the complex issue not only for nations, governmental and international institutions but for the society as a whole. However, the need to prevent and respond to these threats remains a security task for which national authorities are primarily responsible.

On the other hand, due to globalization, national governments are gradually losing influence over important matters of their state. The role of political international organizations, international business corporations and international financial institutions in the decision-making process of nation states is becoming increasingly important. However, national governmental institutions are no longer able to cope with the increasingly complex challenges of security and resilience by their own. It has therefore become apparent that the national government no longer plays a key role in strengthening societal resilience and "many other actors at different levels are involved in the game, reflecting the diversity of areas of resilience" (Svitkováa, 2017).

This situation has broadened the perception of security and some researchers (especially in the Nordic countries) have begun to promote the concept of national security through public security or resilience (Stockholm Bank, Hjortshøj, 2018;). According to Mr Wæver, () the definition of public security relates to the ability of society to survive perceived or present threats, which is a threat to personal identity and not to national security, which is linked to threats to sovereignty of the state. Following this concept of security, society resilience is a dramatic challenge for current government and modern society as well. This challenge is becoming not only a topic of security policy and emergency management, but also an interdisciplinary problem of practical decisions and scientific researches. However, the nation state has retained its primary responsibility to address national security issues in line with the principle of resilience at the national and international levels.

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

During the historical development of civilization technological progress has brought many advantages and disadvantages to human society. According to A. Nazaretyan, "progressive transformations, by solving dramatic problems of life, create more complex and at the same time more developed means of their solution" (2009, p. 125). In fact, it means that many threats to humanity pose to the progress of society. The paradox of humanity is obvious: society, by creating a safe environment and a rich life, simultaneously creates new dangers and threats to a secure life and at the same time seeks a way to avoid those threats. As a result, societal resilience is a natural phenomenon based on human nature to survive. The cultural phenomena of society, such as morality, values, and traditions, seek not only to prevent the natural aggression of humanity, but also to create barriers to the threats and violence that result from technological progress. The balance between technical and humanitarian development of the society must be keeping aiming to avoid the catastrophic consequences of technological progress. Thus, in the context of globalization and technological progress, issues of societal resilience and their solutions are closely linked to issues of values orientation as the basis of identity human values and are at the heart of the national security policy-making process. In this context, the question of the role of education in increasing the resilience of society is becoming most relevant.

The role of education in building and enhancing societal resilience encompasses a wide range of knowledge and competencies needed to address threats and risk prevention. However, knowledge and competencies of are completely useless and can even be harmful if their content is not based on a person's value orientation. Thus the main attention of education must be keeping to the formation of value orientation of the individuals and the identity of society as well. Is the governmental institutions of national states to be a main player in this process under the influence of globalization and new technologies?

The 21st century has brought a new type of information and communication together with a new type of society with a new type of relationship and a new identity. According to M. Castells (2010, p.5-8), in the last century, both governmental and social institutions (such as the church, subdivisions, political parties, etc.) played a key role in shaping legitimizing identity that was the dominant form of identity. Now this identity co-exists with other types of identity (resistance and project). The current diversity of identities is supported by the diversity of attitudes and actors involved in the formation process.

National governments seek to control the educational process to shape value orientations and societal identities in the light of national welfare and security interests. The European Commission points out main direction in education for EU Member States on how to support and strengthen the development of key competences, which include the knowledge, skills and attitudes needed by all persons to implement and improve, employability, social inclusion and active citizenship from an early age and lifelong learning (Council Recommendation on Key Competences for Lifelong Learning). Education is both the greatest input for total development of human personality and the key to human progress. Education must be used as a powerful instrument of social, economic and cultural transformation necessary for the realization of the national goals, inculcating "Social Responsibilities" and "National Integration Values" (Kolangi, 2014). Nation-state education institutes strive to carry out their tasks by strengthening the quality of education. But do they really able to fulfill the main task of education according this requirement in the situation of consumer society?

MODERN EDUCATION AND RESILIENCE: THE CASE OF LITHUANIA

In 2012 The European Commission has adopted an EU Strategy for Education to equip individuals with the right educational tools, skills and competences to take an active part in the cultural, political and economic life of European and other societies (Rethinking Education strategy, 2012). This strategy was oriented toward quantitative results and set two targets for European education system to 2020:

• According to the first target European strategy for education started to be oriented toward quantitative results aiming to increase the number of educated persons till 2020. Aiming this result it must be reduced the number of early school leavers (at least 95% of children should participate in early childhood education).

• The second target is particularly crucial since education plays a key role in employment and competitiveness by increasing employability and by fostering long-term growth and at least 40% of people aged 30-34 should have completed some form of higher education.

According to the directives of this document, the Lithuanian National Education Strategy for 2013–2022 approved the goal of the National Education Strategy - "to mobilize the educational community and all Lithuanian people (solidarity) to continuously develop education (learning) to achieve personal goals and the country's success (activities)" (Valstybinė švietimo strategija 2013-2022 metams). This strategy was more focused on

qualitative rather than quantitative results, as the number of educated people in Lithuania was relatively high: in 2019 the number of persons under 15 years old with tertiary education was 72,4 % and total number of people older than 15 years with primary education and higher was 84,8 % (Table 1).

Aiming to improve the quality of education in Lithuanian in 2016 Lithuanian government has started to provide a lot of reforms on the different levels of education system (from primary schools to higher educational institutions). Without looking at government measures since 2015 to 2018 the number of people, trusting in education, decreased about 10% and therefore trust in Lithuanian education system among other governmental institutions fell down from 3rd to 8th place (Table 2). The growth of distrust of Lithuanian society in educational institutions was determined by the reforms of the education system: attempts to reform the higher education system and the reform of the remuneration of school teachers. The Ministry of Education, Science and Sports of the Republic of Lithuania had to acknowledge that "the growth of public distrust in education was most likely determined by the government's education policy" (Švietimo būklės apžvalga, 2019). So, what was wrong with the reforms that had to increase the trust in education as well as increase its influence on the population?

Table 1. The number of educated persons under 15 years old in Lithuanian Republic (thousands)[1].

Level of Education	year 2015	year 2019
Higher education **(University)**	736	801,1
Higher education (Non-university)	841	803,6
Secondary education	286,3	215,9
Basic education	203,0	130
Secondary professional education	416	417,7
Total number of educated people	2483	2368
total number of population	2921,262	2794,184

[1] Data source: Lithuanian Department of Statistics.https://osp.stat.gov.lt/statistiniu-rodikliu-analize?hash=b331cbcd-c8ae-4560-b695-f7380924efcc#/

2016 - 2018 The reforms of the Lithuanian education system were aimed at improving the quality of education, but in fact the issues of optimization and financing of the system management process were taken care of in order to make the education process cheaper and simpler. In 2020 a new reform of education was initiated and which is not very different from the previous ones. The focus continues to be on how to connect universities, optimize programs and improve the quality of studies making education system more attractive for the students. Probably a new feature of the 2020 reform is that the government has started talking not only about high qualification requirements for teachers, but also about increasing the salaries of teachers and providing them with a full workload. In fact, the education system continues to focus on quantitative indicators of education, but not on its quality.

Table 2. The place of education in the ranking of trust in Lithuanian governmental institutions.[2]

Year	Place in the ranking
2015	3
2016	5
2017	4
2018	8

The Lithuanian government is trying to create an education system based on the principles of consumerism, expressing the interests of employers and the labor market. This is the biggest problem of modern education system reforms. Business interests do not always reflect the strategic interests of the nation-state and the general interests of the social community. The business is focused on quantitative results such as production efficiency and profit. Education is focused on the qualitative results of personal development: the development of the human mind and heart. Educational institutions, by complying with government education policy directives, actually become entrepreneurs and thus lose public confidence. The resilience of Lithuanian education and society is at great risk as educational institutions gradually become business enterprises producing effective study programs focused on a narrow professional specialization that provides the “necessary” specific knowledge in the shortest possible study

[2] Švietimo būklės apžvalga. LR Švietimo, mokslo ir sporto ministerija. Švietimo aprūpinimo centras, 2019. http://www.nmva.smm.lt/wp-content/uploads/2019/10/Svietimo-bukles-apzvalga-2019-web.pdf

period. This type of education is "not education. It is a process of making computation devices that look like Homo sapiens. "(Naskar A. p. 13) And this is not only a problem of the Lithuanian education system.

CONCLUSIONS

Society resilience has become more relevant to researchers and security professionals in the face of contemporary threats addressed not to state actors but to individuals, communities and society as a whole.

Resilience of society is a natural phenomenon based on human nature to survive, manifested in the intangible sphere of human activity, such as moral values and identity. Therefore, in modern society, education is becoming one of the most important tools for increasing societal resilience.

The education strategy of national government focuses on quantitative indicators that do not reflect security interests of state, society and individual and it is the biggest risk for the state, society and individuals. As the consequence of "efficient" but not universal education society resilience is made weak in the face of such contemporary treats as information attacks, extremism, terrorism, corruption, etc.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

RIGHTS OF MIGRANT GIRLS AND WOMEN IN TRANSIT: THREATS AND CHALLENGES

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DOI: 10.13165/PSPO-20-24-21

Annotation. The migration is widely discussed phenomena, with multiple approaches and problematic areas. The author of this research will address the problems that migrating women and girls face. There are gaps in the political perspective, as well as legislative gaps, affecting the situation of migrant women and their children, especially girls, who find it difficult to migrate. Gender-sensitive measures to address violence and other violations of migrating women and girls, including gender-sensitive law enforcement measures, shelters, counselling services and prevention programmes are absent. Migrant girls also face gender-specific challenges, risks and vulnerabilities. Migrant girls due to their migration status, age and gender, are even more at risk and more vulnerable during the migration process, thus putting them at greater risk of violating their rights. Gender discrimination is present in countries of origin and destination, as well as during migratory journey. Gender inequalities, including violence against women and girls, can be both a root cause for migration and a violation of their rights during the migratory process. Therefore, the purpose of the research is to detect the legal gaps in international legal regulation, causing the inadequate protection of the rights of migrant women and girls, focusing more specific attention on the rights of the migrant girls and indicating the fundamental rights that due to lack of political will are kept outside the scope of protected areas.

Keywords: migration, human rights, violation of rights, women‘s and girls’ rights

INTRODUCTION

Migration is one of the social and economic phenomena that have a direct impact on the security of countries in the broadest sense. Modern migration flows are determined by most economic reasons, but the military, political and civil, climatic crises also affect the development of this phenomenon. It should be noted that, according to various data, migration mostly takes place within continents without crossing continental borders, however, especially in Europe, recent discourses on migration from North Africa and the Middle East are constantly escalating at various political, economic, legal and social levels.

According to different data and analysis presented by scholars (Martin & Herzberg, 2014; World Bank, 2020; Grabska, de Regt, Del Franco, 2019; Cortina, Taran, Raphael, 2014), female migrants compose almost 50 per cent of all migrating people in their age group, and they are an important and too often overlooked part of the migration phenomenon. According

to UNICEF, there are nearly 50 million children who have migrated across borders or been forcibly displaced (UNICEF, 2016).

Gender-based discrimination is one of the reasons, why women, adolescent females, and girls migrate from their origin countries and the root one in many cases. The drivers of female migration may be found at the individual, familial and societal levels. The gender is what makes their transit even more complicated, as they face triple challenges and violations of their rights – because of the gender, because of the age (the younger female is, the more threats are addressed), and the migrant status itself. It is female migrants who more often are victims of sexual exploitation, human trafficking, forced prostitution, labour force exploitation, also they face multiple and intersecting forms of discrimination, such as xenophobia or racism.

There have been many efforts to address the resulting marginalization of women's rights, including the adoption of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979). The uncomfortable truth is that women (not just migrants) in many parts of the world feel much worse than men in almost all areas of social well-being, even though, at least recently, all states declare that they adopt at least minimum international legal standards to promote equal human rights (Otto, 2014). The CEDAW protects all women, including migrant women, however, due to huge illegal migration, when women are provoked to migrate through irregular or informal channels, that leave them outside the protection of the law and vulnerable to abuse by agents, smugglers and traffickers.

Even more vulnerable are girls as a separate subject of both specific rights and their possible violations. The UN Convention on the Rights of the Child (CRC, 1989) transformed traditional human rights protections by recognizing that children are capable of being active rights-holders who participate in decisions concerning their well-being. The CRC has stimulated the adoption of a wide range of international and regional legal instruments regarding children's rights, which recognize the importance of a child-centred approach to human rights (Van Bueren, 2014). However, rights of migrant children are not the core discussions of politicians and even scholars, although it is supposed that migrant girls have additional rights with regards to their age under the Convention on the Rights of the Child (CRC) and their gender under the CEDAW.

There are gaps in the political perspective, as well as legislative gaps, affecting the situation of migrant women and their children, especially girls, who find it difficult to migrate. Gender-sensitive measures to address violence and other violations of migrating women and

girls, including gender-sensitive law enforcement measures, shelters, counselling services and prevention programmes are absent. Migrant girls also face gender-specific challenges, risks and vulnerabilities. Migrant girls due to their migration status, age and gender, they are even more at risk and more vulnerable during the migration process, thus putting them at greater risk of violating their rights. Gender discrimination is present in countries of origin and destination, as well as during migratory journey. Gender inequalities, including violence against women and girls, can be both a root cause for migration and a violation of their rights during the migratory process.

Therefore, the purpose of the research is to detect the legal gaps in international legal regulation, causing the inadequate protection of the rights of migrant women and girls, focusing more specific attention on the rights of the migrant girls and indicating the fundamental rights that due to lack of political will are kept outside the scope of protected areas.

Methodology. To achieve the aforementioned purpose in this essay following methods of research would be applied: method of scientific literature analysis- for disclosure of theoretic aspects presented by various scholars regarding the concepts migration and fundamental rights protection as supporting arguments for scientific reasoning; method of synthesis - for presenting the comprehensive synthesis of the concepts of fundamental rights protection of woman and girls in the global context of rights of migrants; method of content and source analysis- for the analysis of scientific literature, statistical information and legal sources; methods of logic and generalization - will be used in summarizing the analyzed theoretical and practical scientific material and providing the conclusive remarks.

RIGHTS OF MIGRANT WOMEN AND GIRLS AT A POLICY AND INTERNATIONAL LEGISLATIVE LEVEL

Are rights of migrant girls violated, or are we merely speaking about not fulfilment of those rights because of objective reasons? As without doubt could be stated bearing in mind the situation of women, adolescent females and girls in migration - "*a particular human right of some particular person is unfulfilled when this person lacks secure access to the object of that human right*" (Pogge, 2013). Here we must not forget that rights of migrating people are generally difficult to implement, as they usually are the nationals of different states than they reside at a particular moment when they have a need or a wish to enjoy the particular right. "*Progress in human rights standard-setting, promotion, and enforcement is not possible*

without local buy-in” (Mertus, 2012), therefore there always is a contradiction between the rights of migrating people and real economic possibilities (and political will) of the host countries to fulfil those rights, especially when we are talking about social and economic rights. Recently the latest relevant document adopted New York Declaration for Refugees and Migrants (UN, 2016) reaffirmed the aim to “*fully protect the human rights of all refugees and migrants, regardless of status; all are rights holders*”. The separate stress is made on the gender aspects, the intention is declared to ensure that “*large movements of refugees and migrants mainstream a gender perspective, promote gender equality and the empowerment of all women and girls and fully respect and protect the human rights of women and girls*” (para. 31). However, Para. 52 of the Declaration only aims to consider “*developing non-binding guiding principles and voluntary guidelines, consistent with international law, on the treatment of migrants in vulnerable situations, especially unaccompanied and separated children who do not qualify for international protection as refugees and who may need assistance*”. It is obvious, that there is a lack of strong determination to solve the emerging problems related to migrating children in an uncompromised way, keeping the interests of a child at primary importance.

Human rights are evolving from the traditional universal idea to a “multicultural” one, whereby rights are interpreted to respond to the needs of the communities and individuals directly concerned (Lenzerini, 2014). The fact that most rights are not absolute highlights the fact that diverse views and disagreement will exist (Kay, 2003). For example, some Muslim states have made general reservations conditioning the applicability of the CEDAW in their respect on the proviso and within the limits that it is compatible with the prescriptions of the Shari’ah.

The problem is, that female migrants usually are migrating because of economic reasons, or because they consider themselves as an inseparable part of their male family members, and their migration reasons are not individual nor determined by conditions, allowing them to achieve refugee status. Therefore, they usually face difficulties to have protection with the meaning of the Convention Related to the Status of Refugees (adopted in 1951). As Kneebone correctly notices, “*persons feeling for economic reasons, or persons fleeing generalized violence, where not “proper” refugees, and that if the states chose to assist them, it would be for “humanitarian” motives*”. However, while female migration is often considered as dependents (with tight links with their families), the past decades have disclosed the transformation of that situation, as women and girls increasingly migrate independently.

As para. 60 of the New York Declaration indicates, it is acknowledged and intended to "*address the special situation and vulnerability of migrant women and girls by, inter alia, incorporating a gender perspective into migration policies and strengthening national laws, institutions and programmes to combat gender-based violence, including trafficking in persons and discrimination against women and girls*". However, it is very doubtful if and what real powers international community may have to combat gender-based violence or any other gender-related crimes in national states. What international community, international institutions, agencies and other stakeholders could do, is to empower legal standards and norms, making them legally binding in all possible levels and aspects. That is not an easy task to do, as it was said, migrant women and girls are especially vulnerable to deprivation, hardship, discrimination and abuse, due to their status as migrants, their status based on gender and their vulnerability based on a young age. As Martin and Herzberg (2014) indicate, "*particularly forced migrants, face real risks of physical and sexual abuse during travel and in the country of destination. In short, their rights are violated frequently, drastically and all too often with impunity*". Paradoxically, the greater the rights according to these international policy frameworks and treaties, the less they are protected in reality.

Most probably the most shocking data is related to migrating children (and in this group girls prevail), that experience physical, sexual and mental violence. Children, especially those who travel alone or become separated from their families, or lost on a trip, experiences various forms of violence and exploitation during their travels. For most, these dangers remain even when the destination of the journey is reached, and for some the circle of violence and coercion becomes constant. Violence can take the form of state procedural action (detention) as an expression of public attitudes (xenophobic attacks), such as exploitation by employers, others violence by children in schools or public (including bullying and abuse) (Fazel & Mina, 2012). It is not possible to obtain reliable data about the level of violence faced by migrating women and children, but based on all sources that could be considered as reliable it could be stated, that the level of this problem is pervasive.

One of the most widely discussed forms of violence against children is trafficking. According to the data presented in 2012, one in three detected victims of trafficking is a child. Girls and boys are both affected, although nearly twice the number of girls have been detected as trafficking victims (UNODC, 2014), globally, the vast majority of detected trafficking is for either sexual exploitation (just over half) or forced labour (40 per cent). Smuggling is another

and an even more common problem for travelling children with and without their families. Smuggling, differently from human trafficking, could be considered as a kind of a commercial transaction between smugglers and migrants, in which the smuggler agrees to organize the passage of illegal migrants to another country for a certain fee, expressed in financial or material form. In this case, mostly because of being illegal, a journey that involves violence or sometimes turns into human trafficking. Those circumstances often are the primary obstacles for migrant women and girls to be protected under international legal provisions, as their status is not determined by any regulation. Even in cases when the immediate dangers of migration journey have passed, children can face a lifetime of discrimination and disenfranchisement, as they struggle to obtain legal identity, which allows them to implement at least basic rights and services. For women and girls, situations like that are often accompanied by social, cultural and legal circumstances from their national states, which prevent them from having personal documents (such as birth certificates) or possibility to implement their rights without the permission of some male relative. For example, the Convention on preventing and combating violence against women and domestic violence (entered into force in 2014) contains obligations to provide for migrant women and asylum-seekers with their residency permits. The EU Victim's Directive establishes „*minimum standards on the rights, support and protection of victims of crime*", those rights should be accessible for victims of crime in all EU Member States, regardless of their residency status. Yet the challenge remains of transforming these norms into realities for the girls and women concerned.

It is worthwhile mentioning that in the regional level under the Gender Equality Strategy 2018-2023 (Council of Europe, 2019) protecting the rights of migrant, refugee and asylum-seeking women and girls is a new strategic objective. This establishing clear framework document indicates that the strengthening of institutional mechanisms for gender equality will determine future progress to improve gender equality. Therefore it is obvious, that without institutional determination (i.e., without a will of people, having the power to create and implement legal binding norms) the future of women and girls (including migrating ones) rights will be only sound theoretical idealistic ideas without clear impact on the real situation of vulnerable groups.

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

THE FUNDAMENTAL VULNERABLE RIGHTS OF MIGRANT WOMEN AND GIRLS AND THEIR PROTECTION POSSIBILITIES

Several fundamental rights could be indicated as the most often violated speaking about migrating women and girls, in particular, right to health, education, working and employment conditions. In this chapter, we will focus our attention on right to education, which is one of the most often violated by host states of migrant girls and adolescents in transit, and right to adequate health care, which is an essential need for female migrants bearing in mind the conditions of migration and possible sexual and other physical abuses that they face during their migration process.

The New York Declaration for Refugees and Migrants Right (para. 59) affirms that certain needs of migrating children are of the utmost importance, therefore need more protection, the international community declares its preparedness "*to protect the human rights of migrant children, given their vulnerability, particularly unaccompanied migrant children, and to provide access to basic health, education and psychosocial services, ensuring that the best interests of the child are a primary consideration in all relevant policies*". The right to education among the ones mentioned is one of the most important, at the same time – difficult to implement, causing huge costs and expenses, and needs direct involvement of the host states. The nature of the right to education is such that positive state action is needed to achieve the full realization of this right. The obligation to fulfil requires states to make the various types of education available and accessible for all and to maintain that level of realization, which may involve a variety of measures (Coomans, 2014). Quite a few international legal instruments are foreseeing the right to education.

The right to education originally came to be expressed in the now-familiar terms for the very first time in Article 26 of the Universal Declaration of Human Rights (UN, 1948). It should be noted that at the time the Universal Declaration was signed only a minority of the world's young people had access to any kind of formal education and almost half of the world's adult habitats could not read (World Education Report, 1994). Therefore, the aspiration to grant free and compulsory elementary education should be evaluated as a modern and progressive for that time.

The provisions of the Universal Declaration of Human Rights have been specified and complemented by two later documents—the special document dedicated to education, the UNESCO Convention against Discrimination in Education (1960), and the International

Covenant on Economic, Social and Cultural Rights (1966). The International Covenant on Economic, Social and Cultural Rights devotes two articles to the right to education—Articles 13 and 14. Article 13, the longest provision in the Covenant, is the most wide-ranging and comprehensive article on the right to education in international human rights law. In this research, we will focus our attention on those provisions of this article, that have a direct relation to the rights of migrating girls and female adolescents. Article 13 amplifies the general right to education with references to primary education ("which shall be compulsory and available free to all"), secondary education ("in its different forms", "generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education"), higher education (to be made "equally accessible to all, based on capacity"), and "fundamental education" (for those who have not received or completed primary education). The most significant difference between the right to achieve secondary and higher education is that while secondary education "shall be made generally available and accessible to all", higher education "shall be made equally accessible to all, based on capacity" (Pranevičienė & Pūraitė, 2010).

The UNESCO Convention against Discrimination in Education (1960) was the first international treaty to be adopted concerning education as such. The Convention is the first legally binding instrument which provides for standards and quality of education. The Convention prohibits any "discrimination" or any distinction, exclusion, limitation or preference, "based on race, colour, sex, language, religion, political or another opinion, national or social origin, economic condition or birth" (Article 3 of the Convention and Preamble to the Convention). But the provisions of the Convention further foresee situations which would not be deemed to constitute discrimination. It is allowed to establish or maintain separate educational systems or institutions for pupils of the two sexes, if these systems or institutions offer equivalent access to education, provide teaching staff with qualifications of the same standard as well as school premises and equipment of the same quality, and allow taking the same or equivalent courses of study.

The latest specific international legal document foreseeing the right to education is the Convention on the Rights of the Child, which dedicates 3 articles (articles 28-30) to education. The obligations of States Parties concerning primary, secondary, and fundamental education are not identical. States obliged to "make primary education compulsory and available free to all", to "encourage the development of different forms of secondary education, including

general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need", and to "make higher education accessible to all based on capacity by every appropriate means". The Convention at the same time promotes, supports, and protects the core value of the Convention—human dignity is innate in every child and is his or her equal and inalienable right. Article 29 adds a qualitative dimension which reflects the rights and inherent dignity of the child to the right to education recognized in Article 28.

There are several regional documents dedicated to the protection of human rights. Several of them are directly related to the right to education or at least focus specific emphasis on this right (for example, The European Convention on Human Rights (1950), The African Charter on the Rights and Welfare of the Child (1999), The American Convention on Human Rights (1978), and The Arab Charter on Human Rights (1994)). As regional human rights documents pay more attention and respect regarding specific cultural, religious, moral issues, and the protection of human rights in the particular geographic areas, it could be presumed that imposing these documents should not discontent the governments of the states and those to whom the corresponding provisions are dedicated. However, the understanding of the content and application issues of the provisions of the regional documents regarding the right to education is not less complicated than those of the international legal documents. This could be explained by the presence of multicultural and multi-religious environments in the regions of Africa or America.

Obstacles faced by migrant girls in exercising their right to education include language barriers, the assessment and recognition of previous education and the transfer of qualifications. They face further challenges from legal hurdles that make it more difficult to enrol in education, due to their or their parents' migration or residence status. Besides, the environment in a new school also plays a crucial role, as stigmatization and discrimination may discourage migrant children from attending school. Most importantly, access to education must be completely separated from the fear of being deported. When firewalls are not in place, meaning that the personal data of migrant children and their families may be shared with the immigration authorities, migrant girls are more reluctant to enrol in education and realize their basic right (UNICEF, 2017). Summarizing, it is clear, that both at policy and legislative levels the provisions must ensure access to secondary and tertiary education for adolescent and young women who migrate as well as those who are left behind by migrating parent and to increase

the access of adolescent and young women to primary and reproductive health care services, including programs to address gender and sexual-based violence.

Another clear and undoubtedly serious threat to girls and young female migrants is the health needs, which are very specific and require access to appropriate health and mental health services, including reproductive healthcare. Among most often issues, there are adolescent pregnancy, sexually transmitted diseases, HIV/AIDS and sexual and gender-based violence (WHO, 2012). Here, it is necessary to distance from a possible too academic approach and from escalating an artificial philosophical approach to the universality of human rights and to assess cultural differences and realities for teenagers and young women to have real access to culturally and linguistically sensitive programs dealing with the trauma of crimes committed against them. As research shows, crossing borders clandestinely puts young women at risk of rape by border guards, smugglers, bandits, and other criminals. Young women travelling alone may have little choice but to sell sex for survival, or to establish partnerships in transit or at destination simply for protection. The risk of sexual violence also increases in sex-segregated and unregulated sectors of the economy, for example for female traders, domestic workers and sex workers (Haour-Knipe & Grondin, 2003).

As indicated in the report of the Special Rapporteur on the human rights of migrants (2019), migrant women and girls often do not have reliable access to health care or reproductive health-care services in transit and destination countries. More often this is determined by factors such as the lack of information or health-related education, isolation, or the inability to gain access to services based on the legal status, for fear of deportation or other repercussions, particularly for migrants in irregular situations.

CONCLUSIONS AND RECOMMENDATIONS

To better protect girls, adolescents and young female migrants, there is a need for a better understanding at the policy level of their specific conditions and needs, as well as the specific threats to this group due to their gender, age and cultural and social vulnerabilities. The aim of policies, therefore, must be to maximize the beneficial aspects of migration for this group while minimizing potential harms. All policies must be based on gender perspective and in accordance with the fundamental rights approach. Migrant girls often are the most vulnerable group of migrants, and they benefit from even less coverage than women or boys, as gender and age are rarely considered in migration laws and policies. Therefore, it is necessary to create policies

that would take into consideration gender and age factors elaborating further legal provisions. The understanding of children needs is the core for future policy development, which includes introducing measures to strengthen child protection systems from violence and exploitation; implementing legal and operational alternatives to detention wherever children (or their families) are involved, given the negative impact of detention on a child's development; developing clear policy guidance to keep children from being separated from their parents during border control processing and any migrant legal processes; incorporating gender as a vulnerability factor that needs special attention and more specialized protection mechanisms and tools; providing education, health, shelter, nutrition, water and sanitation, and access to legal and psychosocial support to migrating girls and all children in essence. Those goals could not be reached without increased collective efforts by governments, communities and the private sector actors, as reaching this goal is not only a responsibility os all international community, but also is a common interest.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

THE INFLUENCE OF FACTORS AND MEASURES ON THE MOTIVATION OF STUDENTS IN THE ACADEMIC ENVIRONMENT

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DOI: 10.13165/PSPO-20-24-22

Annotation. The aim of this article was to create specific recommendations based on the analysis of the primary research concerning the factors and measures influencing the motivation of students, which should be included in the design of the motivational program in the academic environment. Only when the university's motivational program builds on the elements that support motivation with a focus on the needs of stakeholders it will lead to improved performance, increased levels of motivation and support for the creativity of those involved.

The research consisted of a detailed analysis of selected issues related *to decision-making on motivation and creativity in the academic environment.* The analysis also examined the impact of motivational factors on students and the choice of measures that would help their future development.

The results show that the change in the academic motivation of the respondents was mostly caused by *the gradual maturation and development of their personality.* To support their future development, respondents consider these measures to be effective: *greater interest in students and their opinions or the creation of good relationships and a positive atmosphere.*

An appropriately set motivation program should maximize the potential of all stakeholders that in the academic environment include not only teachers and managers, but also students. Only if the program includes motivational tools that respond to their needs, it has a high probability of success.

Keywords: academic motivation, decision-making, motivation program, motivational tools, students, academic environment.

JEL Code: M12 Personnel Management, I23 Higher Education.

INTRODUCTION

Over time, views on motivation have evolved. Various authors have taken a certain position on this concept and have tried to explain it from different perspectives: Davis, Connell[1]; Donelly et al.[2]; Veber et al.[3]; Reeve[4]; Steiger, Lippann[5]; Lutz von Rosenstiel[6].

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Nevertheless, the individual definitions are similar to each other – they contain similar elements that are key to motivation.

The importance of motivation has intensified, not only in the corporate but also in the academic environment. People began to realize that if they wanted to increase their performance, they must be motivated enough to perform the necessary activities. This connection is not only valid in *the relationship of the individual with himself/herself,* but it can also be applied in the relationship of *the superior with the subordinate.* This is about the need when the manager should try to support the motivation of the employee (subordinate) to meet the desired goals and make his/her performance sufficient. This influence on the behaviour can be achieved via *a process of motivation.* With a specific view of *the academic environment,* it is possible to consider not only the influence of a superior on the motivation of his subordinates – teachers, but also *the influence of the teacher on the motivation of students*[7,8].

The research part of the article focuses on a detailed analysis of selected questions from a questionnaire survey in the field of motivation in the academic environment. **The aim of the analysis** was to reveal the motivational elements that had the greatest impact on the respondents and those measures that will have the greatest impact on the future change in their motivation and willingness to develop. It is therefore assumed that if specific measures are applied in the process of motivation by the teacher/management, it will have a positive effect on the motivation of students and the factors associated with it. **The purpose of the research** is therefore to create specific recommendations related to the factors and measures that affect students. These recommendations will help to potentially create a motivation program in the academic environment, which should consist not only of recommendations for students but also of recommendations for other stakeholders. In that case, it will lead to an improvement in the university's climate and support the motivation and creativity of stakeholders.

THEORETICAL BACKGROUND

From the perspective of this article, it is important not only to define general motivation but especially **the motivation in the academic environment.** It affects several stakeholders, such as: *students, teachers, administrative staff and managers.* Therefore, in the following

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subchapters, several characteristics of motivation with regard to specific stakeholders will be highlighted. An example is the research examining motivation in relation to personality traits. One finding was that intellectually gifted students generally have higher academic intrinsic motivation than students who have not been identified as gifted[1].

Academic motivation

Many authors focus on examining people's behaviour when defining motivation. Based on the previous knowledge, it can be stated that *behaviour is closely linked to motivation.* Human motivation can be understood as the interaction between the set goals and the responses to impulses. A person (student/teacher/manager) is affected by several internal and external influences such as: the internal side of motivation, requirements and opportunities or other external factors[5].

As early as in 1991, Schunk discussed motivation *in terms of efficiency* in his publication. He emphasized the judgments of the individual and his/her ability to perform the activities[9] (p. 207). These activities can be considered as resources needed to achieve the desired goal.

In relation to *the setting of academic goals,* it can be stated that they often focus on the long-term horizon. These goals can include, for example: obtaining a university degree, completing a scientific project or a seminar task, increasing the average performance, etc. Morgan also followed up on these ideas, but he found out that goals focused on the short-term horizon – *proximal goals,* increase the internal interest of university students during the academic year[10]. The interest is subsequently reflected in increased academic performance. Other sources also suggest that distance or proximity to a goal affects *individuals' self-regulatory processes.* Therefore, examining students' goal setting over a period of time can reveal how they self-regulate their motivation. From the analysis, it is also possible to determine the development of efficiency on the basis of the time set for achieving the goals[9] (p. 214).

Some authors have also focused on revealing the factors that influence the change in academic motivation. For example, Brophy found out that *choosing activities* is not a good indicator of academic motivation. The reason is that the students are frequently not involved in the decision-making on their participation in specific activities[11] and even if they are, this is

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quite limited, and they can only decide on their leisure-time activities. The decision-making therefore relates to a narrow motivational focus[9] (p. 221). The school environment is created by academic structures that are linked to aspects of the academic motivation of stakeholders (students/teachers/managers). The academic environment is also linked to the good living conditions, outcomes and behaviour of people in this environment[12] (p. 413).

The climate of the study group (class) is formed mainly by the mutual relations between the group of students and the teacher, but also by *the management of the groups and the motivational climate*[12] (p. 407).

Mutual relations

The quality of the *"teacher-student"* relationship is a key component of the group atmosphere. This relationship has been addressed by a number of authors highlighting certain specifics of the teacher's behaviour that affect the overall atmosphere of the group and the behaviour of students. The elements of the teacher's behaviour, which have a positive effect not only on the behaviour of individuals (students) but also on their results, include *trust, care, respect or special interest in education.* Teachers should provide socio-emotional and intellectual support to students in fulfilling their academic educational tasks. In the students, these aspects encourage engagement and perseverance, understanding of values, development of a positive perception, a sense of belonging and well-being not only in the group but also towards the educational institution[13,14,15,16].

Eccles and Roeser also emphasize people and their feelings of belonging and support. These authors claim that *the feeling of emotional support* is one of the most important factors applied in the developmental context, which also includes educational institutions – universities. The academic environment should support the positive development of students[12] (p. 407).

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Management of the groups

Many researches also focused on the management of the study group (class), which *supports the autonomy of students.* It is autonomy that is important to support the intrinsic motivation[12] (p. 408) to learn something new and to support socio-emotional development during adolescence[13,17].

Motivational climate/environment

Several authors also focused on making recommendations for a teacher's behaviour that would support the creation of a motivational climate in the group. Several recommendations concern the use of *a wide range of behaviours.* In practice, for example, the following teaching methods are used: *individualized versus group teaching, the use of clustering skills and the promotion of mutual feedback*[18]. Because these procedures use the diversity of students and their characteristics and qualities to their advantage – motivation in the group is influenced in a positive way[12] (p. 408).

Motivational tools and programs

Following the previous statements, the focus and analysis of the academic environment, group climate and culture leads managers to understand *systems to support motivation and engagement.* Understanding the systems is a clear prerequisite for their correct setting, which will bring not only increased motivation of stakeholders and their improved performance but also the success of the entire organization – the university[19] (p. 1). The justification of the focus on motivational tools and systems is also supported by *the theory of organizational culture*[20]. Its authors claim that it is the strong organizational culture that influences the high performance of employees and the achievement of overall satisfaction with the work performed. Other factors that are essential for stakeholders – and should be included in the university's

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motivational program – are also *a sense of belonging and the creation of a pleasant, even "family" atmosphere* (spirit)[21], (p. 133).

In order for the teachers to be able to properly strengthen students' motivation, it is necessary for them to be motivated to carry out activities to support motivation. In relation to the teacher's support, Fryer presents that, on the one hand, the strategy implemented via *financial incentive programs* can be applied[22], but on the other hand, the author himself found out that the support program for teachers built this way does not significantly contribute to the performance of the university. Thomas has a different view of the factors that should be applied in relation to teachers in the academic environment. He divided the factors according to their influence on internal or external motivation. Factors that influence teachers' internal motivation include students' pleasure and the joy from the teaching profession. Those that have an impact on external motivation lie in the salary and further education[23]. On the contrary, a bad relationship with co-workers can also significantly negatively affect not only the feelings but also the performance of employees, which then affects the motivation of students, too. To improve relationships within the university environment, managers should focus on *the social networking of stakeholders* as well when creating a motivation program[24].

All the analysed definitions and the opinions of various authors can be linked through the following statement: *"satisfied employees have a higher level of overall motivation"*. That is why every organization – the university, should strive to create a motivation program while taking into account the needs of stakeholders (students/teachers/managers). Only then their motivation and satisfaction will be increased[25].

RESEARCH

As part of the scientific study of motivation, research was also conducted focusing on *decision-making on the motivation and creativity of students in the academic environment.*

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ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

It was performed in 2019 within the University of Žilina in Žilina on a sample of 142 respondents.

For the purpose of this article, two questions were selected for analysis, which were examined in terms of mutual context and relationships. In the first question, respondents had to choose *the elements that had contributed the most to the change in their academic motivation in the past.* The above-mentioned question was also explained to the respondents in the following way: what elements have evoked different needs, plans and desires in you in relation to the field of study at present than you felt before?

The second question was stated as follows: Please, indicate the measures taken by teachers or the management of the faculty or university that would help increase your motivation and willingness to develop further. It was about revealing the students' views on what the faculty/university should do or change to support their motivation.

Statistical software was used to calculate specific values, in which mutual relationships were also examined using the Z-Score. Significant dependence was confirmed if: $z > c$ (not confirmed if: $z < c$). The permissible deviation taken into account in the evaluation was: *c = Critical value @ 5%; where: c = 1.96.*

Analysis and evaluation

The basic characteristics of the respondents are listed in the following table. Respondents were characterized on the basis of *gender, degree of study and field of study* they attend.

Table 1. Basic characteristics of respondents

Sex	**Frequency**	**Field of study**	**Frequency**	**Field of study**	**Frequency**
Male	65	Management	19	1. (Bc.)	53
		Informatics	19	2. (Ing.)	12
		Information management	12	3. (PhD.)	0
		Computer engineering	15		
Female	77	Management	51	1. (Bc.)	54
		Informatics	4	2. (Ing.)	21
		Information management	21	3. (PhD.)	2
		Computer engineering	1		
Total	**142**				

The elements that have contributed the most to the change in respondents' academic motivation in the past were primarily examined in terms of frequency.

Table 2. Elements that influenced the change of respondents' motivation

No.	Options	Frequency	[%]
1.	Gradual maturation and development of your personality	80	56.34%
2.	Long-term fatigue, stress and burnout	63	44.37%
3.	Significant success in the field of study	50	35.21%
4.	Achievement of a long-term goal	49	34.51%
5.	Awareness of your qualities and merit	45	31.69%
6.	Negative, demotivating influence of a teacher	45	31.69%
7.	Feeling of satisfaction in partner life	35	24.65%
8.	Getting to know an esteemed, respected person	30	21.13%
9.	Health and health condition	24	16.90%
10.	Achieved success and happiness of your partner	20	14.08%
11.	Great failure in the study	18	12.68%
12.	Experiencing an extraordinary joyful moment	18	12.68%
13.	Manifestation of a latent (before hidden) need	16	11.27%
14.	Disappointment in the love life	13	9.15%
15.	Death of a close person or friend	12	8.45%
16.	Change of the field of study or university	11	7.75%
17.	Starting a family	10	7.04%
18.	Failure, unhappiness of your partner	3	2.11%

The change in the academic motivation of the respondents was mostly due to the factor ***Gradual maturation and development of your personality,*** with a frequency of 56.34%. The second place was taken by *Long-term fatigue, stress and burnout,* with a frequency of 44.37%. This factor represents a negative effect on motivation, which is a significant concern as it is one of the factors with the greatest impact on students. *Significant success in the field of study* is at the third place in terms of frequency (35.21%). The element that has the lowest effect on the change in motivation is *Failure, unhappiness of your partner* (2.11%).

As these factors occupy the first three places in terms of frequency, they were subsequently examined in *relation to the second issue analysed.* Thus, the possible dependence between the factors that contributed most to the change in motivation and those measures that should be applied to students in the future in order to increase their academic motivation and efforts to develop was examined. In addition to the mutual relations between the examined questions, the relationship between *all the presented factors from the first selected question and the respondents' gender* were analysed too.

Subsequently, **measures taken by teachers or faculty/university management to help increase respondents' motivation and willingness to develop further** were also assessed in terms of frequency.

Table 3. Measures that will help increase the motivation and development of respondents in the future

No.	Options	Frequency	[%]
1.	Greater interest in students and their opinions	99	69.72%
2.	Creation of good relationships and a positive atmosphere	93	65.49%
3.	Correctness, fairness and humanity of teachers	92	64.79%
4.	Lectures given by experts from the practice and improved opportunity for employment	77	54.23%
5.	Providing the necessary information	71	50.00%
6.	Improving mutual communication	68	47.89%
7.	Showing recognition for a job well done	66	46.48%
8.	Mutual and open cooperation	62	43.66%
9.	Better study conditions	61	42.96%
10.	Greater number of credits for subjects	57	40.14%
11.	Room for independence and self-realization	42	29.58%
12.	Complementary educational activities and skills development	37	26.06%
13.	Participation in management and decision-making	36	25.35%
14.	Joint cultural and sports activities of teachers and students	34	23.94%

In terms of measures that would help increase the motivation of respondents, it can be stated that the frequency was over 50% for 5 of 14 measures. This finding can be interpreted as a high interest of respondents in the application of these factors in the academic environment.

According to the results, it can be assumed that the willingness of students to further develop themselves would be highest if the following factors were applied by teachers or faculty/university management: Greater interest in students and their opinions (69.72%), Creation of good relationships and a positive atmosphere (65.49%) and Correctness, fairness and humanity of teachers (64.79%).

These factors should be taken into account by the teachers in their efforts to encourage students' motivation. If students themselves have shown interest in these factors – which are linked to their needs in the academic environment – it is important to pay attention to them. For example, if a motivation program is being set within the university that respondents attend, it should certainly involve all stakeholders – including the students for whom the above-listed factors are important.

Dependences between the variables

When examining the relationship between the elements influencing the change in motivation and gender, a statistically significant dependence was confirmed for the following factors: Experiencing an extraordinary joyful moment (z = 2.146), Feeling of satisfaction in

partner life (z = 2.353), Long-term fatigue, stress and burnout (z = 2.657), which is displayed in the following table.

Table 4. Relationships between factors that influence the change of students' motivation and gender

No.	Options	Z-Score	Sex	No.	Options	Z-Score	Sex
1.	Significant success in the field of study	z:	1.371	10.	Death of a close person or friend	z:	0.904
		significant:	no			significant:	no
2.	Great failure in the study	z:	0.121	11.	Manifestation of a latent (before hidden) need	z:	0.173
		significant:	no			significant:	no
3.	Experiencing an extraordinary joyful moment	z:	2.146	12.	Long-term fatigue, stress and burnout	z:	2.657
		significant:	yes			significant:	yes
4.	Achieved success and happiness of your partner	z:	0.893	13.	Awareness of your qualities and merit	z:	0.217
		significant:	no			significant:	no
5.	Gradual maturation and development of your personality	z:	0.808	14.	Negative, demotivating influence of a teacher	z:	0.579
		significant:	no			significant:	no
6.	Feeling of satisfaction in partner life	z:	2.353	15.	Failure, unhappiness of your partner	z:	0.734
		significant:	yes			significant:	no
7.	Getting to know an esteemed, respected person	z:	0.302	16.	Disappointment in the love life	z:	0.613
		significant:	no			significant:	no
8.	Achievement of a long-term goal	z:	0.152	17.	Change of the field of study or university	z:	0.608
		significant:	no			significant:	no
9.	Starting a family	z:	0.278	18.	Health and health condition	z:	1.342
		significant:	no			significant:	no

The confirmed dependence was further analysed. The results show that for women the factor *Long-term fatigue, stress and burnout* is at the 1st place (frequency: 54.55%) and for men at the 3rd place (frequency: 32.31%). Despite this difference, this factor is very important in terms of the effect on motivation for both genders. The factor *Feeling of satisfaction in partner life* is at the 6th place for women with a frequency of 32.47% and for men at the 8th place with a frequency of only 15.38%, which is a relatively significant difference. The last factor examined was *Experiencing an extraordinary joyful moment,* which is at the 9th place for women (frequency: 18.18%) and at the 13th for men (frequency: 6.15%).

Based on the presented findings, it can be stated that overall, all three examined factors *(Long-term fatigue, stress and burnout, Feeling of satisfaction in partner life, Experiencing an extraordinary joyful moment)* are more important for women than for men. The first question examined the elements that have contributed the most to the change in respondents' academic motivation in the past. At the first place, based on frequency, there is the factor **Gradual maturation and development of your personality** (frequency: 56.34%). This factor was analysed in terms of possible relationships with elements that would help increase students' motivation and willingness to develop further. Dependence was statistically significant for the measures: *Creation of good relationships and a positive atmosphere* (z = 2.351), *Correctness, fairness and humanity of teachers* (z = 2.54), *Improving mutual communication* (z = 2.266).

Table 5. Relationships between the factor Gradual maturation and development of your personality and measures that would help to change the motivation of students in the future

Elements that contributed to the change in motivation – Gradual maturation and development of your personality (frequency: 56.34%)							
No.	**Measures that would help to change the motivation of students in the future**	**Z-Score**		**No.**	**Measures that would help to change the motivation of students in the future**	**Z-Score**	
1.	Greater interest in students and their opinions	z:	1.924	8.	Providing the necessary information	z:	1.354
		significant:	no			significant:	no
2.	Complementary educational activities and skills development	z:	0.831	9.	Mutual and open cooperation	z:	1.047
		significant:	no			significant:	no
3.	Creation of good relationships and a positive atmosphere	z:	2.351	10.	Room for independence and self-realization	z:	1.608
		significant:	yes			significant:	no
4.	Greater number of credits for subjects	z:	1.42	11.	Better study conditions	z:	0.558
		significant:	no			significant:	no
5.	Lectures given by experts from the practice and improved opportunity for employment	z:	0.89	12.	Showing recognition for a job well done	z:	0.956
		significant:	no			significant:	no
6.	Participation in management and decision-making	z:	1.057	13.	Joint cultural and sports activities of teachers and students	z:	0.335
		significant:	no			significant:	no
7.	Correctness, fairness and humanity of teachers	z:	2.54	14.	Improving mutual communication	z:	2.266
		significant:	yes			significant:	yes

Respondents who **were motivated by** the factor *Gradual maturation and development of your personality* selected the measure *Creation of good relationships and a positive atmosphere* with a frequency of 73.75%. In the case of those respondents who indicated that their motivation **was not influenced by** *Gradual maturation and development of your personality,* the frequency of this measure was only 54.84%.

Those who **were motivated by** the factor *Gradual maturation and development of your personality* selected the measure *Correctness, fairness and humanity of teachers* with a frequency of 73.75% and those who **were not motivated by** this factor selected the measure *Correctness, fairness and humanity of teachers* with a frequency of 53.23%.

Those who **were motivated by** the factor *Gradual maturation and development of your personality* selected the measure *Improving mutual communication* with a frequency of 56.25%. Respondents who **were not motivated by** this factor selected the measure *Improving mutual communication* with a frequency of only 37.10%. Based on the above-mentioned findings, it can be stated that if the motivation of the respondents was influenced by the factor *Gradual maturation and development of your personality* in the past, the measure *Improving mutual communication* is relatively important for their future academic motivation and development. On the other hand, for the respondents who were not motivated by this factor in the past, the measure *Improving mutual communication* is not essential for their future development.

At the second place in terms of frequency of elements that have contributed the most to the change in the academic motivation of respondents in the past, there is the factor **Long-term fatigue, stress and burnout** (frequency: 44.37%). This factor was also examined in terms of possible relationships with elements that would help increase students' motivation and willingness to develop further. Dependence was statistically significant only for the following two measures: *Mutual and open cooperation* ($z = 2.211$) and *Better study conditions* ($z = 2.367$).

Respondents who **were motivated by** the factor *Long-term fatigue, stress and burnout* selected the measure *Mutual and open cooperation* as well as the measure *Better study conditions* with a frequency of 53.97%. Those who **were not motivated by** the factor *Long-term fatigue, stress and burnout* selected the measure *Mutual and open cooperation* with a frequency of 35.44% and the measure *Better study conditions* with a frequency of 34.18%

The above-mentioned findings imply that if students were affected by long-term fatigue or stress in the past, they are more interested in the academic environment characterized by

mutual and open cooperation and better study conditions. On the other hand, students who were demotivated by long-term fatigue and stress do not consider the two measures described above to be important.

Table 6. Relationships between the factor Long-term fatigue, stress and burnout and measures that would help to change the motivation of students in the future

Elements that contributed to the change in motivation – Long-term fatigue, stress and burnout (frequency: 44.37%)							
No.	**Measures that would help to change the motivation of students in the future**	**Z-Score**		**No.**	**Measures that would help to change the motivation of students in the future**	**Z-Score**	
1.	Greater interest in students and their opinions	z:	1.867	8.	Providing the necessary information	z:	0.845
		significant:	no			significant:	no
2.	Complementary educational activities and skills development	z:	0.93	9.	Mutual and open cooperation	z:	2.211
		significant:	no			significant:	yes
3.	Creation of good relationships and a positive atmosphere	z:	0.263	10.	Room for independence and self-realization	z:	1.345
		significant:	no			significant:	no
4.	Greater number of credits for subjects	z:	0.789	11.	Better study conditions	z:	2.367
		significant:	no			significant:	yes
5.	Lectures given by experts from the practice and improved opportunity for employment	z:	0.623	12.	Showing recognition for a job well done	z:	1.259
		significant:	no			significant:	no
6.	Participation in management and decision-making	z:	0.011	13.	Joint cultural and sports activities of teachers and students	z:	0.429
		significant:	no			significant:	no
7.	Correctness, fairness and humanity of teachers	z:	0.065	14.	Improving mutual communication	z:	1.295
		significant:	no			significant:	no

At the third place in terms of frequency of the elements that contributed the most to the change in the academic motivation of respondents in the past there is the factor **Significant success in the field of study** (frequency: 35.21%). For this factor, no statistically significant dependence was confirmed in relation to any of the measures that would help increase students' motivation and willingness to develop themselves further.

DISCUSSION

Based on the examination of the issue of academic motivation and the analysis of the primary data obtained via a questionnaire survey, specific conclusions were drawn. Subsequently, it was possible to make recommendations regarding factors and measures that should be included in the process of motivating students within the university environment.

The first recommendation is to focus on *the identification of the stakeholders' needs in academic environment.* When creating a complex motivation program, it is necessary to pay attention to which stakeholders are in this environment. Opinions, feelings and needs of each stakeholder should be included in the program. Therefore, three actors should be involved in setting the motivation program, as the program concerns everyone who works in this environment and the fulfilment of the program is ensured by *the university (management), the teachers and the students themselves.* These three entities can also be referred to as the objects affected by the program.

As mentioned, one of the stakeholders in the academic environment is also represented by the students who were the main participants in the survey. In it, specific factors influencing their motivation were identified. The factors *Gradual maturation and development of your personality* or *Significant success in the field of study* contributed most to the positive change in the respondents' academic motivation. The factor *Long-term fatigue, stress and burnout* also had a significant effect on the change in respondents' motivation, but this is a negative effect. Based on other findings, it can be stated that some factors are more important for women than for men. This was also the case of the following factors: *Experiencing an extraordinary joyful moment, Feeling of satisfaction in partner life, Long-term fatigue, stress and burnout.*

Such findings, based on the experience of the students themselves, help better set the process of motivating students performed by the teachers within the academic environment. The results also suggest that students' motivation for their further development will be at a high level if factors such as: *Greater interest in students and their opinions, Creation of good relationships and a positive atmosphere, Correctness, fairness and humanity of teachers* are applied.

With regard to the examined context, it can be emphasized that if the motivation of respondents in the past was influenced by the factor *Gradual maturation and development of your personality,* the measure *Improving mutual communication* is also essential for their motivation for their future development. If students were affected by long-term fatigue or stress

in the past, they care more about the academic environment characterized by mutual and open cooperation and better study conditions. For example, Wentzel[26] emphasizes the importance of building relationships, communication and cooperation, and Eccles and Roeser[12] explore awareness of the development of their own abilities.

Recommendations regarding the factors that should be incorporated into the setting of the process of motivating students can be summarized by the following points:

- identifying the needs of academic stakeholders (students/teachers/managers),
- showing willingness and trust in students,
- interest in students and their opinions,
- correctness, fairness and humanity of teachers,
- setting long-term as well as short-term academic goals,
- creation of good relationships and a positive atmosphere,
- awareness of students' own characteristics, qualities and merit.

It is important that other academic stakeholders (in addition to students, for example, teachers, managers and administrative staff) are analysed in a similar way. Only if the needs and factors that affect their motivation are identified, it will be possible to set a motivation process focused on a specific object, as well as a complex motivation system of the university[25].

CONCLUSIONS

The main subject of this article was the academic environment, which examined the motivation of students and the factors that affect it. Looking at this environment, it is necessary to examine not only the influence of the superior on the motivation of teachers, but also *the influence of the teacher on the motivation of students.* Theoretical background shows that individual elements of motivation can be revealed by the analysis of the behaviour of stakeholders, because the behaviour is associated with motivation.

The aim of the analysis was to reveal the motivational elements that had the greatest impact on the respondents and those measures that will have the greatest impact on the future change in their motivation and willingness to develop themselves. Specific **findings** include the identification of those factors that have contributed the most to the change in the students' motivation: *Gradual maturation and development of your personality, Significant success in*

[26] Wentzel, K. (2002). Are effective teachers like good parents? Teaching styles and student adjustment in early adolescence. In: Child Development, 73, p. 287–301

the field of study, Long-term fatigue, stress and burnout. Those measures that should increase academic motivation for the students' development include: *Greater interest in students and their opinions, Creation of good relationships and a positive atmosphere and Correctness, fairness and humanity of teachers.*

Based on the findings, it was possible to make **recommendations** regarding the setting of the process of motivating students in the academic environment. Specifically, it is important *to show interest in students and their opinions, emphasize the correctness, fairness and humanity of teachers or create good relationships and a positive atmosphere.* In the relationship with students, it is also very important to support the students themselves *to be aware of their qualities and merit.*

The orientation of future research should focus on deeper understanding of the motivation programs of universities (best practice in the academic environment). The subject of research can include not only students and their teachers, but also managers and administrative staff who are also part of this environment. There should also be a combination of these findings and recommendations and their use in creating a complex motivation program of the university, whose benefits can be monitored.

Only if the proposed elements of the motivation program are based on the needs of all stakeholders, successful application can occur with the maximum positive outputs of the program set this way.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

SPECIFYING A MODEL FOR SELF – STUDY

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DOI: 10.13165/PSPO-20-24-23

Annotation. Gross mode, the promotion of self-care obeys the guidelines of international organizations that seek to reduce social spending in medical care, but with the emphasis on personal responsibility. The objective of the present work is to discuss this formula, establishing a model for the study of the phenomenon. A documentary work was done with a non - probabilistic selection of sources

indexed to national repositories, considering list publication, and the inclusion of concepts "health policy", "health care programs", "prevention strategies" and "self-care". There are lines of investigation concerning the extension of the model.

Keywords: governance, health, disease, parasite, intervention.

INTRODUCTION

The **objective** of the present work was to specify a model for the study of self-care, considering that it is a post-diagnosis phase in which family, social and biomedical support is oriented towards adherence to treatment, rehabilitation and patient insertion to the economic, political and social spheres after having overcome the disease or the accident that inhibited such process.

The promotion of self-care, for the **purposes** of this work, refers to a co-management system of health services aimed at the prevention of illnesses and accidents in the workplace, educational or family. It is a process of establishing priorities in the personal agenda, although with a view to collective or environmental public health (Bautista et al., 2016).

However, the promotion of self-care is distinguished by the degree of interdependence among the actors involved in the construction of a community, public and collective agenda. Unlike prevention programs and medical care strategies, the promotion of self-care implies a degree of entrepreneurship in which access and information processing is fundamental (Carreón et al., 2015).

This supposes differences between those who are influenced by prevention campaigns and those who assume criteria of choice oriented towards the construction of a favorable environment for their health and that of their peers. This is the case of civil organizations dedicated to the observation of the quality of health services, but also those aimed at the construction of a system for the dissemination and transfer of knowledge in order to prevent the monopoly of medicines, or the management of medical units or specialized centers in strategic areas (Carreón et al., 2016).

In this way, self-care, within the framework of co-governments, involves the construction of a public health system guided by a constant dialogue between users and authorities, but without excluding the specialized participation of experts and medical organizations that not only affect the health policies but, in local and community lifestyles (Carreón et al., 2017).

Precisely, in the case of dermatological health, the prevention of diseases involves the collaboration of specialists, civil society and authorities in order to generate a campaign and

dissemination of hygienic lifestyles, as well as immediate attention to local root problems. It is a system of co-government, governance or consensual management of financial resources and health professionals (García, Carreón and Hernández, 2014).

The governance of dermatological health is a line of **research** that is part of the Division of Social Sciences, discipline of Social Work, area of specialization in adherence to the treatment of diseases and the prevention of accidents, although also the disciplines of sociology, administration, nursing, anthropology and psychology, which are participants in the diagnosis, intervention and evaluation as central axes of the public health agenda with emphasis on the prevention of health risks and the promotion of health and self-care (Delgado, Méndez, Morales, García , Mendoza and Vilchis, 2018).

THEORY OF SELF-CARE

The theoretical frameworks that explain the promotion of self-care are: 1) theory of social reliability, 2) theory of the establishment of the agenda, 3) theory of institutional co-responsibility (García, 2018).

The promotion of self-care, in the context of the three theoretical approaches, is the result of the guidelines of the Earth Summits on the effects of climate change on environmental public health, although the degree of participation of civil society establishes differences between the approaches when explaining the balance between environmental challenges and opportunities and the personal, group or collective capacities to respond to these external requirements (García, Carreón and Bustos, 2017).

Thus, the promotion of self-care refers to a hopelessness, according to the theory of social reliability, which warns that in the face of an environmental contingency, citizens assume the role of victim and delegate their health to their authorities. In this sense, social reliability emerges as a guiding axis of civil life styles, indicating the control of government in private life with respect to public health, as would be the case of dermatological diseases whose epidemic outbreaks can reach vulnerable sectors (García et al., 2016).

If the social reliability is indicated by the control of a pandemic, then the promotion of self-care will consist in the civil protection of the violated groups such as children, women and the elderly, but if this social reliability is accentuated in electoral contests, then it will be extended to all the sectors through proselytism and political campaigns (García, Carreón and Hernández, 2017).

It is a phenomenon known as the establishment of an electoral political agenda, which explains the transition from an epidemic to a health promotion based on political leadership, candidacies, parties and government systems. In other words, an increase in defense lessens not only generates greater reliability, but also intensifies electoral contests that are no longer centered on problems of employment but on health (Bautista et al., 2016).

In such scenario of setting an agenda, the differences between authorities, experts and citizens are exacerbated since each actor develops speeches that exclude their counterparts and interlocutors. This is because health problems tend to be represented according to the information available about an epidemic or pandemic (Carreón et al., 2017).

Once the phenomenon has been mediated, prevention programs and strategies depend on the bias of the media when disseminating the information since, an abstract diffusion generates disinterest and a simplistic diffusion causes distrust, the media are now responsible for the preventive actions, recommendations to contain the disease, or changes in lifestyles needed to eradicate the epidemic or pandemic (García, Carreón and Hernández, 2017).

Well, in a setting of agenda setting, experts are limited to guide the public, the rulers are exposed to media judgment and civil society is defenseless before the interests of the media in reducing or intensifying information concerning the epidemic (García, Carreón and Hernández, 2017).

In such a scenario, socio-political co-responsibility is necessary, which alludes to lifestyles and communication according to the prevention of diseases, but also to first aid to reduce the spread of the disease. It is in this context that the promotion of self-care acquires more meaning because it is a propaganda that is not always consistent with the media diffusion, which almost always consists in the discrediting of the authorities and the provocation of civil despair (García et al., 2016).

If the theory of social reliability explains a high degree of defenselessness and distrust of society towards its rulers, the theory of setting the agenda exacerbates this distrust by showing that the authorities have priorities different from those of civil protection, but it is the theory of co- responsibility that will end up suggesting that the actors are participants in the construction of a public health system (Carreón et al., 2015).

Unlike the theory of social reliability that highlights the emergence of a sector in favor of the government in terms of health policy, the theory of co-responsibility focuses on observing opportunities and their relationship with the capacities of the actors. In a context of epidemic

or pandemic, co-responsibility implies self-care to avoid contagion and the spread of the disease (Carreón et al., 2016).

While the agenda-setting theory focuses its interest on observing the effect of intensive media diffusion, the theory of co-responsibility warns that knowledge cannot be disseminated in the media and, in any case, should be produced by experts and not by communicators, announcers, journalists or columnists (Carreón et al., 2017) .

Precisely, the responsible dissemination of information would not be possible to observe in communication professionals, but in health professionals who, in any case, would use the means to guide the strategy of civil protection or collective action (García, Carreón and Hernández, 2017).

SELF-CARE STUDIES

Table 1 shows the Social Work studies of dermatological health show that prevention is a low cost factor with respect to the treatment of a disease acquired by parasite contamination (Jan, Khan, Khan and Shan, 2018).

Table 1. Self-care studies

Year	*Author*	*Results*
1987	Lara	He demonstrated differences between men and women regarding induced abortion. 50 percent of women and 18 percent of men accepted induced abortive practice. He also found significant differences with respect to the scope of work.
1998	Cabezas et al.,	They established significant differences between sociodemographic characteristics and induced abortion. Regarding age, they found differences between women under 20 years of age, between 20 and 25 years old and over 25 years old with respect to induced abortion. Around the level of studies, they established significant differences between those who finished primary, secondary, and preparatory and university with respect to induced abortion. The marital status also showed significant differences between married, single and in free union with respect to induced abortion. Regarding the occupation, significant differences were also found among those who are professionals, workers, students or housewives around the abortion practiced. Finally, the age at the time of having a sexual relationship; less than 20, between 20 and 24 and more than 24 years, also influenced abortion practice. Only in the type of race; White, black and mestizo did not observe significant differences.
1999	Sánchez, Jiménez and Merino	They found a positive attitude towards assisted legal abortion and the practice of abortion induced or assisted by medical personnel of some institution or health unit. They established significant differences by knowledge disciplines with respect to induced abortive practice.
2000	Galvao	They found that 75.4 percent of medical personnel prescribed an emergency contraception method in the sample of specialists surveyed. 42.8 prescribed the emergency contraception pill at risk.
2000	González	Mainly, induced abortion is carried out in socioeconomically vulnerable, marginal or excluded places in which the youngest or adolescent population presents a higher rate in comparison with the other economic strata and populations. Regarding knowledge and attitudes towards induced abortive practice, there is a

		conservative tendency regarding the responsibility of performing an abortion. In this sense, the economic situation and the conjugal or family pressure are determinants of induced abortion.
2000	Ramírez	He found that 22 percent of men surveyed considered abortion an essential issue of sexuality. In contrast, 77 percent of women identified abortion as the main problem around their sexuality.
2001	Castro	They found that 8 percent of the sample surveyed did not know the methods of emergency contraception, 84.9 percent declared hormonal treatments, 69.7 percent cited vomiting as a side effect, 49.6 percent stated that if contraception was requested by minors They should be accompanied by some older relative.
2003	García, Lara and Goldman	They found that 54 percent of the sample surveyed believe that women's opinions should be heard around induced abortive practice. 34 percent believe that women abort as irresponsible, 56 percent believe that health institutions should offer abortion care until the first trimester of pregnancy. Finally, 85 percent believe that induced abortion is justified if the woman is at great health risk.
2007	Salazar	He found that attitudes toward abortion are semi-liberal with 66.2 percent, a semi-conservative attitude of 26.2 percent. On average, the sample had its first sexual experience at the age of 19 years in which they believe they prefer to use a condom to avoid unwanted pregnancies.
2008	Tapia, Villaseñor and Nuño	They found a favorable attitude toward emergency contraception. 95 percent of the sample reported having heard the method of emergency contraception and 80 percent considered it an appropriate method. 95% said they had heard about Emergency Contraception, 80% considered pills as a planning method, women had greater reasons to avoid an unwanted pregnancy in reference to men.
2008	Tavara and Sacsa	They established significant differences between sociodemographic characteristics and knowledge about induced abortion. Age, marital status and work experience were statistically significant in relation to induced abortive knowledge. Uterine curettage was the abortion technique and method mostly mentioned in the interviews.
2009	Calderón and Alzamora	46% of couples in pregnancy acknowledged that their relationship became annoying after the positive pregnancy test, 15.5% separated and only 2.6% formalized their relationship. They found a direct relationship between liquor consumption among the friendships of women who had abortions. 65 percent of the sample of abortive women had a friendship that frequently consumed alcohol and 41 percent of married women had a friendship that frequently consumed alcohol.
2009	Chávez, Petrzelova and Zapata	They demonstrated the unfavorable attitude towards the abortive practice as a consequence of the first sexual intercourse and the consequent unwanted pregnancy. About 26 percent of the sample surveyed stated using an instrument or device to prevent pregnancy. 70% received information from their relatives, 97% knew about condoms, 89% had information about sexually transmitted diseases, 51% considered homosexual relationships as abnormal, 41% established the age of majority as ideal to initiate a sex life, 18% said they would start their sexual relations after marriage, but 18% had their first relationship at 16 years, 25% admitted being pressured by their friends to have sex, 31% said that their parents would see the one who had sex, 49% indicated that they would respect the rules on sexuality of their parents, 38% considered that they could get pregnant in their first sexual relationship, 18% had sexual relations under the influence of alcohol.
2010	Fernández et al.,	They found that the age range in which most abortions are performed is 19 percent for the sample between 26 and 30 years. Sixteen percent are forced to abort due to pressure from their partner, family or low economic situation. Only in those cases in which abortion involves a danger of death or post-traumatic disorder, the decision is justifiable
2010	Klaus, Piñeres and Hincapie	The objective of the investigations was to establish the key points of his inner life. In this sense, the victims are considered in a state of "sin" and not of exploitation or defenselessness. .
2010	Obeichina et al.,	In contrast, the request for termination of pregnancy due to irresponsibility or contraceptive incompetence is stigmatized. In this sense, there are inherent depressive states derived from the decision or the abortive practice in women with a subscribed commitment

2010	Oduwole	As the commitment with your partner continues, the choice of partner is more evident about the impersonal or unilateral intentions
2010	Sultán and Malik	In this regard, studies on knowledge and attitudes regarding the use of contraceptive devices by health personnel are significantly different from public opinion. Insufficient knowledge propitiated by high misinformation and negative attitudes. That is why they were related to knowledge. However, the awareness of contraception through the use of pills is very high.
2011	Aramayo	Sexual abuse in early childhood affected adult sexuality. The replica of the sexual experiences of the past in the present. The relationship between aggressors and victims was explained from the sexual experiences of the past.
2011	Castillo and Chinchilla	The majority of victims are girls or adolescents between 14 and 17 years old, around 35% have been sexually abused and 40% are mothers.
2011	Desta and Ragassa	In the private sphere, research has found ambivalent representations: opinion in favor of the decriminalization of abortion and against abortive practice through inadequate use of contraceptives
2011	Lanre	They established differences between attitudes toward abortion with respect to the condition of the mother in reference to the baby. Legalization was considered as a measure of prevention in the face of the increase in clandestine abortion practice.
2011	Mardones and Guzmán	Commercial sexual exploitation is related to drug use, family negligence, psychiatric disorders, school dropout and poverty. Adherence to treatment is less than expected as the victim reoccurs.
2011	Olaitan	The differences between men and women regarding consensual sex, contraception and induced abortion imply the use of devices as an instrument of contraception if the relationships are occasional and infrequent
2011	Petracci	In the opposite cases, coitus interruptus is the most prevalent sexual practice in men with a significant affective commitment
2011	Rivers	Studies on commercial sexual exploitation tend to focus the problem as trafficking in women, although they justify the idea of trafficking in persons, they do not support the conditions of exploitation or sexual slavery since the interviews with those who exemplify the cases emphasize the victims' will of prostitution to pay their debts or constraints.
2011	Rodríguez and Mayol	Pregnancy decisions are based on criteria that determine indolence or support for abortive practice
2011	Serrano	Men and women evaluate their partner maternally or paternally as the case may be. A positive evaluation implies shared decisions. On the other hand, a negative self-evaluation determines a decision delegated to the couple. Emergency contraception was the ideal instrument to prevent unwanted pregnancies, the frequency of prescription of the pill increased 20%, It showed an increase in knowledge about emergency abortion prescription in relation to years of medical residency. To the extent that the residence time increased, a greater percentage of knowledge about emergency abortion prescription was observed.
2011	Silva, Ashton and McNeil	In general, a relationship perceived as external to personal interests and purposes increases the possibilities of delegating the decision to women
2011	Whelan et al.,	Emergency contraception pills (PCE) were unknown because of their effectiveness, administration, function and access. The younger ones considered that the PCE do not prevent pregnancy, ignore that they can acquire it without a prescription and take it after 12 hours of sexual activity.
2012	Méndez, Rojas and Moreno	Psychological, group and sociocultural factors explain the meanings of commercial sexual exploitation.
2012	Noblega	They established statistical similarities between physical violence and emotional violence with respect to age, educational level, and occupation.
2012	Pando, Aranda and Olivares	It established two factors related to mobbing and sexual harassment in the workplace in which psychological abuse was prevalent over the systematization of harmful effects.

2012	Piaroza et al.,	Abortion is defined by the type of relationship, duration, strengths, expectations and economy
2012	Shelat, Hihoriya and Kumbar	The process that goes from contraceptive incompetence to abortive practice also implies a public dimension in which men express themselves by the freedom of decision of women to choose or not to interrupt their pregnancy
2012	Nurseries and Navia	However, the decision of pregnancy is also influenced by the evaluation of the relationship that being qualified as little would be an incentive for abortive practice
2013	Cosmas	Side effects were considered as the main effect of contraceptive pills. Women following matriarchal contraception advice can be induced to use other traditional and modern methods.
2013	Giraldo	Delimiting the concepts of youth and sexuality to commercial dimensions ignores factors related to expressiveness.
2013	Hernandez	Migrant women are discriminated against because they are foreigners and because of their gender, both segregations make them vulnerable to human trafficking. The trafficker uses the family of the victims to establish a relationship of ownership.
2013	Hurt	Once puberty was over, adolescents ceased to be influenced by their parents' discourses on sexuality and were largely persuaded by the lifestyles and risk behaviors of their friends or classmates.
2013	Jouen and Ziielinski	57% of tourists were European, 29% declared to prevent sexual exploitation due to their social values, 44% would use the anonymous report as an instrument of prevention. However, 48% do not know the punitive norms of sexual exploitation.
2013	Méndez	The recruitment mode was a job offer. Often a relative or close friend whom the victim trusts is used for recruitment. The victims were transported by public transport. the fear of reprisals with the victim or his relatives inhibited the escape. The judicial system is perceived as corrupt and collided with traffickers. Social exclusion was assumed as a punishment of the community in the situation of commercial sexual exploitation. The experiences of exploitation are assumed as a motivation to overcome.
2013	Rodriguez	Social services provide experiences and sufferings that are not favorable to adherence to treatment. From the quality of the services it is possible to anticipate the suffering in two areas; 1) the suffering of the disease and 2) the psychological consequences of the condition.
2014	Afanador	They established beliefs in favor of the taboo regarding sexuality and conversations between parents and children with respect to the psychosexual development of their children, only families with professional training by the mother disseminated information alluding to sexuality
2014	Perdomo	79% of the women and 89% of the spouses were habitual consumers of alcohol and they developed violence in 31% of the cases towards women and 22% of the cases towards men.
2014	Zambrano and Meneses	They found two internal and external structures related to the empirical taxonomies of signs, symptoms or abnormal behaviors and disorders.

Source: self-made

In this sense, a model for the study of an outbreak of dermatological contamination involves intervention strategies from Social Work in basic education institutions such as the Mckendrick propagation model, although the integration of other models explains the problem of contagion and the scenarios future treatment, recontact and prevention, warning the need to carry out prevention strategies and promotion of disease-free lifestyles, as well as individual self-care as collective co-responsibility (Bautista et al., 2017) .

The history of public health, health policies and dermatological programs, and strategies for the prevention and promotion of health are areas of multidisciplinary research and knowledge in which Social Work acquires greater relevance by establishing an approach with vulnerable groups such as the infants (Abreu, 2009) .

It is estimated that the costs of treatment are greater than the prevention costs, since for every peso spent in the treatment of illnesses or accident care a penny would be spent on prevention. In this sense, both areas, promotion of health and social care of diseases, pandemics or epidemics are central issues of management and administration in health policies (Carballeda, 2004).

That is to say that the participation of the groups affected is increasingly significant in the measure in which they develop lifestyles and self-care strategies of their personal and collective health. Precisely, in this phase the dialogue between specialized institutions and citizens is a problematic hinge in the achievement of objectives, preparation of tasks and achievement of goals in the short, medium and long term by health professionals in general and health professionals. Social Work in particular (Carballeda, 2006).

In this way, the governance of dermatological health will be understood as a set of policies for the inclusion of governmental and social actors in the face of a public health problem such as dermatological diseases in vulnerable groups. It is a system of surveillance, monitoring and co- responsibility between the authorities and the potential victims of diseases, epidemics or pandemics (Carballeda, 2008).

Unlike health policies focused on research, specialization and treatment, the governance of dermatological health is low cost, includes all stakeholders and establishes co-responsibility agreements around objectives, tasks and goals established in a medium term (Cheeran and Renjith, 2015).

Such a scenario, the competition of public health professionals and in particular of social workers is of utmost importance, since the strategies are disseminated in the institutions and sectors most affected by dermatological contamination (García, Carreón and Bustos, 2017).

Exponential function models, Quetelet logistic models, Locka-Volterra function models, McKendrick propagation models and dermatological treatment models are intervention devices for the governance of dermatological health in basic public education institutions with emphasis on the promotion of health and self-care in vulnerable groups (Valdés et al., 2017).

Social Work has gone from models of charity, charity and altruism to models of diagnosis, intervention, participation, management and co-responsibility according to health policies and targeted programs. In this sense, the models used allow the work of dermatological health promotion and the dissemination of innovations aimed at the prevention of diseases in the groups harmed (García, Carreón and Hernández, 2014).

In the case of a skin contamination by pests, the intervention of social work stands out for its s capabilities spread of contagion, promoting healthy life styles free of contamination and self - care strategies. These are devices in which the social worker generates information that counteracts beliefs about the spread of diseases such as parasites. (Reid, 2006).

In principle, the exponential function model would allow the anticipation of scenarios of high contagion and health risks in a violated group. Based on these data, the Social Worker of a basic health institution would promote through images the scenario of health deterioration due to the lack of hygiene and daily personal hygiene among the students (Ribeiro et al., 2007).

In the case of the Quetelet logistics model, the Social Work professional would generate an inventory from which potential victims of dermatological contamination would have to adopt preventive lifestyles by reducing their contact with groups at risk of contagion. In this way, the logarithmic results would allow decisions to be made against or in favor of the separation of infected groups and groups at risk, as well as the reprogramming of their activities inside or outside the classroom (Walker, 2015).

For its part, the Locka-Volterra function model would integrate the probable exponential contamination scenarios with the effects of this contamination in the groups with the highest risk and in attention to the low risk groups. In this way, the model would allow to anticipate probable scenarios of a new contamination of rmatology that would be confronted with a systematic and intensive diffusion of strategies of collaboration around the care of the environment for the avoidance of a new outbreak (Way, 2013).

Finally, the McKendrick propagation model, the model best suited to cooperation and solidarity requirements for the governance of dermatological health, includes not only the groups harmed by the disease, but also the future interaction scenarios in which new outbreaks in other groups and the recontage of the first cases would generate a scenario of high risk, but with sufficient information to reduce its exponential and logistical effects (Raudava, 2013).

Based on these models, an integral model was proposed in which the dependency relationships between contagious groups, potential contagious groups, self-care groups,

potential recontacting groups and groups that develop new self-care and revention styles (García, Carreón and Hernández, 2017).

In this scenario, the intervention of social work would not only be for the promotion of health free of infection, but also the dissemination of lifestyles of self-care and cooperation in the prevention of disease. It is a collective health process in which the objective is the avoidance of a new outbreak, or, the reduction to its minimum expression (Carreón et al., 2015).

The contribution of this work to the state of knowledge lies in the formalization of mathematical models for the study of the governance of dermatological health in vulnerable groups. This is a discussion about the scope and limits of the models in order to demonstrate their usefulness in decision making, the establishment of prevention programs and dissemination of self-care styles (Carreón et al., 2016).

METHOD

A documentary study was carried out with a non-probabilistic selection of information sources from international repositories such as Dialnet, Latindex, Redalyc and Scielo, considers the period of publication from 1987 to 2018, as well as the inclusion of the key words : "governance" , "health " And" self-care "(see Table 2).

Table 2. Sample descriptions

Repository	*Governance*	*Health*	*Self-care*
Dialnet	42	32	24
Latindex	31	25	fifteen
Redalyc	22	13	9
Scielo	16	8	3

Source: Prepared with the study data

A matrix of content analysis was constructed, following the Delphi technique: 1) synthesis, 2) contextualization, 3) comparison and 4) integration of the data, which were evaluated by expert judges in the thematic considering -1 for negative information , 0 = for the unlinked information and +1 for the positive information, adding the qualifications and establishing an interpretation criterion (see Table 3).

Table 3. Construction of the content analysis matrix

Category	*Definition*	*Indicators*	*Measurement*	*Interpretation*
Governance	Refers to shared agreements and responsibilities (Villegas, Rosas and García, 018)	Satos around consensus and agreements between institutional and civil actors	-1 for negative information, 0 for unlinked information and +1 for positive information	A high score refers to full governance
Health	It refers to a biomedical system of management and administration of the quality of life and the subjective well-being of users (García, 2018)	Data concerning diseases, accidents, applications, internships and deaths	-1 for negative information, 0 for unlinked information and +1 for positive information	A high score refers to a stable health
Self-care	Refers to a strategy of adherence to rehabilitation treatment and follow-up (Valdés, Vilchis, Bautista, García y Castro, 2018)	Data related to risk-free living arrangements and lifestyles	-1 for negative information, 0 for unlinked information and +1 for positive information	A high score refers to a preventative well-being and a desirable quality of life

Source: self-made

RESULTS

U n model is a representation of the relationships between the factors advanced in the theoretical, review conceptual and empirical.

The promotion of self-care, indicated by reliability, the setting of the agenda and co-responsibility, supposes an emotional and rational processing of the information concerning a public health problem such as an epidemic or pandemic. This is so because although it is a biochemical phenomenon, it becomes a matter of public health by involving political and civil actors in the objectives, tasks and goals of health professionals, who can have access to the media. of communication, but are replaced by communicators, journalists, drivers, reporters, columnists or informants about the public health problem (hypothesis 1).

In such a scenario, the social reliability that consists of excessive trust and delegation of decision-making power to the authorities intensifies, reflecting an asymmetry between the rulers and the governed in terms of civil protection, sanitary enclosures or medical attention. It is a context in which public health and the promotion of self-care are attributed to the State institutions, but the media are responsible for discrediting in order to suit their interests in audiences (hypothesis 2).

In this way, exacerbated social reliability generates issues such as the vulnerability of civil society to the corruption of its officials, authorities and directors of health institutions. It

is about the establishment of an agenda biased by media information dissemination, almost always centered on state corruption and civil despair, which discredits the actors and generates a vacuum of expectations (hypothesis 3).

However, such a context is ideal for co-responsibility to emerge as a value and norm for those involved. This is a series of actions aimed at assuming a responsible function according to the degree of knowledge and access to the media in which an ideal scenario is the promotion of healthy lifestyles by experts (hypothesis 4).

FINAL CONSIDERATIONS

The contribution of the present work to the state of the question consists in the specification of a model for the study of self-care promotion as a result of a conglomeration of factors that influence health policies and strategies in the face of an epidemic contingency.

However, the type of selection and the type of information analysis limit the contrast of the model to a specific context, which would not include other variables such as knowledge management, production and transfer. It is recommended the extension and deepening of the study from international repositories such as Copernicus, Ebsco, Scopus and WoS, as well as the use of text mining to sophisticate the analysis and to be able to elaborate a model applicable to contexts and samples different from the one described in the present work.

Regarding the theoretical, conceptual and empirical frameworks, which highlight the role of reliability, the agenda and co-responsibility, this work has integrated each of the three factors, but has reduced its application to a very specific context in which the Civil society is dependent on its governments to be exposed to the media that disseminate a scenario of prevailing risk, threat and uncertainty.

Therefore, it is necessary to carry out a study that includes other factors related to state institutionalism and civil participation in prevention campaigns as well as immediate attention to vulnerable groups. In addition, it is advisable to include approximations that explain human behavior in situations of health crisis, or else, theories that describe government action in the face of scarce resources.

Regarding the work of Carreón et al., (2017) in which identity is the hegemonic factor to explain the effects of public health on individual lifestyles, this work warns that the promotion of self-care is a public issue and as such, it is necessary to involve other non-civil or governmental actors to explain the complexity of a public health system.

However, it is advisable to include the theory of social identity in the model to expand its scope to communities that are distinguished by their degree of attachment to the place, their rootedness to the origin and their sense of community.

In contrast, the work of García, Carreón and Hernández (2017) in which the adherence to treatment is the key factor of coincidence among experts, authorities and citizens, the present work warns that social reliability is an adherence to the exaggerated treatment of users of the medical service with respect to their authorities. In that regard, the exclusion of citizens of their own personal and collective health assumes an agenda focused on state protection and care biomedical, sidestepping the importance d and the family in treatment or rehabilitation.

However, it is necessary to include adherence to treatment as an indicator of socio-political reliability since both show a scenario of dependence of citizenship with respect to knowledge or management of community or public health services.

If the dependence of civil society on public health institutions consists of medical attention in the face of a contingency and this is reflected in the degree of social reliability as in the adherence to treatment, then the cases of older adults, as groups are violated, should explain the causes of such dependence.

García, Carreón and Bustos (2017) showed that the differences between representations of youth, referring to an exacerbated confidence in the vigor and the presumption of risks, with respect to the representations of old age, indicated by an increase in fatigue and a decrease in the capacity to react, explain the dependence of groups that have been violated and not with their authorities.

In the present work, we prefer to look at reliability as a prelude to the establishment of an agenda that, in symbolic terms, reflects the priorities of the actors with regard to a public health problem, although the incorporation of the representation factor is recommended social to explain the origin of social reliability in matters of health contingencies and hegemony of the corresponding institutions in the promotion of self-care.

The contribution of the present work to the state of the question lies in the specification of a model for the study of self-care, considering the theoretical and empirical frameworks of the literature consulted in a given period and in leading repositories of Ibero-America, but the type of documentary study, the type of intentional sampling and the type of qualitative analysis limit the results to the context of the investigation.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

COMMERCIAL TRUST AS AN ECONOMIC PARADIGM OF SOCIETY

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DOI: 10.13165/PSPO-20-24-24

Annotation. Nowadays, the world trade and commercial relations form the basis of the of the vast majority countries' economies. The most important basis for such relations is the level of trust among the subjects of trade. The aim of the article is to study commercial trust as an economic paradigm of society. The article analyses issues of commercial trust. Historical approaches to the term "commercial trust" were defined. It has been established that cash flow has significantly accelerated, which has led to an increase in profits and an increase in capital. In the center of it was the rule of "trust" in banks. It was determined that one of the reasons for the slowdown in the activity of small and medium businesses is the restriction of access to financial resources, in particular, to cover the period of delivery of goods, raw materials, components from an exporter to a foreign buyer. A model of calculating a possible level of commercial trust was presented. It was concluded that the problem of determination the level of trust in the economic environment has increased significantly with the advent of blockchain technologies, trust protocols and distributed registries. In this case, the two-dimensional model of the "product-money-product" formula becomes narrowly targeted and should give way to models with a third dimension, for example, the level of confidence in the economic system. The method for determining the level of trust in systems with a distributed registry and an infinite number of participants was proposed, which can be provided in a certain segment of the economy.

Keywords: world trade, blockchain, commercial trust, blockchain technologies.

INTRODUCTION

World trade and commercial interactions form the ground basis of the of the vast majority countries' economies. The most important item of such relations is the level of trust between the trading subjects. The concept of "trust", that used to be a psychological, has now transformed into the economic concept, requiring its first quantitative content, semantic content, making it essentially economic indicator that affects the general turnover, the turnover

of funds, the proceeds of trade and others. The society concerns now with new accounting technologies for commercial operations, the degree of trust in partners, banks, logistics systems, etc. In particular, we can talk about distributed ledger technologies, about blockchain.

The aim of the article is to study commercial trust as an economic paradigm of society.

The novelty of the study: this study is aimed at creating a possible model for calculating commercial trust.

The object of the study: commercial trust

The objectives of the study:

1) analyze the theory of commercial trust;
2) to study approaches to quantifying commercial trust;
3) offer a model for calculating commercial confidence

The methods applied:

1) logical and comparative analysis of literature;
2) academic literature synthesis;
3) methods of statistical analysis;
4) document analysis have been applied to data evaluation and analysis.

THE IMPORTANCE OF DEFINING COMMERCIAL TRUST

In the context of the trade that emerged in the ancient world, the level of trust between the buyer and the seller was minimal. The seller could sell low-quality goods as high-quality ones. The buyer could pay off with fake money, and made seller went bankrupt. The reseller risked money reserved for the time of the sale. The lender could not fully trust the borrower of funds, trust the supporting documents of the credited entity. And if they do not inspire confidence, or if someone doesn't appear who will act as the guarantor of the financial transaction, the loan will not be issued. The depositor is distrustful of the bank regarding the return of the deposit amount, which the bank is reluctant to do, because the cash flows of the loan and the deposit are out of sync etc.

Subsequently, together with the money, a person created an accounting register (ledger), in which he placed records of transactions, data on the product, services, and payment of the transaction, when their number was measured in hundreds, and the number of people (N) participating in them was measured in thousands. Such accounts became trust documents in which notes were made on the reliability of such transactions. In 1494, Luca Pacioli for the

first-time systematized knowledge on writing accounting documents, including ledgers. But even after this, the hostility between church and business didn't subside [1]: a good Christian could not be a money-lender or entrepreneur, and even less, keep accounting ledgers with a double recording system in the accounting records designated by Leonardo Fibonacci as the basis of his modern economy, without which no mercantile deals then provided.

There is an opinion [2] that it was the double accounting in accounting that spread in Europe at the end of the 15th and beginning of the 16th centuries that became the basis for the emergence of capitalist relations in the feudal economy of individual countries (Britain, Holland, Spain). But even after that, legal accounts remained the main document confirming the trust of transactions and financial flows.

An example is the rapid ascent of bankers of Medici House from Florence, without the knowledge of whom not a single trade transaction was carried out in medieval Europe. One of the important arguments for conducting financial business in Old Europe was precisely the accounts for such transactions, the owner of which had an influence on the entire segment of the trading business. Based on this database, the Medici House could control almost the entire economy of the Italian Dukes, the kings of France, Spain, and German rulers with full confidence in this House. Because, thanks to the records of debit and credit records, as a double accounting system, it was possible to retrospectively track the reliability and legality of most transactions.

Using further the system of double accounts, the emerging banking system could carry out money transfers without their physical delivery. The cash flow accelerated significantly, which entailed an increase in profits, an increase in capital. Everything was based on the trust to the banks [3].

The fact that centralized systems of management, for example, banks, cannot be subjects of trust, proves by a lot of cases. For example, the experience of Lehman Brothers, which according to reports had a profit of $ 4.2 billion in 2007, and went bankrupt t the following year [4], having fictitious balances and failed transactions, hidden debts, financial records and investor valueless related to these are the possible risks [5].

One of the reasons for the slowdown in the activity of small and medium businesses is the restriction of access to credit financial resources, in particular, to cover the period of delivery of goods, raw materials, components from an exporter to a foreign buyer. The degree of distrust in the accompanying documentation of small and medium businesses is very high

and not unfounded. The danger of making an error, or more often, deliberate duplication of accepted funds on the security of a consignment of goods, is becoming one of the global problems for the development of such business in the context of promoting high-tech products on the foreign market. The use of distributed blockchain registries and the creation of trustworthy indestructible protocols would allow all participants in the movement of goods to trace such duplication at any time and completely eliminate such risks. According to the most conservative estimates, small and medium businesses at the rate of turnover for every $ 1000 could have an additional income of $ 80-200.

But already in 2005, the famous cryptographer Ian Grieg from Systemics proposed creating a third account in the form of specially programmed content, as an independent registry of records, accessible to all users for viewing, but protected from any changes, which protected such an account from any fraud. And in several years Satoshi Nakamoto appeared...

Trust protocols and a system of double keys: publicly available and purely individual, have restored the everyday use of the term “trust”. For the first time, an accounting system was introduced to the fact that it does not require state support. The subjects of the system could control it, but not change it at their discretion.

The good old ledger guaranteed the fact of the transaction, was a tool to maintain a degree of trust. The modern distributed registry and blockchain trust technologies put accounting systems at the level of decentralized trust in all partners in the system. Accounting registry, compiled according to the rules of technology and allows to get absolutely reliable recording. This record can play the role of truth, which can always be referenced.

Therefore, the question of the economics of the term “trust” may have a basis.

Modern blockchain technologies simply make us consider trust as the most important economic substance. Is it really so? Anonymized trust protocols known to all participants in the system allow avoiding centralized management and control, making a huge number of problems solved depending on the delegated trust of each participant.

Centralization of trust comes instead of decentralization of information [6]. This formula requires not only the restructuring of the legislative framework of many countries of the world, but also the changing relations between people. Blockchain technologies, when they are used extensively, will require more trust from people under the guarantees of everyone else. Psychologically, this is very difficult if we take into account the degree of global distrust that exists in the world between individuals, religions, nations, interest groups, and finally, national

governments of almost all countries without exception. Now we have a system of total distrust in society. First of all, it is connected with total social inequality, which is being cultivated as one of the ways to ensure competitiveness between people and to escape from artificial, social equality. Society will have to solve the global task of finding the essence of reconciliation, harmony, trust, goodwill in human communication, the rules that are best set forth in religious literature, in particular, in the Bible, Quran and others one and a half to two thousand years ago.

"A decentralized economy also requires centralized trust" [3]. This old truth, which was born and developed in the works of the young socialists Saint-Simon, R. Owen, the young Marx, P. Kropotkin and others, but so far has not found adequate application. And it can become the most insurmountable obstacle in the global spread of blockchain technology in modern society about the fact that a decentralized economy is yet unresolved and unresolvable about the contradictions in the world. However, the management of companies, neither the governments of individual countries, nor financial interstate institutions are ready for the transfer of central authority to the distributed registers of participants. A lot of time must pass in anticipation and the emergence of new technologies like the blockchain, their mass implementation in practice. We should aware of inevitability of evolutionary change in economic vision and building economic democracy, compare it with the economic chaos, as it happened with the ideas of Kropotkin anarchism, mutilated by history and turned into its absurd opposite.

The highest degree of trust is the individual responsibility for their actions in relation to all participants in a certain set of transactions.

HOW TO QUANTIFY CONFIDENCE?

In the sociological science, trust is defined as a bet on the future unforeseen actions of others [7]. In psychology, it is an independent relatively independent form of faith based on an act of relationships. F. Fukuyama gives the concept of trust as "... the expectation that members of society will behave honestly, showing willingness to mutual understanding in accordance with generally recognized norms [8]. In economics there is the concept of trust, as the positive expectations of certain actions of others, which influence on the choice of the individual, when he must begin to act before, actions of others will be known.

Predicts such as " unforeseen actions ", "form of faith ", " expectation " clearly does not contribute to quantitative assessments of the subject of study. Methods of a sociological survey

were used, methods of analysis of actual data, which also do not give quantitative assessments to the subject of research. In paper [9], an attempt was made to determine the quantitative indicator of the composite confidence index using empirical indexes, which reflect the results of a sociological survey and the indexes obtained by calculating the statistical data of certain groups of indicators. According to the author, this is an assessment method that is valid for a narrow circle of economic systems.

Information on how to quantify commercial trust can be given to us by blockchain technology, which is based on distributed knowledge protocols that require maximum and voluntary trust from all participants in the system. One of the possible calculation options is by the number of participants in a trust transaction. One person can trust another. You can trust two, three friends. This does not change the situation. This is one level of trust. And if you have to trust a dozen people, and even one of them is unfamiliar with you, then this is a different level of trust. Moreover, trusting the doom or six dozen partners - also has no fundamental difference. A simple conclusion suggests itself: as a first approximation, the level of trust is the decimal logarithm of the number (N) of participants in the trust process. L = 0 means a complete lack of trust due to the fact that this is a purely centralized system. L 2 means that in trust relationships are at least one hundred or more people. L 3 means that thousands of people enjoy mutual trust. This is a certain logical scale of confidence. And the scale of responsibility to all.

T. Friedman described our Internet world as the plane in which the economy, society, and culture [10] dwell outside hierarchies and censorship. Modern two-dimensional (planar) the digital economy of the "money-goods -money " in the form of numerical series, did not provide the third dimension, for example, in the form of agreed confidence actions of individuals at the next level, without the intervention of central banks (Fig. 1). With the introduction of the third coordinate - the level of trust ($L = \lg N$) in the system, a forced surge in business activity occurs even at the first level (we see an increase in the number of transactions, and if we expect growth in the participants of the trust system, regardless of its semantic content.

The world is far from the phenomenon of distributed trust. But this phenomenon infinitely expands the range of trusting participants. If two or another number of participants take part in an ordinary transaction, then a transaction in a distributed trust system may be acceptable for an unlimited number of impersonal participants who are aware of the essence of a particular transaction (see Fig. 1). Responsibility for transactions in this case does not lie with banks, but is distributed among all participants and forces them to be cross-principals in the system.

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

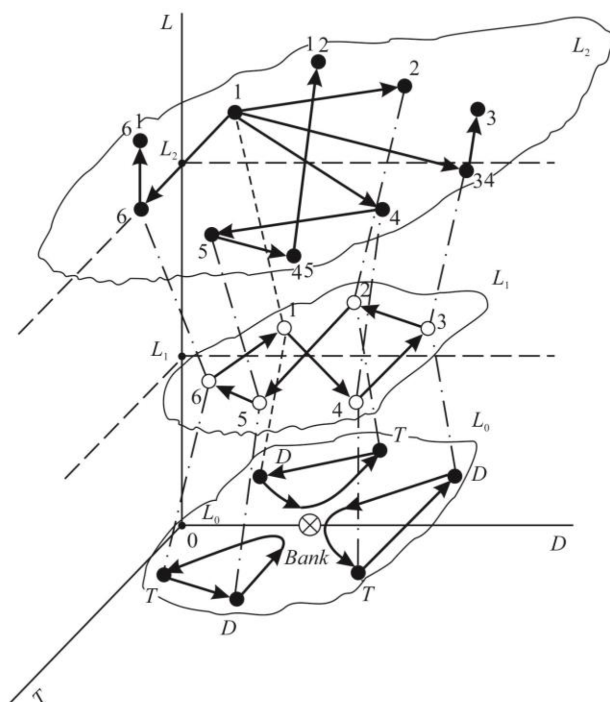

Figure 1. The system of commodity-money relations with centralized management (in the case of trust distribution registers)

Today, no one doubts that a distributed trust system is a missing element for the development of Internet networks in general [11]. In the proposed interpretation, the numerical level of confidence increases with an increase in the number of participants in transactions (Table 1).

Table 1. Possible transactions at various levels of confidence between participants (according to Fig. 1)

№№	Confidence level	The number of participants (positions), N	Number of variations	v/N
1	L_0	6	3	3/6
2	L_1	6	6	6/6
3	L_2	10	36	36/10

Quantitative estimation of confidence may be different, for example, in the forward of percent's it can contains up to 100%. But practice shows the invalidity of such assessments if modern trusting technologies are the basis for which 100% cutting of state is not ideal, but real and standard state. And conversely, a low percentage of trust completely blocks the work of the system.

CONCLUSIONS

It is now obvious that good commercial trust in itself is very valuable. It is important to note that commercial trust determines the economic value of the business itself. The

consideration of commercial trust from an individual point of view has recently become important. Therefore, models for calculating commercial confidence are becoming very important. The assumption is made that, to a first approximation, the level of trust is the decimal logarithm of the number of participants in the trust process and the higher the level of trust, the more efficient the system itself. This is at least a certain logical scale of confidence. And the scale of responsibility to all.

The problem of the trust level determination in the economic environment has increased significantly with the development of blockchain technologies, trust protocols and distributed registries. In this case, the two-dimensional model of the "product-money-product" formula has become narrowly targeted and should give way to models with a third dimension, for example, the level of confidence in the economic system. The new method was proposed for determination of the systems trust level with a distributed registry and an infinite number of participants, which can exist in a certain segment of the economy.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

Į KITAS ES VALSTYBES NARES TIEKIAMOMS PREKĖMS NULINIO PROCENTO PRIDĖTINĖS VERTĖS MOKESČIO TAIKYMAS:PROBLEMOS IR JŲ SPRENDIMO BŪDAI

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DOI: 10.13165/PSPO-20-24-25

Anotacija. LR pridėtinės vertės mokesčio įstatymas leidžia taikyti 0 procentų PVM tarifą prekėms, kurios tiekiamos į kitą valstybę narę, tačiau šios nuostatos taikymas neretai sukelia daug sunkumų, o ir mokesčių administratorius griežtai tikrina ar įmonė galėjo pritaikyti 0 procentų PVM tarifą. Akcentuotina, jog LR pridėtinės vertės mokesčio įstatymo taikymas šiuo aspektu pastaraisiais metais Lietuvos Respublikoje sąlygojo didelį skaičių mokestinių ginčų, kylančių dėl mokesčių mokėtojams apskaičiuojamo PVM. Straipsnyje analizuojama 0 procentų PVM tarifo taikymas į kitas ES valstybes nares teikiamoms prekėms, mokesčių administratoriaus reikalavimų pagrįstumas įrodymams, kuriuos privalo pateikti tiekėjas bei iš šio proceso kylanti problematika. Atsižvelgiant tiek į Lietuvos Respublikoje, tiek ES šalyse, šiuo klausimu, egzistuojančią problematiką 2020 m. sausio 1 d. įsigaliojo 0 procentų PVM tarifo taikymo apskaičiavimą reglamentuojančių ES teisės aktų pasikeitimai. Pakeistas ir nuo 2020-01-01 įsigalioja Direktyvos 2006/112/EB 138 straipsnis[1] bei nuo 2020-01-01 įsigaliojo 2018-12-04 Tarybos įgyvendinimo reglamentas (ES) 2018/1912, kuriuo iš dalies keičiamos Reglamento (ES) Nr. 282/2011 dėl PVM administravimo nuostatos.[2] Finansų ministerija parengė atitinkamas Pridėtinės vertės mokesčio įstatymo pataisas, kurios įsigaliojo nuo 2020 metų sausio mėn.1 d. Prieita išvados, jog naujasis teisinis reguliavimas galėtų išspręsti su 0 procentų PVM tarifo taikymu kylančias problemas, tačiau tik ateityje suformuota LVAT praktika tiksliai atskleis šios srities teisės aktų taikymo ypatumus.

Pagrindinės sąvokos. Nulinio procento pridėtinės vertės mokesčio tarifas, prekės tiekėjas, mokesčių administratorius - Valstybinė mokesčių inspekcija prie Finansų ministerijos.

[1] Tarybos direktyva (ES) 2018/1910, 2018m. gruodžio 4d, kuria dėl tam tikrų pridėtinės vertės mokesčio sistemos taisyklių suderinimo ir supaprastinimo, susijusio su valstybių narių tarpusavio prekybos apmokestinimu, iš dalies keičiama Direktyva 2006/112/EB, Oficiali Europos Sąjungos interneto svetainė EUR lex Prieiga prie europos sąjungos teisės. 2020m. gruodžio mėn. 4d. [interaktyvus] [žiūrėta 2020.04.23] https://eur-lex.europa.eu/legal-content/lt/TXT/?uri=CELEX%3A32018L1910

[2] 2018 m. gruodžio 4 d. Tarybos įgyvendinimo reglamentas (ES) 2018/1912, 2018 m. gruodžio 4 d., kuriuo iš dalies keičiamos Įgyvendinimo reglamento (ES) Nr. 282/2011 nuostatos, susijusios su tam tikrų sandorių Bendrijos viduje neapmokestinimu PVM, Oficiali Europos Sąjungos interneto svetainė EUR lex Prieiga prie europos sąjungos teisės. 2020m. gruodžio mėn. 4d. [interaktyvus] [žiūrėta 2020.04.23] https://eur-lex.europa.eu/search.html?qid=1587663830322&text=2018%20m.%20gruod%C5%BEio%204%20d.%20Tarybos%20%C4%AFgyvendinimo%20reglamentas%20(ES)%202018/1912&scope=EURLEX&type=quick&lang=lt

ĮVADAS

Pastaruoju metu Lietuvoje svarstoma, kad verslas, dirbdamas Europos Sąjungos (toliau ES) ribose, dažnai susiduria su skirtingomis praktikomis tarp valstybių narių dėl prievolės registruotis PVM mokėtoju kitoje valstybėje, prekių apmokestinimo 0 procentų PVM tarifu, galiojančių ar kaip tik negaliojančių supaprastinimų (Gaižauskienė 2019) ir kitų kylančių problemų šių temų kontekste. Šiuos aktualius klausimus reglamentuoja Tarybos direktyva (ES) 2018/1910, 2018m. gruodžio 4d, kuria dėl tam tikrų pridėtinės vertės mokesčio sistemos taisyklių suderinimo ir supaprastinimo, susijusio su valstybių narių tarpusavio prekybos apmokestinimu, iš dalies keista Direktyva 2006/112/EB (toliau Direktyva) ir 2018 m. gruodžio 4 d. Tarybos įgyvendinimo reglamentas (ES) 2018/1912, 2018 m. gruodžio 4 d., kuriuo iš dalies keistos Įgyvendinimo reglamento (ES) Nr. 282/2011 nuostatos, susijusios su tam tikrų sandorių Bendrijos viduje neapmokestinimu PVM (toliau Reglamentas). Nacionaliniu lygmeniu šį objektą reglamentuoja Lietuvos Respublikos pridėtinės vertės mokesčio įstatymo (toliau LR PVM įstatymo) 49 straipsnio 1 d. ir 56 straipsnio 1d (*LR pridėtinės vertės mokesčio įstatymas*. 2002 (Žin Nr. 35-1271; 2002, Nr.40-0; 2002, Nr.46-0; 2002, Nr.48-0, i. k. 1021010ISTA00IX-751)).

Valstybinė mokesčių inspekcija prie Finansų ministerijos (toliau VMI) tiek Lietuvos Respublikos Finansų ministerija apie PVM direktyvos tikslinimą kalbėjo jau seniai, pilnus pakeitimus buvo įsipareigota atlikti iki 2022 metų. Ši įsipareigojimų data siejama su vieninga PVM sistema dėl prekybos prekėmis tarp Europos Sąjungos šalių narių. Akcentuotina, kad pastaraisiais metais senųjų LR PVM įstatymo nuostatų taikymas Lietuvos Respublikoje tradiciškai sąlygojo gausų skaičių mokestinių ginčų, kilusių dėl mokesčių mokėtojams apskaičiuojamo PVM, o jose bendra ginčijamų mokesčių suma viršijo ne vieną milijoną eurų (Valantiejus 2016). ES valstybėms narėms nesutariant dėl tam tikrų esminių nuostatų (pvz. patvirtinto apmokestinamojo asmens (angl. Certified Taxable Person) statuso), buvo nuspręsta įgyvendinti greituosius pataisymus. Greitieji pataisymai Lietuvoje įsigaliojo 2020 m. sausio mėn. 1 d. LR PVM įstatymo pakeitimo įstatymu. Ar pavyko išspręsti visus klausimus kurie buvo aktualūs ginčams teismuose atsakys laikas.

Šiame straipsnyje keliamas tikslas išanalizuoti 0 procentų PVM tarifo taikymą į kitas ES valstybes nares tiekiamoms prekėms Lietuvos Respublikoje bei atskleisti jo įgyvendinimo problematiką.

Rengiant straipsnį buvo analizuojami Europos Sąjungos Tarybos Reglamentas, Direktyva, nacionaliniai teisės aktai bei teismų praktika. Atlikta analizė leido nustatyti 0 procentų PVM tarifo taikymo į kitas ES valstybes nares tiekiamoms prekėms teisinio reguliavimo pokyčius, bei iš to kilusias bei galimai kilsiančias problemas.

NULINIO PROCENTO PVM TARIFO TAIKYMO TVARKA (2019 METŲ PATIRTIS 2020 METŲ POKYČIAMS)

0 procentų PVM tarifo taikymas iki 2020-01-01

Iki 2020 m. sausio 1 d. Lietuvos Respublikos pridėtinės vertės mokesčio įstatymo 49 straipsnio 1 dalyje buvo nustatyta, kad, taikant 0 proc. PVM tarifą apmokestinamos prekės, tiekiamos kitoje valstybėje narėje įregistruotam PVM mokėtojui ir išgabenamos iš šalies teritorijos į kitą valstybę narę (neatsižvelgiant į tai, kas (prekių tiekėjas, pirkėjas ar bet kurio iš jų užsakymu trečioji šalis) prekes gabena). Tuo tarpu LR PVM įstatymo 56 straipsnio 1 dalis numatė, kad PVM mokėtojas, pritaikęs 0 procentų PVM tarifą [...] pagal LR PVM Įstatymo 49 straipsnį, privalo turėti įrodymus, kad prekės išgabentos iš šalies teritorijos, o tais atvejais, kai 0 procentų PVM tarifas taikomas prekes tiekiant kitoje valstybėje narėje registruotam PVM mokėtojui, – ir įrodymus, kad asmuo, kuriam prekės išgabentos, yra kitoje valstybėje narėje registruotas PVM mokėtojas [...] (*LR pridėtinės vertės mokesčio įstatymas*. 2002 (Žin Nr. 35-1271; 2002, Nr.40-0; 2002, Nr.46-0; 2002, Nr.48-0, i. k. 1021010ISTA00IX-751)). Šios LR PVM įstatymo nuostatos ir iš jų kylantys reikalavimai susiją su įrodymų pateikimu, kėlė daug teisinių ginčų. Nors precedentu turėję tapti Lietuvos vyriausiojo administracinio teismo sprendimai (toliau LVAT) priimti iki 2020 sausio mėn. 1d., verslo ir VMI ginčuose šiuo klausimu aiškaus ir vienareikšmiško atsakymo nėra. Ne vienoje byloje išnagrinėjus skundą, Lietuvos vyriausiasis administracinis teismas (LVAT) nepriimė galutinio sprendimo dėl taikyto 0 procentŲ PVM tarifo ir įpareigojo VMI spręsti klausimą iš naujo. LVAT pripažino, „kad įrodymai dėl pirkėjų užsienyje patikimumo, kurių iš įmonių reikalauja VMI, yra nepakankamai aiškiai apibrėžti ir pertekliniai. Be to, teismas įžvelgia ir kitų esminių trūkumų VMI vertinant 0 proc. PVM tarifo taikymo atvejus. Teismo priimtos verslui palankios išvados kuria protingas taisykles vertinant 0 proc. PVM tarifo taikymo pagrįstumą“ (Ščeponkiene 2020).

Ginčuose dėl 0 procentų PVM tarifo taikymo dažniausiai konstatuojama, jog prekių tiekėjas neturėdamas pagrindžiančių įrodymų, kad prekės buvo patiektos PVM sąskaitose

ISSN 2029-1701
ISSN 2335-2035 (Online)

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faktūrose nurodytoms įmonėms, tuo pažeidė Lietuvos Respublikos pridėtinės vertės mokesčio įstatymo 49 straipsnio 1 dalies, 56 straipsnio 1 dalies nuostatas. Kaip jau minėta Lietuvos Respublikos pridėtinės vertės mokesčio įstatymo 49 straipsnio 1 dalyje įtvirtinta bendro pobūdžio taisyklė, kuri nustato, kad „Taikant 0 procentų PVM tarifą apmokestinamos prekės, tiekiamos kitoje valstybėje narėje įregistruotam PVM mokėtojui ir išgabenamos iš šalies teritorijos į kitą valstybę narę (neatsižvelgiant į tai, kas (prekių tiekėjas, pirkėjas ar bet kurio iš jų užsakymu trečioji šalis) prekes gabena)“ (*LR pridėtinės vertės mokesčio įstatymas*. 2002 (Žin Nr. 35-1271; 2002, Nr.40-0; 2002, Nr.46-0; 2002, Nr.48-0, i. k. 1021010ISTA00IX-751)). „Pagal Lietuvos Respublikos pridėtinės vertės mokesčio įstatymo 56 straipsnio nuostatas tokiais atvejais PVM mokėtojas, pritaikęs 0 procentų PVM tarifą, *privalo turėti įrodymus*: 1. kad prekės išgabentos iš šalies teritorijos; 2. kad asmuo, kuriam prekės išgabentos, yra kitoje valstybėje narėje registruotas PVM mokėtojas (1 dalis). Taip pat, VMI turėjo teisę pareikalauti pateikti ir kitus papildomus įrodymus 0 procentų PVM tarifo pritaikymo pagrįstumui įvertinti, arba pats ar per tam įgaliotas teisėsaugos institucijas surinkti papildomus įrodymus 0 procentų PVM tarifo pritaikymo pagrįstumui įvertinti. Nustačius, kad prekių tiekimui, ar paslaugų teikimui 0 procentų PVM tarifas pritaikytas nepagrįstai, toks prekių tiekimas, ar paslaugų teikimas apmokestinamas taikant standartinį PVM tarifą arba lengvatinį PVM tarifą (*UAB „Mobile Center“ v. Valstybinė mokesčių inspekcija prie LR Finansų ministerijos (2017)* LVAT a-1477-438/2017).

Iš iki 2020-01-01 analizuoto teisinio reglamentavimo galima daryti išvadą, kad mokesčio mokėtojas tiekiantis prekes Europos Bendrijos viduje į kitą valstybę, galėjo šias prekes apmokestinti 0 PVM tarifu, esant visumai šių sąlygų: 1. pirkėjas kitoje valstybėje narėje turi būti registruotas PVM mokėtoju; 2. mokesčio mokėtojas, esantis prekės tiekėju, turi perleisti pirkėjui teisę disponuoti prekėmis, pastarajam tampant jų savininku; 3. prekės fiziškai turėjo būti išgabentos iš vienos valstybės narės į kitą valstybę (Byla The Queen. Teleos plc, Unique Distribution Ltd, Synectiv Ltd, Quest Trading Company Ltd, Phones International Ltd, AGM Associates Ltd, DVD Components Ltd, Fonecomp Ltd, Bulk GSM Ltd, Libratech Ltd, Rapid Marketing Services Ltd, Earthshine Ltd v. Commisioners of Customs & Exicise (2007) Europos teisingumo teismo (trečioji kolegija) Nr. C-409/04. Pareiga įrodyti visas aplinkybes buvo ir yra priskirta prekių tiekėjui, o VMI turi teisę patikrinti šių įrodymų patikimumą bei paneigti juos surinkdama papildomus įrodymus.

Kadangi Lietuvos Respublikos teisės aktuose ilgą laiką konkrečiai nebuvo numatyta, kokius įrodymus, (išskyrus, kad pirkėjas kitoje valstybėje narėje turi būti registruotas PVM mokėtoju) „apmokestinamieji asmenys, privalo pateikti arba įrodymų nepakakdavo, kad įrodyti esmines sąlygas, kad galėtų pasinaudoti 0 procentų PVM tarifu, tiek Lietuva, tiek kitos valstybės narės turėjo nustatyti sąlygas, kuriomis jos neapmokestina prekių tiekimo Bendrijos viduje, siekdamos užtikrinti teisingą ir paprastą minėtų neapmokestinimo atvejų taikymą ir užkirsti kelią bet kokiam galimam sukčiavimui, mokesčių vengimui ir piktnaudžiavimui, tuo pačiu laikantis bendrųjų teisės principų, tarp kurių yra, teisinio saugumo ir proporcingumo principai. Pagal teisinio saugumo principą, reikalaujama, viena vertus, kad teisės normos būtų aiškios ir tikslios, o kita vertus, kad teisės subjektai numatytų jų taikymą (*UAB „Mobile Center“ v. Valstybinė mokesčių inspekcija prie LR Finansų ministerijos (2017)* LVAT a-1477-438/2017). Tuo tarpu proporcingumo principas viešojo administravimo kontekste reiškia, kad administracinio sprendimo mastas ir jo įgyvendinimo priemonės turi atitikti būtinus ir pagrįstus administravimo tikslus (*LR viešojo administravimo įstatymas 1999 (Žin Nr 60-1945))*. Svarbu akcentuoti, kad verslo subjektams privaloma tiksliai nustatyti jiems nustatytų pareigų apimtį, ypač tuomet kai jų nevykdymas sukelia finansines pasekmes. O būtent tokiame situacijos kontekste ir turėtų būti taikomas teisinio saugumo principas. Dar daugiau kiekvienas VMI sprendimas ir jo įgyvendinimo priemonės turi atitikti būtinus ir pagrįstus administravimo tikslus.

Pastebėtina, jog „0 proc. PVM tarifo taikymo poreikis kyla didmeninės prekybos įmonėms, kurios daug klientų turi užsienio šalyse. Šioms įmonėms sudėtinga patikrinti kiekvieną pirkėją ir įsitikinti, kad jis savo šalyje tinkamai vykdo mokestines prievoles. Teismai aiškindami 0 proc. PVM tarifo taikymo nuostatas patvirtina, kad VMI negali iš tiekėjo reikalauti tikrinti savo klientų užsienyje veiklos galimybių ir pajėgumų, aiškintis, ar jie tvarkingai vykdo savo mokestines prievoles (Ščeponkienė 2020). Pareiga tikrinti šias aplinkybes tenka VMI, tačiau ši linkusi atsakomybę perkelti verslui, ko pasekoje dažnai jau išnagrinėta byla grąžinama į pirmą instanciją, kas sukelia verslui finansines pasekmes. Teismas taip pat pripažįsta, kad taikant 0 proc. PVM tarifą prekės tiekėjui nepakanka įsitikinti, ar pirkėjas tiekimo metu turi savo šalyje galiojantį PVM mokėtojo kodą, keliamas klausimas ir apie prekės tiekėjo „žinojimą“ apie pirkėjo sukčiavimą. Tuomet kyla pagrįstas klausimas kokios tai galėtų būti objektyvios aplinkybės ir kaip tai paaiškinti pirkėjui, jei toje ES šalyje tokie reikalavimai nekeliami. Taigi konstatuotina, kad įrodyti, kad pardavėjas žinojo apie savo kliento sukčiavimą,

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turi mokesčių administratorius. Pastebėtina ir tai, jog sprendžiant praktines 0 proc. PVM tarifo taikymo problemas, VMI prašo rašytinių sutarčių, nurodo važtaraščių trūkumus, prašo pateikti pirkėjų atstovų įgaliojimus (*UAB* „Herkus Agro“*v. Valstybinė mokesčių inspekcija prie LR Finansų ministerijos (2019)* LVAT EA-95-968/2019), nors teisės aktai šių dokumentų pateikti nereikalavo.

Akcentuotina, ir dar viena problema susijusi su 0 procento PVM tarifo taikymu, kuri iškyla vykdant grandininius sandorius, dar kartais vadinamus trikampe prekyba. „Grandininis sandoris, tai vienas po kito vykdomo tų pačių prekių tiekimo sandoris, kuriame dalyvauja tarpinis veiklos vykdytojas, kai prekės gabenamos iš vienos valstybės narės į kitą valstybę narę tiesiogiai iš pirmojo prekių tiekėjo paskutiniam prekių tiekimo grandinėje esančiam tas prekes įsigyjančiam asmeniui“ (*LR pridėtinės vertės mokesčio įstatymas*. 2002 (Žin Nr. 35-1271; 2002, Nr.40-0; 2002, Nr.46-0; 2002, Nr.48-0, i. k. 1021010ISTA00IX-751)). Šių sandorių etapuose vykdomi prekių tiekimai ES narių viduje nors prekės gabenamos vieną kartą. Esant tokiam prekių judėjimui sunku įvertinti, kurios iš šalių verslo subjektas išvežė prekes į kitą ES valstybę, atitinkamai kyla problema nustatant, kurioje grandinės dalyje turi būti taikomas 0 proc. PVM tarifas. Esant tokioms situacijoms, akivaizdžiai kyla mokestiniai ginčai su mokesčių administratoriumi. Viena iš tokių trikampės prekybos pavyzdžių yra byla svarstyta ir ES Teisingumo teisme, kur pareiškėjas buvo UAB „Toridas“ *(UAB „Toridas“v. Kauno apskrities valstybinei mokesčių inspekcija (2017)* LVAT eA-159-602/2017).

Šiai situacijai buvo aktualu nustatyti ar šiam Lietuvos verslo subjektui taikytinas 0 proc. PVM tarifas, kai prekės buvo forminamos, jog yra tiekiamos į Estijos verslo subjektą, o Estijos įmonė, iš pareiškėjo nupirkusi ginčo prekes, tik po tam tikrų komercinių sandorių (t. y. pardavimo ir perdirbimo) išgabeno iš Lietuvos Respublikos į kitas ES valstybes. Tai darydama ji veikė ne pareiškėjo, o savo vardu. Nagrinėjamu atveju pareiškėjui UAB „Toridas“ 0 proc. PVM tarifu apmokestinamos prekės galėjo būti taikomas tik tuomet, jeigu ginčo laikotarpiu už parduotas ginčo prekes pagal sandorius, sudarytus tarp pareiškėjo ir „Megalain“ OU, Estijos įmonė „Megalain“ OU būtų atlikusi tik tarpininko vaidmenį, t.y. iš karto iš pareiškėjo nupirktas ginčo prekes būtų pristačiusi ES valstybėse esantiems PVM mokėtojams ir tai būtų dariusi ne savo, o pareiškėjo UAB „Toridas“ vardu. Tokie santykiai atitiktų trikampei prekybai keliamus reikalavimus *(UAB „Toridas“v. Kauno apskrities valstybinei mokesčių inspekcija (2017)* LVAT eA-159-602/2017).

Šioje byloje išaiškėjo dar vienas svarbus aspektas esant trikampei prekybai. Verslo subjektas vykdantis prekių tiekimą „neturi būti neapmokestinamas PVM pirmoje valstybėje narėje [...], kai prieš sudarydamas šį tiekimo sandorį pirkėjas, kaip PVM mokėtojas įsiregistravęs antroje valstybėje narėje, informuoja tiekėją, kad prekės bus iš karto parduotos trečioje valstybėje narėje įsisteigusiam apmokestinamajam asmeniui – dar prieš jas išgabenant iš pirmosios valstybės narės ir nugabenant šiam trečiam apmokestinamajam asmeniui, su sąlyga, kad šis antrasis tiekimas buvo įvykdytas, o prekės paskui buvo išgabentos iš pirmosios valstybės narės į trečio apmokestinamojo asmens valstybę narę. Pirmo prekes įsigijusio asmens įsiregistravimas kaip PVM mokėtojo valstybėje narėje, kuri nėra pirmojo tiekimo vieta ar galutinio įsigijimo vieta, nėra nei sandorio Bendrijos viduje kvalifikavimo kriterijus, nei savaime įrodymas, kurio pakanka sandorio, kaip įvykdyto Bendrijos viduje, pobūdžiui įrodyti.“ *(UAB „Toridas“v. Kauno apskrities valstybinei mokesčių inspekcija (2017)* LVAT eA-159-602/2017).

Taigi apžvelgus teisinį reguliavimą bei teismų praktiką iki 2020-01-01 0 proc. PVM tarifo pritaikymo kontekste, matyti, kad teisiniame reglamentavime nebuvo konkrečiai ir aiškiai nustatyta, kokius įrodymus apmokestinamieji asmenys privalėjo pateikti, kad galėtų pasinaudoti 0 proc. PVM tarifu, taip pat kokių dokumentų privalėjo reikalauti mokesčių administratorius. Taip pat kokių įrodymų reikia, kad esant grandininiam sandoriui ar trikampei prekybai Lietuvos verslo subjektas galėtų taikyti 0 procentų PVM tarifą. Taigi darytina išvada, jog mokesčio administratoriaus išaiškinimai kai kuriose situacijose buvo neinformatyvūs arba jų išvis nebuvo, reikalavimai dalyje bylų galimai buvo pertekliniai, o įrodymai, kurie buvo bandyti perkelti ant verslo, dažnu atveju liko nesurinkti. PVM mokesčio mokėtojui prieš sudarant tokio pobūdžio sandorius nebuvo iš anksto žinoma, kokius įrodymus jis turi surinkti, kurie iš įrodymų yra pakankami bei leistini reikiamoms aplinkybėms įrodyti. Toks teisinio reguliavimo abstraktumas neatitiko ir teisinio saugumo principo reikalavimų.

0 procentų PVM tarifo taikymas po 2020-01-01

Kaip jau minėta, taikant 0 procentų PVM tarifą, verslas, prekiaudamas Europos Sąjungos ribose, susiduria su skirtingomis praktikomis tarp valstybių narių. Siekiant išspręsti jau seniai egzistuojančią problematiką nuo 2020m. sausio mėn. 1 d. ES įsigaliojo greitieji PVM direktyvos Direktyvos 2006/112/EB 138 straipsnio ir 2018-12-04 Tarybos įgyvendinimo reglamento 2018/1912, kuriuo iš dalies keičiamos Reglamento (ES) Nr. 282/2011 pataisymai

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(Tarybos Direktyva 2006/112/EB), susiję su prekių tiekimu į kitas ES valstybes nares. Vienas jų skirtas supaprastinti ir nustatyti taisykles dėl dokumentų, pagrindžiančių prekių išgabenimą, būtinumo ir apimties. Antrasis pataisymas yra susijęs su 0 procentų PVM tarifo taikymu. Būtina akcentuoti, jog iki greitųjų pataisymų atsiradimo ES valstybių narių mokesčių administratoriai turėjo teisę pasirinkti, kokie dokumentai pagrindžiantys 0 procento PVM tarifo taikymą, gali būti reikalaujami. Būtina akcentuoti, kad LR PVM įstatymo 56 straipsnio mokesčių administratoriaus komentare reikalautinų įrodymų sąrašas buvo ne trumpas, tačiau nebaigtinis (beje, kas akcentuotina, neturintis ir įstatymo galios), todėl ginčai atsirasdavo mokesčių administratoriui pareikalavus tų įrodymų, kurių prekės tiekėjas negalėjo numanyti pareikalauti iš kitoje ES valstybėje narėje dirbančios, prekėmis pradėjusios disponuoti, įmonės.

Taigi nuo 2020-01-01 ES Tarybos dokumentai pradėti įgyvendinti bei taikyti ir Lietuvos Respublikoje. Nuo 2020 m. sausio mėn. 1d., jei PVM mokėtojas turės dokumentus, surinktus pagal apibrėžtą teisės aktuose tvarką, mokesčių administratorius galės juos ginčyti, tik surinkęs priešingus įrodymus. LR PVM įstatymo 49 str. 1 dalis nurodo, jog „Taikant 0 procentų PVM tarifą apmokestinamos prekės, tiekiamos kitoje valstybėje narėje įregistruotam PVM mokėtojui, *kuris šių prekių tiekėjui nurodė tos kitos valstybės narės jam suteiktą PVM mokėtojo kodą,* ir išgabenamos iš šalies teritorijos į kitą valstybę narę (neatsižvelgiant į tai, kas (prekių tiekėjas, pirkėjas ar bet kurio iš jų užsakymu trečioji šalis) prekes gabena)“ (*LR pridėtinės vertės mokesčio įstatymas*. 2002 (Žin Nr. 35-1271; 2002, Nr.40-0; 2002, Nr.46-0; 2002, Nr.48-0, i. k. 1021010ISTA00IX-751)), LR PVM įstatymo 56 straipsnio 1 dalis nurodo, jog „PVM mokėtojas, pritaikęs 0 procentų PVM tarifą pagal šio Įstatymo 41 straipsnį, privalo turėti dokumentus, įrodančius, kad prekės išgabentos iš Europos Sąjungos teritorijos.

PVM mokėtojas, pritaikęs 0 proc. PVM tarifą pagal šio Įstatymo 49 straipsnį, privalo turėti arba įrodymus, nurodytus Reglamento (ES) Nr. 282/2011 45a straipsnyje, arba kitus įrodymus, kad prekės išgabentos iš šalies teritorijos, ir įrodymus, kad asmuo, kuriam prekės išgabentos, yra kitoje valstybėje narėje registruotas PVM mokėtojas“ (*LR pridėtinės vertės mokesčio įstatymas*. 2002 (Žin Nr. 35-1271; 2002, Nr.40-0; 2002, Nr.46-0; 2002, Nr.48-0, i. k. 1021010ISTA00IX-751)). Atsižvelgiant į šiuos greituosius pakeitimus, norėtųsi akcentuoti, jog pokyčio dėl prekes įgyjančio asmens PVM mokėtojo kodo nurodymo ir jo įtraukimo į prekių tiekimo ir (arba) paslaugų teikimo į kitas valstybes nares ataskaitą privalomumas, tikėtina nebus reikšmingas, kadangi iš rinkoje veikiančių subjektų patirties, jau ir dabar šį reglamentavimą pilnai atitinka.

Būtina akcentuoti, jog šiuos straipsnius išsamiai komentuoja LR valstybinės mokesčių inspekcijos Mokesčių informacijos departamentas LR PVMĮ pakeitimuose nuo 2020 metų.(Lietuva. Valstybinė mokesčių inspekcija prie Finansų ministerijos. 2020). Būtent šiame komentare išsamiai dėstoma, jog remiantis LR PVM įstatymo 49 str. 6 dalimi 0 procentų PVM tarifas bus taikomas tik tuo atveju, jei pardavimas bus deklaruotas FR0564 formoje. "Valstybinės mokesčių inspekcijos viršininkas 2019 m. gruodžio 31 d. įsakymu Nr. VA-119 nauja redakcija išdėstė Prekių tiekimo ir paslaugų teikimo į kitas Europos Sąjungos valstybes nares ataskaitos FR0564 formos užpildymo, teikimo ir tikslinimo taisykles. Taisyklėse patvirtinti du nauji priedai: prekių išvežimui (FR0564R) ir prekių tiekimui (kai jos pristatytos, kad būtų patiektos pagal reikalavimą) (FR0564T, FR0564TP). Taisyklėse atsiranda dar viena naujovė**,** jog ataskaitą tikslinant dėl tiekimų, nurodytų 4.1–4.3 papunkčiuose (PVM įstatymo 49 str. 1 dalyje, taikant 0 proc. PVM išgabenus prekes į kitą ES; 49 str. 4 d., taikant 0 proc. PVM prekes pervežus į kitą ES patiems PVM mokėtojams ar jų užsakymu kiti asmenys ir „Trikampės prekybos" atveju), kartu su ataskaita mokesčių administratoriui per elektroninės deklaravimo sistemos paslaugą „Papildomo dokumento pridėjimas" komentare reikia pažymėti „Paaiškinimas dėl tikslinimo" ir turi būti pateiktas laisvos formos paaiškinimas, kuriame būtų nurodytos priežastys, dėl kurių yra tikslinama ataskaita" (Countline. 2020). Paaiškinimo pagrįstumas vertinamas kontrolės ar kitų administracinių veiksmų metu. Taisyklėmis patvirtinti du nauji priedai: FR0564R priedas, skirtas prekių išvežimui, kai jos pristatomos, kad būtų patiektos pagal pareikalavimą, ataskaitai, FR0564T priedas, skirtas prekių tiekimui, kai jos buvo pristatytos, kad būtų patiektos pagal pareikalavimą, ataskaitai. Mokesčių administratorius aptaria ir prekių pristatymo pagal pareikalavimą (call-aff stock) supaprastinimą. (*LR pridėtinės vertės mokesčio įstatymas*. 2002 (Žin Nr. 35-1271; 2002, Nr.40-0; 2002, Nr.46-0; 2002, Nr.48-0, i. k. 1021010ISTA00IX-751)). „Norint, kad verslo subjektams būtų taikomas prekių pristatymo pagal pareikalavimą supaprastinimas, jų prekių pervežimai turės atitikti tam tikras (su papildomais reikalavimais) sąlygas. „Šiuo metu kai kurios ES valstybės narės taiko prekybos supaprastinimą, atleidžiantį prekių siuntėją nuo prievolės registruotis PVM mokėtoju atvykimo valstybėje. Tačiau pačios supaprastinimo sąlygos tarp valstybių narių skiriasi. Kitos šalys, pavyzdžiui, Danija, Vokietija, Švedija ar Ispanija, šio supaprastinimo apskritai netaiko. Tad nuo 2020 m. visos ES valstybės narės turės šį supaprastinimą ir, svarbiausia, jį privalės taikyti vienodai. Viena svarbiausių sąlygų – prekyba turi vykti tarp skirtingose valstybėse įsikūrusių verslų, turinčių sudarytą galiojantį rašytinį susitarimą dėl

prekių pristatymo pagal pareikalavimą, kai prekės turi būti patiektos vėliau nei pristatytos, tačiau ne vėliau nei per 12 mėn. laikotarpį (prekių pateikimo trukmė (12 mėn.) skaičiuojama nuo tada, kai prekės pasiekė kitą valstybę ir neatsinaujina net ir pasikeitus jų gavėjui), o visas prekių judėjimas privalės būti registruojamas žurnale. Svarbu, kad prekes įsigyjantis asmuo būtų įsiregistravęs PVM mokėtoju toje valstybėje, į kurią atgabenamos prekės, o prekių tiekėjui žinoma įsigyjančio asmens tapatybė ir jo PVM kodas. Taip pat būtina žymėti prekių judėjimą jų registracijos žurnale ir tiekimą deklaruoti prekių tiekimo ir (arba) paslaugų teikimo į kitas valstybės nares ataskaitoje“ (Gaižauskienė 2019).

Išanalizavus LVAT praktiką taikant 0 proc. PVM tarifą**,** būtina akcentuoti, kad svarbiausias aspektas verslui siekiant išvengti tolimesnių ginčų yra įrodymai:

1) *kad prekės buvo išgabentos į kitą valstybę narę.* Ypač atkreiptinas dėmesys į Reglamento (ES) Nr. 282/2011 pakeitimus, kuriais šis reglamentas papildomas nauju 45a straipsniu. Konstatuojama, kad ir kiti įrodymai, kad prekės išgabentos į kitą valstybę narę, mokesčių administratoriaus bus vertinami ir analizuojami;

2) *kad asmuo, kuriam prekės išgabentos, yra kitoje valstybėje narėje registruotas PVM mokėtojas.*[3]

Analizuojant 2018 m. gruodžio 4 d. Tarybos įgyvendinimo reglamento (ES) 2018/1912 45a straipsnio 3 dalį, būtina išskirti A ir B punktuose išdėstytus įrodymus:

„Reglamento 45a str. 3 dalies A punktas: pasirašytas krovinių vežimo keliais dokumentas arba pranešimas, konosamentas, oro krovinio sąskaita faktūra, arba prekių vežėjo sąskaita faktūra. Reglamento 45a str. 3 dalies B punktas: draudimo liudijimas, susijęs su prekių išsiuntimu, banko dokumentai, kuriais įrodoma, kad už prekių išsiuntimą ar išgabenimą sumokėta (…), oficialūs dokumentai, kuriuos išduoda valdžios institucija (notaras, kuriais patvirtinamas prekių atvykimas į paskirties valstybę narę); sandėlio savininko išrašytas kvitas, kuriuo patvirtinamas prekių sandėliavimas toje valstybėje narėje.“ (Lietuva. Valstybinė mokesčių inspekcija prie Finansų ministerijos. 2020)

Taigi pagal šį teisinį reguliavimą, siekiant pagrįsti prekių realaus išgabenimo į kitą ES valstybę narę faktą, o taip pat 0 proc. PVM tarifo taikymo pagrįstumą**,** *„kai už prekių gabenimą*

[3] LR PVM įstatymo 56 str. 1d.“PVM mokėtojas, pritaikęs 0 procentų PVM tarifą pagal šio Įstatymo 41 straipsnį, privalo turėti dokumentus, įrodančius, kad prekės išgabentos iš Europos Sąjungos teritorijos. PVM mokėtojas, pritaikęs 0 procentų PVM tarifą pagal šio Įstatymo 49 straipsnį, privalo turėti arba įrodymus, nurodytus Reglamento (ES) Nr. 282/2011 45a straipsnyje, arba kitus įrodymus, kad prekės išgabentos iš šalies teritorijos, ir įrodymus, kad asmuo, kuriam prekės išgabentos, yra kitoje valstybėje narėje registruotas PVM mokėtojas.“

atsakingas tiekėjas, tiekėjas privalo pateikti 2 (du) vienas kitam neprieštaraujančius įrodymus, nurodytus A punkte, kuriuos išdavė dvi skirtingos viena nuo kitos, nuo pardavėjo ir pirkėjo nepriklausančios šalys arba pateikti vieną iš įrodymų, nurodytų A punkte, ir vieną iš įrodymų, nurodytų B punkte**,** išduotus dviejų skirtingų viena nuo kitos, nuo pardavėjo ir pirkėjo nepriklausomų šalių ir vienas kitam neprieštaraujančius. Tačiau tuo atveju *kai už prekių gabenimą atsakingas pirkėjas* tiekėjas turi pateikti bent *2 (du)* vienas kitam neprieštaraujančius įrodymus, nurodytus A punkte**,** arba vieną iš įrodymų nurodytų A punkte, kartu su vienu jam neprieštaraujančiu įrodymu, nurodytu B punkte, išduotus dviejų skirtingų nuo pardavėjo ir pirkėjo nepriklausomų šalių bei rašytinį pirkėjo patvirtinimą, kuriame nurodyta (prekių paskirties valstybė narė; patvirtinimo išdavimo data; pirkėjo pavadinimas, adresas; prekių rūšis, kiekis; prekių atvykimo data ir vieta; pirkėjo vardu prekes priimančiojo asmens tapatybė; transporto priemonių tiekimo atveju – transporto priemonės identifikacinis numeris.)“ (Lietuva. Valstybinė mokesčių inspekcija prie Finansų ministerijos. 2020).

Tuo tarpu aptariant grandininius sandorius pagal naujuosius greituosius pataisymus svarbiausia nustatyti kas yra „tarpinis veiklos vykdytojas, ar yra daugiau nei vienas tų pačių prekių tiekimas ir vienas prekių gabenimas, ar prekės gabenamos iš vienos valstybės narės į kitą valstybę narę, ar prekės gabenamos iš I-ojo tiekėjo tiesiogiai paskutiniam prekes įsigyjančiam asmeniui, nes nuo to ir priklausys 0 procento PVM tarifo taikymas. Esminis klausimas kurį po naujųjų greitųjų pakeitimų reikia nustatyti, kuri sandorio šalis laikytina tarpiniu veiklos vykdytoju, išskiriant pirmąjį tiekėją, bei nustatant, kas gabena prekes. Taip pat aktualus klausimas ar tarpininkas pranešė tiekėjui jam suteiktą išgabenimo valstybės narės PVM kodą“ (Lietuva. Valstybinė mokesčių inspekcija prie Finansų ministerijos. 2020).

Taigi reziumuojant 0 procento PVM tarifo reglamentavimo pokyčius, taps svarbu iš anksto pareikalauti iš asmens, kuriam prekės išgabentos, duomenų apie jam suteiktą PVM mokėtojo kodą, o taip pat svarbu atkreipti dėmesį į tai, jog LR PVM įstatymo 56 str. 1d. priimtos nuostatos mokesčių mokėtojui leidžia pateikti „kitus įrodymus, kad prekės išgabentos iš šalies teritorijos“. Duotuoju atveju LVAT bylose *(UAB „Yusyp & Co“v. Valstybinė mokesčių inspekcija prie LR Finansų ministerijos (2017)* (LVAT A-1067-575/2017), (*UAB „Metoil“ v. Valstybinė mokesčių inspekcija prie LR Finansų ministerijos (2016)* (Vilniaus apygardos administracinis teismas I-2637-281/2016), tokiais įrodymais, atsižvelgiant į ankstesnę teismų praktiką Lietuvoje, galėjo būti laikomi prekių gabenimo dokumentai, transporto priemonių rūšių, kuriomis gabentos prekės, įvardinimas bei jų identifikaciniai duomenys, asmenų, kurie

išgabeno prekes, identifikaciniai duomenys, taip pat visi dokumentai, susiję su išvežimo procedūra, taip pat patvirtinimai apie prekių gavėją ir kt. Tuo tarpu grandinių sandorių kontekste, svarbiausia bus nustatyti, kas yra tarpinis veiklos vykdytojas. Atsižvelgiant į tai, prekių gabenimas bus priskiriamas tik prekių tiekimui, kai tos prekės tiekiamos tarpiniams veiklos vykdytojui, o būtent nuo to ir priklausys 0 procentų PVM tarifo taikymas.

IŠVADOS

2020 m. sausio mėn. 1 d. ES įsigaliojo greitieji PVM direktyvos Direktyvos 2006/112/EB 138 straipsnio ir 2018-12-04 Tarybos įgyvendinimo reglamento 2018/1912, kuriuo iš dalies keičiamas Reglamento (ES) Nr. 282/2011 pataisymai, susiję su prekių tiekimu į kitas ES valstybes nares. Greitieji pataisymai Lietuvoje įsigaliojo 2020 m. sausio 1d. LR PVM įstatymo pakeitimo įstatymu. Išvardinti pakeitimai sietini su trimis esminiais pokyčiais:

- vykdant grandininius sandorius svarbu nustatyti *tarpinį veiklos vykdytoją*, ar yra daugiau nei vienas tų pačių prekių tiekimas ir vienas prekių gabenimas, ar prekės gabenamos iš vienos valstybės narės į kitą valstybę narę, ar prekės gabenamos iš pirmojo tiekėjo tiesiogiai paskutiniam prekes įsigyjančiam asmeniui. Būtent nuo to ir priklausys 0 proc. PVM tarifo taikymas atitinkamam subjektui;
- *0 procentų PVM tarifo taikymo pakeitimai*, pirmasis skirtas supaprastinti ir nustatyti taisykles dėl dokumentų, pagrindžiančių prekių išgabenimą, būtinumo ir apimties. Tokiais prekių tiekimo įrodymais nuo 2020-01-01 yra laikomi: a) dokumentai, susiję su prekių išsiuntimu ar išgabenimu, pavyzdžiui, krovinių vežimo keliais dokumentas arba pranešimas, konosamentas, oro krovinio sąskaita faktūra (Valantiejus 2020). Antrasis pataisymas susijęs su 0 proc PVM tarifo taikymu;
- siekiant, kad verslo subjektams būtų taikomas prekių pristatymo pagal pareikalavimą (call-off stock) supaprastinimas, jų prekių pervežimai turės atitikti tam tikras sąlygas: verslo subjektai turės būti įsikūrę skirtingose ES valstybėse narėse, t.y. pardavėjas nėra įsikūręs ir neturi padalinio valstybėje narėje, į kurią siunčiamos prekės; tarp verslo subjektų imperatyviai turės būti sudaryta rašytinė sutartis dėl prekių pristatymo pagal pareikalavimą; Prekės turi būti patiektos vėliau nei pristatytos, tačiau ne vėliau nei per 12 mėnesių laikotarpį; pirkėjas yra registruotas PVM mokėtoju valstybėje, į kurią siunčiamos prekės; prekių pervežimas registruojamas atitinkamame žurnale (VA-27).

Šie greitieji pataisymai neabejotinai konkretizuoja sąlygas taikant 0 procentų PVM tarifą prekių tiekimui į kitas ES valstybes nares, užtikrina vienodą šių sąlygų taikymą visoje ES. Iš

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

vienos pusės problema galėtų kilti, jog patiems mokesčių mokėtojams palikta galimybė pasirinkti atitinkamus dokumentus, kaip įrodymus taikant 0 procentų PVM tarifą, iš kitos pusės įvedamas specialus reikalavimas, jog verslo subjektai turės būti įsikūrę skirtingose ES valstybėse narėse, taip pat yra keliami reikalavimai turėti keletą dokumentų arba jų kombinaciją. Akcentuotina ir dar viena svarbi nuostata, mokesčių mokėtojo verslo subjekto-pardavėjo dokumentai gali būti paneigti jei verslo subjektas - pirkėjas sukčiavo PVM prievolių srityje, o verslo subjektas – pardavėjas apie tai žinojo, t.y pardavėjas buvo informuotas, kad pvz. prekės bus iš karto parduotos trečioje valstybėje narėje įsisteigusiam apmokestinamajam verslo subjektui. Todėl siekiant išvengti ginčų su mokesčių administratoriumi verslui ir toliau reikės atidžiai rinkti įrodymus bei įsitikinti verslo subjekto – pirkėjo patikimumu bei jo PVM mokėtojo statusu, siekiant suvaldyti rizikas susijusias su mokesčių atsiradimu.

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APPLICATION OF ZERO RATE VALUE ADDED TAX CHARGED ON GOODS SUPPLIED TO OTHER EU MEMBER STATES: PROBLEMS AND SOLUTIONS

Audronė Žemeckė-Milašauskė
Mykolas Romeris University

Summary

The Law on Value Added Tax of the Republic of Lithuania provides for a 0 rate of VAT on goods supplied to another member state; however, the application of that provision often poses difficulties, while the tax authority implements strict controls to verify the legitimacy of 0 rate VAT applied by the company. The paper highlights that in the last few years there was a lot of tax disputes arising out of the application of the Law on Value Added Tax of the Republic of Lithuania concerning the calculation of VAT charged on the value of goods. The paper analyses the application of the zero per cent value added tax rate charged on goods supplied to other EU Member States, the validity of the tax authority's requirements for the evidence to be provided by the supplier and the issues arising from this process. Taking into account the sensitivity of the issue both in the Republic of Lithuania and other EU Member States, certain amendments of the EU legislation governing the calculation of applicable 0 rate VAT

rate came into effect on 1 January 2020. Article 138 of the Council Directive 2006/112/EC[4]was amended and came into effect on 01-01-2020 and the Council Implementing Regulation (EU) 2018/1912 of 4 December 2018 amending Implementing Regulation (EU) No 282/2011 as regards certain exemptions for intra-Community transactions[5] also became effective on 01-01-2020.The Ministry of Finance made respective amendment to the Law on Value Added Tax, which became effective on 1 January 2020. The authorities have come to the conclusion that new regulations will help to resolve issues relating to the application of 0 % VAT rate. However, it is only the future case-law of the Supreme Administrative Court of Lithuania that will identify precisely the peculiarities of the legislation in this area.

Keywords. The zero rate of Value-Added Tax, supplier of goods, tax authority - State Tax Inspectorate at the Ministry of Finance of the Republic of Lithuania.

[4]Council Directive (EU) 2018/1910 of 4 December 2018 amending Directive 2006/112/EC as regards the harmonisation and simplification of certain rules in the value added tax system for the taxation of trade between Member States, Official website of European Union law EUR-lexAccess to European Union Law. 4 December 2020[interactive] [Accessed:23-04-2020] https://eur-lex.europa.eu/legal-content/lt/TXT/?uri=CELEX%3A32018L1910

[5]Council Implementing Regulation (EU) 2018/1912 of 4 December 2018 amending Implementing Regulation (EU) No 282/2011 as regards certain exemptions for intra-Community transactions,Official website of European Union law EUR-lexAccess to European Union Law. 4 December 2020 [interactive] [Accessed:23-04-2020]https://eur-lex.europa.eu/search.html?qid=1587663830322&text=2018%20m.%20gruod%C5%BEio%204%20d.%20Tarybos%20%C4%AFgyvendinimo%20reglamentas%20(ES)%202018/1912&scope=EURLEX&type=quick&lang=lt

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinių straipsnių rinkinys
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Scientific articles

III DALIS

PART 3

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

ORGANIZACIJOS PALAIKYMAS NUSIŽUDŽIUS BENDRADARBIUI

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DOI: 10.13165/PSPO-20-24-26

Anotacija. Savižudybė yra viena dažniausių darbingo amžiaus asmenų mirties priežasčių. Nusižudžius bendradarbiui, darbuotojų savijauta, emocinė būklė ir neretai darbo produktyvumas pablogėja. Todėl labai svarbu, kad organizacija šiuo sunkiu periodu suteiktų darbuotojams palaikymą. Šiame straipsnyje analizuojama, kokios postvencinės palaikymo priemonės yra taikomos ir kas jas suteikia organizacijoje. Empirinio tyrimo rezultatai atskleidė, kad Lietuvoje organizacijos dažniausiai naudoja tik būtinąsias palaikymo priemones, tokias kaip dalyvavimas laidotuvėse ar velionio pagerbimas, tačiau nesiima papildomų priemonių, kurios palengvintų darbuotojų gedėjimą.

Pagrindinės sąvokos: bendradarbio savižudybė, organizacijos palaikymas, prevencinės priemonės, postvencinės priemonės.

ĮVADAS

Įtemptas gyvenimo tempas, pasyvus gyvenimo būdas, stresas darbe, kurį sukelia aukšti vadovų, bendradarbių ar partnerių lūkesčiai, sparti technologijų kaita, naujų įgūdžių ir kompetencijų reikalavimai yra tik kelios iš daugelio didėjančio savižudybių skaičiaus priežasčių (Medical News Today, 2017). Organizacijos, siekdamos užtikrinti palankesnes darbo sąlygas, mikroklimatą siūlo naudų paketus, suteikia lanksčias galimybes mokytis, taiko įvairias priemones darbuotojų fizinei ir psichinei sveikatai gerinti. Deja tai ne visada užkerta kelią savižudybėms, kurios yra viena iš dažniausių mirties priežasčių Lietuvoje ir visame pasaulyje. Lietuvos Statistikos departamento ir Higienos instituto duomenimis, dažniausios mirties priežastys yra lėtinės ligos, piktybiniai navikai bei savižudybės. Savižudybių skaičiaus rodiklis yra vienas iš aukščiausių ne tik Europos Sąjungoje, bet ir visame pasaulyje (World Health Organization, 2018).

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
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Problema. Viena mirtis paveikia vidutiniškai šešis žmones (Burke ir kt., 2012; Nilsson, Bremer, Blomberg ir Svantesson, 2017), kurie lengviau arba sunkiau pereina visus gedėjimo etapus. Su netektimi susidūrę žmonės dažnai jaučia prieštaringus jausmus, kurių nesuvaldžius didėja tikimybė susirgti depresija ar nusižudyti (Germain, 2013). Mokslinėje literatūroje dažniausiai išskiriami tokie neigiami savižudybės darbuotojams padariniai: pablogėjusi emocinė būsena, kaltės jausmas, pyktis, vienišumas, liūdesys, savižudiškos mintys, neigiama įtaka darbo kokybei ir produktyvumui (Jordan ir McIntosh, 2011; Andriessen ir Krysinska, 2012; Sherba, Linley, Coxe ir Gersper, 2018, Germain, 2013). Todėl organizacija, susidūrusi su darbuotojo netektimi, dažnai patiria ne tik moralinius, bet ir materialinius nuostolius. Siekiant kuo greičiau suvaldyti susidariusią situaciją organizacijoje, žmonių išteklių departamentas ir vadovai turi tinkamu metu ir priemonėmis suteikti pagalbą mirusiojo bendradarbiams, kad įvykus nelaimei darbuotojai jaustų organizacijos palaikymą (Kurtessis ir kt., 2017) ir galėtų lengviau susitaikyti su netektimi, greičiau grįžti prie kasdieninių darbų.

Deja, vis dar stokojama tyrimų vadybinėje srityje, nes didžioji dalis mokslinių tyrimų yra psichologijos ir medicinos srityje ir dažniausiai orientuojasi į palaikymo mirusiojo šeimai teikimą, o ne į organizacijos palaikymą, suteikiamą darbuotojams bendradarbio netekties atveju. Be to trūksta informacijos, kaip organizacijos turi elgtis, komunikuoti, kokį palaikymą suteikti likusiems darbuotojams.

Tikslas – atskleisti organizacijos suteikiamą palaikymą darbuotojams, nusižudžius jų bendradarbiui.

Metodai: mokslinės literatūros analizė, Lietuvos darbuotojų kiekybinis tyrimas, statistinė duomenų analizė.

PALAIKYMO TEIKIMO PRIEMONIŲ SAVIŽUDYBĖS ATVEJU TEORINĖ ANALIZĖ

Prevencinės ir postvencinės palaikymo priemonės

Kai nusižudo darbuotojas, organizacijoje atsiranda įtampa, kurią sudėtinga panaikinti, nes paprastai tūksta komunikacijos ir organizacijos palaikymo (Germain, 2013; Jordan, 2015). Kaip teigia Jordan (2015), organizacijose dažnai įprasta ignoruoti savižudybę, vengti viešos diskusijos apie įvykį ir jo poveikį organizacijos nariams. Tačiau, visgi autorius pastebi, kad pastaruoju metu organizacijos pripažįsta, kad turi imtis veiksmų ne tik dėl bendruomenės

nerimo, streso, bet ir dėl pakartotinės savižudybės. Be to, Jordan ir McIntosh (2011), teigia, kad po savižudybės svarbu laiku išsiaiškinti, kurie aplinkiniai žmonės yra stipriausiai paveikti netekties.

Siekiant mažinti savižudybių skaičių ir norint palengvinti artimųjų sielvartavimą yra naudojamos savižudybių prevencinės ir postvencinės priemonės (Burke ir kt., 2012). Prevencinės priemonės skirtos užkirsti kelią naujoms savižudybėms, apeliuojant į potencialius savižudžius ir tokių asmenų artimuosius, o postvencinės priemonės skirtos padėti asmenims, susidūrusiems su netektimi. Remiantis Aguirre ir Slater (2010), įvykus savižudybei pirmiausiai turi būti panaudojamos postvencijos priemonės ir tik vėliau, nurimus situacijai, taikomos prevencijos priemonės. Tokia veiksmų seka reikalinga dėl mirusiojo artimųjų pažeidžiamumo – po savižudybės padidėja kitų savižudybių rizika. Apibendrintos prevencijos ir postvencijos priemonės pateikiamos 1 lentelėje.

1 lentelė. Savižudybių prevencijos ir postvencijos priemonės

Prevencijos priemonės	Postvencijos priemonės
Psichikos sveikatos kampanijų, informuojančių apie savižudybes, organizavimas	Individualios terapijos ir intervencijos
Informacijos apie savižudybes sklaida ir prevenciniai mokymai darbuotojams	Informacijos teikimas, konsultavimas
Mokymai pirminės sveikatos priežiūros specialistams, kad jie gebėtų vertinti ir valdyti savižudybių riziką	Postvencinių programų, padedančių darbuotojams susidūrusies su savižudybe, diegimą orgnizacijoje / organizacinis palaikymas (politikos, tvarkos ir kt.)
Greitojo reagavimo savižudybių prevencijos paramos tarnybos kūrimas	Grupinės intervencijos ir palaikomosios grupės
Intervencijų, skirtų vyrams (pagal amžiaus grupę), plėtojimas	Šeimos intervencijos

Šaltinis: Sudaryta remiantis Aguirre ir Slater (2010) ir Jordan (2015)

Remiantis Burke ir kt. (2012), visos organizacijos turi rūpintis ne tik prevencijos, bet ir postvencijos palaikymo priemonėmis. Pagrindinės postvencijos priemonės yra:

- *Organizacinis palaikymas,* Organizacines palaikymo priemones apima politika ir procedūros aprašančios priemones, reikalingas palaikyti darbuotojus netekties atveju.
- *Grupinės intervencijos,* Grupinės intervencijos metu svarbiausia sudaryti emociškai saugią aplinką, kurioje nariai gali pasakoti savo istorijas, gauti empatinį palaikymą ir keistis idėjomis apie sielvartavimą (Jordan, 2015). Autoriaus teigimu, grupinių intervencijų didžiausias privalumas, kad grupės nariai nesijaučia izoliuoti su savo jausmais, kas dažnai pasireiškia žmonėms, susidūrusiems su netektimi. Grupinėse intervencijose gali dalyvauti svetimi arba pažįstami žmonės, svarbu, kad jų patirtys būtų panašios (Aguirre ir Slater, 2010),

tačiau anot Jordan‘o (2015), grupinės intervencijos negali būti vienintelė teikiama postvencijos priemonė. Daliai žmonių toks viešas jausmų išsakymas gali būti nepriimtinas, ypač vyrams.

- *Šeimos intervencijos,* Šeimos intervencijos yra taikomos mirusiojo artimiausiems. Savižudybė paveikia visą šeimą, todėl natūralu, kad šeimos nariai tik sąveikaudami tarpusavyje gali susitaikyti su netektimi. Šeimos intervencijos vyksta tokiu pačiu principu kaip ir grupinės intervencijos.
- *Individualios intervencijos*. Individualios intervencijos tai asmeninė terapija su psichologu-specialistu. Profesionalios individualios intervencijos metu sprendžiami šie uždaviniai: traumos izoliavimas; mokomasi skausmą dozuoti, rasti vidinę ramybę; sukurti realistišką savižudybės naratyvą per asmeninę psichologinę autopsiją; mokomasi valdyti pasikeitusius socialinius ryšius; psichologinis susitvarkymas ir transformacija su mirusiuoju; atkurti prisiminimus su mirusiuoju; veiklos atkūrimas ir grįžimas į kasdienį gyvenimą (Jordan, 2015). Profesionaliai individualiai intervencijai reikalingas kompetentingas specialistas, tačiau buitines individualias intervencijas gali atlikti bendradarbiai, artimieji.

Visos, išskyrus šeimos, intervencijos gali būti taikomos organizacijoje. Neturint materialiųjų ar žmogiškųjų išteklių, organizacija turi rasti būdą, kaip kitaip užtikrinti pilnavertį palaikymą darbuotojams.

Palaikymo suteikėjai organizacijoje

Remiantis anksčiau išskirtais palaikymo tipais ir postvencijos priemonėmis, organizacijos turi galimybę naudoti beveik jas visas, išskyrus šeimos intervencijas. Organizacija gali teikti individualias intervencijas (su psichologu ar kt.), grupines intervencijas (visam padaliniui, kur dirbo darbuotojas), organizacinį palaikymą (informavimas dėl organizacijos teikiamos paramos, informavimas apie netektį ir kt.). Apibendrinant, 2 lentelėje pateikiamos postvencijos palaikymo priemonės ir jų suteikėjai.

Organizacinis palaikymas dažniausiai teikiamas formaliai. Teikiant vadovo palaikymą, galima pasitelkti individualias intervencijas (su psichologais arba su pačiu vadovu), grupines intervencijas (visam padaliniui, skyriui ar pan.). Vadovo palaikymas gali būti teikiama tiek formaliai, tiek neformaliai, priklausomai nuo vadovo ir darbuotojų santykių, organizacijos kultūros. Teikiant bendradarbių palaikymą galima pasitelkti tas pačias priemones kaip ir vadovo palaikyme, tačiau jos bus naudojamas mažiau formalioje aplinkoje, artimesnių žmonių rate. Mentoriaus palaikymas gali būti teikiama naudojant visas tris priemones: individualias,

grupines intervencijas ir organizacinį palaikymą. Mentoriaus palaikymas gali būti teikiama tiek formaliai, tiek neformaliai.

2 lentelė. Rekomenduojamos postvencijos priemonės ir jų suteikėjai

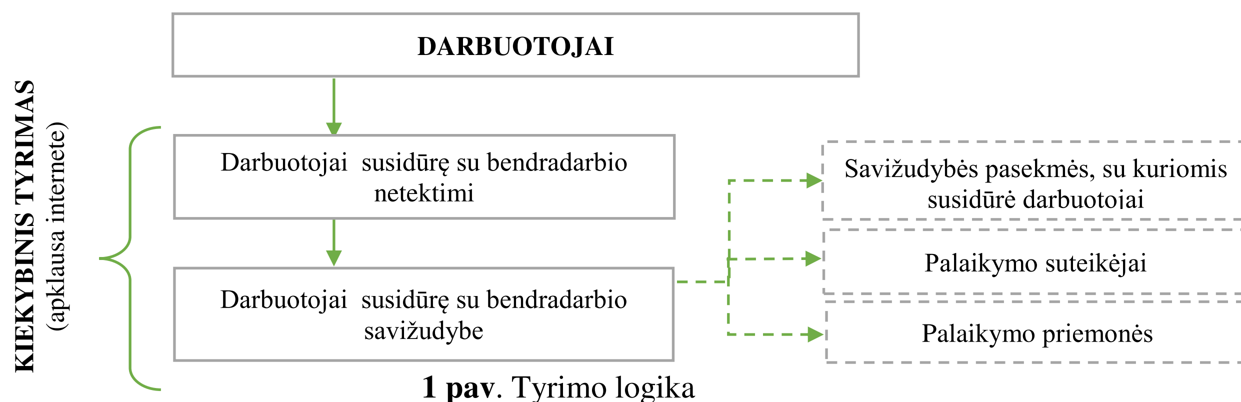
Palaikymo suteikėjas	Postvencijos priemonės	Rekomendacija
Organizacija	Organizacinis palaikymas (politikos, tvarkos ir kt.)	**Darbuotojų informavimas**. Siekiant išvengti klaidingos informacijos sklaidos ir nesusipratimų, organizacija turi kuo skubiau oficialiai pranešti apie darbuotojo netektį ir pradėti teikti palaikymą vadovams, bendradarbiams
		Vadovų ugdymas. Šviesti vadovus, kad gedėjimas yra labai individualus procesas ir net patys talentingiausi, gabiausi darbuotojai gali nesusitvarkyti su užplūdusiomis emocijomis
Vadovas	Individualios intervencijos; Grupinės intervencijos	**Vadovų asmeninis dėmesys.** Vadovas turi užtikrinti, kad jo darbuotojai jaustų vadovo palaikymą ir buvimą šalia (aplankyti visus savo darbuotojus, trumpai su jais pasikalbėti apie mirusįjį). Tai vadovui leidžia susidaryti pradinį įspūdį apie darbuotojų emocinę būklę, reikiamus tolimesnius veiksmus
	Organizacinis palaikymas (politikos, tvarkos ir kt.)	**Gandų valdymas, konfidencialumo užtikrinimas**. Laikytis konfidencialumo ir neleisti plisti gandams, jei mirusiojo šeima nenori dalintis mirties detalėmis, taip darbuotojams ir reikia pasakyti
Organizacija, Vadovas	Organizacinis palaikymas (politikos, tvarkos ir kt.)	**Galimybė dalyvauti laidotuvėse.** Jei organizacija nedidelė, pasistengti sustabdyti jos darbą, kad visi darbuotojai turėtų galimybę dalyvauti laidotuvėse
		Mirusiojo darbų perskirstymas. Sudaryti planą, skirtą laikinai padengti mirusiojo darbo pareigas ir pradėti ruoštis naujoms atrankoms
Vadovas, Bendradarbiai	Individualios intervencijos; Grupinės intervencijos	**Neformalūs pokalbiai apie mirusįjį.** Klausytis ir leisti darbuotojams kalbėti apie mirusįjį, jį prisiminti bent keletą mėnesių
Organizacija, Vadovas, Bendradarbiai	Organizacinis palaikymas; Grupinės intervencijos	**Mirusiojo pagerbimas.** Paskatinti darbuotojus prisidėti planuojant atminimo renginį, pasodinti medį su memorialine plokštele, skirti knygas bibliotekos kolekcijoje ar kt. Mirusįjį pagerbti tylos minute ir, jei yra galimybė, darbuotojo kabinetą kurį laiką palikti tuščią. Toks mirusiojo darbo vietos pagerbimas rodo organizacijos požiūrį į darbuotoją.
Organizacija, Vadovas, Mentorius	Organizacinis palaikymas; Individualios intervencijos; Grupinės intervencijos	**Mentoriaus (psichologo) pagalba.** Suorganizuoti darbuotojams konsultantą, galintį padėti, suteikti paramą gedulo metu

Šaltinis: Sudaryta remiantis Topper (2008); Aguirre ir Slater (2010); Kurtessis ir kt. (2017); Sanford (2018); Sherba ir kt., (2018)

Dažniausia mokslinėje literatūroje autorių (Topper, 2008; Aguirre ir Slater, 2010; Kurtessis ir kt., 2017; Sanford, 2018; Sherba ir kt., 2018) minima postvencijos priemonė yra organizacinis palaikymas, apimantis informavimą, vadovų ugdymą, galimybė dalyvauti laidotuvėse, mirusiojo pagerbimas, gandų valdymas, mirusiojo darbų perskirstymas, mentoriaus pramos užtikrinimas. Rekomenduojama pirmiausia suteikti organizacinį palaikymą, tik vėliau – mentoriaus ar bendradarbių palaikymą.

TYRIMO METODOLOGIJA

Tyrimo tikslas – identifikuoti su kokiais sunkumais susiduria darbuotojai po bendradarbio savižudybės, kokios organizacijos teikiamos palaikymo priemonės yra veiksmingos ir kas jas suteikė. Tyrimui atlikti pasirinktas kiekybinis tyrimas, kurio logika pateikta 1 paveiksle.



1 pav. Tyrimo logika

Tyrimo metodas. Tyrimo instrumentas – internetinė anketinė apklausa, sudaryta iš 9 klausimų, sudarytų remiantis 2 lentele. 8 klausimai buvo su pasirenkamais atsakymais (dichotominiai ir multichominiai) ir tik vienas klausimas - su intervaline skale. Šiam klausimui naudojama Likert skalė (nuo 1 – visiškai nesutinku, iki 5 – visiškai sutinku). Klausimas su intervaline skale buvo sudarytas remiantis problemos teorinės analizės metu identifikuotais sunkumais, iškylančiais susidūrus su netektimi (Andriessen ir Krysinska, 2012; Sherba ir kt., 2018) ir specialiu Mcmenamy, Jordan ir Mitchell (2008) (percit. iš Jordan ir McIntosh, 2011) sukurtu išgyvenusiųjų poreikių įvertinimo klausimynu (angl. *Survivor Needs Assessment Survey*).

Imties atranka ir dydis. Tyrimui atlikti buvo naudojama patogumo atranka. Siekiant, kad tyrimas būtų kuo reprezentatyvus su 5% paklaida, reikėjo apklausti 400 respondentų. Nustatant tyrimo imtį buvo remiamasi Kardelio (2016) skaičiuokle (žr. 3 lent.).

3 lentelė. Imties tūrio ir santykinės paklaidos santykis, kai visuma >292 677

Imties dydis	25	45	100	123	156	204	400	625	...
Paklaidos dydis, %	20	15	10	9	8	7	5	...	...

Šaltinis: Kardelis, 2016, p. 157.

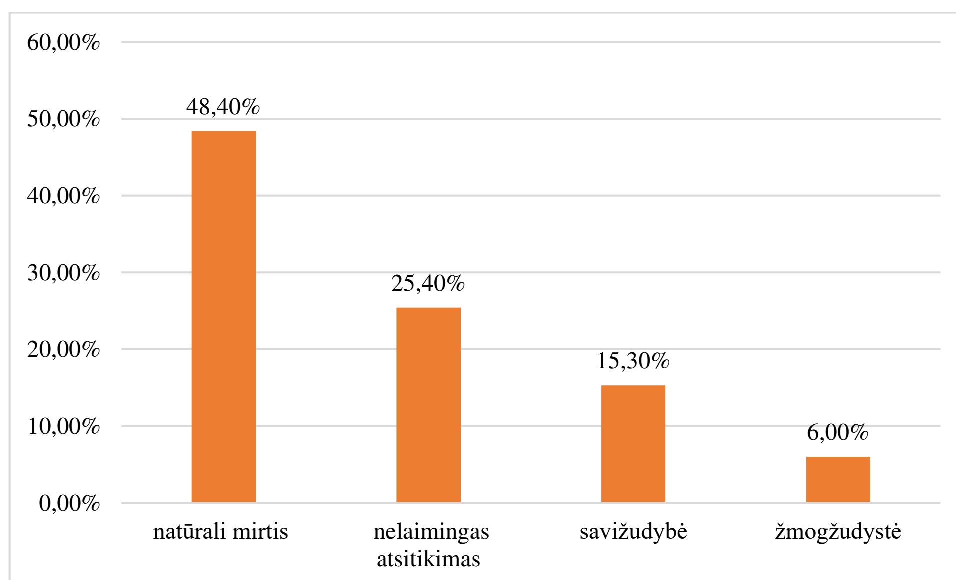
Kiekybinio tyrimo metu buvo apklausti 413 respondentų ir paklaidos dydis siekia 5 %.

Duomenų rinkimo laikas ir vieta. Apklausa buvo sudaryta internetiniame tinklalapyje „Apklausa.lt“, platinama socialiniais tinklais, asmeninėmis žinutėmis, el. paštu įstaigų darbuotojams. Anketa buvo platinama gruodžio 16 – kovo 10 dienomis.

REZULTATŲ ANALIZĖ

Kaip jau minėta, anketinę apklausą internete užpildė 413 respondentai. 51,8 % jų buvo moterys, o 2,9 % respondentų savo lyties nenurodė. 75,3% tiriamųjų tyrimo metu dirbo, o 18,2% buvo dirbę anksčiau. Apžvelgiant respondentų darbo stažą, 16,7% respondentų dirbo iki 1 m., 30,7 % jų dirbo 1–5 m., 30,3 % respondentų dirbo 6–10 m., o 22,3 % respondentų dirbo daugiau nei 10 m. Tai rodo, kad didžioji dalis respondentų įvykus savižudybei organizacijoje dirbo iki 10 m. Daugiausiai respondentų (33 %) dirbo viešajame sektoriuje, 28 % dirbo versle, 25 % - gamyboje. Likę respondentai dirbo kituose sektoriuose. Tai rodo, kad savižudybė gali įvykti bet kokiame sektoriuje ir visos organizacijos turėtų žinoti, kaip reiktų elgtis po darbuotojo savižudybės.

Paklausus respondentų, ar yra tekę susidurti su bendradarbio netektimi, 69,5 % (287) respondentų teigė, kad yra nors kartą netekę bendradarbio ir galėjo gedėti kolegos. Mokslinės literatūros analizės metu buvo identifikuota, kad gedėjimo trukmė bei stiprumas priklauso ne tik nuo ryšio su mirusiuoju, bet ir nuo mirties priežasties ir netikėtumo. Todėl toliau buvo identifikuojama, su kokiais netekčių tipais yra susiduriama dažniausiai (žr. 2 pav.).



2 pav. Respondentų bendradarbių netekčių tipai (n=287)

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
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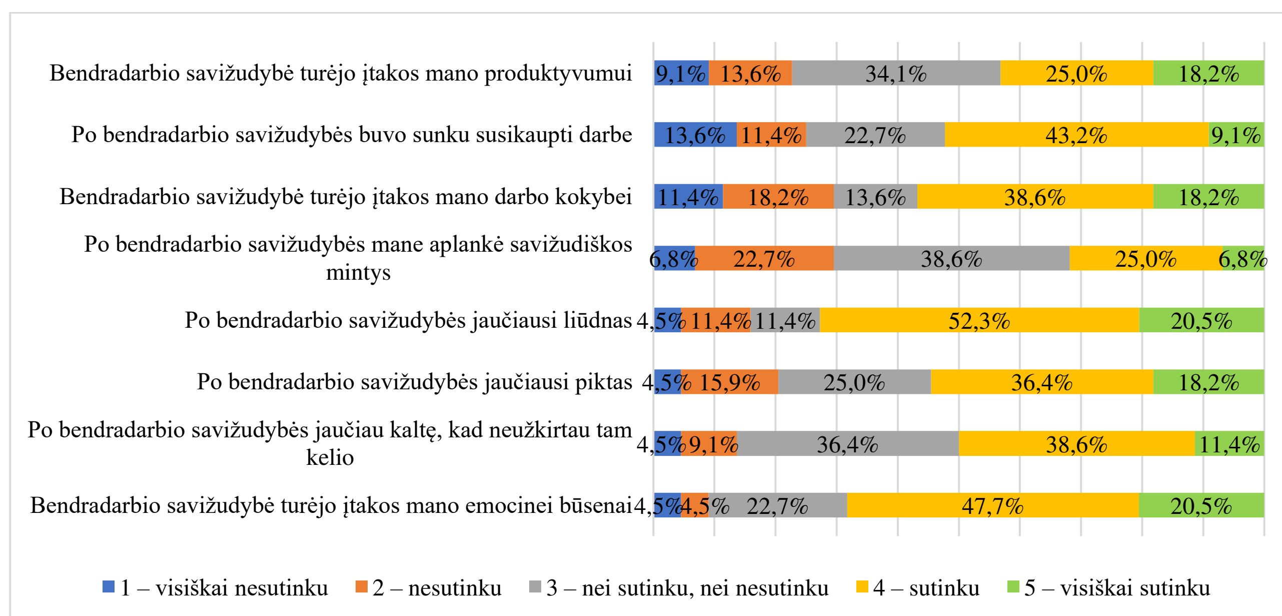
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

Rezultatai atskleidė, kad net 25,4 % atvejų buvo nelaimingi atsitikimai, 15,3 % savižudybės ir 6,0% - žmogžudystės. Visos jos yra nenatūralios ir netikėtos mirtys. Gauti rezultatai patvirtina Higienos instituto (2018) statistiką, kad dažniausios mirties priežastys Lietuvoje yra natūralios mirtys (lėtinės bei ūmios ligos) ir tyčiniai susižalojimai (savižudybės).

Remiantis teorine analize, netikėta mirtis stipriau paveikia aplinkinius, jų emocinę būklę bei darbo kokybę, todėl kitu klausimu buvo vertinamas savižudybės poveikis respondentams (žr. 3 pav.).

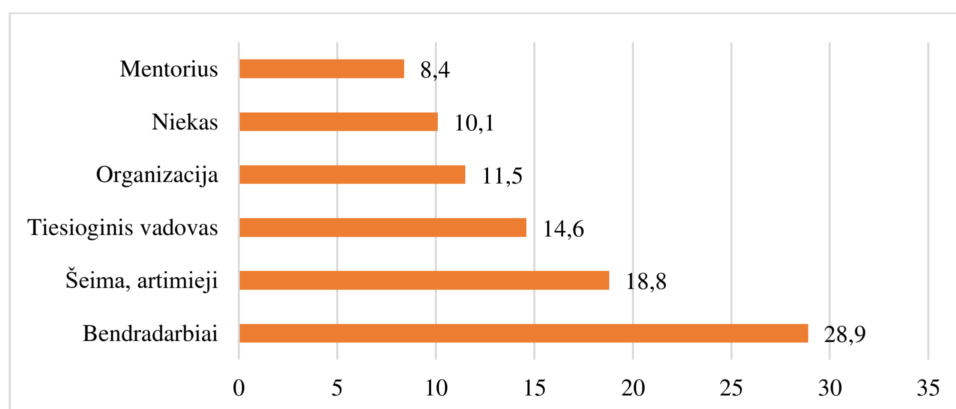


3 pav. Sunkumų, su kuriais susiduriama po bendradarbio savižudybės, respondentų vertinimas (n=44)

Remiantis 3 paveikslu, galima išskirti teiginius, su kuriais sutiko arba visiškai sutiko respondentai. Šie teiginiai rodo, kaip po bendradarbio netekties dažniausiai jaučiasi respondentai. Didžioji dalis respondentų sutiko (52,3 %) arba visiškai sutiko (20,5 %) su teiginiu, kad po bendradarbio savižudybės jautėsi liūdnas. Kitas teiginys, su kuriuo sutiko (47,7 %) arba visiškai sutiko (20,5 %) didžioji dalis respondentų yra „bendradarbio savižudybė turėjo įtakos mano emocinei būklei“. Kitas teiginys, su kuriuo sutiko (36,4 %) arba visiškai sutiko (18,2 %) didžioji dalis respondentų yra „po bendradarbio savižudybės jaučiausi piktas“. Kitas, stipriai išreikštas teiginys yra „bendradarbio savižudybė turėjo įtakos mano darbo kokybei“ (sutiko – 38,6 %, visiškai sutiko – 18,2% respondentų). Tačiau galima pastebėti, kad šis teiginys sulaukė beveik daugiausiai kitų respondentų nepritarimo (visiškai nesutiko – 11,4 %, nesutiko – 18,2 %). Taip gali būti, jei respondentai turėjo skirtingus ryšius su mirusiais bendradarbiais (pvz. jei ryšys buvo artimas ir kolegos daug bendravo, bendradarbio netektis galėjo paveikti

darbo kokybę, tačiau jei kolegos nebuvo artimi – savižudybė galėjo neturėti įtakos darbo kokybei). Mažiausiai respondentai sutiko su teiginiu „po bendradarbio savižudybės mane aplankė savižudiškos mintys“ (visiškai nesutiko – 6,8 %, nesutiko – 22,7 %, sutiko – 25 %, visiškai sutiko – 5,8 %). Tai rodo, kad respondentams neatsirasdavo arba retai atsirasdavo savižudiškų minčių. Tyrimo rezultatai rodo, kad bendradarbio savižudybė dažniausiai sukelia darbuotojams liūdesį, pyktį daro įtaką darbo kokybei, susikaupimui. Tai atskleidžia palaikymo iš organizacijos pusės poreikį darbuotojams.

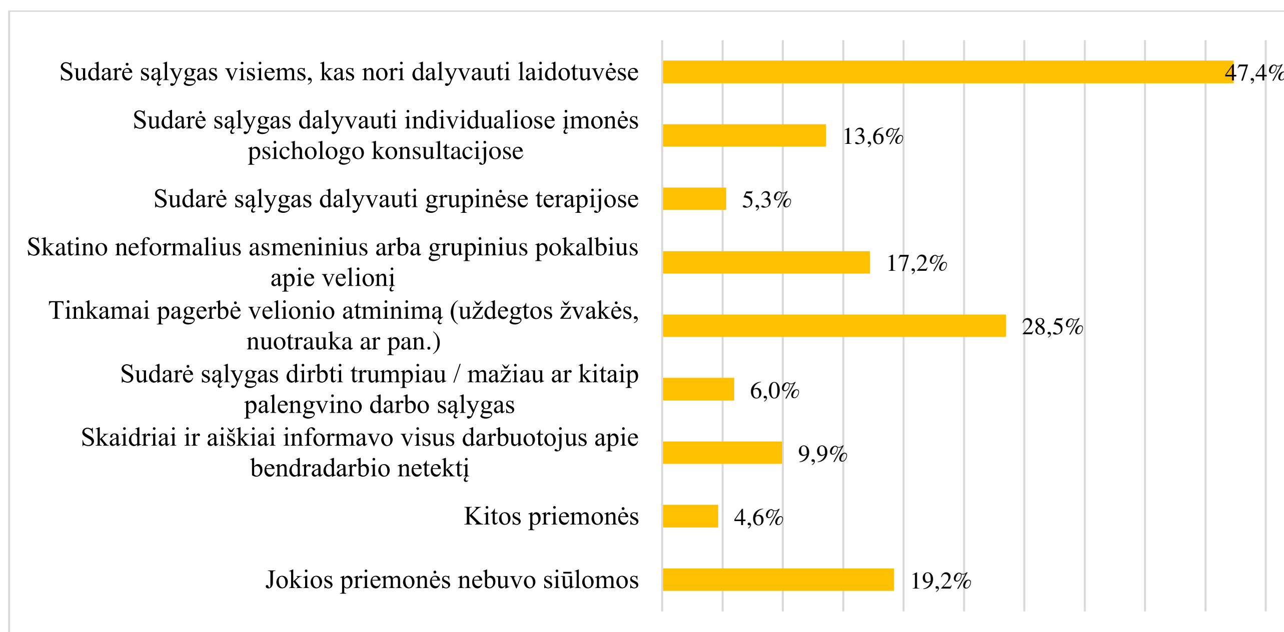
Rezultatai apie tai, kas suteikė palaikymą organizacijoje po bendradarbio savižudybės yra pateikiami 4 paveiksle. Iš jo galima matyti, kad respondentams dažniausiai palaikymą suteikė bendradarbiai (28,9%) ir šeima bei artimieji (18,8%). Tačiau net 10,1 % respondentų atsakė, kad niekas nesuteikė jokio palaikymo. Tai rodo, kad nemaža dalis respondentų nesulaukė jokios reikiamos palaikymo iš organizacijos ir buvo palikti vieni susidoroti su užklupusiomis emocijomis bei sunkumais arba parama buvo teikiama, bet netinkamai komunikuojama. Tiesioginio vadovo palaikymo atveju, respondentai jaučia ryšį su tiesioginiu vadovu.



4 pav. Palaikymo po bendradarbio savižudybės suteikėjai

Remiantis 5 paveikslu, galima išskirti dažniausiai suteiktą palaikymo priemonę – galimybę dalyvauti laidotuvėse (47,4%). Ši priemonė gali būti priskiriama tiek organizaciniam palaikymui (jei tas leidimas yra suteikiamas oficialiomis, patvirtintomis vidinėmis tvarkomis), tiek tiesioginio vadovo palaikymui (jei leidimas duodamas atsižvelgiant į žmogiškąjį faktorių, nors ši priemonė nėra oficialiai patvirtinta). Kita, dažnai pasirenkama priemonė - tinkamas velionio pagerbimas (28,5%). Deja, kitas didžiausio respondentų pritarimo susilaukęs atsakymas – „jokios priemonės nebuvo siūlomos“, kuriam pritarė net 19,2% apklaustųjų. Tai rodo, kad organizacijos palaikymas (organizacinis, tiesioginio vadovo, mentoriaus pagalba) apsiriboja tik leidimu dalyvauti laidotuvėse ir velionio pagerbimu. Mažiausiai minimos

priemonės – sudaryti sąlygas dalyvauti grupinėje terapijoje (5,3%), sudaryti sąlygas dirbti trumpiau, mažiau ar kitaip palengvinti darbą (6%).



5 pav. Organizacijos palaikymo priemonių dažnumas

IŠVADOS

Remiantis kiekybinio tyrimo rezultatais, galima daryti išvadą, kad organizacijos naudoja tik būtinąsias palaikymo priemones, tokias kaip leidimas dalyvauti laidotuvėse ar velionio pagerbimas, tačiau nesiima papildomų priemonių, kurios palengvintų darbuotojų gedėjimą. Tokia organizacijos elgsena prieštarauja literatūros analizėje aptartai Eisenberger ir kt. (2016) taktikai – daryti ne tik privalomus dalykus (imtis ne tik būtinųjų priemonių). Jei organizacija imasi tik privalomų veiksmų, darbuotojai gali nejausti organizacijos palaikymo, nes vykdomi veiksmai yra suvokiami kaip savaime suprantami ir tai nedidina suvokiamo organizacijos palaikymo.

Be to, pastebėtina, kad organizacinio palaikymo atveju, respondentas gali nesuprasti, kaip organizacija palaiko darbuotoją, nes organizacinės palaikymo atstovas – tiesioginis vadovas. Tai nulemia, kad organizacinis palaikymas gali būti painiojama su tiesioginio vadovo palaikymu. Siekiant tinkamai ištirti temą šiuo aspektu, reikia atlikti kokybinį interviu, kas ir buvo atlikta tęsiant šį tyrimą, bet nėra pristatyta šiame straipsnyje.

Tyrimo apribojimai. Tyrimui pasirinktas netikimybinės atrankos metodas – patogumo atranka, todėl sukontroliuoti nešališkumo principo neįmanoma. Be to, respondentų, susidūrusių

su bendradarbio savižudybe šio tyrimo metu, skaičius nėra pakankamas, kad rezultatai galėtų būti analizuojami visos populiacijos mastu. Atliekant tyrimus ateityje būtų vertinga taikyti tikimybinės atrankos metodus ir išplėsti respondentų imtį.

Rekomendacijos. Susidūrusios su darbuotojo savižudybe organizacijos turėtų:

1. Taikyti ne tik būtinąsias, bet ir papildomas palaikymo priemones;
2. Pasiruošti tvarkos aprašus, taisykles, apimančius:

- darbuotojų informavimo apie netektį šablonai;
- krūvių perskirstymo taisyklės (pavadavimo planai);
- psichologo pagalbos užtikrinimo taisyklės (aprašoma, kada, kaip ir kokios psichologo konsultacijos yra pradedamos).

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ORGANIZATIONAL SUPPORT AFTER CO-WORKER'S SUICIDE

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Summary

Relevance. Suicide is one of the most common causes of death among working age people. When a co-worker commits a suicide, mental wellbeing, emotional state and work productivity of employees declines. Moreover, an organization faces both moral damages and material losses. Therefore, after a suicide of the co-worker it is very important for the organization to ensure appropriate support mechanisms for employees during this difficult period. However, the majority of research is targeted to support for relatives of a person who committed suicide rather than organizational support for employees coping with the death of a co-worker. Moreover, there is no enough information how the organization should act, communicate and what kind of support provide to the rest of the employees in such kind of a case. Consequently, measures that are applied after death of an employee and supporters are analysed in this work.

Research object – organizational support measures after a suicide of a co-worker.

Research goal is to disclose organizational support measured after a suicide of a co-worker.

Research methodology. In order to achieve research goal quantitative data was collected. A quantitative research with questionnaire online was used. The questionnaire was filled-in by 413 respondents.

The main results. Results revealed that every sixth respondent had encountered with a co-workers suicide and it had an influence on their emotional well-being and work quality. Survey indicated that organizations use only the essential measures such as participation in funerals or honouring the person after death the most in Lithuania. However, additional measures, which would help to alleviate grieving are not applied. Based on analysis of scientific literature, it was identified types of supporters in organization: an organizational support, support of the supervisor, co-workers and mentor. The results showed that 29 percent of respondents received support from co-workers, 19 percent from their families and more than 14 percent from their supervisor. However, ten percent of respondents got none support from anybody.

Keywords: Suicide of co-worker; organizational support; prevention; postvention.

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

THE ASPECTS OF LINGUISTIC COMPETENCE AMONG POLICE OFFICERS IN LITHUANIA AND SLOVAKIA

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DOI: 10.13165/PSPO-20-24-27

Annnotation. A linguistic competence is considered to be a measure of functional knowledge of the language. The authors have an opinion that any kind of communicative activity should be treated as a part of a wider approach towards linguistic competence. It means that linguistic competence is determined by the quality of regular language as well as by the speaker's internal culture. The concept of competence is described as a combination of the following elements: knowledge, skills, values and personal qualities. The purpose of this study is to reveal the characteristics of linguistic competence of the police officers, and their linguistic competence experience. The objectives of this article were to analyse the role of language in the human communication process, linguistic competence and its expression in police work, as well as to compare linguistic competences of the Lithuanian and Slovak police officers. The role of language in communication process has been reviewed by analysing the concept of communication, the main component of communicative competence – language (linguistic) competence. The analysis part of the article involves presentation of the methodology and results of the survey on the Lithuanian and Slovak police officers' approach towards the linguistic competence. Based on the analysis of the survey, confidence and positive evaluation of the police officers' language knowledge have been defined. Police officers were found to be interested in a regular and ethical language and its use. Police officers recognized that familiar, impolite and irregular communication affects the public image of the police. The results showed that respondents possessed a positive approach towards their existing linguistic competence. Furthermore, the survey revealed that police officers appreciate knowledge and skills of communication in foreign languages.

Keywords: language, communication, police, police officer, competence.

INTRODUCTION

For police officers, the communication represents one of the key components of their profession the use of which facilitates dispute resolution, enables helping the victims to overcome the stress, involves addressing family conflicts, passing remarks, interviewing the offenders, etc. Officers lacking appropriate communication skills are seen as being hostile,

which in turn forms a negative public attitude towards the police as such and its prestige and willingness to help.[1] In their publication *Public Speaking* the American researchers M. Osborn and S. Osborn state that grammar and other linguistic mistakes are usually treated as a lack of competency by the audience.[2] Respondents have indicated lousy and poor communication and impoliteness to be one of the reasons behind the distrust in police. Consequently, taking into account the psychological aspects of communication and the standards of commonly used everyday language, the police officers as representatives of the State are obliged to continuously develop their skills of communication and linguistic competence in order to prevent confrontation with the citizens involved and successfully perform their official duties. The subjects covered by the communication of police officers in Lithuania have not been comprehensively assessed yet. The model of competencies of the civil servants and methodology for its application define the set of general, managerial, leadership, specific and professional competencies; however, there is a lack of scientific literature on communication skills of the officers. Some of the communication skills of police officers were addressed by G. L. Pritchett (1993), M. J. Woods (2012), V. Justickis, G. Navikas (1995), J. Ruževičius, R. Kasperavičius (2008), V. Smalskys (2008), R. Dobržinskienė (2014), G. Paurienė (2011a, 2011b), R. Žemgulienė, G. Rimkus (2012).

The subject of the study – spoken and written linguistic competence of police officers.

The objective of the study – to reveal the patterns of the communicative competence of police officers and their experience of linguistic competence.

The following **tasks** were set for the purpose of achieving the above stated study objective:

1. To review roles of the communication and the competence.
2. To analyse linguistic competence of police officers – their ability to communicate with citizens and their attitude towards the irregular and non-ethical use of language.
3. To compare the attitudes of Lithuanian and Slovak police officers towards the linguistic competence.

The methodology used. For the purpose of analysis of the material available and presentation of the results obtained, a questionnaire survey was undertaken which was used to find out the attitude of police officers towards language use, and for the identification of their

[1] Lietuvos policijos generalinio komisaro 2011 m. sausio 18 d. įsakymas Nr. 5-V-532 „Dėl kvalifikacijos tobulinimo programos „Bendravimas su asmenimis“ patvirtinimo“. Retreived from *http://www.policija.lt/*.
[2] Osborn, M. & Osborn, S. (1988). *Public speaking*. Boston a.o.: Houghton Mifflin.

experience of linguistic competence; the method of systematic analysis allowed making a synthesis of attitudes found while linking individual components of the internal links of the topic; the comparative method enabled contrasting and assessment of the statistical data gathered in Lithuania and Slovakia about the linguistic competencies of the police officers.

THE LINGUISTIC COMPETENCE IN THE CONTEXT OF OTHER COMPETENCES

Communication represents an import part of the sociability within the society: not so much as the means of transmission and receipt of the information but more as a factor determining the success in many occupational activities.[3] The adequate level of language and communication culture has a direct influence on any further occupational development and progress made by a police officer and the entire attitude shaped by the society towards the institution of the police as such. It is generally assumed that people get involved in communication with the aim to satisfy their needs. Despite that communication takes only the third place in the Hierarchy of Needs by an American psychologist A. Maslow after the physiological and safety needs, it is obvious that it occupies a highly important position in the value system of any human being. After all, communication is also an absolute must as it serves to pass accumulated knowledge, experience, traditions, etc. from one generation to another. According to V. Humboldt, language determines pro-active actions and continuous generation of human intellectual and mental powers.[4] Absence of language would make us unable to shape and express our thoughts, feelings and wills, it would make us lose an ability to share and exchange relevant information, and it would make it much more difficult for us to understand each other.[5]

L. M. Spencer and S. M. Spencer state that **competence** is comprised of a person's individual features, motives, attitudes, self-cognition and self-esteem, as well as characteristics pertinent to the individual that can be measured and compared to skills and features of some other individuals.[6] Similarly, F. E. Weinert claims that development of human competences is

[3] Almonaitienė, J. et al. (2007). *Bendravimo psichologija*, Kaunas: Technologija.
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influenced by the "abilities, knowledge, understanding, skills, activities, experiences, and motivation".[7] However, J. Winerton and E. Stringfellow suggest these resources to have no decisive influence over the competence level. Authors are also of the opinion that if people need intellectual abilities to expand their knowledge, and application of this knowledge leads to development of skills, consequently *abilities*, and *knowledge*, and *skills* are necessary preconditions for the development of the competence.[8] While addressing the relation of competence and qualification P. Jucevičienė and D. Lepaitė report that competence should be understood as the ability of the individual to act in some particular environment in relation to his/her available knowledge, cognitions, skills, approaches, value attitudes and personal qualities of the individual.[9] This is the concept of the competence on which this study is based. The developed model of competences of civil servants and the methodology of the application thereof suggests grouping civil servants' competences into the following three groups: *general competences* (mandatory for every civil servant), *managerial and leadership competences* (mandatory for Heads and of institutions and their departments as well as their deputies), *specific and professional competences* (necessary for the accomplishment of functions of occupational activities). The group of general competences that are mandatory for everyone is focused on the *communicative competence*. The above-mentioned methodology describes this competence as follows: "*ability to engage into communication with the individual as well as within a group while choosing various means of communication and ensuring transfer and understanding of the information*".[10] Researchers (Bielinienė, 2000; Chreptavičienė, 2004) suggest that communicative competence is acquired only in presence of the comprehension of language rules, use of words, correct pronunciation, etc., i.e., in a possession of a particular linguistic competence. The linguistic competence is considered as the main and one of the most important structural components comprising the communicative competence (Hymes, 1972; Paulston, 1992; Nauckunaite, 2000; Chreptavičienė, 2004).

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[10] VTB (2015) – *Valstybės tarnyboje būtinų kompetencijų analizė ir valstybės tarnautojų pareigybių aprašymų katalogas*. Retreived from http://vtd.lrv.lt/

The concept of the linguistic competence was introduced by Noam Chomsky. According to B. Barman, the most prominent linguist of 19s N. Chomsky saw the competence as the cognition of language – comprehension of structural characteristics of all the sentences of the speech, moreover he was convinced that knowing a language is an innate ability.[11] As J. Podgorecki puts it, in 1970, the communicative competence by Cambello and Wales was added to the sociolinguistic terminology as having a wider sense than a linguistic competence. "The linguistic competence defines an ability to use abstract language rules [...], compose sentences of the accepted and allowable structures in any language whereas the communicative competence represents an ability to communicate be means of a language"[12]. Consequently, in this study it is highlighted that linguistic competence forms a substantial part of the content of communicative competence and means "keeping in memory and possession the linguistic "inventories" (such as words, their forms, phrases, graphical and phonic items) as well as ability to use them (match, inflect, combine, paraphrase) according to the language patterns".

In his analysis of challenges faced in selection of police staff V. Smalskys reports that modern concept of police operation must be directed towards social service of population. According to the author, considering the qualification and competence challenges faced by police staff, the exclusive role in the police education and training system must be given to the social competence. Based on this idea the author continues to claim that the social competence is necessary for every police officer irrespective of his/her rank as it covers the ability "to keep in contact with citizens and resolve the conflicts"[13]. It's worth noting that other researchers involved in analysis of various options for police operation quality improvement, also address the role of the communication discipline.[14] It is assumed that besides the classic subjects taught to police staff, fields of "communication", "negotiation" with citizens, ethics and protocol must be addressed, too.[15] In this respect the communication psychology and professional ethics has profound implications. The psychological (mental) preparation level is claimed to significantly influence the effectiveness of activities performed, as this is the subject that teaches how to

[11] Barman B. (2012). The linguistic philosophy of Noam Chomsky, *Philosophy and Progress* 1–2 (p. 104–119).
[12] Podgorecki, J. (2005). Socialinė komunikacija mokytojams, Vilnius: Vilniaus pedagoginis universitetas.
[13] Smalskys, V. (2008). Policijos personalo rengimo šiuolaikinės kryptys, *Viešoji politika ir administravimas* 23, 88–97.
[14] Ruževičius, J., Kasperavičius, R. (2008). Lietuvos policijos veiklos kokybės tobulinimo galimybės, *Verslo ir teisės aktualijos* 2.
[15] Ruževičius, J. & Kasperavičius, R. (2008). Lietuvos policijos veiklos kokybės tobulinimo galimybės, *Verslo ir teisės aktualijos* 2 (pp. 119–136).

make an initial contact with some other person. Personal qualities and ethical values of a police officer shall mismatch his/her words and practices if he/she is poor at professional ethics. **Professional ethics** represents an individual field of ethics intended for the representatives of some specific profession that establishes requirements and standards of their conduct.[16] While studying the art of eloquence R. Koženiauskienė noted that success in any communication process is determined by the established ethical and moral attitudes of the individual (2005). The European Code of Police Ethics claims that any police officer must be capable of exhibiting his/her communication skills.[17] Meanwhile, the Lithuanian Code of Police Ethics claims that police officers, when performing their occupational duties, must communicate with other persons in a polite and business-like manner (subsection 4.13), continuously improve their language and communication culture (subsection 4.25), and follow the accepted principles of morality (subsection 4.28).[18] These legal rules imply that despite difficulty of any situation, police officers are obliged to control their emotions and remain professional and constructive. It means that they have to communicate in a friendly manner but at the same time to keep a distance that requires for respectful treatment. According to R. Tidikis, in direct relations with citizens – if necessary – a police officer must be strict but he must always remain tactical, polite and fair-minded, [...] always respecting the required etiquette and courtesy rules.[19] Accordingly, not only knowing the self-defence principles and possession of an excellent physical fitness makes a police officer to be professional; ability to communicate in a highly-cultured manner and use intonation, pauses, gestures, mimics to appeal and influence the collocutor is of the equally huge importance, too. In conflict situations, communication and diplomatic skills often happen to be much more effective in avoiding physical confrontations. Consequently, communication skills of any person are dependent on his/her occupied position and particular situation.[20]

The communication competence is characteristic not only for making analysis of the communication in native language but also when addressing use of a foreign language. Processes of globalization continuously affect the society and influence clash of different

[16] Palidauskaitė, J. (2007). *Viešojo administravimo etika*. Kaunas: Technologija.
[17] „The Europe Code of Police Ethics“. Council of Europe: Committee of Ministers, Recommendation Rec (2001).
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[19] Tidikis, R. (1994) *Policininko etikos bruožai*, Vilnius: Lietuvos policijos akademija.
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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

cultures. When analysing cross-cultural competence of police officers P. Paurienė notes that it is highly important for the representatives of this particular profession to be able to engage in communication with people from other cultures as it facilitates conflict resolution and problem solving.[21] Police encounters with foreigners while performing their occupational activities can occur in a form of provision of assistance to foreigners or resolution of conflict situations. Although it is considered that law enforcement officials must be capable of adapting to ever-changing situations and make decisions in a creative manner, their discretion is often limited by legal regulations, implying that successful engagement in communication and elimination of potential difficulties also requires for particular set of personal qualities, i.e., "ability to understand, see and accept the differences, self-reflection of behaviours and mindset; an appropriate disposition for cross-cultural contacts, tolerance to other cultures, etc."[22] Besides the established personal attitudes the need to know foreign language becomes obvious. As a consequence, learning and knowing foreign languages becomes an integral part of the professional training. These skills help to improve the qualifications of police staff as well as to develop communication competence of foreign languages. Professional communication in both native and foreign languages is *conditio sine qua non***,** as it contributes to the effective communication which stands as a basis for the appropriate society serving and satisfying its needs on both national and international levels.

STUDY OF THE LINGUISTIC COMPETENCE OF POLICE OFFICERS

Methodology and organization of the study. Theoretical analysis of the police officers' linguistic competence and reasoning behind the problem issue leads to the conclusion that the topic of the police officers' linguistic competence lacks thorough investigation both in Lithuania and abroad. Consequently, an empirical study was undertaken with the aim to find out the opinion of police officers regarding linguistic skills and the experience with their possessed linguistic competence.

The subject of the study – the communication competence of police officers.

The objective of the study – to reveal the patterns of the communication competence of police officers and the experience with their possessed linguistic competence. Taking into

[21] Paurienė, G. (2011). Tarpkultūrinė kompetencija ir jos ugdymas pareigūnų rengime, *Visuomenės saugumas ir viešoji tvarka: mokslinių straipsnių rinkinys* 5.
[22] Paurienė, G. (2011). Tarpkultūrinė kompetencija ir jos ugdymas pareigūnų rengime, *Visuomenės saugumas ir viešoji tvarka: mokslinių straipsnių rinkinys* 5.

consideration the above-mentioned objective of the study, it was aimed to determine the meaning that incorrect and non-ethical use of language has for the police officers, to identify their attitudes towards the familiarity communication and to review skills and experience of police officers of communication in a foreign language.

The scope of the study. Questionnaire survey involved randomly selected police officers from Lithuania and Slovakia. In total 391 respondent took part in the questionnaire survey: 261 questionnaire was filled-in in Lithuania, and 130 questionnaires – in Slovakia.

The method of the quantitative analysis was selected to convert final study findings into numbers.[23] Interview is the best suited method for disclosure of the prevalent opinions as its accomplishment does not require for high expenses, high number of respondents can be interviewed in a rather short period of time, and obtained findings can be easily compared to any other data. Both questionnaires (in Lithuanian and Slovak languages) were identical as regards their structure and questions.

Analysis of study findings and results

Demographic profile of respondents. Study showed that 35 3 % of respondents were women (N=138), and 64.7 % were men (N=253) (Fig. 1).

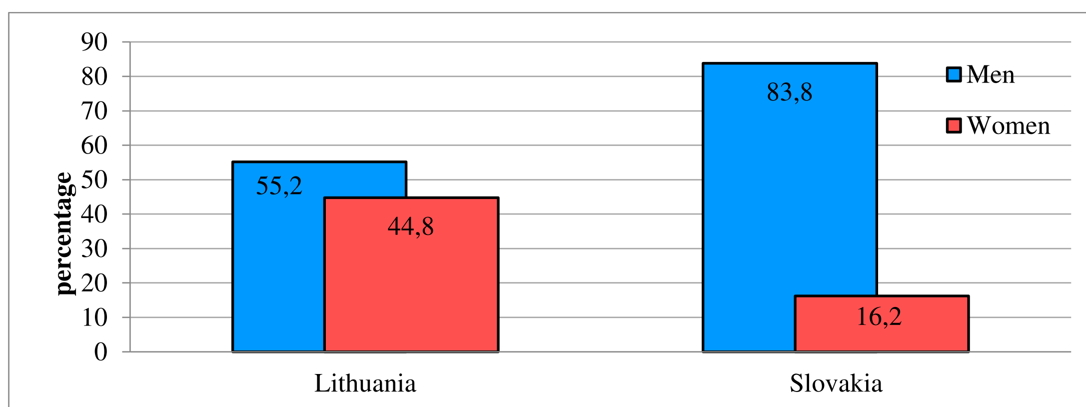

Figure 1. Distribution of respondents by gender.

Data systematization resulted in the following 5 age groups of participants (Fig. 2).

[23] Tidikis, R. (1994) *Policininko etikos bruožai*, Vilnius: Lietuvos policijos akademija.

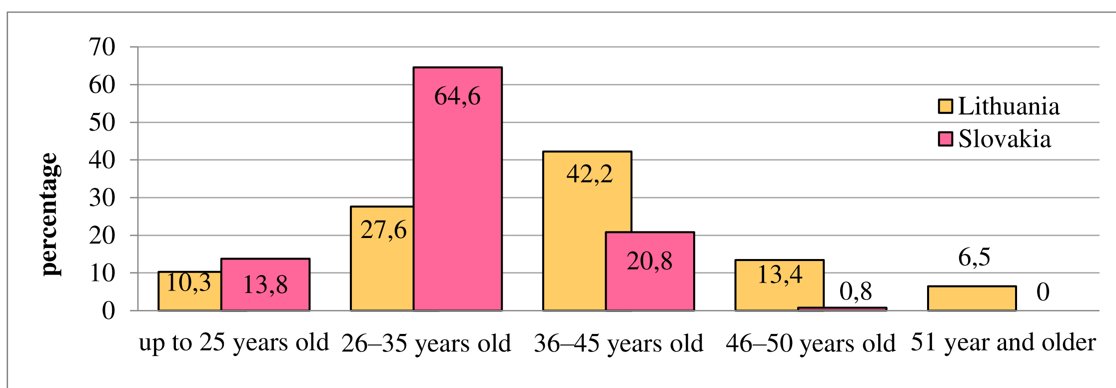

Figure 2. Distribution of respondents by their age

As the data in above-figure shows, in both countries, police employ officers of different age however numbers of very young and elderly persons are rather low. In both countries under consideration majority of police employees are from 2 age groups, namely 26–35 years old and 36–45 years old. It's worth noting that in Slovakia the number of 26–35 years old respondents was significantly higher, and there was only 1 respondent representing both groups of the middle-aged (46–50 years old) and elderly (51 year and older). The age of the youngest respondent – 22 years – was the same in both Lithuania and Slovakia; whereas the age of the oldest respondent involved in the questionnaire was 56 years in Lithuania, and 43 years in Slovakia.

Majority of respondents from Lithuania were 21–25 years old or they had less than 5 years of service in the police. Meanwhile in Slovakia more than a half of all the respondents involved had 6–10 years of service in the police. Such interview findings imply that persons employed in the police have a rather significant work experience what in turn justifies assessment of their competence level at work with respect to the issue under consideration (Fig. 3).

The assessment of the linguistic competence among police officers

Police officers were asked if the right use of their native language – both written spoken – was important to them (Fig. 4 and 5). Comparison of results revealed that there was a very small portion of respondents who selected answers "I have no personal opinion" and "No", which in turn allows to assume that right use of the native language – both written and spoken –is important for the majority of respondents. The difference was minor however it's worth noting that respondents from Slovakia placed a higher value on the right use of their *spoken* native language, whereas those from Lithuania – on its use *in writing*.

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

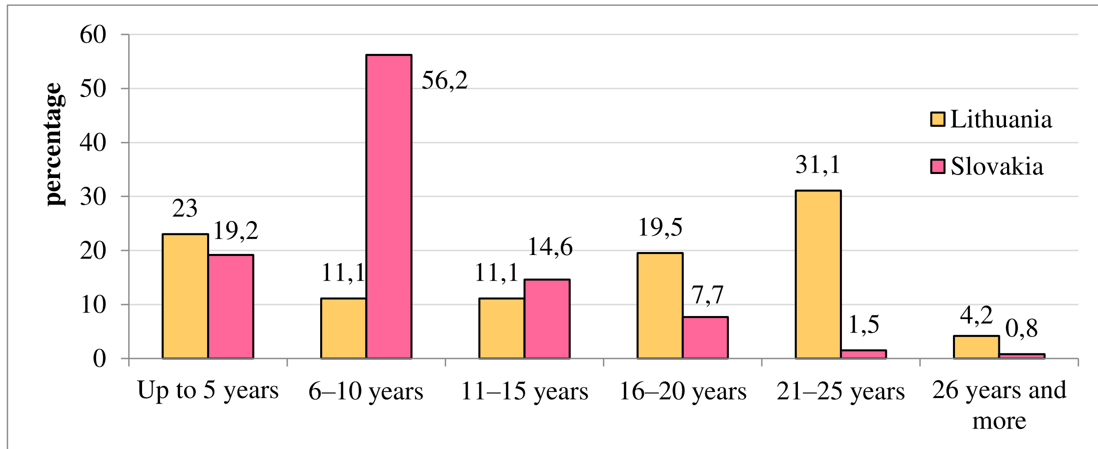

Figure 3. Distribution of respondents by their service in the police.

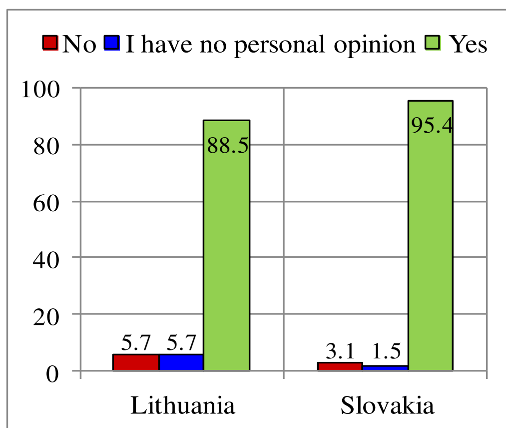

Figure 4. Respondents opinion on the correct spoken language use

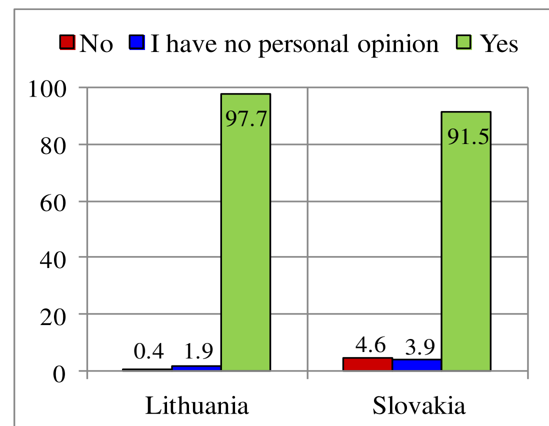

Figure 5. Respondents opinion on the correct language use in writing

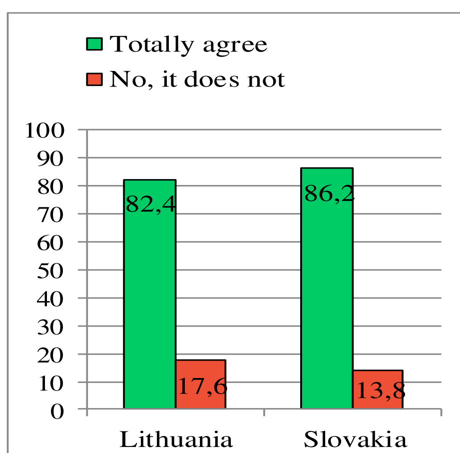

Figure 6. Impolite and unethical communication by individual police officers decreases trust in police

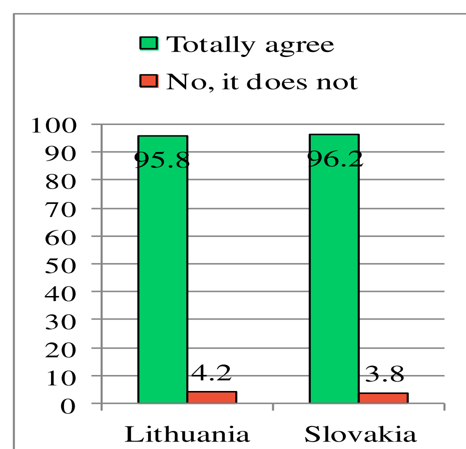

Figure 7. Incorrect use of native language by individual police officers forms a negative attitude towards the police

In that regard, the study was aimed at finding out what officers personally thought about the role of the language as regards the police image shaping. Figures 6 and 7 illustrate the opinion of respondents regarding the effect of the impolite, unethical and incorrect communication by individual officers on the police image.

Results presented above show that police officers from both countries under consideration have the same opinion regarding the effect of impolite and unethical communication on trust in police (Fig. 6). 95,8 % of respondents in Lithuania, and 96.2 % of respondents in Slovakia totally agreed that impolite and unethical communication by each individual police officer contributes to decreasing the trust in police as a public authority. It is commonly assumed that in order for the police officers to be capable of fighting against law violators in a cultured and decent way, they must develop a sound immunity to the evil and a high communication culture as they face mean, dishonest and cruel persons in their everyday activities.

Rather different findings were revealed as concerns shaping of police image in a consequence of incorrect use of native language by individual police officers (Fig. 7). Interestingly, as many as 96 % of all the respondents involved in the study were of the opinion that impolite and unethical communication has a negative effect on population's trust in police, meanwhile only 12.4 % of respondents were not so sure that incorrect language use may invoke a negative attitude of a society towards the police. The distribution of answers regarding the incorrect use of native language was similar in both Lithuania and Slovakia (difference – 3.8 %). A total of 17.6 % respondents from Lithuania, and 13.8 % respondents from Slovakia were of the opinion that mistakes of everyday – both spoken and written – language have no effect whatsoever on the formation of the unfavourable public attitude towards the police and their operations.

In context of police officers' communication in the Lithuanian language a matter of huge importance is addressing people by using the second-person singular or second-person plural forms. The first one indicates communication in more or less familiar way whereas the second one represents a formal and polite way to address someone in communication. Sometimes it can be difficult to draw the dividing line between free, unrestrained communication and self-contained communication which is based on the established rules. This is particular the case when police officers are engaged in conflict situations involving aggressive, dangerous and saucy persons. Accordingly, the study was further aimed at finding out how often police officers tend to communicate with the violators in a familiar way, and if they always address them using

more formal plural term "You" (lith. *jūs*). In summary of the findings, 73.7 % of total number of respondents involved in the study reported that they *always* address violators using the formal plural term "You" (lith. *jūs*) instead of the familiar singular "You" (lith.: *tu*)[24], whereas 24.8 % of respondents indicated they used this formal term sometimes. Study revealed that 82.6 % of all the respondents involved in the study never opt for communication in a familiar manner with lawbreakers, 5.6 % do it sometimes, and 11.8 % – always. Out of the respondents who reported to always communicate with lawbreakers in a familiar way, 44 were from Lithuania, and 2 from Slovakia.

Correct pronunciation as well as knowing rules of lexis and syntax shall not help police officers to earn a favourable attitude of the population if they do not practice what they preach, i.e. if their personal qualities and ethical values mismatch their spoken words and practices.

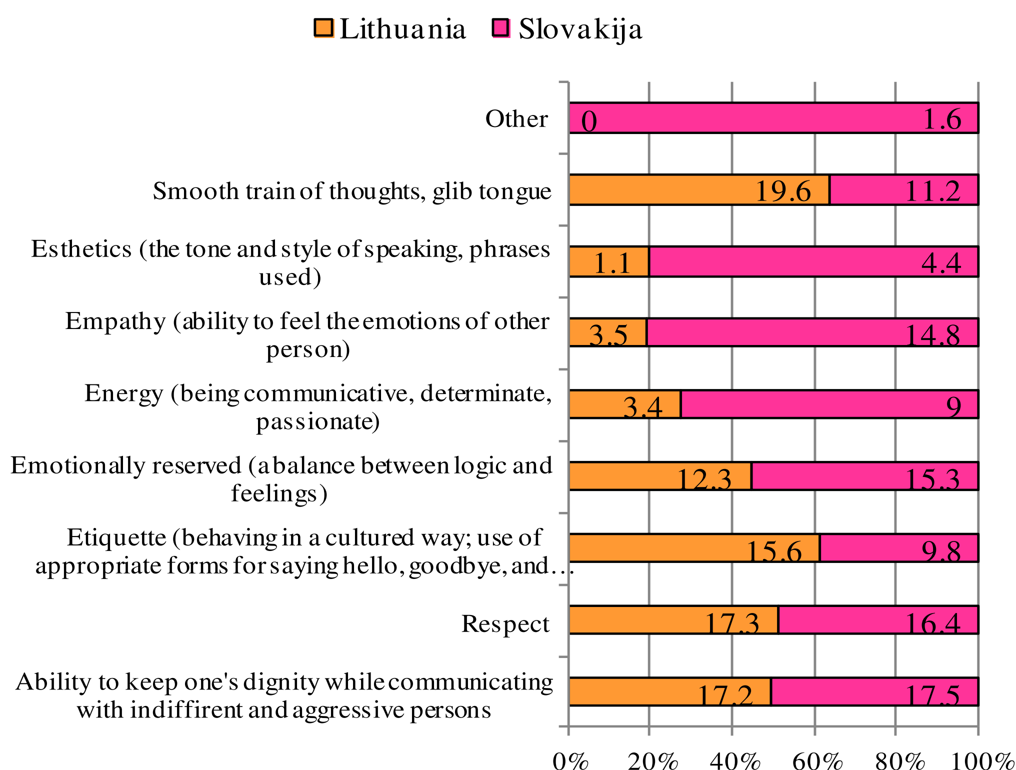

Figure 8. Distribution of respondents by personal qualities of a police officer necessary for successful communication with other persons.

[24] It is specific for the Lithuanian language that the pronoun "tu" (Eng. *You* sg.) indicates a familiar way of addressing someone or form of communication whereas "jūs" (Eng. *You* pl.) represents a polite and formal communication and addressing.

For this reason, respondents were asked to mark three personal qualities that they considered to be the most important for a police officer in determining a successful communication process (Fig. 8).

In Lithuania, respondents have distinguished the following personal qualities of a police officer as being the most important ones: *smooth train of thoughts, glib tongue* (19.6 %), *respect* (17.3 %), *ability to keep one's dignity while communicating with indifferent and aggressive persons* (17.2 %). Meanwhile in Slovakia, police officer's *ability to keep one's dignity while communicating with indifferent and aggressive persons* has been raised into the first place (17.5 %), and was followed by the same answer that got many answer in Lithuania, too – *respect* (16.4 %), while leaving being *emotionally reserved* in the third place (15.3 %). Comparison of answers showed that following the rules of etiquette was by far more important for the respondents from Lithuania (15.6 %) than for those from Slovakia (9.8 %).
However, respondents interviewed in Slovakia found personal qualities such as empathy (14.8 %) and energy (9 %) much more significant that in Lithuania (empathy – 3.5 %; energy – 3.4 %). Respondents were also given an opportunity to write down their own version of the answer. As a consequence, 1.6 % of respondents mentioned *intelligence*, *cleverness, skills about the personality of the criminal, their identification, expertise, knowledge of legislation* and *ability to explain them to the citizens*.

Although native language helps police officers in everyday communications, sometimes in exceptional situations some foreign language might be used as well. The study also enabled to find out the frequency of foreign language use among respondents while on duty in Lithuania and Slovakia (Fig. 9).

Frequency of foreign language use	**Lithuania**	**Slovakia**
Every day	4.2 %	6.2 %
Once a week	8.4 %	9.2 %
More than once a week	4.2 %	11.5 %
Once a month	13.8 %	14.6 %
2 – 3 times per month	11.9 %	13.9 %
Once a year	13.8 %	8.5 %
Several times a year	36 %	24.6 %
Never happened before	7.7 %	11.5 %

Figure 9. Distribution of respondents by the frequency of foreign language use while on duty

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
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PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
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Analysis of respondents in relation to the question how often police officers tend to use foreign language during their service hours revealed that police officers from Slovakia tend to communicate more often with foreigners than those from Lithuania. This is seen from the following sum total of percentages accounted for by the answers *every day*, *once or more than once a week*, and *several times a month*: 28.7 % in Lithuania, and 40.8 % in Slovakia. Although the difference can be seen as rather minor (12.1 %), it's worth mentioning that even several contacts per month with foreign citizens requires having competences of communication in foreign language.

Taking into account the fact that 9 % of all the respondents involved in the study have never had to communicate in foreign language during their service in the police, the study was further aimed at finding out the foreign languages that respondents can speak, understand and write. Comparison of answers to the question "*In what foreign languages are you able to easily hold a conversation?*" showed the dominance of ***Russian*** and ***English*** among respondents from Lithuania, and ***English, German*** and ***Czech*** among respondents from Slovakia. Far more respondents in Slovakia know German (4.9 % in Lithuania versus 17.7 % in Slovakia), however Russian was observed to be more commonly known and understood in Lithuania (49.3 % in Lithuania versus 9.1 % in Slovakia). Knowledge and understanding of English language was observed to be on the similar level in both countries under consideration: 29.7 % of respondents in Lithuania compared to 35.6 % in Slovakia.

A small portion of respondents from Lithuania indicated that they also knew some other foreign languages: German (4.9 %), Polish (4.6 %), and French (2 %). In Slovakia, a greater diversity of known foreign languages was observed. If besides the above-mentioned foreign languages respondents from Lithuania are also able to understand in Spanish (0.7 %), Ukrainian (0.5 %), Serbian (0.3 %), Latvian (0.3 %) and Belorussian (0.5 %), respondents from Slovakia, besides the above named languages (except for Latvian and Belorussian), also indicated Czech (15.1 %), Hungarian (3.9 %), Croatian (2.2 %), Italian (0.9 %), Romanian (0.4 %) and Bulgarian (0.4 %) languages.

Knowing two and more foreign languages was reported by 27.7 % of all the respondents involved in the study. In Lithuania, they accounted for 20.8 %, and in Slovakia – 24.6 % of respondents. The percentage of those knowing and understanding none of foreign languages amounted for 6.7 % of all the respondents involved in the study, out of them 18 respondents (6.9 %) were from Lithuania, and 8 respondents (6.2 %) from Slovakia.

Answers to the question about the ability to write in foreign languages revealed that respondents from Lithuania write best at writing in Russian (57.9 %), and respondents from Slovakia – in English (46.2 %). A rather small portion of respondents reported ability to write in other foreign languages such as German (in Lithuania – 5.4 %, in Slovakia – 22.7 %), Polish (in Lithuania – 3.1 %, in Slovakia – 2.5 %), French (in Lithuania – 1.5 %, in Slovakia – 0.8 %).

Consequently, it can be concluded that police officers from both countries, Lithuania and Slovakia, considered correct and ethical use of native language to be important, and they also noted that it affected formation of public attitude towards police. Moreover, majority of police officers involved in the study indicated their willingness to improve their linguistic competence, especially as concerns skills in communication psychology, correct writing and creating a smooth train of thoughts, and improvement of communication skills in foreign languages.

CONCLUSION

The individual's need for communication is determined by his/her social nature. Language is considered to be the major tool for the communication process which functions in spoken and written forms. The language (linguistic) competence represents the main building block of the communication competence. As the organization involved in social service delivery to the society, police are oriented towards continuous engagement in communication with the population, and for this reason its interaction with the environment starts with the verbal communication. As regards activities performed by police officers, the communication competence is an integral part of their everyday work: it facilitates dispute resolution, enables helping the victims to overcome the stress, involves addressing family conflicts, passing remarks, interviewing the offenders.

The questionnaire survey of police officers from Lithuania and Slovakia revealed the correct language use to be of relevance for police officers. As regards the assessment of linguistic competence, knowing language rules and ability to apply them in practice is equally important as the inner culture of the speaker. According to the officers interviewed, their strict and rather familiar communication with the violators is usually determined by personal qualities and behaviours of the latter in a particular situation. This is often related to the age and mental status of criminals, armed, dangerous and aggressive persons.

Police officers admitted that language use by individual police officers influences the formation of the image of the police. According to respondents, major effect on the public trust

in police comes from impolite and non-ethical communication. The incorrect language use was treated by respondents more lenient as they were of the opinion that mistakes in everyday – both spoken and written – language have no effect whatsoever on the formation of the unfavourable public attitude towards the police and their operations.

As regards importance of foreign language in police officers' operations, the study showed that police officers tend to communicate more often with foreigners in Slovakia than in Lithuania. When communicating in foreign language, police officers were best at English both spoken and written. Meanwhile, in Lithuania when communicating in foreign language police officers speak and write best in Russian, which is followed by English. It's worth noting that police officers working in both countries under consideration know at least two languages or more, and the number of those who do not know any foreign language at all is minor.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

ANALYSIS OF THE COMPETITIVENESS OF RAILWAY FREIGHT SERVICES BY THE KNOWLEDGE HOUSE METHOD

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DOI: 10.13165/PSPO-20-24-28

Annotation. Purpose –To assess competition and trends of the global rail freight market. Research methodology. The paper employes empirical research statistical data analysis and Knowledge House analysis. This paper analyzes the competitiveness of the railway sector using the Knowledge House method, and assesses international trends and risks. Findings – the main findings discover advantages of railway sector in freight transportation. Practical implications – research results allow to perceive business environment and to attract new freight services to Lithuania. Originality / Value - The publication presents an original application of a new method for assessing the international competitiveness of the railway sector.

Keywords: “Knowledge House”, strategic planning, railway freight services.

JEL Classification: C12, D53, F31, O31.

INTRODUCTION

A triad of economic concepts - competition, competitive advantage and competitiveness, reveals essence of modern market economy and forms economy as a system that stimulates optimal distribution of economic resources and their efficient use, and operates towards direction of economic growth and increase of users’ welfare (Dalydka, 2009; Butkevicius, 2009).

The analysis of business environment and competitiveness becomes more and more challenging due to the lack and quality of information.

Different approaches, methods and instruments can be used in order to analyse competitiveness. Li *et al* (2019), Wang (2020), Yu (2019) highlight the importance of

sustainability for competitiveness of railway services. According to Antturi *et al* (2016) companies have to pay attention to services impact on human health. Lian *et al* (2020) analysed competitiveness of the China-Europe Railway Express and liner shipping under the enforced sulfur emission control convention. The authors note, that the competitiveness of railway sector cn be improved by enchancing several aspects, such as time and freight rate increments effectiveness. Avetisyan et al. (2015) estimated the impact of change in wait time for changes in freight costs through a logistical model. Djankov, (2010) comfimed a strong relationship between transport costs and the transit time required toship goods from origin to destination. Also, macroeconomic effects of the tariff policy, infrastructure and private investment were determined by Xia (2013), Betarelli (2020), Kim (2017), Marzano *et al* (2018). Kim (2017) developed a Financial Computable General Equilibrium (FCGE) model as a new approach to assess economic contributions of transportation projects. Transportation investments possitively effects on economic values. These effects can be classified into construction and operation and maintenance impacts (Kim *et al*, 2004; Kim *et al*, 2002).

In accordance to Gasparėnienė *et al* (2013) and Gaidelys&Dailydka (2013) creative processes and instruments such as "brainstorm", "systemic structural organization", STAGE-GATE and GOPP methodology, which is polarized towards the goals of a project are widely used in practice.

Also, adaptive methods of competitive intelligence, which could provide the optimum of the set tasks realization can be used (Jeremiah 1998). Nakajima (2006) highlights that the analysis of the business environment can be done by using such instruments as DSS - Decision Support Systems, EIS - Executive Information Systems, OLAP - On-Line Analytical Processing, DWS - Data Ware-house systems, DMS - Data Mining systems, TOWS - Threats, Opportunities, Weaknesses, Strengths, ACH - Analysis of Competing Hypothesis, SPI - Service Performance Insight, SLM - Service Lifecycle Management, SLM3 - Service Lifecycle Management Maturity Model.

According to Gaidelys (2011) and Gaidelys& Dailydka (2013) the system "Knowledge house"aims is to collect and analyze information about the business environment using the available instruments for the purpose of timely reaction to changes in the business environment. Moreover, the decisions might be taken quicker, more effectively and exactly (Homburg, 2012; Meidute&Gaidelys, 2012; Gaidelys&Valodkienė, 2011.).

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

The purpose of this paper is to perform an assessment of railway sector competitiveness by using „Knowledge House“ method.

The objectives include:

- identification and assessment of problemic areas of competitiveness and those for improvement;
- elaboration of competitiveness model;
- development of a strategy of railway competitiveness development.

The publication was prepared on the basis of the up-to-date scientific researches performed, analysis and assessment of external statistical data, in accordance with the legislation of the Republic of Lithuania, the European Union and other countries and organizations.

„KNOWLEDGE HOUSE“ METHOD

The "Knowledge House" method is aimed at collection and management of data on the market situation. Comparative profiles of market participants are detailed data on their products or services, their strengths and weaknesses, priorities in the markets, attitudes and sales tactics, which could be used by a company's management while planning responsive actions to actions of the market participants. A diagram of the process of application of the "Knowledge House" method is presented in the Figure 1.

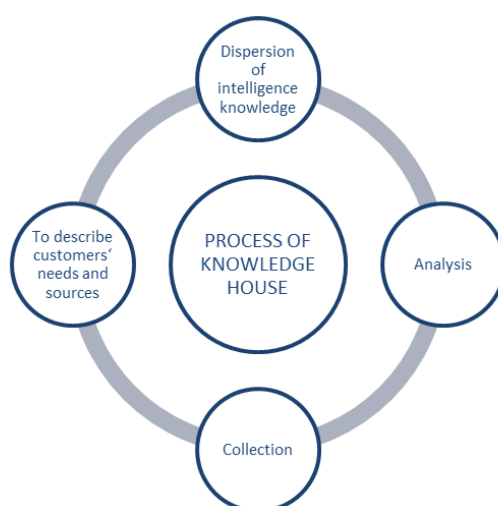


Figure 1. The process of application of the "Knowledge House" method

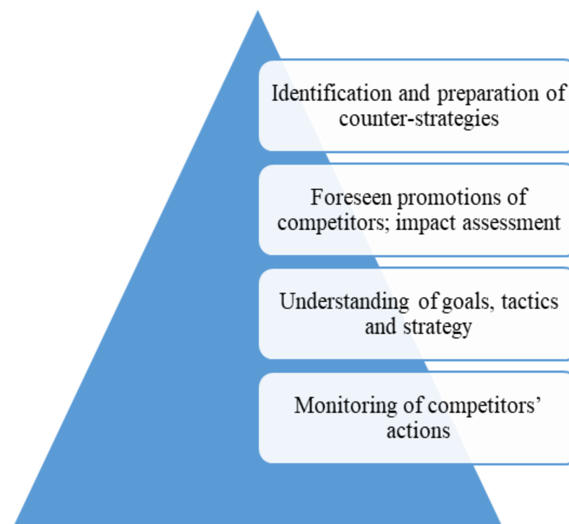
Source: Prescott, J.E. (2001). Proven Strategies in Competitive Intelligence. New York: John Wiley & Sons.

The main advantage of the method is the fact that it can be efficiently used by the decision-making persons in the company. A prerequisite – decision-makers have to be trained to use information of this system; only then decisions can be taken more quickly, precisely and efficiently. A principled diagram of the method application results presented in Figure 2.

The "Knowledge House" method consists of three main levels:

1. Standard components;
2. Components under research;
3. Components of knowledge management;

In turn, these levels consist of 16 modules in total.



Source: Prescott, J.E. (2001). Proven Strategies in Competitive Intelligence. New York: John Wiley & Sons.

Figure 2. The result of the "Knowledge House" method application

The "Knowledge House" method involves three levels of main components such as Standart components (level 1), "Components under research" (level II), "Management of knowledge components" (level III). Below we will discuss each level and its modules.

The first level "Standard components" uses the following modules.

The module „Knowledge mediator" is a set of instruments, used by the "Knowledge house of competitive intelligence" system. It is this module that covers the so-called "electronic news agency", it indicates essential sources of collected information, including websites, and it also covers the websites used by other market participants.

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

Table 1. Main levels and modules of the Knowledge House system

Level	Components
Components of knowledge management	Competitive intelligence practicians" „Fight for contracts / contract tactics" „Comparion with competitors" „Environment" „Researches" „Events and occations" „Requests" „Information transmission"
Components under research	„Data for managers" „News" „Description of competitors" „Yellow file" „Personnel management"
Standard components	„Knowledge mediator" „Best experience" „Reference guide"

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The module "Best experience" usually describes the main directions of activity in the company, also the sequence of activity of analysts and the tasks they need to implement regularly. This allows new analysts of competitive intelligence to be trained in methodology of competitive intelligence more quickly, even if they are far from the headquarters and never participated training programmes with the main group of competitive intelligence.

The module "Reference guide" covers all conceptions and terms of the system. It explains the characteristics based on which the market participants are being classified. The market participants, as indicated in the second level, are grouped into "First level competitors", "New competitors", "Regional competitors" and "Segmental competitors". Further it explains "Strategy", "Scenario", "Proactive and retroactive researches" and "Yellow file", which stores the stories about the market participants and events in their activity when they can't satisfy customers needs. The section "Topics for managers" presents information on the market and positions of market participants in regard to the company.

The second level "Components under research" uses the modules: "Data for managers", "News", "Description of competitors", "Yellow file" and "Personnel management".

The module "Data for managers" is designed for comparison of generalized profiles of the market participants by reviewing the market situation, competitive positions of market participants

Table 2. Description of the Knowledge House system modules

System's main levels	System's modules	Description of system's modules
Level I. "Standard components"	"Knowledge mediator"	The module covers a so-called "electronic news agency", which indicates substantial information sources, including websites.
	"Best experience"	The module describes a sequence of competitive intelligence analysts' activity and the tasks they have to perform regularly. This allows new employees to be trained in competitive intelligence methodology more quickly.
	"Reference guide"	The module covers all conceptions and terms used by the system. There is an explanation based on which the market participants are being classified.
Level II. "Components under research"	"Data for managers"	The module is designed to compare generalized profiles of the market participants by reviewing the market situation, competitive positions of the market participants.
	"News"	The module assesses all information that was intended for the main users in weekly news.
	'Description of competitors"	The module assesses information of the market participants' profiles.
	"Yellow file"	The module complements the module "Data for managers". Attention is paid to the standard behaviour of the market participants as well as their operational deficiencies. Having studied weaknesses of other market participants, the possibility appears to react properly.
	'Personnel management"	The module assesses personnel management information of the market participants (recruitment, provision, training, etc.).
Level III. "Management of knowledge components"	"Practicians of competitive intelligence"	The module talks about the company's employees applying the competitive intelligence methodology (e.g., disposition of information necessary).
	"Fight for contracts / contract tactics"	The module assesses the tactics and strategy applied by the market participants.
	"Comparison with competitors"	The module is designed to compare the main areas of competing companies.
	„Environment"	The module covers personal discussions of employees on the problems arising while performing work tasks.
	"Researches"	The module covers assessment of information on potential client and market participants who work with such clients.
	"Events and occasions"	The module analyses and assesses information on the conferences and other events that may interest potential clients.
	"Requests"	The module assesses all implemented projects, analyses the reasons why the projects' implementation is unsuccessful.
	"Information transmission"	The module assesses data on companies that collect and analyse the market information.

The module "News" assesses all information that was intended for the main users in the weekly news. The module "Description of competitors" assesses information of the market participants' profiles, which are also divided into four categories: "First level competitors", "New competitors", "Regional competitors" and "Segmental competitors".

The module "Personnel management" assesses information on the market participants from another angle, i.e. it presents practical information on personnel management, and also information on personnel recruitment, provision and training.

The module "Marketing communication of competitors" informs on how the market participants organize their marketing communication. In this way, it gives a possibility to trace particular marketing actions of the market participants and thus prepare counter-actions.

The module "Yellow file" complements the module „Data for managers". Special attention should be given to the standard behaviour used by the market participants, also to activity deficiencies of the market participants. Having studied weaknesses of other market participants, the possibility appears to react properly.

The third level –"Management of knowledge components". The purpose of modules at this level is to give new possibilities to potential users of competitive intelligence methodology. This is achieved through such modules as "Practicians of competitive intelligence", "Fight for contracts / contract tactics", "Comparison with competitors", Environment", "Researches", "Events and occasions", "Requests" and "Information transmission". The module „Practicians of competitive intelligence" covers the company's employees who in one or another way make their contributions to application of competitive intelligence methodology (e.g., disposition of information necessary).

The module „Fight for contracts / contract tactics" assesses the tactics and strategy used by the market participants. The module „Comparison with competitors" is designed for substantial comparisons. The module „Environment" covers private discussions of the employees on the problems the employees are facing while performing their tasks. The module „Researches" covers the assessment of information about the potential clients and market participants working with those potential clients. The module „Events and occasions" analyses and assesses information about the conferences and other events that may interest potential clients. The module "Requests" assesses all implemented projects and the reasons why the projects were not implemented in full or their implementation is unsuccessful. The module "Information transmission" assesses in detail information about the companies that collect and analyse information in the market.

Generalization of the modules of the "Knowledge House" method is presented in Table 2.

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

RESEARCH

In order to apply "Knowledge House" method and assess competitive environment, the main competitor of the Lithuanian railway sector company was selected. Research results are provided in the Table 3.

Table 3. Assessment of LDZ competitive environment by applying the *Knowledge House* methodology

Module	Application of the module
	Standard components
Knowledge mediator	While collecting information on competitors, the employees of LDZ usually use an open access system of information collection or secondary sources. Having performed analysis of primary and tertiary information sources, a presumption can be done that LDZ uses following data bases: *Data Warehouse, Data Marts, Temporal Databases and Virtual Data* as well as following analytic systems: *Analytical Information Systems and Decision Support System*. By using the mentioned data bases, information is being collected on related companies and their shareholders owning the controlled interest directly or through mediators.
Best experience	The main directions of LDZ activity: freight transport by railways, passengers transport by railways, charges for the use of infrastructure of LDZ, additional services of infrastructure management (maintenance of train carriages; train documentation procedures; shunting). Other services: freight operations; electricity supply; fuel supply; rolling-stock cleaning. While performing separation of operators and infrastructure, LDZ uses a vertical integration by distinguishing operational units (AS LatRailNet and SIA LDZ Cargo) and infrastructure creation units (SIA LDZ Infrastruktūra, SIA LDZ ritošā sastāva serviss, SIA LDZ apsardze).
Reference guide	The company has no separate analytical units. The main tasks of the analysts is analysis of competitors. The competitors are grouped by regional affiliation, type of cargo.
	Applied components
Data for managers	• The LDZ management does not accept the position of the European Union to liberalize the market and follows the position of favourable relationship with Russia. • In search for new markets, LDZ began cooperation with *Nordic Investment Bank* (NIB). • Countries of Northern Europe have interests in developing of the East-West transport corridor and in particular in upgrading of the *Skriveri–Krustpils* section. • The main cargo flows are going through the only freight corridor with Belarus, two freight corridors with Russia being underdeveloped. • Long-term passenger transport on both local and international routes decreases competitiveness of the passenger transport services. • In cooperation with the Polish railways, the Latvian government signed a contract for passenger transportation for the period of the next 10 years. • LDZ provides the company with necessary resources through tenders and potentially signs direct contracts with customers. • LDZ focuses on the same markets and the same products as LG. • LDZ actively cooperates with both RZD and international organizations and CIS members. Partners of LDZ: Kazakhstan railway, Russian logistics company *Infotrans*, *Bombardier Transportation*, *Belam Riga*, *Alcatel*, the concern *Belneftchim* and others. Competitors of LDZ: the biggest private competitors of *LDZ Cargo* in this sector are: *A/S Baltijos Tranzīta Serviss*, which owns the majority of the freight terminal in Riga, and *A/S Baltic Express*. In addition, *UAB Euro RailTrans*, established in 2012, founders of which are the Russian company *RZD Logistics* and two Estonian companies, which also own *SIA Transtrade Riga*. The purpose of the newly established company is to ensure cargo transport from the Latvian border to the seaport in Riga. This company is a direct competitor of SIA *LDZ Cargo Loģistia* .
News For You	Foresees weekly reporting to management, competitors do not use this module.
Description of competitors	With regard to LDZ, first level regional competitors can be identified as *competitors-partners*, i.e. East European railway companies such as LG, RZD, BŽD, ER and PKP. According to geographic position in regard to railway corridors, there could be distinguished Latvian and Lithuanian railways, which directly compete for freights with customer's company.
Personnel management	It is estimated that LDZ employs around 12 000 employees and personnel turnover is low. One of the reasons is the salaries of employees higher than average, which make up a larger part of the

	company's costs. Trainings and refreshment of qualification are organized for employees constantly, however, according to the company's orientation directions, most employees are oriented towards the specifics of the markets of the Eastern Europe and CIS countries, which does not reflect orientation of Rail Baltica II towards the Western European markets. Minimal salaries of LDZ employees (in comparison to international companies providing analogous services) with which collective agreements usually are signed, which also include particular provisions regarding the scope of employees activity, also could be named as a competitive advantage In the same way as railway companies in Lithuania, Belgium, Hungary and Luxembourg, LDZ is ascribed to the category of the companies where a collective agreement of employees has no provisions regarding the transfer of employees to other areas of public transport sector. Since turnover of LDZ employees is low and most employees are working since the time of independence, they have a good understanding of business mentality of the CIS countries and have sufficient personal contacts in those markets, and they are very valuable sources of information.
Marketing communication of competitors	LDZ does not perform a continuous monitoring of competitors' marketing activity, but takes into account competitors' promotions and advertising in the markets of Russia, Belarus, Kazakhstan, Lithuania and Poland during decision-making. It was noticed that LDZ has interests in the freight transport market of Sweden and plans its promotions in the region.
Yellow file	In 2012, LDZ haven't received about 100 million lats from the EU funds to purchase locomotives under the contract with the Spanish company *Construcciones y Auxiliarde Ferrocarriles* (CAF). A presumption can be done that this decision possibly was caused by Russia. In 2014, LDZ leased 25 passenger trains for a period of 15 years for 150 million euros from the Swiss company *Stadler Bussnang*. Given that this direction of the company's activity is not the main source of income, this step can be seen as unsuccessful. Insufficient capacity of oil transhipment of Latvian ports that may determine lower volumes of oil export through Latvian railway can be identified as another problem. Only 28 wagons can be loaded at a time at Riga seaport, and it takes 24-36 hours to reload the entire tanker.
Management of knowledge components	
Practicians of competitive intelligence	LDZ does not identify, assess and apply a potential of employees experience in collection and analysis of information.
Comparison with competitors	• LDZ actively cooperates with Kazakhstan, and annually transports about 40 million tons of cargo. • LDZ began to show interest in oil and oil products transport from Venezuela to Belarus (through Riga seaport). • In striving to gain a competitive advantage, LDZ focuses towards the markets of Russia, Belarus and Estonia and foresees a faster passenger transport in following directions: 17 hours to Moscow, 13 hours to Saint Petersburg, 12 hours to Minsk, 4 hours to Valga.
Environment	Analysing private discussions of employees on the problems the employees are facing during performance of the tasks, it was determined that LDZ indirectly shows interest in *Sweco Central Eastern Europe AB* and collects information through its company SIA *Būvuzraudzība Latvija*.
Researches	LDZ does not apply this module, does not collect and analyse information on potential clients and market participants working with potential clients.
Events and occasions	LDZ constantly monitors, analyses and assesses information on the conferences and other events that might interest potential clients.
Requests	LDZ does not assesses implemented projects and the reasons why the projects were not implemented in full or their implementation is unsuccessful.
Information transmission	LDZ does not carry out a constant assessment of information on the companies collecting and analysing information in the market. However, it was determined that LDZ cooperates with the international consulting company *ICF GHK*, which is both the consultant and customer of LDZ. The above-mentioned company possibly collects a commercial information that is required for analysis from Latvian companies: *TradeUnion Urban Transport* LAKRS, *TradeUnionRail* LDSZA and others.
Fight for contracts / contract tactics	LDZ has chosen the tactics of signing personal contact contract (for example, by analysing tertiary sources a relationship was determined between the company *Transmashholding* of the *UGMK* (rus. *Уральская горно-металлургическая компания* - eng. Ural mining and metallurgical company) group.

CONCLUSIONS

The Knowledge House method can be used to assess the competitive environment using databases such as Data Warehouse, Data Marts, Temporal Databases, and Virtual Data. The use of reliable databases ensures the quality of information

The application of "Standard components" enables the identification of key revenue areas of competitors. “Application Component Groups, allows foolhardy and continuous access to and updates of market events and expected actions by competitors. Consistent application of the Knowledge Component Management module enables companies to purposefully apply the information collected and make the right decisions to maximize impact.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

THE DEVELOPMENT OF SOCIALLY RESPONSIBLE MARKETING AS A CONSEQUENT EFFECT OF THE SOCIO-ECONOMIC TRANSFORMATION IN THE SOCIETY

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DOI: 10.13165/PSPO-20-24-29

Annotation. The process of globalization stimulated the transformation process of society's mindset and values, which also impact on socio-economic changes. The profit-oriented economy is being replaced by a solidarity economy, which needs different guidelines and coordination tools than a traditional business. The actuality of researching emphasizes by the change in the concept of marketing management, based on the idea of maximization profit due to the maximum satisfaction of needs, the concept of socially responsible marketing, which is based on empathy and meeting the needs of the target audience. The article is considered the concept of social responsibility marketing and analyses of its influence on customers' behavior. The aim of the research is to answer the question of how the effect of the implementation of the social responsibility principles in the activities of enterprises affects sustainable development and increasing the value of the brand. The research objectives: to analyze the definition of social responsibility marketing and its influence on brand forming; to develop a mechanism of marketing politics influence on society mindset; to compare traditional and responsible marketing and present its complexity. Methods, which the author used, are analyze and synthesis, cross-sectional, comparative methods, method of abstraction, induction, and deduction methods. The author considered the problems of using the concept of socially responsible marketing, the peculiarities of implementing the principles of social responsibility in the activities of companies. The author proposed a model of the impact of marketing policy on society and presented the main differences between traditional marketing and social marketing.

Keywords: social marketing, corporate social responsibility, solidarity economy, transformation, marketing.

JEL index: M14, M31, O35.

INTRODUCTION

During the process of globalization and environmental catastrophes, public pressure on companies has a greater effect than legislation and declarations. But businesses can find a strong and effective response to this pressure by linking the corporate social responsibility (CSR) strategy to their identification.

Today, businesses are forced to incorporate social activities into their marketing strategies. Enterprises are not only profit-oriented subject of economic system, but are also

considered full-fledged corporate citizens, subjects of social relations. Consumers are highly aware of social and environmental business initiatives and, as a rule, make decisions about purchasing a product or service based on the responsibility of producers. Thus, in the modern business paradigm, companies can not focus solely on monetary returns, they should also implement and adhere to social initiatives and emphasize these principles of doing business to improve the company's image through good corporate citizenship (Domegan et al, 2016; Abbas et al, 2019)

Corporate social responsibility is the activity of a company that is considered voluntary. This is reflected in the participation of business in addressing social and environmental issues in accordance with its business program. This global trend of taking into account the principles of corporate social responsibility (CSR) together with the intention to make a profit has forced companies to redesign their business structures, processes and models. However, business has realized the urgency of implementing CSR in marketing for its short-term and long-term goals (Gorokhova, 2015; Kim et al, 2019). They develop stronger marketing strategies around sustainable development tasks to increase competitiveness and maintain market positions (Domegan et al, 2016).

Today, social marketing is very common in many places, such as government agencies, private nonprofits, businesses, schools and more. However, many people do not know what social marketing is and how it differs from similar areas such as communication and behavior mobilization, confusing it with general marketing. Some advertisers remove social advertising, but think they are engaged in social marketing. Social marketing is an understanding of how to properly influence people's behavior and achieve a better standard of living, so it is necessary to do everything that reproduces marketing, and even more.

In scientific works, we can see different approaches to social marketing definitions. According Kotler and Keller (2006) defined socia marketing as: "... development, implementation and control of programs that influence the adoption of social ideas and attract considerations for product planning, pricing, communication, distribution and marketing research". The revised definition proposed by Alan R. Andreasen (2005), he offers the following definition: "Social marketing is the adaptation of commercial marketing technologies to programs aimed at influencing the voluntary behavior of the target audience to improve their personal well-being and the society in which they are". Andreasen’s definition has allowed

social marketers to focus on the results they have an impact on and will be different from others, as well as to separate social marketing from those areas that are easy to refute.

The article is considered the concept of social responsibility marketing and analyses of its influence on customers' behavior.

The aim of the research is to answer the question of how the effect of the implementation of the social responsibility principles in the activities of enterprises affects sustainable development and increasing the value of the brand.

The research objectives:

- To analyze the definition of social responsibility marketing and its influence on brand forming;
- To develop a mechanism of marketing politics influence on society mindset;
- To compare traditional and responsible marketing and present its complexity.

THE FORMATION OF SOCIALLY RESPONSIBLE MARKETING CONCEPT

The idea of social marketing is to apply the same marketing principles to the ideas of promotion, attitude, and behavior that are used to sell goods to consumers. There is confusion as to whether social marketing is limited to community and nonprofit marketers. In fact, they are not necessarily representatives of social marketing; it can be very important for public sector bodies to improve the promotion of their respective services and organizational goals using standard marketing approaches, this affects social behavior, not the benefit of the social marketer, but the benefit either individuals or society as a whole in the long run. There is also some private sector where many activities are aimed at changing beliefs, attitudes, and values, but the only reason they do so is to increase sales by preventing change, such as customers switching to another brand.

Social marketing can improve the behavior and lifestyle of the community to achieve social well-being, but there are some difficulties in doing so, the problem is not the lack of information people receive, but the confusion with too different information from different sources that are inconsistent or uncoordinated. For some small firms, their managers believe that they are also part of social marketers, then it will be difficult for them to keep an eye on the lowest place - to change behavior, and some firms will get into trouble because they see the actions of social marketing instead of planning. Marketing can be limited if a marketer misuses this concept and people can blame social marketing for failures.

For applying the concept of social marketing, social marketers must also know the basic characteristics and "4P" (product, price, place and promotion) to help them achieve their goals in social marketing. Socially responsible marketing is practiced by companies that implement the principles of corporate social responsibility as a way to clearly demonstrate their positive social and environmental behavior for ethical consumers.

Socially responsible marketing (SRM), sometimes ethical corporate marketing or green marketing, is a practice that companies use to recognize the greater social and environmental impact of their products and services on stakeholders. That is, SRM shows consumers that the company takes responsibility for its actions and aims to reduce the negative consequences of its activities.

These practices fall into a larger category of corporate social responsibility (CSR), but easily coincide with the opposite practices: socially irresponsible marketing (SIM), more commonly called greewashing, corporate practice of masking weak social / environmental records with deceptive advertising campaigns that can boast of their socially and environmentally responsible behavior / obligations.

Early calls for SRM included restrictions on marketing aimed at children, especially products such as tobacco, alcohol and gambling. Restrictions on "junk food" have recently been added to this list of foods, in part due to the increase in childhood obesity.

More recently, some consumers have identified SRM as a practice that conveys specific, transparent, accurate, and easy-to-understand information about corporate responsibility for the social and environmental situation.

It should be noted that companies such as Nike, Gap and Hewlett-Packard have gone the way of making information about their activities open on the Internet. Openness creates trust and confidence, turns into profit, says Granqvist (2012). That's why, many corporations see as the Achilles heel can be turned into their greatest strength. Granqvist emphasizes that it is not about perfection, but about openness.

Transparency and openness in the context of the organization can be defined as a set of all central, unique, consistent and responsible characteristics that define the organization. This is the essence, the identity of the organization, or, in other words, its DNA.

Corporate social responsibility based on the company's identity is the basis for identifying its marketing strategy (Gorokhova, 2016).

Social marketing is more complex than general marketing because it involves changing unsolvable behavioral elements. For further analysis, it is necessary to distinguish the differences between social marketing and social marketing and socially responsible marketing.

Social marketing is an approach that the company presides over during social responsibility, the company makes positive marketing decisions, taking into account, firstly, the desires or needs of potential customers, secondly, the philosophy of its company, and thirdly - when approaching product launch or services in the market, to be socially responsible in the field of marketing (Diehl et al, 2016). This is closely linked to the principles of corporate social responsibility and sustainable development

The concept of social marketing was a pioneer in the use of commercial marketing strategies in the integration of social responsibility. On the other hand, social marketing uses commercial marketing theories, tools and methods to solve social problems.

Social marketing actually includes the concept of sustainable development and corporate social responsibility, so companies go beyond just delivering their products and services for the benefit of consumers and society, and this is more than just communicating with customers.

Socially responsible marketing is a marketing philosophy, i.e. the company should take into account what meets the best interests of society in the modern and long term. Socially responsible companies must responsibly produce the desired products. This type of product can provide immediate consumer satisfaction, and this type of product can also help consumers and society in the long run.

There are some features that distinguish social marketing:

- Systematic application of marketing together with other concepts and methods to achieve specific behavioral goals for social well-being;

- Excessive simplification, although it is sometimes seen only to achieve non-profit goals through standard commercial marketing practices.

It should be noted that social welfare is the main goal of social marketing, and this is its first result, while financial is the main goal of commercial marketing. But the public good can still contribute to the achievement of commercial marketers.

Kotler and Keller (2006), define social marketing as marketing that "differs from other areas of marketing only in terms of the goals of the marketer and his organization".

THE IMPACT OF MARKETING POLICY ON SOCIETY

Social marketing takes a customer-centered approach, it can be applied to promotion, encouraging society to buy products that deserve attention and prevent the use of shortcomings, as well as tell society that they want the well-being of society as a whole, for example, ask people not to smoke in public places, to reduce cigarette smoking, to ask people to use seat belts, to encourage them to adhere to speed limits, to encourage the use of contraceptive methods, etc.

Social marketing knows that commerce brings many benefits, but it can harm the individual and society. Tobacco is an extraordinary example of this, it destroys half of its long-term users, as Wiebe kindly claimed, "you can sell fraternity like soap". Thus, "social marketing" can do the opposite, just as a tobacco company uses marketing to encourage people to smoke.

Health-related social marketing is widely used in this marketing concept, it is a systematic, behavioral goal - to improve health and reduce health inequalities. The Social Marketing and Association team was created to support the integration of social marketing into the main workflows. For example, health coaches, medical literacy, health professionals, healthy schools and children and youth health, and so on.

Today, organizations such as MacDonald's, Unilever and Procter & Gamble adhere to the concept of social marketing, they can send a positive message to the government, the public, partners, stakeholders and their customers that they work not only for profit but also for well-being society.

For example, McDonald's has stopped producing its disposable innovative styrofoam packaging and replaced it with more environmentally friendly paper packaging and proved that they know about the environment by using different forms of packaging to remind us that they do not end up in the trash and become environmentally friendly.

Body Shop is a cosmetic company. Vegetable materials are used for the production of all their products. They also oppose animal experiments, the company supports the development of the region of presence, protects human rights and the environment. This is a company that is completely guided by the social concept of marketing.

Social marketing is becoming an increasingly important and profitable marketing strategy for companies. It often focuses on environmental issues, but it can also focus on promoting healthy behavior while preventing unhealthy ones (Figure 1).

An example of socially responsible marketing is that a company uses recycled paper to create its catalogs, then this can be shown in the catalog, and this can help convince customers that the company is environmentally conscious. Thus, the company can gain market share by differentiating itself from its competitors.

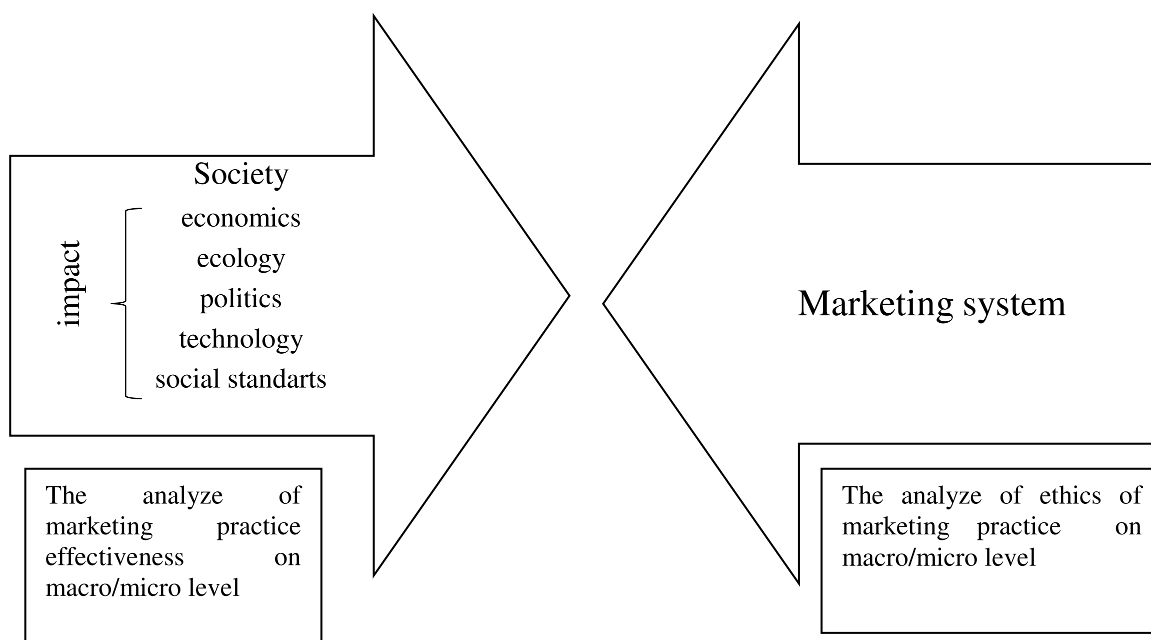

Figure 1. The impact of marketing policy on society (developed by the author)

ANALYSIS OF THE DIFFERENCE BETWEEN TRADITIONAL AND SOCIAL MARKETING

Social marketing is very different from traditional marketing, it depends on the type of target audience that social marketers would like to convey their message.

In the future it is necessary to consider the main differences between traditional marketing and social marketing (Table 1).

The formation and implementation of the concept of socially responsible marketing is based on the principles of social responsibility. The introduction of socially responsible marketing in the activities of enterprises contributes to the formation of a positive image and increases brand loyalty, achieving strategic and tactical goals of the enterprise and provide competitive advantages.

Socially responsible marketing can be considered as a carrier of corporate social responsibility. Through socially responsible marketing, society perceives the company and

forms an attitude towards it. Thus, socially responsible marketing is a very innovative and effective concept for promoting any responsible idea, so in our opinion, the government and health care organizations should use it more often, but the government should also focus on setting rules and regulations. established definitions of the use of socially responsible marketing, as some companies use socially responsible marketing to increase their sales, encouraging customers to buy imperfect products, apryklad make people think they are buying healthy foods.

Table 1. The main differences between traditional and social marketing (developed by the author)

Factor	Traditional marketing	Social marketing
Time of feedback	Slow	Fast response (use of feedback, answering machines)
Providing information	The information is provided only by the company's distributor and may be fabricated	The information is stored in the public domain in the form of non-financial or integrated reporting
Costs	Expensive, because you have to pay for every minute of each type of media, such as television advertising, newspapers and magazines, etc.	Cheaper, because social marketing can use countless resources from the Internet and different ways of advertising and communicating with people
Level of competition	The difficulty of competing with large companies	Any company of any size can compete for a customer with any large company
The ability to changing	Advertising for television and radio programs is not easy to chande and has expensive process.	Ease and relative cheapness of changing the message or providing additional product information

Thus, socially responsible marketing is a very innovative and effective concept for promoting any responsible idea, so in our opinion, the government and health care organizations should use it more often, but the government should also focus on setting rules and regulations. established definitions of the use of socially responsible marketing, as some companies use socially responsible marketing to increase their sales, encouraging customers to buy imperfect products, apryklad make people think they are buying healthy foods. Thus, it is necessary to establish the line between corporate responsibility and hypocrisy.

CONCLUSIONS

The modern concept of socially responsibile marketing is a currently new, creative approach to regulating social change and social processes in a democratic society.

For companies that profess the concept of social marketing - is to create a positive image, improve the quality of business management (increase staff productivity, reduce operating costs, increase sales and increase customer loyalty), grown investment attractiveness and as a result - strengthening competitiveness in national and international markets, and for society - an effective tool for solving social problems. However, it should be noted that such an approach should be systematic. Businesses, which have decided to implement the principles of social responsibility in their activities should not be limited to periodic donations for socially useful purposes. Leading international organizations define corporate social responsibility as a general strategic approach to business.

To ensure the favorable development of social marketing in Ukraine, it is advisable to more widely promote successful business experience based on the concept of social marketing in the media, to form a complete information database on social projects and business participation.

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ISSN 2029-1701
ISSN 2335-2035 (Online)

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ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

STRATEGIC MANAGEMENT OF HUMAN RESOURCES AS THE BASIS OF SUSTAINABLE DEVELOPMENT

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DOI: 10.13165/PSPO-20-24-30

Annotation. In an era of global competition, technological innovation, instability of the external environment, organizational changes are inevitable and necessary. The most important factor in the competitiveness of successful companies is the ability to generate and implement various kinds of changes that initially contain a contradiction between the desire for stability and the need to develop human resources and organizations. One of the main causes of poor performance or the failure of progressive organizational change is employee resistance. The analysis of modern concepts of change management revealed the need to review a number of principles in human resource management of organizations undergoing transformation. As the most important condition for the implementation of organizational transformations, resistance management is proposed, the prevention and overcoming of which can significantly increase the effectiveness of reform.

The existing mechanisms for managing change are in their infancy, a search is underway for ways, methods, and approaches to improving the effectiveness of organizational transformation through the formation of human resource management strategies that help prevent and overcome staff resistance, mobilize the workforce to implement reforms.

It is advisable to single out the task of effective human resource management in the face of change as an independent priority task for managers.

The relevance of the research topic is due to the fact that in the modern business environment, strategic human capital management is one of the key factors in the development of the company, which is considered through a set of characteristics of individuals interacting within the organization that contribute to productive activity and develop as it is implemented.

Study methods: analysis of economic, statistical sources of literature.

The results of the study confirmed that competitive companies should be actively involved in strategic human resource management, as this is the basis of the company and its future. In general, the hypothesis of more effective strategies and practices of strategic management and development was confirmed by human resources used for sustainable development.

Keywords: Human Resource, Strategic Management, Sustainable Development, Strategy, Trends.

JEL Classification codes: O1, M54

INTRODUCTION

In terms of human development, as a key factor in achieving strategic goals. The idea of strategic human resources management is based on the belief that a development strategy is a rational and linear process.

The overall human resources management strategy stems from core strategies in core areas. All this is connected with the systematic research of the organization human resources, which determines what issues of business, should be considered.

Difficulties in achieving internal consistency can be explained by the following reasons:

- the complexity of strategic directions can make it difficult to achieve coherence between various activities and plans;
- top leaders want quick achievements;
- the introduction of payment in accordance with performance indicators in the absence of well-functioning processes for managing performance indicators;
- lack of understanding among practitioners that it is necessary to actively achieve integration;
- department managers are indifferent to their tasks or are not able to solve them, employees are suspicious or hostile to new initiatives [1].

Obstacles that may arise in the course of strategies when trying to implement their initiatives are often associated with a lack of understanding of the strategic needs of a given organization, because of which these initiatives appear to be inappropriate or even likely to reduce productivity. This problem is exacerbated if environmental and cultural factors that influence the essence of the strategy are not taken into account. Initiatives that are poorly thought out or inappropriate do not meet the requirements of this organization, will not work.

The aim of the article is to examine important factors associated with moving organizations toward strategic management in the human resources and sustainable development, creating strategies for human resource management.

Objectives:

1. Outline theories of strategic management, their impact on strategic human resources management.
2. Advantages of human resources strategy.
3. Identify the main trends in the development of human resources strategies based on sustainable development.

Study methods: analysis of economic, statistical sources of literature.

STRATEGIC MANAGEMENT

Since the concept of human resource management is incorporated into the strategic management system, its evolution should be considered within the framework of the evolution of this concept. The effectiveness and competitiveness of the organization depends on the ability to adapt to the external environment and the degree of its innovativeness [15].

In the theory of strategic management, usually the development of the theory of strategic management:

1. Management on basis of control over the execution of the budget after the fact on the identified problems of the organization (reactive adaptation). This is the era of mass production (until the 30s of the twentieth century) with a limited number of markets and types of goods (services). The main objective of entrepreneurial activity is to improve the mechanism of mass production, which allows to reduce the cost of production. The state practically did not interfere in entrepreneurial activity, legislatively defining the framework of its legitimacy. It was believed that a market economy was capable of self-regulation. The stage ended with a deafening crisis of overproduction and severe depression [6].

2. Management based on extrapolation, when decisions were made on the basis of long-term planning by extrapolating past trends into the future, that is, also after the fact of the deviations identified. The crisis of overproduction of the same type of goods forced us to reconsider the concept of management and the main attention of commodity producers began to be given to expanding the range of products and improving sales and service networks. It was an era of mass marketing. Long-term planning replaced the budget and financial control and was used from the beginning of the 50s to the beginning of the 60s of the last century [3].

The management strategy at this level should ensure the development of a system of institutions, ensuring all levels of government to achieve long-term goals of socio-economic development.

3. Management based on the forecast of changes (beginning of the 60s to the beginning of the 80s of the XX century), creation of strategic plans, development of strategic decisions, phased implementation of models through extrapolation of future trends to a real scale, time. Particular attention paid to the development of strategic planning methods, the development of competitive and innovative strategies. The design methodology is actively developing

management. Strategic planning is actively developing in the space and defense industries, which are associated with the electronic industry, information, communication, bio and nanotechnology. This is a very powerful source of science, innovation.

STRATEGIC HUMAN RESOURCE MANAGEMENT GOALS

In order for the organization to be able to develop effective strategic goals in the field of personnel, it needs to answer three questions:

- where is the organization and its staff;
- in what direction, according to senior management, should personnel be involved in accordance with the strategy of the company;
- how should staff develop in order to fulfill the tasks of the company in the future [4].

The importance of shaping the strategic goals of human resource management is determined by the same factors as in strategic planning, i.e. determination of priority development directions depending on their actual state and available potential. It should be emphasized that the goals of strategic human resources management should be formed in the context of the development of corporate goals.

We can single out the general goal of strategic human resources management, which is to create a strategic ability of the company through satisfaction in qualified, dedicated and highly motivated employees who can provide a sustainable competitive advantage [5].

A more specific goal is to shape the direction of the company in a changing environment in order to meet its own commercial needs, as well as individual and collective needs of its members by developing and implementing a holistic and effective human resources policy in the field of human resources [8].

Among the strategic goals of human resource management are the following:

1. Formation of commitment, when employees are emotionally attached to the organization, represent themselves and the organization as a whole, identify themselves with it, which ensures their involvement in the affairs and problems of the company.

2. Improving the level of qualification, which, in accordance with career planning, can serve as a basis for the formation of highly motivated activities among employees.

3. Creating an option program, ie equity participation of employees in the capital of the company. Options allow you to solve simultaneously the problems of employee participation in both ownership and profit. The main goal of option payments is to link wages to operational

efficiency so that employees make a profit when their companies prosper and lose out when the companies go off course.

The rationale for strategic human resources management is the fact that it is beneficial for a company to have a consistent and understandable basis for everyone to develop approaches to managing people in the long term [7].

"Competitive advantage is the essence of a competitive strategy. It covers all those abilities, resources, relationships and solutions that allow the company to use market opportunities profitably and to avoid threats to achieve the desired position in the market. "

The whole set of measures of the strategic human resources management system makes it possible to regulate the solution of the following tasks:

1. Providing the company with the labor potential in the amount that is necessary to realize its strategic goals.

2. The formation and development of the internal environment of the enterprise in such a way that the intraorganizational corporate culture, priorities and value orientations of employees will correspond to the company-wide and contribute to the achievement of both private needs and the mission and goals of the organization common to all [13].

3. Based on the directions of strategic management and the end products of activity created by it, it is possible to regulate the difficulties associated with multifunctional organizational structures of management, including human resource management. The methods of strategic personnel management of the organization make it possible to improve and maintain the flexibility of organizational structures.

4. The ability to resolve contradictions in matters of centralization-decentralization of personnel management. The subject of strategic personnel management is the organization's personnel management service and senior line and functional managers involved by type of activity [12].

TRENDS IN THE DEVELOPMENT OF A MODERN SYSTEM OF STRATEGIC HUMAN RESOURCES MANAGEMENT

An analysis of the application of personnel management technology, despite the optimistic statements of its adherents, demonstrates the well-known gap between theoretical installations and their practical implementation.

Firstly, the practice of human resource management in different countries reflects not only the diversity of national schools and personnel management traditions, but rather indicates the lack of a single concept, since the variety of notional schemes used often is exacerbated by their mutual inconsistency [9].

For example, such elements of human resource management as teamwork and individual remuneration of labor depending on its effectiveness seem to be incompatible in practice. In this regard, some skeptics see in the technology of human resource management only a variation of the modernized doctrine of human relations, and in the inevitable contradictions - an expression of structural antagonism between managers and ordinary employees [6].

Secondly, although an increasing number of companies are announcing the introduction of a "trendy" technology for human resource management, the practical implementation of the new HR strategy faces significant difficulties. In particular, there is no noticeable increase in the cost of training and retraining personnel, especially taking into account the widespread dissemination of advanced forms of personnel work (quality circles, work teams, etc.). The transfer of part of the personnel functions from personnel services to line managers, as a rule, does without additional retraining of the latter, and does not receive special attention from the leadership of corporations.

Thirdly, methods of staff involvement (participation in company profits etc.) borrowed from the human resources management arsenal often are used by managers as milder forms of labor intensification. The bet on the conscious and responsible performance of production functions and tasks by workers disguises sophisticated methods of over-exploitation and serves in the long term as an effective tool in neutralizing the influence of trade unions [14].

Fourth, there is no objective evidence of a positive impact of the implemented technology for managing human resources on the moral and psychological climate in organizations. Moreover, as always, with any major socio-organizational innovations, negative consequences are avoided. However, such conflicting assessments of the results of applying advanced personnel technology are largely due to the inability to isolate the own consequences of introducing human resource management from other factors [10].

This transformation of personnel management has found expression in the following main trends:

- all recent years in developed countries, there has been a relative and absolute increase in the number of personnel of personnel services;

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
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- the status of this profession has increased: the heads of personnel services in most corporations have become part of the board and even on board of directors;

- sharply increased attention to the level of professional training of HR managers;

- in the face of growing competition (including for highly qualified personnel), the isolation of the personnel policy from the general business strategy adversely affected the success of the corporation as a whole.

CONCLUSIONS

Sustainability is an emerging phenomenon in human resource management practice and research. As the world has entered the 21st century, companies found themselves in need to develop more sustainable business models.

After analyzing analysis of economic sources of literature, the idea of strategic HRM is based on the belief that strategy formation is a rational and linear process. The overall HRM strategy stems from a specific strategy in core areas. All this is connected with systematic studies of the internal and external environment of the organization, which determines what issues of business, organization and HRM should be considered. We can talk about a certain synthesis based on the human resource management technology of traditional (of course, modernized) and modern approaches. However, having absorbed the advantages of various approaches that have developed in personnel management, human resources management technology cannot claim to be a kind of panacea for all the problems that the personnel manager currently faces. An increasingly striking trend in the field of human resource management is the intellectualization of labor. Intellectualization of labor in the most general sense is an increase in the share of mental labor in social production.

The development of a modern system of strategic human resources management on the basis of sustainable development gives rise to a new type of labor management, based on equal partnership partnerships between employers and employees, covers not only the phase of using labor to obtain economic benefits for the owner of the means of production, but also directly relates to the formation of and capacity building for workers.

Strategic planning of human resources is important for development in conditions of sustainable development, especially the choice of the right strategy for enterprises.

In such a way, the strategic management of human resources is a sustainable development for the planned use of human resources and actions aimed at ensuring the achievement of the

company's goals. Strategic human resources management is moreover considered as an approach to decision-making regarding the intentions and plans of the company in the field of labor relations, as well as in the formation of practices in the field of recruitment, preparation, development, performance management, staff performance assessment and interpersonal relations .

The correct application of methods for the formation of a strategic human resources management system and the effective solution of all the tasks facing enterprises in this area will lead to an increase in the efficiency of personnel policy and the activities of the entire enterprise as a whole.

Strategic management of human resources indicates the general direction of the company on the path to achieving its goals through people management. It deals with a wide range of organizational issues related to changing culture and structure, increasing efficiency and productivity, selecting resources to meet the future needs of the company, developing distinctive abilities and managing change. In a broader sense, strategic human resources management addresses all key personnel issues that affect or depend on the strategic plans of the company.

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ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

MAIN FEATURES AND CONSIDERATIONS OF BLOCKCHAIN TECHNOLOGY IMPLEMENTATION IN E-PROCUREMENT

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DOI: 10.13165/PSPO-20-24-31

Annotation. This article aims to review main features and considerations of the one of the most modern cutting edge technologies‘ implementation, namely blockchain in eProcurement. First of all article describes technological background of Blockchain technology nature. Secondly assumptions and pre-conditions of Blockchain application are explained. Thirdly main process and project management methodologies of Blockchain implementation are delivered and separate steps revised. Last but not least as eProcurement (including its part – Supply chain) is a concept consisting of plenty of different processes, therefore for better technology understanding specific advantages per such major different processes are also explained.

Keywords: Blockchain, eProcurement, Supply chain, Technology application.

JEL CODES: O31, O32

INTRODUCTION

Blockchain being one of the most innovative technology nowadays brings solid state of trust between different stakeholders, this technology is extremely useful when we do speak about variety of market players involved in multiple transactions among them, especially when we do speak about value capture, therefore we can expect huge efficiency if we implement it in main economical activities in correct – methodological and systematic order.

As Blockchain essentially is ICT (Information and Communication Technology) concept, it shall be implemented according to the best Project management methodologies.

Procurement as an economic concept constitutes one of the most essential drivers for economic development and innovation. As e-Procurement (including its part – Supply chain) is a concept consisting of plenty of different processes (sourcing – selection of vendors, contract

management cycle – negotiating, concluding and implementing the contract, payment settlement and inventory management including product‘s shipment), therefore specific advantages per such major different processes shall be explained.

Problem is to search and select proper technology that could accept current challenges in e-Procurement related to globalization (increased amount of stakeholders, international transactions with different legislation), increased amount of non - structured data, different level of technological advancement, residual risks related to fraud and human errors and to provide methodological approach of its implementation.

Purpose is to examine suitability of Blockchain application in modern e-Procurement taking into account above mentioned problems and to define and highlight main features and considerations of its implementation.

Object is Blockchain application in e-Procurement.

Tasks:

- to review and describe the technological background of Blockchain, highlighting its most appropriate features for e-Procurement;
- to provide pre-conditions of Blockchain application in e-Procurement;
- to describe Blockchain implementation methodological approach;
- to review specific economic benefits of Blockchain application per different e-Procurement phases.

Methodology of the Research – analysis of the scientific articles, analysis of best practice use cases, comparison, analytical descriptive and generalization methods. It shall be noted that due to the topic’s novelty and practical application authors have put a lot of focus on practical sources.

TECHOLOGICAL BACKGROUND

Despite the fact that blockchain technology is incredibly popular and quite well known in IT world, to my opinion it is still worth providing general description of its technological roots to economic society. So in simple terms blockchain is a technology which empowers creating distributed or decentralized in economic and legal world ledger (in IT world log) to record the transaction. As a relatively new technology, blockchain is designed to achieve decentralization, real-time peer-to-peer operation, anonymity, transparency, irreversibility and integrity in a widely applicable manner [34]. Even literal analysis of this technology allows to

draw a conclusion that we are speaking about chain of blocks - or blocks of information within one logical chain. The changes made by the various parties are assembled and stored in the database at regular intervals as bundled packets called ‘blocks’. When new blocks are added to the original database, they form a blockchain, or an up-to-date database containing all the changes made [22]. Blocks contain the useful data (initiated by the owner – or node) and technical information for encryption, so called hash. The block after initiated by one participant is sent to all participating nodes and their content and hashes will be accordingly verified by all participating nodes. This creates a block interdependency accessing up to a chain–the Blockchain [13]. The origins and the purpose of the transactions could vary, but for economic sciences main priority is the value – capturing value and registering any modifications - tracking it (like owner, quantity, price, etc.). We‘d like to elaborate 3 main features that describe blockchain technology the best:

Distributed or decentralized ledger. This feature implies that there is no one single authority controlling the database, as it is based on peer to peer principle. We have proposed a system for electronic transactions without relying on trust. To solve this, we proposed a peer-to-peer network using proof-of-work to record a public history of transactions that quickly becomes computationally impractical for an attacker to change if honest nodes control a majority of CPU power [25]. This feature gives us incredible flexibility (avoiding time and effort costs associated with one - registrar, filling complex procedures, registration lags, paying additional verification and registering fees etc.) which is of great demand in multifaced environment;

Public, transparent and verifiable. When it comes to publicity – blockchain can be realized in different ways, but the main principle that it is based on well known in IT security Public and Private key infrastructure. Regarding transparency – as we already mentioned before all participants have the same full database - full amount of the same information (that was before verified together as well), therefore there is no room for data misinterpretation. Overall, I wish to provide a system such that users can be guaranteed that no matter with which other individuals, systems or organizations they interact, they can do so with absolute confidence in the possible outcomes and how those outcomes might come about [35];

Immutable and reliable. Under blockchain technology new data do not replace old blocks, instead of this new blocks being put „on top“ of the current blocks thereby representing complete and exhaustive log or register possessing also historical records with proper time

marks of the transactions, which allows to have a big picture with all details of respective facts�‘ alterations. Consequently, the blockchain technology is extremely reliable as a distributed method of data storage [22]. Thus, data on a blockchain is more accurate, consistent and transparent than when it is pushed through paper-heavy processes. It is also available to all participants who have permissioned access. To change a single transaction record would require the alteration of all subsequent records and the collusion of the entire network (Hooper, 2018).

As a conclusion – blockchain technology is extremely useful when we do speak about variety of market players involved in multiple transactions among them. Above mentioned features ultimately result in trust - trust in transaction‘s participants (who is who), its amount, time and overall integrity (Genuity). In this manner, as it is easy to verify the origin and accuracy of the information whatever its source, no external intermediary (such as a central server) trusted by all the parties is required to validate the data [22]. Moreover, some scientists have also found mathematical proof of economic advantages of Blockchain application: From the equilibrium analysis, we first show that a platform offers a higher QoS (Quality of Service) can set a higher equilibrium price and get a larger revenue [20].

PRE-CONDITIONS FOR BLOCKCHAIN APPLICATION

As could be inferred from eProcurement concept itself level of technological advancement shall be quite high, general ERP (Enterprise Resource Planning) or specific Procure to Pay (P2P), billing systems properly cross integrated – fully interoperable and covering main functional areas such as eSourcing platform designed for vendors‘ selection, catalog/inventory management, purchase order and contract management, invoice processing, etc. Subsequent Blockchain deployment would essentially rely on above mentioned IT software. On top of that separate blockchain related front end applications might be designed as well addressing specific topics if current software lacks any type of functionality needed.

Another important topic is business processes behind IT infrastructure. Processes shall be flexible enough to allow full usage of blockchain (intense cooperation between different entities based on trust without any additional certification intermediaries). So far Agile framework (Agile manifesto, 2001) fits the best that concept and companies shall be ready to adopt that working practice as predominant for any project management (including sourcing projects) – to be covered in details in Chapter 3 of this Article. As we‘ve already mentioned before the main Blockchain promotion engines are IT providers and consultants, however when it comes

to the general business – like small and medium size logistics operators (who as industry can benefit probably the most from this technology) they still complain about having little knowledge about Blockchain [18]. Explanation of this on one hand that research of Blockchain‘s practical application is still in its premature phase which can be called as childhood [36] on another hand these research shall reveal all possible alternatives and scenarios of such application [37].

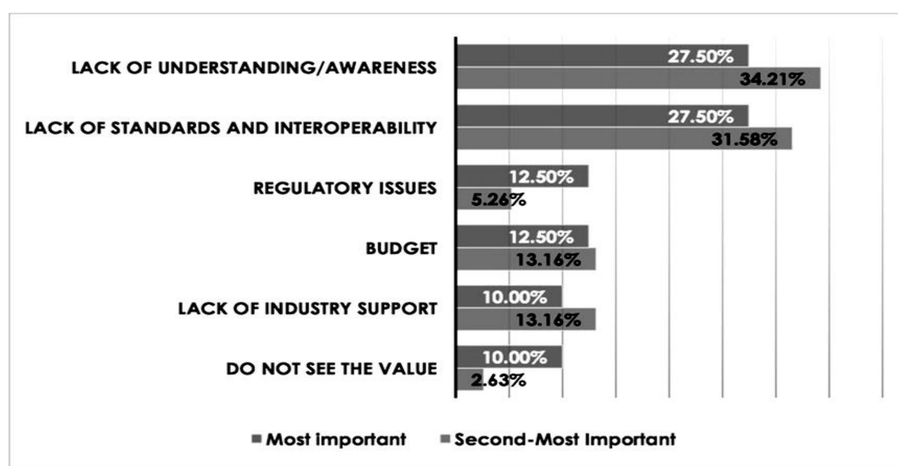

Figure 1. Obstacles to adopt Blockchain

Source: De Covny S. *Benchmark survey: Blockchain in Supply Chain: Edging toward higher visibility*. Chain Business Insights 2017, p.8.

The main statement can be adopted – the more presice and tight integration we manage to achieve the more benefits we will get. For commercial transactions, companies might look to permissionless-public ledgers such as bitcoin, which allows unknown or untrusted users to access the ledger (Panetta 2017).

BLOCKCHAIN IMPLEMENTATION'S METHODOLOGICAL BACKGROUND

As Blockchain is a concept which has been developed by IT industry, it's implementation shall be guided also by methodologies invented and applied in this industry, as this allows to avoid pitfalls due to the knowledge of the specifics. Companies not in control of the platform become the underdogs in value capture potential [23]. Selecting proper Blockchain implementation methodology or technique is key and vital here. In 2004 PMI (Project Management Institute) found out that project initiation is the main reason why projects fail [16]. Moreover the same study claims that only 56 percent of strategic initiatives meet their original goals and business intent. This poor performance results in organizations losing US$109 million

for every US$1 billion invested in projects and programs. Other sources report other major losses: For example, British food retailer Sainsbury had to write off its $526 million investment in an automated supply-chain management system. The U.S. Federal Aviation Administration spent $2.6 billion unsuccessfully trying to upgrade its air traffic control system in the 1990s. Nowadays we have 2 most project management competing paradigms – Waterfall and Agile, let's have a closer look:

A. Waterfall project management methodology

Waterfall is probably one of the earliest Project management methodologies which has started with the rise of first computer machines. This approach is logically sequenced, each phase follows previous one, deviation of this rule generally is not allowed. Therefore it comes with the name – natural flow as waterfall. Traditionally Waterfall is considered as best suited for large scale regulated projects due to its documented process.

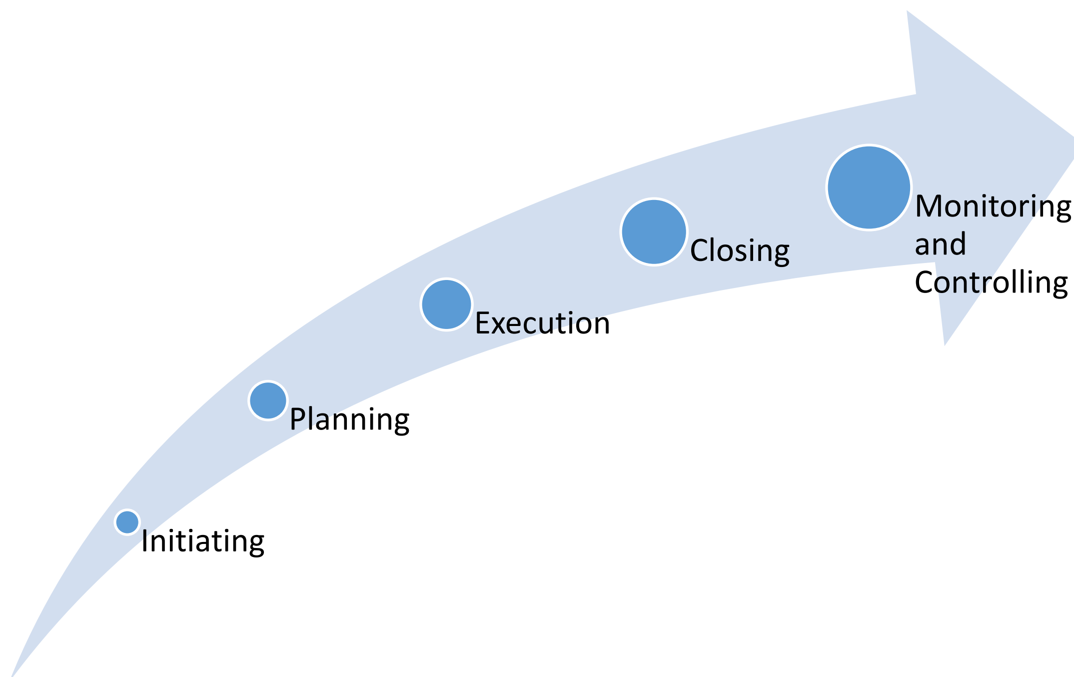

Figure 2. Sequence of Waterfall phases

- Initiating is the phase, where essentially business case of the project, answering to the main questions such as who is going to finance the project (Sponsor), who will be affected by the project (Stakeholders) and what are actual benefits of the project (high level cost benefit analysis) shall be prepared and adopted. This information is

contained in project manager's drafted Project charter (according to PMI) or Project concept definition statement (according to CompTia). Accordingly in terms of Blockchain implementation in this phase it shall be analyzed, documented and approved by upper management (Sponsor) what are monetary benefits of Blockchain implementation and in order to do that it shall be answered what exactly field of company's operational activities are going to be "blockchained". The benefits of Blockchain in eProcurement are delivered later in this article.

- Planning is the phase requiring most paperwork, as all activities shall be thoroughly planned, estimated and properly documented in Project management plan (which consists of plenty of another sub plans such as Risk management plan, Change management plan, etc.). As for Blockchain application this phase could take the most time along with actual implementation, as it requires involvement and output of near all company's departments.
- Implementation of Blockchain technology is a real challenge which shall consist of development phase (installing Blockchain into actual IT infrastructure, merging it with current IT systems), testing phase (factory testing, functional testing and final E2E (End to End - acceptance testing) and deployment (with roll back scenario properly documented in above mentioned risk management plan).
- Monitoring and controlling is unique phase as it is the only phase which shall go along with others, meaning that performance and quality control shall be in place from the very beginning when it is possible to define relevant KPI's (Key Performance Indicators). Essential part of this activity shall be documented in Quality Assurance plan (part of general Project management plan).
- By Closing phase projects are typically finished, when all deliverables are accepted, lessons learned are documented and properly archived. One of the extremely essential points here – all paper documentation and also technical source code shall be indeed stored very properly, as Blockchain (and the rest of IT technologies) is constantly evolving, and it is highly likely that soon project will need to be adapted to the new requirements. Moreover current implementation needs being maintained – in order to do that DevOps (Development and Operations) teams must have access to proper documented outcomes of previous projects.

B. Agile framework

When it comes to Agile we even don't call it methodology, but rather a framework – a set of practice that in contradiction to Waterfall treats IT development in quite free manner. This framework was born at 2001 by publishing Agile manifesto with following 4 principles (Agile manifesto, 2001):

- Individuals and interactions over processes and tools
- Working software over comprehensive documentation
- Customer collaboration over contract negotiation
- Responding to change over following a plan

This practice is predominantly designed for software development (to which Blockchain belongs) but it even denies the concept of project – rather development work conducted in time slots (sprints). Each sprint shall end with MVP (Minimum Viable Product) – deployable piece of functionality.

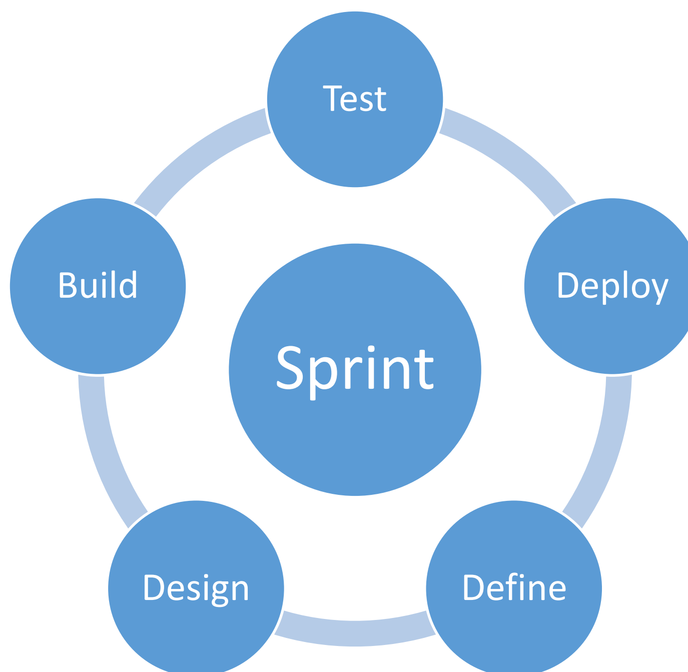

Figure 3. Sprint within Agile framework

Authors' opinion - when selecting project management model for Blockchain implementation in eProcurement projects we shall actually combine aforementioned two. On one hand it is brilliant to have flexible functionality and accelerated time to market KPIs using Agile, on another hand eProcurement is quite sensitive to internal and external regulations

(when it comes to sourcing, contract management and product shipping– all functionality shall be documented because of possible litigation while payments – is extremely regulated area without any saying).

BLOCKCHAIN ADVANTAGES AS PER DIFFERENT E-PROCUREMENT STAGES

Procurement is one of the main driver of world's economical growth and innovation. In EU context European Public Procurement is a key driver to one of the EU creation objectives - Single market, as at average EPP constitutes about 14-16% of EU GDP (in 2017 EPP resulted in EUR 2,448 billion, with 16% of 2017 EU GDP) (Becker, Niemann, Halsbenning 2018:11). The blockchain has the potential to transform the supply chain and disrupt the way we produce, market, purchase and consume our goods. The added transparency, traceability and security to the supply chain can go a long way toward making our economies safer and much more reliable by promoting trust and honesty, and preventing the implementation of questionable practices [7]. Needless to say that overall allocation of goods and services via procurement is enormous as this is predominant purchasing technique by all regulated industries and large scale businesses. Therefore the more efficient procurement process is, the more efficient economy we could enjoy. Logistics and supply chain management are regarded as domains where blockchains are good fits for a series of reasons.

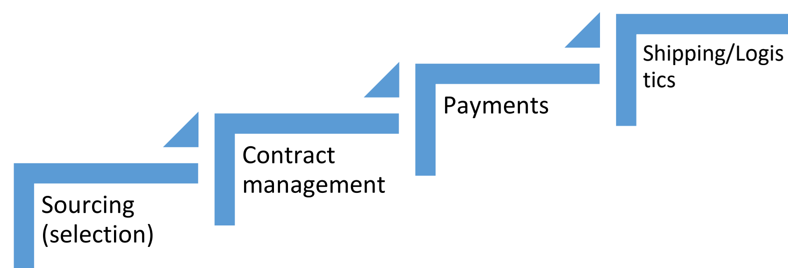

Figure 4. Sequence of eProcurement phases

During the lifecycle of the product, as it flows in the value chain (from the production to consumption) the data generated in every step can be documented as a transaction creating, and thus, a permanent history of the product. Moreover, the blockchain can contribute effectively, through its decentralized nature, in sharing information about the production process, delivery, maintenance, and wear-off of products between suppliers and vendors, bringing new modalities of collaboration in complex assembly lines [21]. Typical eProcurement process looks like classic waterfall project [9] with each phase logically sequenced:

Generally speaking value of Blockchain technology implementation can be summed up in the following table (to be detailed further):

Table 1. Blockchain impact on separate eProcurement phases

Impact level	Sourcing	Contract	Payment	Shipping Tracking
None				
Small to medium	✓	✓		
Medium to high			✓	✓

SOURCING

Nowadays selection procedures usually take place via specific dedicated eProcurement portals like Ariba, Sprint, etc. These portals usually possess quite well developed functionality and cover such actions as Procurement documents‘ (RFP/RFI, RFQ) publication, Q&A sessions (Questions and Answers), Vendors‘ proposal uploading, etc. However Vendors‘ identity management (identification, authentication and authorization) even given that it is digital (access managed by the passwords) is already outdated compared to today realities due to the following reasons: First traditionally digital means that identity is managed by centralized server, which serves as a perfect target for hackers. Thus, identification of security related requirements, vulnerabilities, and threats are keys to the development of a trustworthy system [12]. Federal Trade Commission reports that in Fraud related to Identity theft resulted in $1.48 billion loss in 2018 [32]. Second traditional digital identity management systems heavily dependent on personal data processing, which impose additional risks of non - compliance with GDPR (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data). As of January 21st 2020 amount of EU wide fines of GDPR non – conformity resulted in $126 million loss [17] (since GDPR came into force 25 May 2018). Lat but not least even digital identity management is still static – that means that persons shall maintain their actual records (validity of passport and its ID, position, email address and phone number, etc.) manually. Blockchain eliminates all these problems, offering trusted decentralized (near impossible to hack), verified by relationships identity solution which doesn’t require personal data at all and which is dynamic in nature. This feature accompanied with market realities – procuring organization’s demand to deal with great variety of reliable

vendors in order to find best quality vs price ratio and provider's demand to penetrate new markets makes Blockchain application highly attractive. On top of that strict KYC (Know Your Customer) and KYS (Know Your Supplier) procedures imposed on majority of regulated industries, therefore trusted and transparent identity management with blockchain enables to ensure great global companies' compliance function.

Another important aspect also relates to the blockchain ability to capture timely actions of already identified persons, such as - RFP, Q&A, Proposal submittal time and authenticity, deadline management. As through blockchain all parties possess the same identical online source of truth, there is no pretext to object later procuring organizations' decision, as its judgement is based on trusted, in advance agreed objective awarding criteria – therefore such technology prevents the parties from subsequent costly and time consuming litigation.

CONTRACT MANAGEMENT CYCLE

After proper vendor has been selected – establishment of legal relationship comes to the scene. This is usually done by concluding legally binding documents – contracts. Contracts are society's programming language. Corporations are defined by contracts with investors, employees, customers, etc. Countries are defined by social contracts with citizens, representatives, corporations, etc. But today's contracts are confusing and expensive to create and enforce. They are written in bad programming languages and enforced by slow, complex, expensive, and unpredictable mechanisms [26]. Blockchain can help on all contract management cycle – agreeing on the specific terms and conditions, approving them and even executing. If first 2 action shall be quite clear in view of advantages of this technology explained earlier (decentralized and reliable ledger that all parties can verify at any moment). However contract execution shall be reviewed separately. First of all speaking about full blockchain contract we have to highlight that this is purely digital – so called „smart contracts“ that means coded with software. Because blockchain transactions are programmable and self-enforcing, parties might use smart contracts to design contractual relationships that are automatically executed without the additional costs of monitoring or enforcement [19]. At least with this feature it is possible to optimize system of alerts and notifications to be shared with all stakeholders, but what is much more important - this allows to put separate triggers that automates execution – like under certain pre-agreed conditions at a certain time to run the

process – place the order, send the invoice, make payment, etc. Some specific and distinct advantages can be found in each major contract management phase:

On OMS (Order Management System) - Blockchain improves the whole efficiency of the process by reducing the number of operations, precisely tracing the orders and in general enhancing visibility to supply chain stakeholders. Modern OMS are also multichannel and 24/7, so above mentioned efficiencies are online available to the stakeholders.

On Invoicing and e-Billing - first of all EU wide legislation already provided e-invoicing standards as per EU directives 2014/24/EU and 2014/55/EU. In sum, the technology's potential to lower transaction costs with respect to contracting and transferring title to physical and personal property should generate special interest in the legal community [19]. One of the most advanced blockchain industry company – SophiaTX made a study which found out that estimated size of E-invoicing market was 3.3bln euro in 2017 with expected growth to 16.1bln in 2024 [33].

Table 2. Average cost comparison between paper and e-Invoicing per 1 invoice

Cost category	Paper	E-Invoice
Print, envelope, send	$4.15	0
Payment reminders	$0.53	$0.43
Remittance and cash management	$4.73	$3.19
Archiving	$2.34	$0.19
Total	$11.81	$4.47

Source: Sophiatx case study. Blockchain based invoising, 2017.

Invoicing through smart contracts automatically processes and records payments [29]. On another hand it should be noted that still traditional contracts shall be maintained, as smart contracts are fully M2M (machine to machine) based collaboration, they will not cover and process any specific event (like damages, as this shall be initiated by further processed by person).

PAYMENT SETTLEMENT

We‘ve decided to put Payment settlement as separate chapter due to the following reasons: First of all blockchain derived from payment sphere as it was and it predominant technology supporting Bitcoin cryptocurrency and second reason – its sensitivity and the biggest effect. Blockchain was first invented in 1991 by Stuart Haber and W. Scott Stornetta as a mean to avoid document‘s timestamp tamper, in 2008 Nakamoto described how a network

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

of users could engage in secure peer-to-peer financial transactions, eliminating the need for financial intermediaries and reducing the cost of overseas payments [29] and soon after it gained real worldwide application with commercial launch in January 2009. In 2015 the number of retailers accepting the cryptocurrency bitcoin has passed 100,000 [6], while according to the Cambridge Centre for Alternative Finance study [14] in 2017 there were already 5.9 million Bitcoin (and consequently Blockchain) users. Since it (Bitcoin) allows payments to be finalized without any bank or intermediary, blockchain can be used in various financial services such as digital assets, remittance and online payments [1].

Speaking about blockchain impact on payment industry first thing which comes to the mind is hacker – proof reliable system (Fraud security. Blockchain is "unhackable". It decreases the probability of any kind of fraud. Furthermore, it does not work on patches, which makes blockchain the securest in the market of cybersecurity initiatives [31], Bitcoin has **never** been hacked [2] which allows to eliminate or at least significantly reduce fraud in this industry. Moreover, it is a cryptographically secure electronic payment system, and it enables transactions involving virtual currency in the form of digital tokens called Bitcoin [5]. According to European Central Bank 2018 Fifth report on card fraud: The total value of fraudulent transactions conducted using cards issued within SEPA and acquired worldwide amounted to €1.8 billion in 2016 (ECB, 2018). Another major banking and finance European player is UK market on which UK banking and finance industry association – „UK Finance“ in its 2019 report (finance, 2019) revealed, that Unauthorised financial fraud losses across payment cards, remote banking and cheques totalled £844.8 million in 2018, an increase of 16 per cent compared to 2017. In addition to this, in 2018 UK Finance members reported 84,624 incidents of authorised push payment scams with gross losses of £354.3 million.

Another distinct advantage is its efficiency and cost saving. Blockchain technology is uniquely positioned to tackle the problems of both speed and cost. In sum, blockchain technology solves an important problem in electronic value transfers. The blockchain does not only move value; it also integrates several components of the trading-clearing settlement value chain in an elegant, efficient, and mathematical way [19]. Consumer of typical banking or financial institution usually is being charged commission for any type of operation, and a lot of these operations (like opening account) can be fulfilled only during standard working hours. In a like manner with location, cost is significantly reduced with blockchain technology in a supply chain system.

Value of Card Fraud Losses in Europe

	2012	2013	2014	2015	2016	GR 15/16	CAGR 5Y
Total card fraud losses with SEPA acquired worlwide (€bn)	1.330	1.436	1.656	1.808	1.800	-0.4%	9.2%
- thereof CNP fraud losses (€bn)	0.794	0.958	1.031	1.292	1.320	2.2%	15.2%
Value of card fraud losses as a share of the value of transactions	0.038%	0.039%	0.038%	0.042%	0.041%	-2.4%	2.6%
- thereof ATM Fraud in%	17%	14%	12%	9%	8%	-11.1%	-15.9%
- thereof CNP Fraud in %	60%	67%	69%	71%	73%	2.8%	5.4%
- thereof POS Fraud in %	23%	19%	19%	20%	19%	-5.0%	-5.3%
Volume of card fraud losses as a share of the number of transactions	0.017%	0.020%	0.020%	0.020%	0.023%	15.0%	7.5%
- thereof ATM Fraud in%	11%	9%	7%	5%	3%	-40.0%	-22.9%
- thereof CNP Fraud in %	63%	71%	75%	76%	77%	1.3%	7.8%
- thereof POS Fraud in %	26%	20%	18%	19%	20%	5.3%	-11.1%

Source: ECB Fifth Report on Card Fraud: all reporting card payment schemes (CPSs).

Note: The total number of cases of card fraud using cards issued in SEPA amounted to 17.3 million in 2016. The total number of card transactions using cards issued in SEPA amounted to 74.9 billion in 2016.

Figure 5. Value of Card Fraud losses in Europe

Source: Nets. *European Fraud report, Payment Industry Challenges*. 2019.

Mainly due to large distance transactions being slower through banks than with cryptocurrency technology, blockchain provides an economic solution for the supply chain [21]. On top of that consumer shall often be in front of the bank agent who will verify face to face genuity of such application. In contrast blockchain operates 24/7, as it is decentralized there is almost no commission fees, it is remotely from its origin and average operation lasts about 10 minutes – time needed to form the block and put it into the chain. Bitcoin payment services are only of the order of 0.01%-0.05%, largely due to the lower cost of not needing to process or perform disputes in transactions [29]. European Bank – Santander estimates that blockchain could reduce banks' infrastructural costs by $15-20 billion a year by 2022 [28]. French consultancy giant – Capgeminy predicts that consumers' wallets could save up to $16 billion in banking and insurance fees also per year [4].

TRACKING PRODUCTS' MOVEMENT AND INVENTORY MANAGEMENT

According to US biggest logistics and supply chain association – MHI „The 2019 MHI Annual Industry Report - Elevating Supply Chain Digital Consciousness" [24] in 2018 usage of blockchain technology in inventory management was at about 5 % level but it is forecasted to grow at 54 % within next five years. The advantages are quite straight forward – with blockchain companies are able to track movement of goods proactively in real time mode,

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
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Research Journal

which is crucial, especially for big retailers and logistics companies running huge stocks and variety of products' movements flows. Tracking goods through blockchain can improve the decision-making process with end result being a more satisfying service for the end user [34]. Blockchain introduction allows the companies to synchronize the data between different supply chain players like suppliers, distribution centers, transportation companies, retail partners and their different stock locations establishing single time saving working procedure (as each of these potentially uses their own different data processing methods and tools – which could result in delay for market needs and consequent financial loss) and therefore to increase time to market criteria and avoid under/over stocking. On another hand it also leads to human error, fraud (according to PwC 2018 report 47 % of respondents experienced a fraud in past 24 months with overall loss of $ 42 billion for the same time period [30] and general workforce costs reduction through efficient digital automation, which also contributes to competitive advantage. According to 2013 World Economic Forum's Report. Enabling Trade. Valuing Growth Opportunities [11]: Blockchain can help all parties involved in shipping to increase sustainability, reduce or eliminate fraud and errors, improve inventory management, minimize courier costs, reduce delays caused by paperwork, waste and identify issues faster. This could increase worldwide GDP by almost 5% and total trade volume by 15%.

However it also should be noted that maximum advantage of the blockchain can be achieved in conjunction with another cutting edge technology such as Internet of Things (IoT). IoT is supposed to connect the different smart objects vis Internet (things having sensors connected to the Internet) and to provide that management tools of that to authorized users. Concrete usage example can be seen from below statement: Sensors and the Internet of Things (IoT) are enabling goods container store port when a value limit has been exceeded, e.g., temperature, tilt or incoming light intensity. The freight being forwarded remains in clear view across the entire supply chain [34].

CONCLUSIONS

Blockchain as technology serving decentralized ledger concept has no rivals in market in the present days. Its main features such as extreme reliability/safety on one hand and transparency and collaborative spirit contribute to attractiveness and consideration to implement this technology the most. However certain points shall be thoroughly estimated, discussed and adopted across all organization before start of the project.

First it shall be analyzed current level of company's IT architecture - its level of maturity and readiness to adopt Blockchain. It shall be also noted the more old-fashioned IT systems (silo) are in place, the more complex potential integration especially within interoperability sphere will be.

Second important milestone – which project management methodology or framework to employ for such integration project. Article described two main predominant options in the IT industry. Authors' opinion the best choice is to combine benefits of these two – counting on Agile flexibility and increased time to market on one hand and employing formal requirements of waterfall documentation as eProcurement (especially some its processes as payments, products' shipping) is a quite sensitive function to regulation.

Last but not least it shall be determined the benefit of such implementation. Based on the above findings according to the authors it goes without any saying that Blockchain indeed has a distinctive positive impact on eProcurement – main economic advantages are efficiency (speed, performance, error free, cost savings) and security due to the nature of this technology. However the strength of this impact varies as per different e-Procurement stages:

For Product's shipping and Inventory management authors recommend using Blockchain along with the IoT to get maximum advantage from this synergy – which is predominant and the most promising research sphere for Blockchain today.

In Payment settlement positive experience of Blockchain application from crypto currencies (primarily Bitcoin) shall be considered.

Bitcoin application in Smart contracts is preferred to introduce more higher automation level, however nowadays this can be applied only for standard contractual clauses, while for non - standards human interaction is still needed.

In Sourcing Blockchain would allow to expand the set of available vendors which in turn directly affects efficiency of e-Procurement.

Authors' opinion – with current technological level it's highly recommended to extend Blockchain application in Product's shipping and payments, while other e-Procurement phases would be able to fully enjoy Blockchain in recent future due to the need of more interoperable IT systems.

Summary

Actuality – topic is extremely valid and proper as first of all technology represents one of main drivers of economic development, Blockchain being one of the key trends. On another hand eProcurement constitutes significant stake of global economy, therefore impact of Blockchain implementation in eProcurement is significant.

Goals **-** to search and select proper technology that could accept current challenges in e-Procurement related to globalization (increased amount of stakeholders, international transactions with different legislation), increased amount of non - structured data, different level of technological advancement, residual risks related to fraud and human errors and to provide methodological approach of its implementation.

Methods - analysis of the scientific articles, analysis of best practice use cases, comparison, analytical descriptive and generalization methods. It shall be noted that due to the topic's novelty and practical application authors have put a lot of focus on practical sources.

Results – Author's opinion is that first of all it is essential to define level of current maturity of the IT systems (ERP) and flexibility of business processes. Next proper methodology of transformation projects shall be analyzed and chosen (waterfall vs agile). And finally blockchain implementation has different impact on separate eProcurement phases, with Product shipping and payments benefiting the most.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

CHANGES AND PROBLEMATIC ASPECTS IN LEGAL REGULATION OF ADMINISTRATIVE LIABILITY DUE TO QUARANTINE

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DOI: 10.13165/PSPO-20-24-32

Annotation. he declaration of emergencies and quarantine across the country has inevitably affected, if not all, most areas of public life. There was a need and necessity to regulate both new and changed old social relations. The unfavorable circumstances also revealed the existing gaps in the legal regulation. This article analyzes changes in legal regulation in the context of administrative liability. The answer is sought to the question whether those changes were necessary at all, whether the wording of the legal norms influenced by the new legal regulation is in accordance with the objectives of the legislator. Given that the investigation is being carried out shortly after the changes in the legal framework, the question arises as to whether the institutions are properly applying the new or amended legal provisions governing administrative liability. It is presumed that improper, formal, administrative liability may lead to an increase in legal disputes concerning compensation for damage caused by the unlawful actions of officials. Suggestions for the improvement of legal regulation are presented considering the identified problems.

Keywords: administrative liability, signs of administrative offense, legal regulation, quarantine

INTRODUCTION

Taking care of health is not only a personal right and / or duty of an individual, but also a duty of the Lithuanian state. Such an obligation follows directly from the Constitution. Paragraph 1 of Article 53 of the Constitution enshrines that: “The State shall take care of the health of people <...>” (*Constitution of the Republic of Lithuania* (CRL) 1992 Lietuvos Aidas, No. 220-0). The practice of the Constitutional Court of the Republic of Lithuania (CCRL) (hereinafter - the Constitutional Court) in interpreting this norm of the Constitution is not abundant. However, the Constitutional Court has repeatedly ruled on it indirectly in its jurisprudence - i. e. in cases where this provision was interpreted in the context of other constitutional rights, such as the right to private life (Article 22 of the CRL), the right to work (Article 48 of the CRL), and the freedom of economic activity (Article 46 of the CRL). Explaining the provision “the state takes care of human health”, the court has stated that human and public health is one of the most important values of society, that the protection of human

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

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PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
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health is a constitutionally important goal and public interest (*Ruling of the Constitutional Court of the Republic of Lithuania (2017)* LRKT Nr. 8/2016). In the doctrine of law, this right belongs to the group of human social rights and is interpreted broadly (as in the jurisprudence of the Constitutional Court). ”<..> *An interesting aspect of social rights - the right to health care - is that this right is protected not only as an individual human right. social right to health care, but also as a collective right, i.e. the public interest justifying, inter alia, the restriction of certain other rights and / or freedoms, such as freedom of expression, freedom of information or the right to property '*. (Lapinskas 2006). In this context, various hygiene regulations or other public health legislation related to health protection have been adopted and are in force. According to the author, it is necessary to mention that health protection, as an obligation of the state, is also provided for in the European Union and international legal acts. Article 191 paragraph 1 and 2 of the Treaty on the Functioning of the European Union provides, *inter alia*, that the Union's policy on the environment is to contribute to the following objectives: ... the protection of human health ... and Article 11 of the revised European Social Charter. , Measures to Eliminate the Causes of Poor Health and to Prevent Epidemic, Endemic and Other Diseases as Much As Possible ”(*European Social Charter (revised) 2001* (Official Gazette No. 49-1704)) February 26 by resolution no. 152 The "State of Emergency Declaration" declared a state-wide state of emergency due to the threat of the spread of the new coronavirus (COVID-19). In view of the adverse epidemic situation of COVID-19 (coronavirus infection) and in line with the 9 of March 2016 Regulation (EC) No 1/2003 of the European Parliament and of the Council 2016/399 on the rules governing the movement of persons across borders, Articles 25 and 27 of the Union Code (Schengen Borders Code), Article 21 paragraph 3 part 1 of the Law on the Prevention and Control of Infectious Diseases of the Republic of Lithuania, Article 21 paragraph 2 part 1 of the Law on Civil Protection point, 14 of March 2020 by resolution no. 207 “On the Announcement of Quarantine in the Territory of the Republic of Lithuania” announced the third (full readiness) level of civil protection system readiness and quarantine in the entire territory of the Republic of Lithuania. On that basis, a series of restrictions and prohibitions were imposed, both on cross-border and domestic movements and on public and private sector activities, which imposed various mandatory obligations and prohibitions on natural and legal persons. In view of this, it was necessary to react promptly by adapting the existing or introducing new legal regulation, to the changed factual circumstances and the

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
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established legal regime. Legislation was carried out rapidly and on a large scale[1]. Although, in principle, prohibitions and restrictions were welcomed by the public[2], as usual, not all members of the public were willing to comply unconditionally with the law. In order to prevent non-compliance with public health, civil protection legislation, decisions taken by municipal authorities and violations committed during a state dangerous to the state or society and conditions of declaration of war, emergency, mobilization, quarantine, limited quarantine, as well as in the event of an emergency or emergency, if an emergency situation or emergency endangers human life or health, to deter persons from committing such violations, it was decided to add new paragraphs to Articles 45, 46, 506 and 526 of the Code of Administrative Offenses of the Republic of Lithuania (hereinafter – CAO, Code). he composition of the administrative offenses provided for in these Articles for the commission of such offenses during war, emergency, mobilization, quarantine, restricted quarantine, emergency, or emergency events (Infolex 2020). At the same time, the range of institutions empowered to investigate and impose administrative liability for the above offenses was expanded: police, military police, officers of the State Border Guard Service under the Ministry of the Interior and the Public Security Service under the Ministry of the Interior.

The purpose of the research is to determine whether the changes in the legal regulation of administrative liability correspond to the aims and objectives of the draft law, both in terms of the formulation of the legal norm and its application.

Methodology. Analyzing the legal regulation of administrative liability and the problems of its application, in the context of the researched topic, comparative historical, logical-analytical, document analysis, systematic analysis, scientific literature and document analysis methods were used. The comparative historical method is used in the analysis as the administrative liability of another, in the context of the analyzed topic, providing for legal regulation, features of the composition of the violation of the law. The document analysis method is used to study European Union regulations or decisions in the field of public health,

[1] The article was completed in 2020. On 27 May, and according to today's data, there were 921 documents in the Infolex system (of which EU legal acts 2, draft legal acts 4, legal acts 915) with the same tag #Coronavirus https://www.infolex.lt/teise/ Tag.aspx? ZymesId = 2893.

[2] As an example, surveys conducted by different subjects were selected and their summarized results are presented: https://klaipeda.diena.lt/apklausos/956794 in response to the question: “How do you react to prohibitions and instructions aimed at controlling the spread of coronavirus in Lithuania?” Of the 6,655 respondents, 86.2 percent rated it very well; https://inspired.lt/Kog/Covid19_Visuomenes_nuomone_03.26.pdf Residents especially welcome the decisions taken by the Government in the fight against coronavirus in Lithuania. As many as 76% of all respondents say they support their actions. Only 1 in 10 indicated that they did not support such actions.

hygiene regulations, the Law on the Prevention and Control of Infectious Diseases of the Republic of Lithuania and other legal acts in the field of public health, and liability for their violation. The logical-analytical method is used to generalize and formulate conclusions. The method of systematic analysis has been applied to the study of problems arising in the qualification of individuals' actions, considering the applicable legal norms, case law and statistical data. The method of analysis of scientific literature and court decisions is used to clarify the problematic aspects of the application of administrative liability in the context of the analyzed topic.

THE SCOPE OF CHANGES IN THE LEGAL REGULATION OF ADMINISTRATIVE LIABILITY

As already mentioned, this article was inspired to determine whether the changes in the legal regulation of administrative liability are in line with the aims and objectives of the draft law, both in terms of the formulation of the legal norm and its application. The aim of the legislator was to prevent non-compliance with legal acts in the field of public health, civil protection, decisions made by municipal institutions and violations committed during a state dangerous to the state or society and conditions of declaration of war, state of emergency, mobilization, quarantine, limited quarantine and emergency or an emergency event, if an emergency or an emergency event endangers human life or health, to deter individuals from committing such violations (Infolex 2020). Taking this into account, when analyzing the changes in the regulation of administrative liability, we will limit this article to the analysis of changes in the legal regulation of offenses provided for in CAO 45, 46, 506 and 526 - specifically part 45, 46, 96, 506, 526, 589 of the Code of Administrative Offenses and analysis of the amendments in Articles 608 (*Code of Administrative Offenses 2020*, (TAR, 02-04-2020, No. 6899)).

Changes in the legal regulation of administrative liability for violations of legal acts in the field of public health, prevention, and control of infectious diseases

Liability for violations of European Union regulations or decisions in the field of public health, hygiene regulations or other legal acts in the field of public health, the Law on the Prevention and Control of Infectious Diseases of the Republic of Lithuania and decisions of municipal councils or orders of municipal administrations on combating infectious disease

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
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outbreaks and epidemics non-execution or late execution, regulated in Articles 45 and 46 of the Code of Administrative Offenses. Articles 45 and 46 of the CAO are set out in Chapter VIII of the Code, "Administrative Offenses Related to the Protection of Human Life and Health".

Until the entry in to the force of the Code of Administrative Offenses (1 of January 2017), the 13 of December 1984 adopted in 1 of April 1985 Code of Administrative Offenses of the Lithuanian SSR (*Code of Administrative* Offenses *of the LSSR (1985)* Government Gazette No.1-1) (hereinafter - the CAVL) was in place. From the first wording of the CAVL, Article 42 established liability for offenses of sanitary hygienic and sanitary pre-epidemic rules and norms.

After Lithuania regained its independence, the Code of Administrative Offenses continued to apply *mutatis mutandis*. On 26 of May 1992 the Law no. I-2589 (entered into force on 15 June 1992) (Official Gazette, 1992, No 21-610) changed the disposition of the norm and provided for liability for offense of hygiene regulations. In addition, the same article provided for liability for such a repeated infringement.

Since 30 of October 1996 the wording of the three-part[3] article came into force that provides for liability for non-execution or untimely execution of decisions of municipal councils and boards in the fight against human infectious disease outbreaks and epidemics, and provides for this offense with a qualified composition - if the offense is repeated. Such legal regulation remained (despite the changes in sanctions and wording) for 20 years before the expiry of the CAVL on 31 of December 2016.

From 1 of January 2017 The Code of Administrative Offenses has entered into force. Articles 45 and 46 of the CAO regulate administrative liability as follows:

- imposes a warning or a fine on persons from sixty to one hundred and forty euros and a fine on the heads of legal persons for offense of European Union regulations or decisions in the field of public health, hygiene regulations or other legal acts in the field of public health, the Law on the Prevention and Control of Infectious Diseases of the Republic of Lithuania, or for other responsible persons from one hundred forty to six hundred euros paragraph 1. The same act committed repeatedly imposes a fine between one hundred and forty and six hundred euros and on the heads of legal persons or other responsible persons between five hundred and fifty

[3] Violation of hygiene regulations and rules for prevention and control of infectious diseases in humans (part 1); The same act committed by a person punished by an administrative penalty for the violations provided for in Paragraph 1 of this Article (part 2); The acts referred to in Paragraph 1 of this Article which have caused the risk of spreading dangerous or especially dangerous infectious diseases or which have led to their spread (part 3).

and one thousand two hundred euros (paragraph 2). Article 45 paragraph 3 of the CAO, which provides for administrative liability for the administrative offense referred to in paragraph 1 of this Article for whom has led to the spread of dangerous or particularly dangerous infectious diseases, imposes a fine of between three hundred and five hundred and sixty euros and for directors or other liable persons one thousand four hundred to three thousand euros;

- for non-execution or late execution of decisions of municipal councils or orders of directors of municipal administrations in the fight against infectious disease outbreaks and epidemics, which entails a fine of thirty to ninety euros and for managers of legal entities or other responsible persons from one hundred forty to three hundred (Article 46 paragraph 1). Paragraph 2 of this Article establishes administrative liability for these repeated acts, which entails a fine of eighty to one hundred and fifty euros for persons and two hundred and eighty to six hundred euros for managers of legal persons or other responsible persons. (Code of Administrative Offenses 2015 (TAR, 10.07.2015, No. 11216). And although there were 98 amendments to the Code of Administrative Offenses[4] that entered into force by 31 of March in 2020[5], this legal regulation has not been changed.

The initiator of the bill - the Ministry of Justice - stated in the explanatory memorandum (Infolex 2020) that it is proposed to add new parts to Articles 45 and 46 of the CAO providing for qualified composition of administrative offenses under these articles for war, emergency, mobilization, quarantine, restricted quarantine, during an emergency or extreme event, ie proposed that:

1) To supplement Article 45 of the CAO with paragraph 4, which provides for administrative liability for offense of European Union regulations or decisions in the field of public health, hygiene regulations or other legal acts in the field of public health, the Law on Prevention and Control of Infectious Diseases of the Republic of Lithuania dangerous infectious diseases committed during war, emergency, mobilization, quarantine, restricted quarantine, as well as in the event of an emergency or extreme event, if the emergency or extreme event endangers human life or health. It is proposed to set the fine for persons from five hundred to one thousand five hundred euros and for managers of legal entities or other responsible persons - from one thousand five hundred to six thousand euros.

[4] Total until 31 of March 2020 111 amendments to the CAO were adopted.
[5] Until the relevant amendments to Articles 45.46, 506, 589 of the Code of Administrative Offenses are analyzed in the article.

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ISSN 2029-1701
ISSN 2335-2035 (Online)
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2) to supplement Article 46 of the CAO with paragraph 3, which provides for administrative liability for non-execution or untimely execution of municipal council decisions or orders of directors of municipal administrations to combat infectious disease outbreaks and epidemics during war, emergency, mobilization, quarantine, limited quarantine, also in the event of an emergency or extreme event, if the emergency or emergency endangers human life or health. It is proposed to set the fine for persons from two hundred and fifty to eight hundred euros and for managers of legal entities or other responsible persons - from eight hundred euros to one thousand five hundred euros.

The Minister of Justice, presenting the changes in the legal regulation, indicated that it is proposed to apply almost ten times higher fines for offenses of the rules of quarantine and self-isolation during an emergency. Currently, the CAO provides for a warning or a fine from sixty to one hundred and forty euros for offenses against natural persons, and if the amendment to the law enters into force, the fine would be from five hundred to one thousand and five hundred euros. The fines for legal entities and their managers would increase accordingly: now - from one hundred and forty to six hundred euros, and will be from one thousand five hundred to six thousand euros (Government of the Republic of Lithuania 2020).

Thus, the purpose of the initiators of the draft amendments to the law was to increase the penalties for misconduct provided for in Articles 45 paragraph 1 and 46 paragraph 1 of the CAO.

It must be agreed that Article 46 paragraph 3 of the CAO is in line with the intention of the initiator of the bill and, presumably, the legislature.

However, after examining the amendments to the law in the context of Article 45 of the CAO, it is clear that the provisions of Article 45 paragraph 4 of the CAO are based on the disposition not on Article 45 paragraph 1 but on Article 45 paragraph 3 in which the new legislation provided for liability for an infringement <…> during quarantine <...> *inter alia* gave rise to a risk of the spread of dangerous or particularly dangerous infectious diseases.

In view of the above, using teleological and methods of interpretation of the law of intent of the legislator, it is concluded that the amendments to Article 45 of the Code of Administrative Offenses were only partially in line with the real intentions of the project initiator and the legislator.

Changes in the legal regulation of administrative liability for not complying to legal instructions or requirements of statutory civil servants, military police, or intelligence officers

Failure to comply with the requirements of lawful officials has been an administrative offense of the law since the first wording of the CAO. Only the concepts (considering institutional changes), the number of entities and the sanctions for these offenses have changed. The law was supplemented with quasi-misdemeanor formations, and from the first edition of the disposition: *"Malicious disobedience to the lawful handling or claim of a militia employee or a friend of a people holding public order"* to the present day, administrative liability is regulated as follows[6]:

- Article 506 paragraph 1 of the CAO provides for administrative liability for non-compliance with a lawful police officer's request to appear before the police.

- Article 506 paragraph 2 of the CAO provides for administrative liability for the passage, crossing, tearing or demolition of a police lane or other barrier enclosing the perimeter of the scene with the inscription "STOP POLICE",

- Article 506 paragraph 3 of the CAO provides for administrative liability for intentional non-compliance with the lawful requirement of a uniformed soldier, as well as other obstruction of the uniformed soldier's exercise of the rights conferred on him by law,

- Paragraph 4 of Article 506 of the CAO establishes administrative liability for non-compliance with a lawful instruction or requirement of a statutory civil servant, military police or intelligence officer, except for the cases specified in Article 556 of this Code (*Code of Administrative Offenses of the Republic of Lithuania 2015*, TAR No. 11216).

It is objectively clear that during a war, emergency, mobilization, quarantine, restricted quarantine, as well as in the event of an emergency or extreme event, if the emergency or emergency event endangers human life or health, failure to comply with a police officer crossing the strip, removal, intentional non-compliance with a lawful requirement of a uniformed soldier or obstruction of the uniformed soldier to exercise the rights granted to him by law, non-compliance with a lawful instruction or requirement of a statutory civil servant, military police or intelligence officer shall be considered more dangerous offenses. Accordingly, Article 506 of the CAO has been supplemented by paragraph 41, which provides

[6] Only the parts of Article 506 of the CAO that are relevant to the scope of this study are cited.

for administrative liability for the commission of the acts referred to in paragraphs 1 to 4 of this article during war, emergency, mobilization, quarantine, restricted quarantine, emergency or event in case of emergency, whether the emergency endangers the life or health of persons, during an emergency or emergency event, to impose a fine on persons from two hundred to five hundred euros and on the heads of legal persons or other responsible persons - from five hundred euros to one thousand five hundred euros.

In the event of a quarantine situation or other specified special cases, officers shall work in a specific regime, in other risk circumstances and with limited capacity. In the context of such circumstances, the focus is on ensuring human security and threats from quarantine and so on. This makes it more difficult for officers to react to, for example, a offense of traffic rules, public order or another, where the offenders do not comply with the police officers' requests to stop the illegal actions or obstruct the investigation of the circumstances of the incident. Officers should leave from other stressful places to ensure order where officials are disobedient. It is therefore to be agreed with the legislator that more severe offenses should be imposed for more serious offenses.

Changes in the legal regulation of administrative liability for non-compliance with or offense of the Law on Civil Protection of the Republic of Lithuania and other legal acts regulating civil safety

Although the Law on Civil Protection was adopted in 1998 *(Law on Civil Protection of the Republic of Lithuania 1998*, Official Gazette, 1998, Nr. 115-3230), administrative liability for offenses of this law and other legal acts in this field has been established only since 1 of January 2011 Article 1922 of the CAVL (Law on Amendments to the Code of Administrative Offenses of the Republic of Lithuania 2010, No. 142-7257). The composition of this offense of the law has not been changed in Article 526 of the Code of Administrative Offenses.

Paragraph 1 of Article 1 of the Law on Civil Protection of the Republic of Lithuania provides that this Law establishes the legal and organizational bases for the organization and operation of the civil protection system, competence of state and municipal institutions and bodies, rights and obligations of other bodies, economic entities and residents. Therefore, it is natural that apart from the legal norms analyzed above, in the context of quarantine, there is a need to strengthen the liability for non-compliance or offense of legal acts regulating civil protection.

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
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In view of this, Article 526 of the CAO has been supplemented with Paragraph 3, which provides for administrative liability for non-compliance or offense of the Law on Civil Protection of the Republic of Lithuania and other legal acts regulating civil protection during war, emergency, mobilization, quarantine, restricted quarantine, as well as emergency or an emergency event, if the emergency or emergency event endangers human life or health, imposing a fine of five hundred to one thousand five hundred euros for persons and one thousand five hundred to six thousand euros for managers of legal persons or other responsible persons.

It is considered that a breach of civil protection law in quarantine or other extreme circumstances is more dangerous than a similar breach in normal circumstances, therefore the sanction must be differentiated and adequate to the seriousness of the breach.

PROBLEMATIC ASPECTS OF THE APPLICATION OF ADMINISTRATIVE LIABILITY

The social function of law is the occurrence, process and result of the impact of law on public life, corporate consciousness, and behavior. Law is created or "spontaneously emerges" in the social space and is implemented in it to one degree or another. The implementation of the law manifests itself in the concrete results of the impact on public life, corporate consciousness, and behavior (Šlapkauskas 2004). The most favorable situation for the implementation of a legal act is when its planned objectives are achieved at the lowest cost. Conversely, unplanned negative consequences of the implementation of a legal act are especially useless, as they are clearly contrary to the goals pursued by the subject of the legislation (Šlapkauskas 2002).

We discussed the purpose of regulatory change above in this article. Let us further analyze the extent to which that goal was achieved in the light of both the doctrine and the goals of the legislature.

In the opinion of the author of the article, in terms of expediency and application, only the supplement to Article 45 of the COA part 4, therefore, it is this norm that will be analyzed as problematic below.

Paragraph 4 of Article 45 of the COA provides for administrative liability for offense of European Union regulations or decisions in the field of public health, hygiene regulations or other legal acts in the field of public health, the Law of the Republic of Lithuania on the

Prevention and Control of Infectious Diseases of the Republic of Lithuania **the risk of the spread of dangerous or particularly dangerous infectious diseases** (underlined and highlighted by the author, Authors note), committed during war, emergency, mobilization, quarantine, restricted quarantine, as well as in the event of an emergency or extreme event, if the emergency or extreme event endangers human life or health.

According to the case law, a person is held administratively liable only if the composition of the administrative offense accused of him or her has been established based on the evidence in the case. The commission of a specific administrative offense as defined by law, which has all the features of the composition of an administrative offense specified by law, means that there is a factual basis for bringing the guilty person to administrative liability and imposing appropriate penalties and other sanctions. Administrative misconduct, like other offenses, is characterized by the following four objective and subjective features: (a) object; (b) objective characteristics; (c) the entity; (d) subjective features. All these elements are required to determine the composition of an administrative offense. If there is at least one feature missing, then there is no composition of the offense as a whole (*ruling of the Supreme Court of Lithuania in the case of administrative offense* No. 2AT-30-699 / 2017, No. 2AT-10-648 / 2019, etc.).

Let us analyze the objective signs of this transgression.

The objective feature of this act is that the act manifests itself in offense of European Union regulations or decisions in the field of health, hygiene regulations or other legal acts in the field of public health, and the Law of the Republic of Lithuania on the Prevention and Control of Infectious Diseases. Therefore, legislation establishing the basic principles of public health protection is also important for the understanding and proper and effective application of the provisions of Article 45 of the CAO. It should also be noted that the disposition of Article 45 paragraph 4 of the CAO is a blanket rule of law. In the case of a blanket disposition, it is inevitable to rely on another law or legal act to determine the list of offenses and the signs, which is usually established in a general form in the disposition of the article. The rules of public health protection referred to in Article 45 of the CAO cover a large number of hygiene regulations or other legal acts in the field of public health, offenses and methods established in the legal acts of the Republic of Lithuania establishing public health protection rules and prohibitions.

Since the composition of the offense provided for in Article 45 paragraph 4 of the CAO is material, a precondition for the occurrence of administrative liability is the occurrence of the

consequences provided for in this Article. According to Article 45 paragraph 4 of the CAO, the consequences may be: 1) causing a risk of spreading dangerous diseases; 2) causing a risk of the spread of particularly dangerous infectious diseases. It should be noted that the composition of the infringement provided for in Article 45 paragraph 4 of the CAO is somewhat unusual, since the consequences in this case are not the damage caused by the infringement but the threat of such damage, which is to be proved within the meaning of Article 45 paragraph 4 of the CAO. If such a threat does not arise, the person may incur administrative liability for offenses of hygiene regulations or other public health legislation, which is provided for in other paragraphs of Article 45 of the CAO.

Paragraph 4 of Article 45 of the CAO establishes the composition of offenses of hygiene normative acts or other legal acts in the field of public health and describes the characteristics of the risk of spreading diseases. In the absence of an explanation of those concepts in the CAO, the criterion of the threat of consequences is, according to legal doctrine, a matter for assessment in the light of all the circumstances of the case. In each case, the consequences or their threat are assessed individually.

The case law and the doctrine of criminal law state that the content of the constituent element of the offense under assessment is assessed on an *ad hoc* basis (for a specific situation; only in this case; only this time). This means that the content of such an indication is disclosed in the assessment of the specific facts of the case. It is necessary first to clarify the content of such a characteristic and then to assess it in the light of the specific facts of the case. The potential danger must be recorded in a specific case.

When classifying an act in accordance with Article 45 paragraph 4 of the CAO, it is necessary to establish that **the risk of the spread of dangerous or particularly dangerous infectious diseases** as a result of the offense was real, i. e. there was a specific or clear threat as a real threat to public health. It is not enough to presume a threat to public health, it is necessary to prove it.

Paragraph 3 of Article 2 of the CAO provides that a person is liable under this Code only if he is guilty of an administrative offense, and Article 4 paragraph 4 provides that only a person whose acts prohibited by law meet the characteristics of an administrative offense under this Code is liable under this Code. According to the provisions of Article 5 of the CAO, an administrative offense is a dangerous act (act or omission) committed by the perpetrator

prohibited by this Code, which corresponds to the features of an administrative offense for which an administrative penalty has been imposed.

According to paragraph 1 of Article 5 of the CAO, an administrative offense is a dangerous act (act or omission) committed by an offender prohibited by this Code and corresponding to the characteristics of an administrative offense for which an administrative penalty has been imposed. Thus, there is no doubt that an act committed by a person is recognized as an administrative misconduct when it is proved that the person's actions constitute an administrative offense established in a special part of the CAO. For a person to be found guilty of an administrative offense, sufficient evidence must be gathered to substantiate his guilt. Pursuant to the provisions of Article 569 of the CAO, evidence in an administrative misconduct case is any factual data collected in accordance with the law, on the basis of which officials investigating an administrative offense determine the fact and circumstances of the administrative offense, the guilt of relevant to the proper conduct of the case. Pursuant to Paragraph 4 of the commented Article, the court and the out-of-court administrative body (official) shall assess the evidence on the basis of its internal conviction based on a thorough and impartial examination of all the circumstances of the case in accordance with the law. This means that when determining legally significant circumstances, the totality of evidence collected in the case, its sufficiency, consistency, possible contradictions, logic, circumstances of providing relevant data and reliability of evidence sources must be assessed (*Ruling of the Supreme Court of Lithuania in Administrative Offense Case No. 2AT-3-1073 / 2019*).

A lawful, reasonable and, at the same time, fair decision in an administrative misconduct case can be made only if the circumstances relevant to the correct examination of the case are disclosed in detail. If it is not possible to ascertain the essential circumstances of the event which led to the initiation of the administrative misconduct investigation (justice), the court cannot reliably establish the material truth. The assessment of the evidence in a case, as an integral part of the process of taking evidence in court, inevitably involves a thorough and impartial examination of all the facts of the case. Thus, the investigation of an administrative offense is carried out in accordance with the purpose and principles of administrative offense law (Articles 563, 566 of the CAO), the circumstances of an administrative offense must be fully and objectively investigated (Article 567 of the CAO).

The protocol of an administrative offense shall be drawn up when the fact of the commission of the administrative offense (place, time, essence) has been established, the person

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

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PUBLIC SECURITY AND PUBLIC ORDER
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who has committed the offense is known, and the necessary elements of the administrative offense can be established. Officials authorized to draw up a report on an administrative offense must gather evidence which, after examining and evaluating the administrative offense case, would enable the investigating authority to establish the fact of the administrative offense and determine the circumstances related thereto. The case-law draws attention to the fact that Article 609 paragraph 1 of the CAO sets out the necessary elements of the content of an administrative offense report, i. e. it must state the essence of the administrative offense; an article and parts of an article of this Code. The essence of an offense within the meaning of Article 609 paragraph 1 of the CAO is the totality of objective features of the composition of an administrative offense. Therefore, the outcome of an administrative misdemeanor case also depends on the correct drawing up of the protocol, because the administrative misdemeanor report has a decisive significance in determining the guilt of a person (*Supreme Administrative Courts of Lithuania (SACL) ruling of 15 January 2010 in administrative case No. N575-1253 / 2010*).

There is also a case-law that the protocol of an administrative offense (formerly an offense) has a dual meaning: it is a procedural document setting out the allegation of an administrative offense and a document setting out the evidence, facts and knowledge relevant to the proceedings. One of the essential functions of the administrative misdemeanor protocol is that it defines the limits of administrative misdemeanor proceedings - the case is examined only for the misdemeanor that was indicated in the administrative misdemeanor (formerly - offense of law) protocol (*SACL ruling of 14 June 2007 N16-1221 / 2007, Order of 2 July 2010 in Administrative Case No N63-707 / 2010, etc.*).

According to the data of the Register of Administrative Offenses (hereinafter - RAO) until 2020. May 27 632 protocols with administrative instructions were drawn up. Before that, taking 5 years of statistics, it can be seen that the norm referred to in Article 45 paragraph 3 of the CAO has not been applied at all, therefore the practice of applying this norm has not been formed yet. It is important that police officers, state border guards, who acquired the right to apply this norm only from 3 of April 2020, drew the most[7] protocols of administrative offenses.

In view of this, the author considers that there are reasonable doubts as to whether in all the cases, the officials were able to identify and substantiate the obligatory feature of the offense - the consequences.

[7] Police officers drew 615, state border guards drew 10 protocols of administrative offenses.

It remains questionable to what extent persons were reasonably prosecuted and how likely they were all to be punished for correctly classifying the act under Article 45 paragraph 4 of the CAO, and not, for example, in accordance with Article 45 paragraph 1 of the CAO.

Taking into account the above, in the author's opinion, it is necessary to immediately change the legal regulation, providing for liability for offense of European Union regulations or decisions in the field of public health, hygiene regulations or other public health legislation, the Law on Prevention and Control of Infectious Diseases of the Republic of Lithuania during war, emergency, mobilization, quarantine, restricted quarantine, as well as in the event of an emergency or an emergency, if the emergency or emergency event endangers human life or health i.e. placing an infringement with a qualifying feature in a formal composition.

CONCLUSIONS AND RECOMMENDATIONS

In the event of a quarantine situation or other specified special cases, officers shall work in a specific regime, in other risk circumstances and with limited capacity. In the context of such circumstances, the focus is on ensuring human security and threats from quarantine and so on. It is therefore to be agreed with the legislator that more severe offenses should be imposed for more serious offenses. Using teleological and methods of interpretation of the law of intent of the legislator, it is concluded that the amendments to Article 45 of the Code of Administrative Offenses were only partially in line with the real intentions of the project initiator and the legislator. According to Article 45 paragraph 4 of the CAO, the consequences may be: 1) causing a risk of spreading dangerous diseases; 2) causing a risk of the spread of particularly dangerous infectious diseases.When classifying an act in accordance with Article 45 paragraph 4 of the CAO, it is necessary to establish that the risk of the spread of dangerous or particularly dangerous infectious diseases as a result of the offense was real, i. e. there was a specific or clear threat as a real threat to public health. It is not enough to presume a threat to public health, it is necessary to prove it. According to the data of the Register of Administrative Offenses (hereinafter - RAO) until 2020. May 27 632 protocols with administrative instructions were drawn up. Before that, taking 5 years of statistics, it can be seen that the norm referred to in Article 45 paragraph 3 of the CAO has not been applied at all, therefore the practice of applying this norm has not been formed yet. There are reasonable doubts as to whether in all the cases, the officials were able to identify and substantiate the obligatory feature of the offense - the consequences. it is necessary to immediately change the legal regulation, providing for liability

for offense of European Union regulations or decisions in the field of public health, hygiene regulations or other public health legislation, the Law on Prevention and Control of Infectious Diseases of the Republic of Lithuania during war, emergency, mobilization, quarantine, restricted quarantine, as well as in the event of an emergency or an emergency, if the emergency or emergency event endangers human life or health i.e. placing an infringement with a qualifying feature in a formal composition.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

SHADOW NORMS AS A THREAT TO NATIONAL AND INTERNATIONAL SECURITY: SOCIAL AND LEGAL ASPECTS OF COUNTERACTION

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DOI: 10.13165/PSPO-20-24-33

Annotation. The paper proves, that during the natural development of social system, there are numerous of actual norms, but only some of them will become law. Others of them can: 1) to die out with the corresponding relations; 2) to disappear due to the emergence of new regulators of different nature; 3) to exist alongside the law, without intersecting with it or supplementing its norms; 4) to exist alongside the law and contradict it covertly or explicitly. And just the latter type of actual regulators is understood as shadow norms.

Shadow norms find their expression in: shadow economy, shadow politics, shadow justice. While "shadow law" is not an independent sphere, but mediates the above-mentioned.

Shadow norms have different degrees of danger, although in general all of them are negative phenomena in the legal system. Also they require different means of counteraction, both at the national and international levels (social and legal). The most severe reaction should be applied to such shadow norms as criminal subculture, shadow justice etc. But this is the most difficult task in the sphere of shadow politics, especially at the international level, in relation to strong players.

Keywords: shadow norms, shadow economy, shadow politics, shadow justice, threats to state security, national legal system, international relations, counteraction.

INTRODUCTION

There is no doubt that law is one of the social regulators of relations in society. But as a regulator, it occupies a special place due to its general obligation and support by the force of state coercion. In addition, the creation of only legal norms is mediated by a special, strictly regulated procedure, which is called law-making. However, in almost all spheres of social life, there are some rules of behavior that are inherently contrary to the law, although in fact they apply to a fairly wide range of social relations. Such rules of conduct in the legal doctrine are called shadow norms. Now the phenomenon of shadow rulemaking is insufficiently studied, its concept is not defined, as well as its signs and features. In science, there is no unified approach to understanding this socio-legal phenomenon, and there is no detailed description of it, which makes it difficult to distinguish the process of creating shadow norms from other types of norm-

making. In order to block, neutralize and overcome the negative effects of shadow law, it is necessary to determine what constitutes shadow rule-making, what characteristics are inherent in this process, and what causes can provoke the formation of shadow law norms.

It should be noted that the existence of a significant number of hidden regulators of behavior that contradict the letter or spirit of the law may be more or less dangerous for the state (depending on the nature and characteristics of these rules). However, this danger will always be present, if only because they undermine the authority of law and the state as institutions. Although shadow lawmaking is more or less inherent in any legal system, research on this issue is very limited due to the fact that this phenomenon is considered either in the context of the theory of offenses, or in the context of actual norms of behavior. These problematic issues clearly indicate the relevance of the topic of this scientific article.

The purpose of this research is to identify social and legal aspects of the fight against shadow norms as a threat to national and international security.

The objectives of the scientific article are: to formulate the definition of shadow norms as one of the social regulators; to outline aspects of the negative impact of shadow norms on the social and legal systems in the national and international context; to make proposals for improving social and legal ways to combat such a regulators.

METHODS OF RESEARCH

The basic methods of this scientific article, of course, can be called dialectical and systematic methods, since in the modern world it makes no sense to consider legal and social phenomena as such. Law itself is a social regulator, but, first, it is not the only one, and secondly, it is specific. In addition, the emergence and development of shadow norms should be considered as a social, not a legal process. This means that it is necessary to address society as a broader system in relation to the legal system.

The standard methods for research of this type will be deduction and induction, because the principles of ascent from the abstract to the concrete and vice versa will be essential for the qualification of certain phenomena in society as legal in nature (or not legal).

For the research results, legal modeling can help to mentally construct the process of the emergence and functioning of shadow norms at the national and international levels; to foresee the possible consequences of a significant number of them; to identify the best ways to counter this negative phenomenon.

Finally, the method of legal comparative studies should be applied to the specifics of countering shadow manifestations in various legal systems, which is very relevant for the globalized world.

PROBLEMS OF DEFINING SHADOW NORMS IN THE CONTEXT OF THE LAW FORMATION PROCESS

The legal literature is characterized by the presence of debatable approaches to understanding the phenomenon of law formation. The term "formation of law" is most often used in two aspects: 1) or in a historical context [9; 8]; 2) or as a synonym for law-making or the creation of other legal texts [4; 3; 2].

However, it can be defined as: "the process through which the transformation of social factors into legal norms is carried out" [19, p. 16]; a specific technology, the content of which is a set of public relations aimed at solving certain tasks (ensuring law-making, studying public relations, deciding on the development of a draft regulatory act, its consideration, approval, and so on) [15, p. 73]; the form of interaction of objective and subjective factors of social development, due to common class interests, in which the formation of the consciousness and will of the ruling class through the expression of competent state entities and the subsequent objectification of the law-making expression in the form of a normative legal act [13, p. 28-29]; the legitimate activities of individuals and their associations, which under the spout of certain objective needs spontaneously formed a legal relationship (the nature of which is consciousness), which further sanctioned by the state [14, p. 15]; epistemological act of awareness of social reality in order to correct it through the adoption of legal norms [11, p. 9].

It follows that it can be found understanding the formation of law as a broader concept in relation to law-making [1], is comprehensively supported within this work. Sustainable development of society in any country is a fundamental means of ensuring basic human needs, without which citizens ' loyalty to the state, provided it is democratic, simply cannot be met.

However, in the social sphere, along with legal ones, there are many other regulators, among which business rules, corporate norms and a significant layer of other actual regulators of relations can be singled out. Actual regulators (norms) are most often understood as rules of behavior that are formed in society naturally and extend to a wide range of social relations, ordering them. Moreover, some of these rules are later perceived by the lawmaker and transferred to the plane of official law, that is, it acts before the law (forms its basis and acts as

the initial stage of law-making). A part of it acts in this way along with legal regulations, supplementing them in a certain way and filling in gaps in legal regulation.

In the process of law formation, first of all, according to N. Tswick, it is a question of relations between people that spontaneously develop due to daily repetition and acquire a normative character. On this basis, there is a need to recognize the general obligation and protect the most important and well-established public relations [18, p. 321]. In other words, the formation of law combines all forms and means of origin, development and change of law, including law-making. The process of law formation should be based on the basic social values with the formation of positive value attitudes focused on the universal, absolute and eternal [12, p. 42]. It follows from this that the formation of law is a unifying, generalizing category that combines the stage of the beginning of the formation of legal norms in society with their subsequent conclusion to the stage of law-making, and therefore state authorization.

There is no doubt that one of the necessary conditions for building a legal state is the creation of effective legal norms to regulate public relations, including relations between citizens and the state. Therefore, law-making is one of the most important aspects of the state's activity with the participation of civil society to establish, change, cancel and Supplement legal norms. Turning the principle of the rule of law into reality and ensuring the harmonious expression in legal norms of the objective needs of social development is the highest goal of rule-making [20, p. 15].

Therefore, in the process of creation can be nothing insignificant, every detail plays an important role. It is necessary to distinguish the category "formation of law" and "law-making" ("legislating"). The first of them refers to all the stages of the emergence of legal norms, considering their emergence in society. Meanwhile law-making represents the final stage of the formation of law, its official recognition and approval of state authorities. The formation of law is constantly and continuously simply because social life and social relations also are continuous [6, p. 353].

Thus, during the natural development of social relations, a large number of actual norms arise, only some of which will later become law. Others of them can: 1) to die out together with the corresponding relations; 2) to disappear due to the emergence of more effective regulators of different nature; 3) to exist alongside the right, without intersecting with it at all or supplementing its norms; 4) to exist alongside the right and contradict it covertly or explicitly. So, the latter type of actual behavior regulators is understood as shadow norms.

THE NATURE OF SHADOW NORMS AND ASSESSMENT OF THEIR DEGREE OF DANGER

As it was revealed in the previous section, in some cases, the actual rules (regulators) reflect the needs of society in legal regulation and more fully implement compliance with legal principles than the existing official rules, and can serve as an impetus for the legal consolidation of a better order of certain relations implementation. In this case, shadow law and actual law are identical concepts. But only in this, since the rules of shadow law are only one of the types of actual rules, which always characterizes illegal behavior carried out under clear, systematic rules. Actual norms that do not concern shadow law-making may represent the effect of certain informal rules of behavior and their transformation into law (at the stage of their public registration), or those norms that act alongside the law and do not contradict it, in a certain way complement the effect of legal regulations.

It is another matter when actual norms contradict official law, according to its letter or spirit. In this case, the prevalence of these regulators and their perception by a wide range of people plays an extremely negative role in the social system. In legal science, this phenomenon is called "shadow law" or "shadow lawmaking".

In particular, it should be noted that informal norms may not contradict "explicitly" the letter of the law, but it is necessary to contradict its spirit. That is, the commitment to shadow regulation in any case indicates a low level of legal awareness of a certain subject [5, p. 30].

Unofficial ("shadow") rulemaking can manifest itself in personal, sometimes selfish, regulations within an enterprise, locality, or administrative-territorial unit. In other cases, what constitutes an exceptional social danger is the creation of structures that are not provided for by law (for example, armed formations, bandit groups, nazi organizations, etc.). and in this aspect that it is necessary to consider the phenomenon of shadow law as an extremely negative, socially dangerous side of the development of unofficial rulemaking.

As for the consideration of shadow law-making as a legal phenomenon, the process of creating shadow norms can only be used indirectly. Public relations can not always be regulated by official law, so there is a so-called factual law that regulates actual relations in spite of or instead of official norms. Some legal scholars note that a variation of this type of rule is shadow law, as a negative manifestation of actual rules. However, the distinction between these concepts is a matter of approach to understanding the concept of "shadow law". Most lawyers who have studied the phenomenon of shadow law believe that this phenomenon is purely

negative, because such norms regulate existing relations in society contrary to legal principles. However, in some situations, they reflect the needs of society in legal regulation and more fully implement compliance with legal principles than existing official norms, and can serve as an impetus for the legal consolidation of a better order of certain relations implementation. In this case, shadow law and actual law are identical concepts. But only in this, since the norms of shadow law are only one of the types of actual norms, which always characterizes illegal behavior carried out under clear, systematic rules, and is also always associated with the legal consciousness of deformed species. Actual norms that do not concern shadow law-making can represent the effect of certain informal rules of behavior and their transformation into law (at the stage of their public registration) or those norms that act alongside the law and do not contradict it, in a certain way complement the effect of legal regulations.

V. M. Baranov reveals the complex negative foundation of the shadow side of legal reality. In his opinion, shadow law is a negative manifestation of legal pluralism, a specific form of wrong, a dangerous kind of negative unofficial law, which is a set of asocial mandatory rules that are in a state of struggle with official law, established by the participants of public relations themselves, prescriptions, symbols, rituals, gestures, jargon, through which all stages of illegal activity are regulated, a shadow legal order is formed, protected by special moral, mental, material and physical sanctions [10, p.15].

So, shadow lawmaking is a process of creating a special kind of social norms that regulate a specific sphere of social relations, which do not come from the state, are not protected by the force of state coercion, and are not characterized by formal certainty. As a legal phenomenon, shadow rule-making can be considered as a negative phenomenon, which, on the one hand, characterizes the low legal awareness of the population, and on the other, it appears due to the poor quality of the law-making process in the state, which requires additional analysis of the direct impact of the quality of legislation, including on the attitude to law [16, p. 108-112].

Shadow norms (shadow law) find their expression in various spheres of social life. But each sphere of expression of shadow norms is a special case of them and should not be identified with the basic, broadest category, which is obviously shadow norms (shadow law).

Thus, the most frequently mentioned manifestation of shadow law is the shadow economy. Under the shadow economy can be understood even single economic processes that are implemented outside the plane of law and contradict it. For registration in the shadow law, illegal manifestations must acquire a certain consistency and prevalence. For example, firms

that make illegal cash withdrawals operate according to clear standards and established schemes, and the strictness of the so-called "financial discipline" within such legal entities and their relations with clients sometimes does not yield (and sometimes exceeds) financial discipline in relations with official institutions.

Thus, shadow regulators of economic relations, due to their prevalence and stability, pose a threat to the economic development of the country and require significant efforts to reduce the scope of their application. But the situation is even more complicated when the state bodies themselves become "generators" of shadow law. For example, since the beginning of 2019, against the background of the fight against "black" imports, the customs authorities of Ukraine have started using tables of so-called "indicative" prices, that is, prices below which customs clearance of certain commodity items is not allowed, despite the price specified in the contract and product documents. In the case of failure to pay such rates, make use of validation, and there is a delay in delivery of goods and transport for an indefinite period [17]. Such actions further put the economy in the shadow, as they undermine confidence in the state as a regulator of economic relations, and polarize the interests of the state and business.

Based on the above, it can be concluded that shadow regulators of economic relations can sometimes serve as a guide that points to the shortcomings of legal regulation, the reasons for the inefficiency of official law. In this case, the reduction of the shadow law sector is possible due to the elimination of the root causes of its occurrence, without focusing on repressive measures of legal influence. And only after the root causes are eliminated, the application of legal liability can become an effective tool against offenders. But it should be emphasized that all these ways will be ineffective if the state itself, represented by its bodies, becomes the creator of shadow regulators, which pose the greatest threat to the country's economic development.

Another area where the shadow rules are actively functioning on a par with the official, it may be named policy. The sphere of shadow politics is more or less a part of any political system, including in the process of power struggle and political decision-making. But it becomes especially dangerous when it is implemented at the international level. It can be stated that, to a certain extent, at the international level, shadow politics is an integral part of agreements between governments and officials of States and international organizations. However, in another part, the emergence and rapid development of shadow norms in politics is a response to the crisis in the functioning of international institutions and sometimes the inability of them to make informed decisions based on their statutory rules. This becomes

especially dangerous for developing countries and(or) States that are in the zone of influence of other players in world politics.

At the same time, perhaps the most dangerous manifestation of shadow norms is "shadow justice", since access to justice and the right to a fair trial can be recognized as the basis for the stability of the entire social and legal system, as a matter of public confidence in the state, its officials and bodies. It is worth saying that the problem of shadow justice in developed, democratic social countries is mostly minimized, but it is extremely relevant for developing countries (including the post-Soviet legal family). While some national legal systems were able to leave such remnants in the past, for some of them it remains a legal reality (unfortunately, this includes the legal system of Ukraine).

Another threat in the sphere of shadow law-making is life in a globalized society, where informal behavior regulators can "flow" from one social system to another and even rise to a supranational level.

MEASURES AND WAYS TO REDUCE THE SPHERE OF SHADOW REGULATION OF PUBLIC RELATIONS

As follows from the above, shadow norms have different degrees of danger, although in general all of them can be characterized as a negative phenomenon in the legal system. But on truly dangerous can be recognize only "illegal", although even they in certain conditions can fulfill positive role (function) and to point to shortcomings of legislator [16, p. 30]. Therefore, they also require different means of counteraction, both at the national and international levels.

It is obvious that in relation to the least dangerous shadow rules can become useful to reduce the repressive capacity of the law and concentrate on its promotional functions. Focus on creating positive models of behavior, that is, the so-called prospective legal responsibility, in theory understanding as a legitimate, responsible behavior, will increase the prestige of law in society [7, p. 65]. At the same time, legal responsibility should be established only if the social level of the problem of the prerequisites for the emergence of shadow norms are resolved, but in the end it turned out to be ineffective.

Nevertheless, the most severe reaction should be applied to dangerous manifestations of shadow norms (which can be called criminal subculture, shadow justice, etc.). It should be recognized that this is most difficult in the sphere of shadow politics, especially at the international level, in relation to strong players, as is now observed in the international arena.

CONCLUSIONS

The conducted scientific research allows us to conclude that during the natural development of social relations, a large number of actual norms arise, only some of which will later become law. Others of them can: 1) to die out together with the corresponding relations; 2) to disappear due to the emergence of more effective regulators of different nature; 3) to exist alongside the right, without intersecting with it at all or supplementing its norms; 4) to exist alongside the right and contradict it covertly or explicitly.

And just the latter type of actual behavior regulators is understood as shadow norms.

Shadow norms (shadow law) find their expression in various spheres of social life. But each sphere of expression of shadow norms is a special case of them and should not be identified with the basic, broadest category, which is obviously shadow norms (shadow law). The most characteristic manifestations of shadow norms are the shadow economy (including the financial sector), shadow politics, and shadow justice. While "shadow law" is not an independent sphere, but mediates the above-mentioned and other spheres of regulation of social life.

Shadow norms have different degrees of danger, although in general all of them can be characterized as a negative phenomenon in the legal system. Therefore, they also require different means of counteraction, both at the national and international levels. But the legal responsibility should be established only if the social level of the problem of the prerequisites for the emergence of shadow norms are resolved, but in the end it turned out to be ineffective.

The most severe reaction should be applied to dangerous manifestations of shadow norms (which can be called criminal subculture, shadow justice, etc.). It should be recognized that this is most difficult in the sphere of shadow politics, especially at the international level, in relation to strong players, as is now observed in the international arena.

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ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

FORECAST TRENDS OF THE WORLD LABOR MARKET

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DOI: 10.13165/PSPO-20-24-34

Annotation. The article examines the forecast aspects of the world labor market in the context of the prospects of labor supply of the global economy. The demographic situation in the world as an initial component of the labor market analysis is analyzed. The problem of employment in the context of global economic transformations is considered. The hypothesis of significant strengthening in the perspective of heterogeneity and uneven development of labor markets of regions and countries is expressed and confirmed. The forecast employment trends in the global and regional context are estimated. It is concluded that despite the growing projected employment trends, the most important problem in the world labor market remains unemployment. It is substantiated that it is expedient to combine forecasts of unemployment dynamics with forecasts of employment dynamics in order to determine the future number of vacancies in the labor market. It is concluded that there are labor deformations on a global scale in qualitative and territorial terms, which in the future will lead to intensification of international migration. It has been established that both current and projected unemployment has a clear qualitative nature, which raises the issue of developing forecasts of promising supply of skilled labor at the country level. It is proved that international labor migration will play an important role in providing employment in the world economy, first of all, in the highly skilled segment of workers. It is stated that the process of substitution migration is widespread in all groups of countries - when the jobs of workers who left for developed countries are replaced by workers from countries with incomes below the average and developed countries. It is emphasized that due to the differences in existing approaches to the analysis and forecasting of the need for workers in the world economy, the development of multi-scenario forecasts based on systematic monitoring of current and future volumes of labor supply and demand becomes especially important. The development of multi-scenario forecasts will use employment forecasting models to determine the total and additional labor needs in the context of changing sectoral structure of the economy, as well as model trends of increasing or decreasing demand for educational and vocational skills as a basis for making optimal decisions.

Keywords: labor market, employment, unemployment, forecasting, migration.

INTRODUCTION

The effects of the global economic crisis have caused profound transformations in the world labor market, exacerbating the instability and structural imbalances of the latter: increasing polarization of opportunities between highly skilled jobs, unemployment and underemployment, increasing income inequality worldwide. Accordingly, the importance of studying the forecast aspects of the evolution of the world labor market in order to develop ways to overcome the crisis of labor supply of the global economy in the future. Forecasting allows you to apply some logic to analyze and develop scenarios to overcome possible adverse trends in the labor market.

The aim of the article is to estimate the projected trend of the global labor market.

Objectives: 1) to develop a forecast of employment in the context of modern global economic transformations; 2) develop a forecast of unemployment in the world labor market; 3) assess the prospects of labor supply of the world economy; 4) 4) identify promising approaches to forecasting the labor market.

The **object** of the study are trends in the world labor market.

Study methods: the method of forecasting and generalization of the obtained results was used during the research.

STUDY METHODOLOGY

The situation on the labor market can change due to many reasons: reduction of production and employment, changes in the demographic situation, the turnover of professionals and the need to replace them, labor migration flows and so on. The demographic situation in the world, as a source component of labor analysis, shows positive trends, which are confirmed by a variant scenario forecast of the dynamics of the world's population until 2050 (Fig. 1). These time frames were chosen taking into account the need to respond to a comprehensive human resources perspective in the global and regional context (monitoring the effectiveness of relevant management influences by states and international institutions).

As can be seen from the data in Fig. 1, positive forecast trends in the demographic situation will be maintained in all variant scenarios. Therefore, it is important to analyze what will be the trends of employment and unemployment in the forecast period. Relevant forecasts will be based on the extrapolation of retrospective trends, and may be adjusted to take into account expected changes in production and technology used.

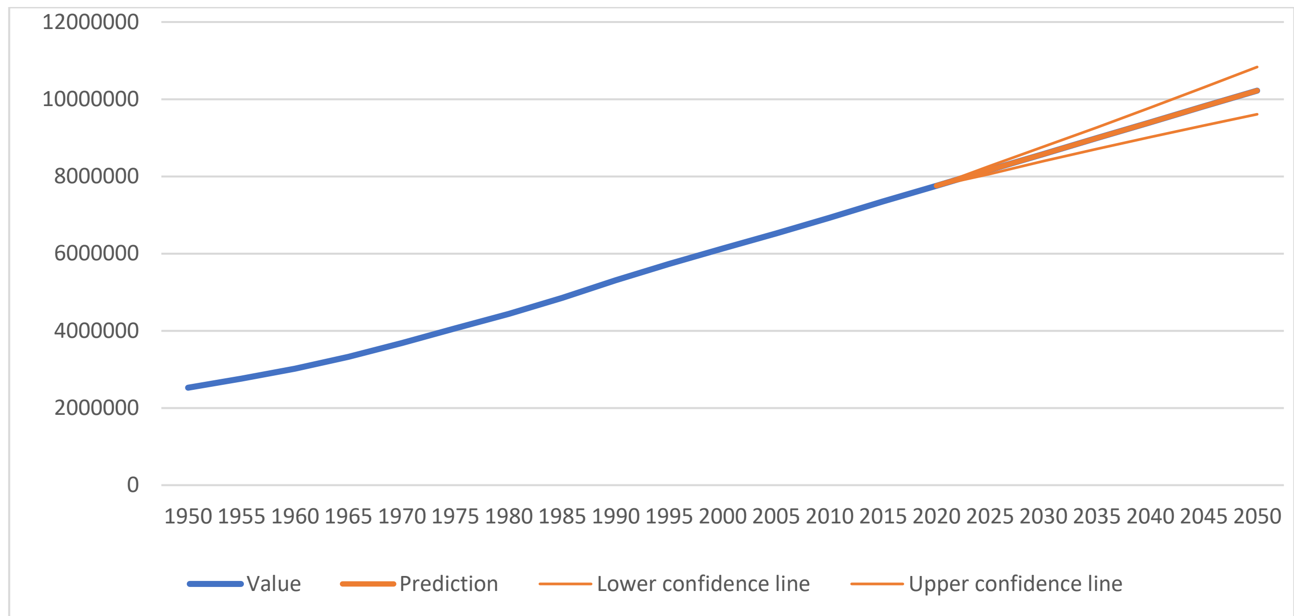

Figure 1. Dynamics of the world's population in 1950-2050, thousand people.

Table 1. Dynamics of the world's population in 1950-2050, thousand people.

Timeline	Value	Prediction	Lower confidence line	Upper confidence line
1950	2525149,312			
1955	2758314,525			
1960	3018433,828			
1965	3322495,121			
1970	3682487,691			
1975	4061399,228			
1980	4439632,465			
1985	4852540,569			
1990	5309667,699			
1995	5735123,084			
2000	6126622,121			
2005	6519635,85			
2010	6929725,043			
2015	7349472,099			
2020	7758156,792	7758156,792	7758156,79	7758156,79
2025	8168773,862	8168773,862	8064645,32	8272902,40
2030	8579383,365	8579383,365	8391922,81	8766843,92
2035	8989992,867	8989992,867	8710101,53	9269884,21
2040	9400602,369	9400602,369	9018718,13	9782486,61
2045	9811211,871	9811211,871	9318230,74	10304193,01
2050	10221821,37	10221821,37	9609184,97	10834457,77

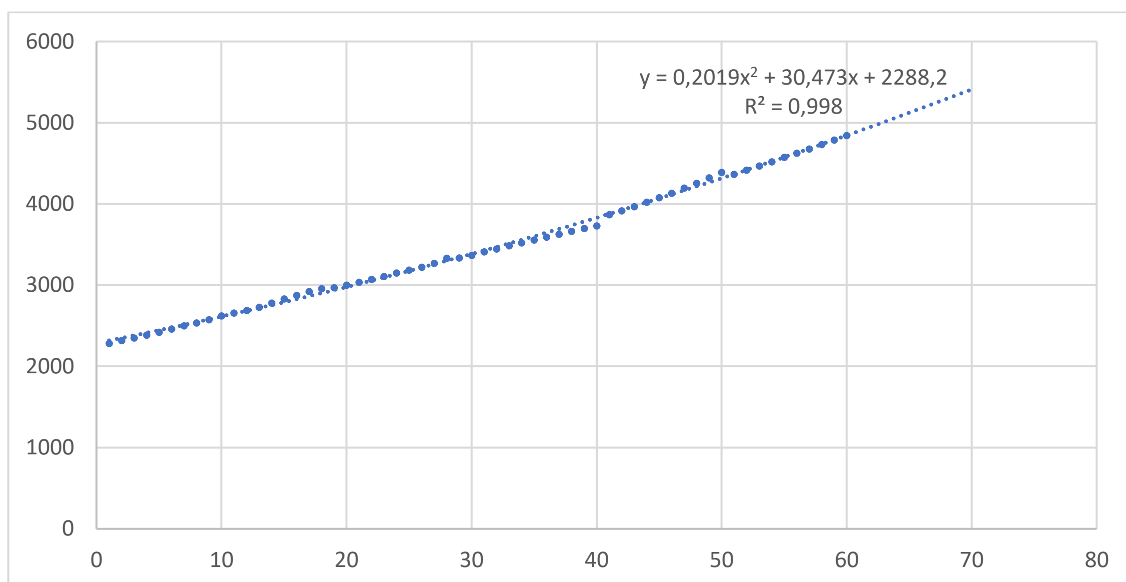

Figure 2. Dynamics of employment in the world in 1991-2050, million people.

The problem of employment should be considered in the context of modern global economic transformations. The world economy has entered a rather long period of instability with unclear contours of the labor global division and the configuration of the global labor market, which suggests that the heterogeneity and uneven development of labor markets in regions and countries will increase significantly.

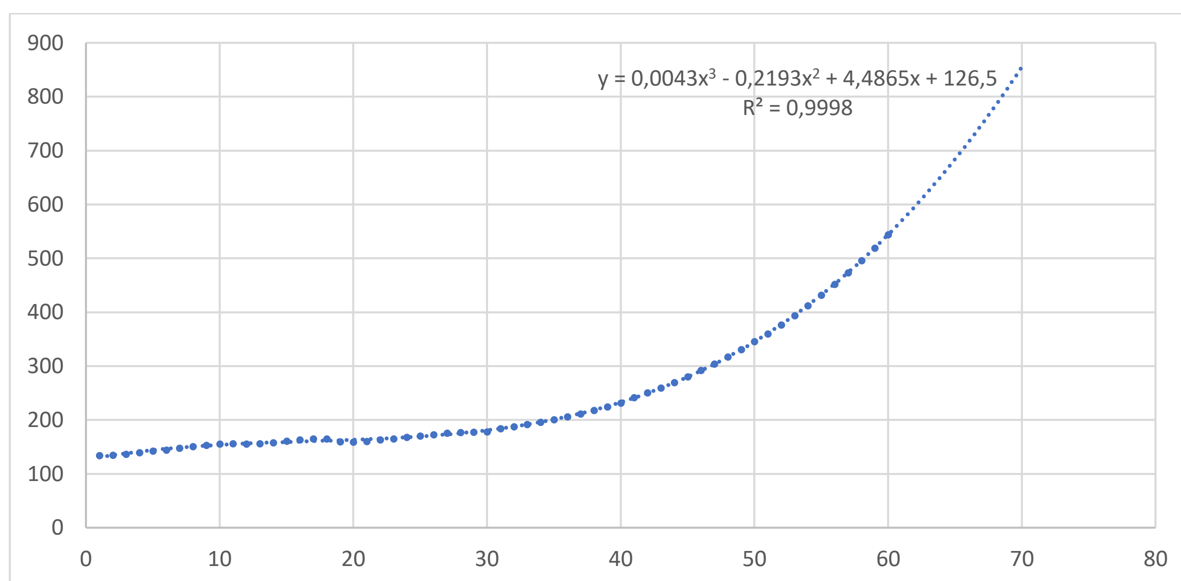

Figure 3. Dynamics of employment in the North American region in 1991-2050, million people.

To confirm this hypothesis, it is necessary to assess the projected employment trends. Despite the fact that the general trend of employment dynamics on a global scale, while

maintaining a positive trend, does not show serious fluctuations (Fig. 2), the situation differs significantly in the regional context.

Thus, the most significant growth in employment is expected in the North American region (Fig. 3), which seems quite expected, given the dynamics of economic development of the countries representing the region - the United States, Canada. At the same time, given the current labor shortage in the region and the high level of economic development of these countries, it can be argued that North America will continue to play the role of host region for international migrants, primarily as a center of gravity in the highly skilled segment .

The dynamics of employment in Europe with a general positive trend differs significantly by region. If in Northern, Southern and Western Europe employment growth is quite moderate (Fig. 4), in Eastern Europe (Fig. 5) the trends are more pronounced. At the same time, in the European region there is a situation of formation of employment by substitution: the number of those who retired or left the labor force (resulting in the creation of vacancies) is almost ten times higher than the number of vacancies arising from economic growth [3] (75 million vs. 8.5 million [2]). The value of forecast estimates of employment is enhanced by the fact that market demand for labor is determined indirectly in the form of employment, their occupational and age structure. Demand for expansion, demand for replacement and shortage of staff, as well as the mismatch of supply and demand for professions and qualifications, can be interpreted as different types of demand that must be met in the process of labor supply of the economy.

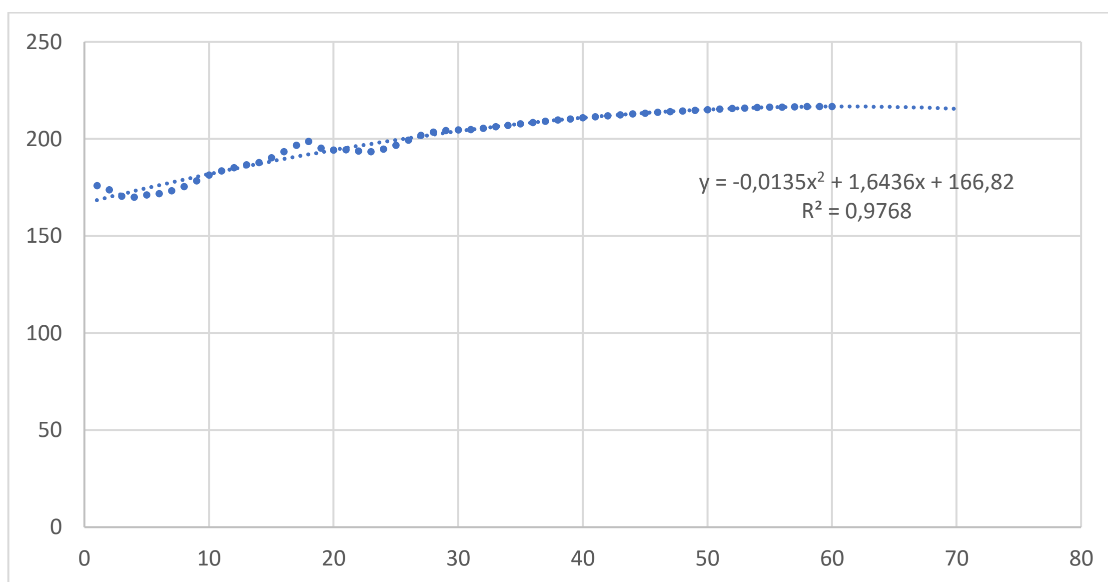

Figure 4. Dynamics of employment in the region of Northern, Southern and Western Europe in 1991-2050, million people.

The employment situation is particularly difficult in Latin America, the Arab world and Africa. Despite the projected positive trends in employment, the problem of unprotected employment and poverty of working people is extremely relevant in these regions. Of the 1.2 billion people facing the problem in the world as a whole, ¾ work in two regions - South Asia and Africa.

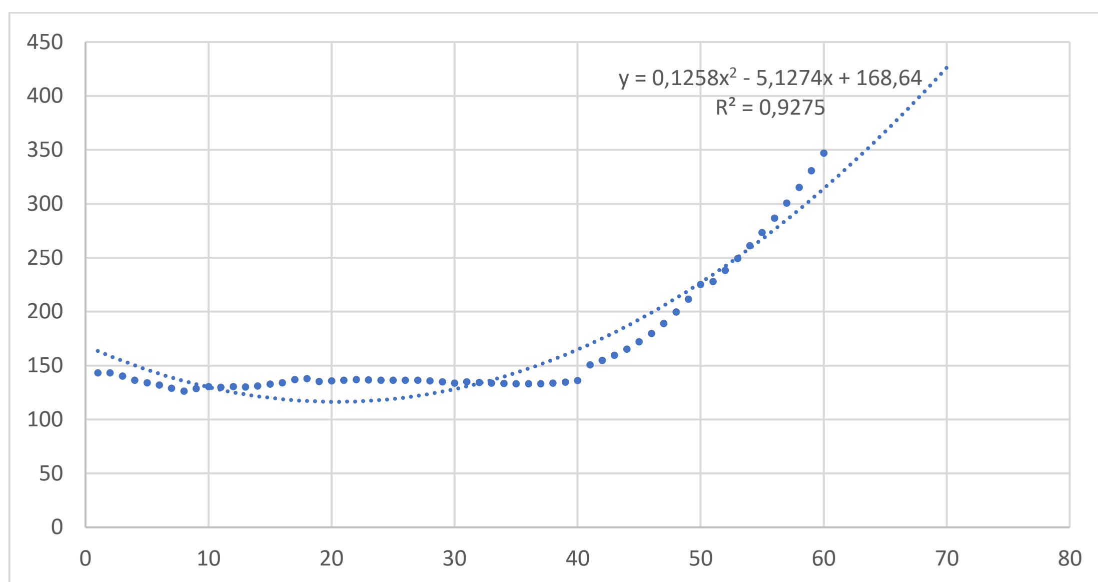

Figure 5. Dynamics of employment in the region of Eastern Europe in 1991-2050, million people.

At the same time, a significant fight against unprotected employment is observed only in the East Asian region (if in 2007 the share of vulnerable workers in the region was 50.2%, in 2019 this figure dropped to 38.9%), which, among other things, led to rather moderate growth of forecast employment rates in the region. In general, the increase in social instability caused by the deterioration in employment is the latest global trend.

Estimates of the number of employees (jobs) are extremely important because they provide information for understanding future employment opportunities. However, such opportunities also arise as a result of the withdrawal of labor from the employed for various reasons, which requires an assessment of unemployment as the main indicator of the state of the labor market. Unemployment dynamics forecasts should be combined with employment dynamics forecasts in order to determine the total number of vacancies created: in the vast majority of cases, vacancies are created not due to employment growth (labor demand), but as a result of layoffs. Thus, according to available forecasts, for example, in the US over the next 5 years, 60% of vacancies will arise due to occupational mobility. [7]

Indeed, despite the above-mentioned rising employment trends, unemployment remains a major problem in the global labor market. Thus, since the beginning of the last world economic crisis (since 2008), more than 61 million people have lost their jobs, and, according to ILO estimates, in the future the number of unemployed will increase by 8 million people. annually. [5] As of the beginning of 2019, there were 172.5 million unemployed in the world, ie about 30-45% of the working age population are looking for work or are partially employed. To solve the problem of unemployment, by 2020 it was necessary to create 280 million jobs in the world economy. [8]

According to the forecast assessment of the unemployment dynamics in the world (Fig. 6), after a certain stabilization of the situation starting in 2021, the ILO forecasts for an increase in the number of unemployed in the world labor market are confirmed. Given the positive forecast trends in employment in the world economy (Fig. 2), we can make assumptions about the presence of labor deformations on a global scale in qualitative and territorial terms, which in the future will inevitably lead to global labor shifts, especially to intensify international migration. In support of this opinion, we should consider the results of forecasting the dynamics of unemployment in the world economy in the regional context.

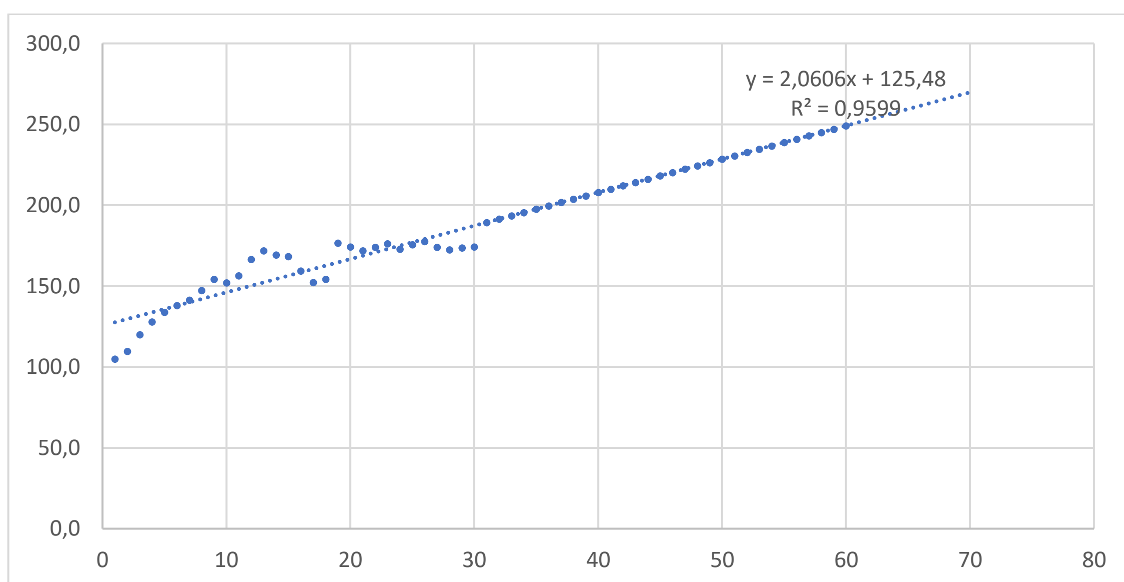

Figure 6. Dynamics of unemployment in the world in 1991-2050, million people.

Thus, in North America, fluctuations in the unemployment rate are quite significant (Fig. 7) with a stable employment situation in the region (Fig. 3). Given the inverse cyclical relationship between economic activity and unemployment, it can be argued that there is a fairly

rapid replacement of vacancies (or the creation of new obsolete as a result of structural changes in the economy), and therefore both existing and projected unemployment has a clear qualitative nature. It should be noted that both the United States and Canada are engaged in forecasting the future supply of skilled labor. However, from a practical point of view, it is advisable to forecast the demand for skilled labor only in the sectoral context (even if there is a surplus of workers in some areas and a shortage in others, this will not necessarily lead to intra-country relocations). Given the lag of the labor market, as well as the labor shortage situation in North America with a high standard of living, an important substitute role in employment will be played by international labor migration, especially in the highly skilled segment of workers.

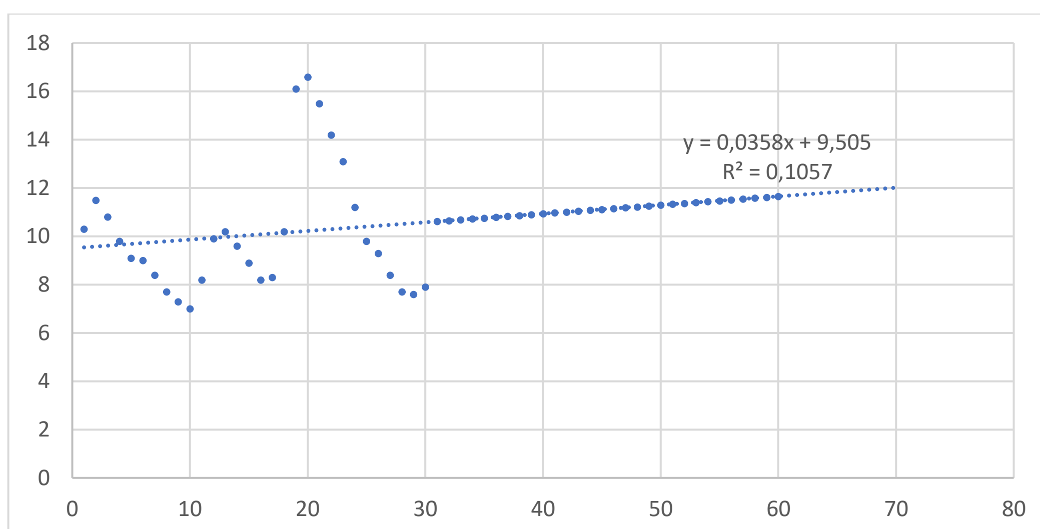

Figure 7. Dynamics of unemployment in the North American region in 1991-2050, million people

In contrast to the global and North American, the situation in the European region shows a downward forecast of unemployment (Fig. 8). Against the background of positive employment dynamics (Fig. 4), the situation in the labor market of Northern, Southern and Western Europe is quite stable, but given the negative demographic trends and migration flows from Europe to the US and Canada in the highly skilled segment, we should expect intensification of substitute migration to the region from less economically developed countries.

This conclusion is confirmed by the dynamics of unemployment in the Eastern European region, when against the background of a fairly significant increase in employment (Fig. 6), there is a tendency to reduce unemployment in the regional labor market (Fig. 9).

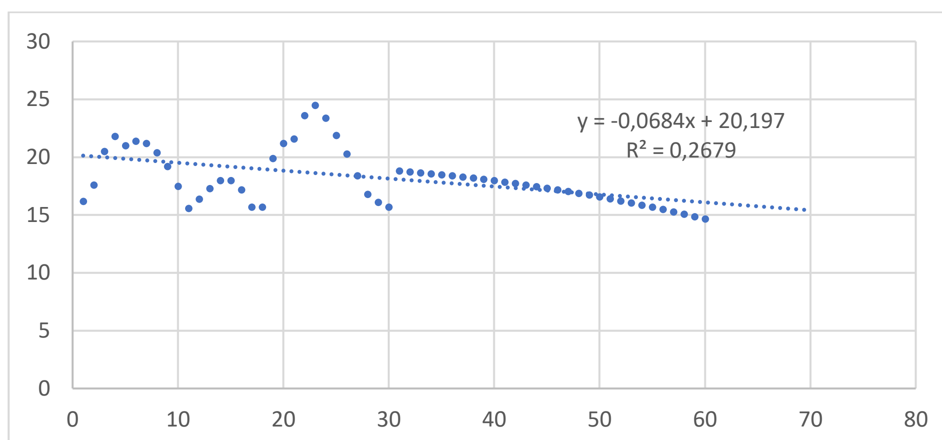

Figure 8. Dynamics of unemployment in the region of Northern, Southern and Western Europe in 1991-2050, million people.

Reducing the burden on job vacancies against the background of declining demographic trends in Europe can lead to an increase in employment only if there is a strong replacement migration, which is observed in the world. At the same time, the host countries give priority to stimulating highly skilled migration at the state level, while migration in the less qualified segment has the role of mechanical (quantitative) replacement of labor shortages (which weakens the role of regulatory influence by the state in the labor market and may lead to increased informal employment).

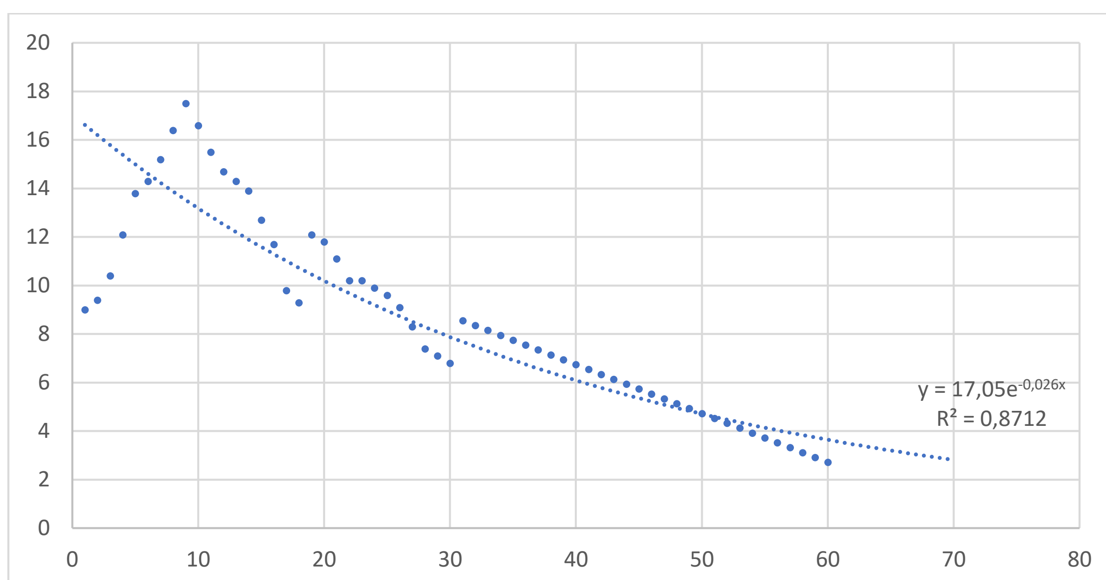

Figure 9. Dynamics of unemployment in the region of Eastern Europe in 1991-2050, million people

Considering unemployment in less economically powerful regions, it should be noted that the majority of the unemployed here are young people (in total, almost 75 million young people

in the world today are officially unemployed [4]), and by 2025 the number of young people in labor markets developing countries will exceed the total labor force in developed countries (estimated at 600 million people). The workforce in less developed countries is expected to be 3 billion. in 2020 and 3.6 billion people. in 2040. A younger age structure and rapid population growth in developing countries (in particular, by 2025, almost all countries with a population of 60% or more of young people under 30 will be located in sub-Saharan Africa), inevitably will expand the territorial boundaries of the sphere of employment in the world, intensifying migration processes against the background of shortage of workers, especially skilled, in developed countries. [6]

Given that at the beginning of 2020 the shortage of skilled workers in the world economy is estimated at 40 million people, we should expect further global labor transformations, which will be based on international labor migration, especially in the highly skilled segment of regions with lower economic levels. development and less favorable conditions for employment (in terms of wages, opportunities for professional self-realization, etc.) to more economically developed regions, as evidenced by forecast trends in labor demand in a group of developed countries, which cannot meet these countries.

To confirm this opinion, we compare the forecast data on the development of the employment and unemployment situation for the selected forecast perspective in different groups of countries depending on the level of economic development.

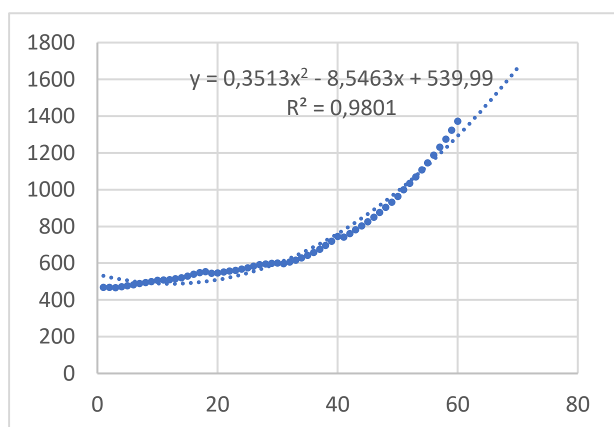

Figure 10. Dynamics of employment in the group of developed countries in 1991-2050, million people

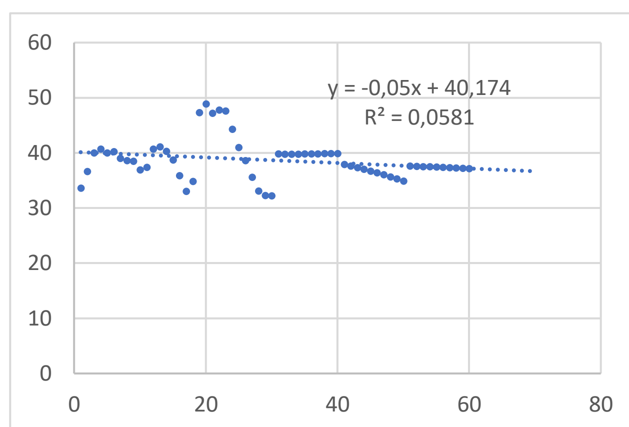

Figure 11. Dynamics of unemployment in the group of developed countries in 1991-2050, million people

Thus, in the group of developed countries, the dynamics of employment shows a clear upward trend (Fig. 10), while the dynamics of unemployment - the opposite (Fig. 11). The characteristic feature of unemployment trends is the cyclical nature of the latter, which is quite understandable, given that a group of developed countries generates impulses of economic development for the rest of the world. At the same time, this role of developed countries determines the peculiarities of their labor supply, namely, the imposition of ascending periods of employment growth, on the one hand, and unemployment, on the other, exacerbates the problems of ensuring quality characteristics of the workforce. which confirms the conclusion about the inevitable intensification of migration processes from less economically developed countries to countries with a higher level of economic development.

A similar situation, but with less pronounced amplitudes of employment and unemployment is observed in the group of countries with above-average incomes (Fig. 12, Fig. 13), which indicates the spread of the process of substitution migration to other groups - when jobs went to developed countries. countries are replaced by workers from countries with incomes below the average and developed countries. At the same time, it is obvious that although the qualitative component of labor supply will also play an important role, the quantitative-substituting aspect of labor supply will be of paramount importance.

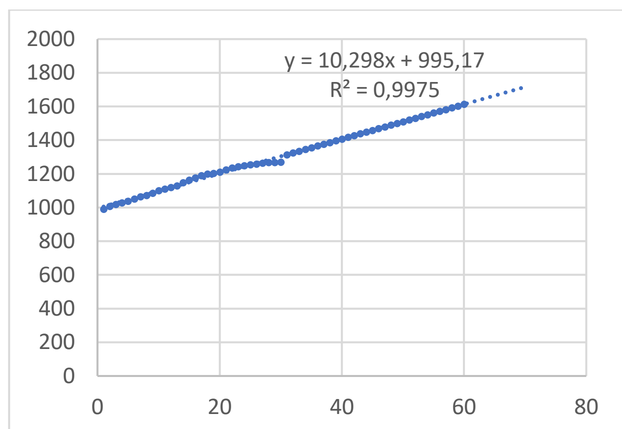

Figure 12. Dynamics of employment in the group of countries with incomes above the average in 1991-2050, million people

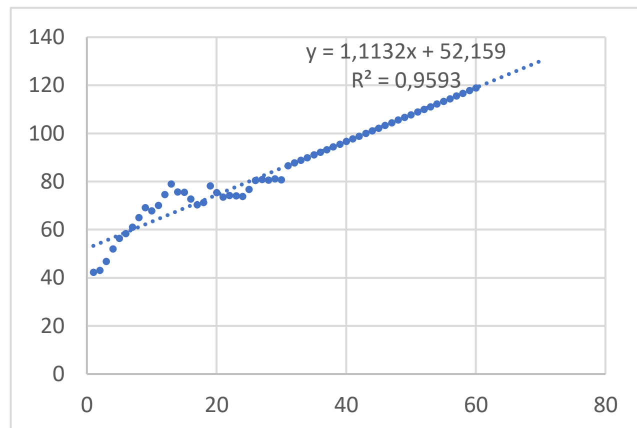

Figure 13. Dynamics of unemployment in the group of countries with higher than average income in 1991-2050, million people

CONCLUSIONS

Given the above and taking into account the differences in existing approaches to the analysis and forecasting of the need for workers in the world economy, the development of multi-scenario forecasts based on systematic monitoring of current and future volumes of labor supply and demand [1, p.449] creates an opportunity to adapt the relevant regulatory policy to specific circumstances. The development of multi-scenario forecasts seems to be an even more important task that none of the used methods and models of forecasting can be considered satisfactory from the point of view of realization of forecasting goals and application of the obtained results in practice. [1, p.451-452]

In addition, the development of multi-scenario forecasts will use employment forecasting models to determine the total and additional labor needs in the context of changes in the sectoral structure of the economy, as well as assess projected changes in the structure of occupations within industries after forecasting future changes. This reasoning is extremely important in the context of lag processes in the labor market.

The development of multi-scenario forecasts will identify and model trends of growth or reduction of future demand for educational and professional skills, which should be the basis for making practical decisions on ways to optimal labor supply of the economy (labor markets themselves will not be able to eliminate imbalances). Otherwise, the consequences of imbalances in the labor market and the subsequent impact on the competitiveness of economies will be quite serious.

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ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

THE IMPLEMENTATION OF THE PRINCIPLE AUDI ALTERAM PARTEM IN THE COVID-19 PANDEMIC

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DOI: 10.13165/PSPO-20-24-35

Annotation. The article presents the principle of *audi alteram partem* - i.e. the concept of the principle of the right to be heard. The content of this concept is revealed, international and national legal acts related to the establishment of the right to be heard in civil, criminal and administrative proceedings are analyzed in the article. Following the announcement by the World Health Organization of a pandemic for the spread of the Covid-19 virus, countries facing this dangerous disease had to make decisions that affect the management of the spread of the virus. As a result, many states have decided to declare a state of emergency, extreme situation or quarantine, and certain restrictions on individual rights have been introduced.
The organization of the courts and pre-trial dispute resolution bodies, so called quasi-courts has also changed, and in many countries, due to the unfavorable epidemic situation in Covid-19, decisions have been taken to adjourn oral proceedings or written proceedings. These decisions have been enshrined in different levels of legislation and are the subject of debate as to their legality and proportionality.

Keywods: audi alteram partem, the right to be heard, human rights, procedural rights.

INTRODUCTION

Article 30 of the Constitution of the Republic of Lithuania provides: “A person whose constitutional rights or freedoms are violated has the right to apply to a court”[1], and Article 117 provides that “Cases shall be heard in public in all courts”. Consequently, the guarantee of judicial protection is established at the constitutional level, which means the right of a person to apply to a court with a complaint, petition or statement and at the same time the duty of a court to examine such complaint (request, statement) and make a lawful, fair and reasonable decision. Legal disputes are heard in the courts in accordance with special procedural rules that ensure the administration of justice.

Article 4 of the Law on Courts of the Republic of Lithuania enshrines the right of a person to judicial protection:

[1] Constitution of the Republic of Lithuania, Lietuvos aidas, 1992-11-10, Nr. 220-0.

"1. Citizens of the Republic of Lithuania have the right to judicial protection against encroachment on their rights and freedoms enshrined in the Constitution and laws of the Republic of Lithuania and international treaties of the Republic of Lithuania. In cases provided for by law, they are entitled to state-guaranteed legal aid.
2. Aliens and stateless persons have the same rights to judicial protection as citizens of the Republic of Lithuania, unless otherwise provided by laws and international agreements of the Republic of Lithuania.
3. Companies, institutions, offices and agencies shall also have the right to judicial protection."[2]
Paragraph 1 of Article 34 of this Law enshrines the main principles of court proceedings:" The courts shall hear cases in accordance with the principles of equality, the right to legal aid, the right to due process, cost-effectiveness, **the right to be heard**, adversity, the presumption of innocence, impartiality, publicity, immediacy and the prohibition of abuse of rights. "

In 2020 following the announcement by the World Health Organization of a pandemic due to the spread of the Covid-19 virus, countries facing this dangerous disease had to make decisions that affected the management of the spread of the virus. As a result, many states have decided to declare a state of emergency, a state of extreme situation or quarantine, and certain restrictions on individual rights have been introduced. The measures to stop productive activity were taken in order to slow down the spread of COVID-19.

The Government of the Republic of Lithuania in 2020 March 14 adopted a resolution[3], announcing the third (full readiness) level of civil protection system readiness in the territory of the Republic of Lithuania and in the first stage from 2020 March 16 until March 30 introduced a quarantine regime in the country. Subsequently, the quarantine was extended several times by government decrees. Taking this into account and in order to ensure a fair balance between ensuring the protection of personal and public health and a person's right to go to court, the Council of Judges prepared recommendations for Lithuanian court leaders to make decisions on the organization of court work during their quarantine regime[4]. The recommendations propose to organize the teleworking of judges and court staff, to limit work

[2] Law on Courts of the Republic of Lithuania, Valstybės žinios, 1994-06-17, Nr. 46-851 [https://www.e-tar.lt/portal/lt/legalAct/TAR.522B3E415B52/asr]
[3] Resolution of Government of the Republic of Lithuania 2020 March 14 No. 207 "On the Announcement of Quarantine in the Territory of the Republic of Lithuania", TAR, 2020-03-14, Nr.5466.
[4] Council of Judges 2020 March 16 letter No. 36P-48- (7.1.10) "Regarding the performance of judicial functions during the quarantine period", [https://www.teismai.lt/lt/naujienos/teismu-sistemos-naujienos/del-teismu-darbo-organizavimo-karantino-laikotarpiu/7444].

on court premises and to organize court hearings by written procedure. Many European countries have also decided to adjourn or replace oral proceedings in court with a written procedure, thus restricting a person's right to be heard during the proceedings.

The purpose of this article is to reveal the concept of the principle of a*udi alteram partem* (right to be heard) and to present the possibilities and practice of restricting this principle in Lithuania and in the judicial systems of European countries.

The article analyzes international and national legislation related to the establishment of audi alteram partem and to the restriction of *audi alteram partem* in an extraordinary situation.

In order to reveal the content of the principle of *audi alteram partem* (right to be heard), special attention was paid to the analysis of scientific literature and jurisprudence. A comparative analysis of the legal acts and documents of the European Union countries was performed in order to determine the grounds and practice of restricting the *audi alteram partem* principle. The problem addressed in the article is very new, therefore, due to the lack of printed publications, the reports presented at the on-line 9 April 2020 conference "The Functioning of Courts in the Covid-19 pandemic" are used.

THE CONCEPT OF *AUDI ALTERAM PARTEM*

The principle audi alteram partem requires that the parties concerned be heard impartially in the dispute settlement process. This principle is followed in resolving various types of legal disputes (civil, labor, etc.), including administrative disputes. Its essence is that the person (the arguments of the person's self-defense) must be heard in order to make a reasonable and fair decision.

The principle of audi alteram partem is considered to be one of the fundamental procedural rights of the individual, based on the long-standing traditions of the European continent[5]. The English courts established centuries ago that the impartial hearing of interested parties (litigants) is one of the basic principles of due process, so that the authorities with judicial powers act lawfully only when hearing the persons in whose favor or against the decision.

[5] Schwarze J., European Administrative Law. Lucembourg: Office for Official Publications of the European Communities, 2006, p.1234-1341.

The principle of the right to be heard is of paramount importance in criminal cases, which is why researchers have paid particular attention to the problems of its implementation.[6] The European Court of Human Rights has ruled in a number of cases on the right to a fair trial and other procedural rights, as well as the right to be heard.[7]

The principle that every person should be heard in the determination of his or her rights and obligations is also enshrined in international instruments. For example, the European Convention for the Protection of Human Rights and Fundamental Freedoms, ratified by Lithuania in 1995, in Article 6 enshrines the right of everyone to a fair trial. Although this article deals with the requirement that every person be heard in the determination of his or her civil rights and obligations or in criminal proceedings before an impartial and independent tribunal [8], however, the European Court of Human Rights has ruled that this rule also applies to those rights and obligations imposed by various specialized, administrative courts and independent administrative commissions, in other words quasi-judicial bodies.

Later, the principle of *audi alteram partem* was introduced not only in courts, quasi-courts, but also in public administration[9]. The Court of Justice of the European Union also applies the *audi alteram partem* requirement and states in one of its rulings that "a person whose interests are affected by a decision of a public authority must be given an opportunity to state his views"[10]. The principle of the right to be heard has been progressively enshrined in various instruments, such as the Charter of Fundamental Rights of the European Union, which defines the right to good administration which include "the right of every person to be heard before any individual measure adversely affects him or her"[11].

Thus, in the administration of justice and in the exercise of their judicial powers, the courts and quasi-courts make decisions which may adversely affect the rights or interests of individuals. For this reason, the institutions must exercise their powers in a particularly fair

[6] Ruggeri S. , *Audi alteram partem* in Criminal Proceedings Under the European Convention on Human Rights. In: Audi Alteram Partem in Criminal Proceedings. Springer International Publishing, 2017; Acker J.R., Brody D.C., Criminal Procedure: a contemporary perspective, Jones & Bartlett Learning, 2004
[7] Massimo Gambino, Shpetim Hyka versus Procura della Repubblica presso il Tribunale di Bari, 2019, C-38/18; Keskinen, Veljekset Keskinen Oy versus Finland, 34721/09
[8] Convention for the Protection of Human Rights and Fundamental Freedoms, Article 6
[9] Andrijauskaite, Agne. (2016). Teisė būti išklausytam – kelias geresnių administracinių procedūrų link. [https://www.researchgate.net/publication/327075250_Teise_buti_isklausytam_-_kelias_geresniu_administraciniu_proceduru_link/citation/download]
[10] *Transocean Marine Paint Association v. EC Commission* , 1974 [https://eur-lex.europa.eu/legal-content/HR/TXT/?uri=CELEX:61974CJ0017]
[11] Charter of Fundamental Rights of the European Union, 2016 C, 202/02.

way, which can only be done through a fair process - due process of law. A person whose rights and obligations may be affected by a judgment or quasi-judicial act must be given an opportunity to state his views and to be heard.

The ways of realizing the hearing procedure are as follows:

1) oral process - hearing (the main and most common method);
2) acceptance of relevant evidence submitted by the party
3) acquaintance of the parties with the submitted evidence
4) examination of witnesses
5) hearing of evidence, comments and arguments on the entire file (litigation, inquiries of the opposing party)
6) the opportunity to provide written explanations after receiving all the material from the other party
7) the right to use the assistance of a lawyer.

Although the principle *audi alteram partem* is called universal, it cannot be said to be absolute - that is, it does not mean that it must be applied without exception. The English court in Ridge v. Baldwin[12] found that this principle enshrines a fundamental right of the individual and ensures the fairness of the administrative process, but at the same time this principle must be applied flexibly. Circumstances may arise which may lead to non-compliance with this principle in the course of proceedings. This may be the case if a court or other dispute resolution body, such as a quasi - court, has to take an urgent decision to protect public health or safety (for example, a decision to confiscate and dispose of contaminated meat presented for sale, etc.). In such cases, circumstances require to refuse a hearing.

The *audi alteram parte* principle must therefore be applied according to the circumstances. However, it is important to note that in situations where it can be inferred from the circumstances of the case that a hearing of a person would not change the expected outcome, this procedure must still be followed. Due process must be a priority: only after hearing both parties can the courts and quasi-courts make a decision.

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[12] *Ridge v Baldwin and others* [1963] 2 All ER 66, https://oup-arc.com/static/5c0e79ef50eddf00160f35ad/casebook_142.htm

In accordance with the established case law of the European Court of Human Rights restrictions are permissible only if they have a legitimate aim and are proportionate and cannot undermine the very essence of the law.[13] The rights enshrined in Articles 6 and 13 of the European Convention on Human Rights, and Articles 47 and 48 of the Charter of Fundamental Rights of the European Union, which guarantee the right to a fair trial are not absolute and may be limited in certain circumstances. But such restrictions may not impair the right's essence.

ESTABLISHMENT OF THE PRINCIPLE *AUDI ALTERAM PARTEM* N LITHUANIAN LAW AND ITS IMPLEMENTATION DURING A COVID-19 PANDEMIC

Article 15 of the Code of Civil Procedure of the Republic of Lithuania enshrines the principle of verbality: „ The parties and other participants in the proceedings shall give explanations, testimonies, as well as submit their requests and wishes orally, except in the cases provided for in this Code.“[14]

Article 242 of the Code of Criminal Procedure of the Republic of Lithuania enshrines direct and oral proceedings in court:

„1. When hearing a case, the Court of First Instance must directly examine the evidence in the case: questioning the accused, victims, witnesses, hearing the findings and explanations of experts and specialists summoned to the hearing, examining material evidence, reading minutes and other documents aloud.

2. At the court hearing, the persons interviewed give oral testimony and explanations.

3. Procedures for the examination of evidence other than those provided for in paragraphs 1 and 2 of this Article may be followed only in exceptional cases provided by law.“[15]

Article 78 of the Law on Administrative Justice of the Republic of Lithuania enshrines the immediacy, verbality and continuity of court proceedings:

„1. The court of first instance must examine the evidence in the case: hear the explanations of the parties to the proceedings, the testimony of witnesses, the explanations of specialists and the conclusions of experts, examine the written evidence, examine the material evidence.

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[13] Handbook on European law relating to access to justice, Fundamental Rights Agency, 2016, [https://fra.europa.eu/en/publication/2016/handbook-european-law-relating-access-justice]

[14] Code of Civil Procedure of the Republic of Lithuania, Valstybės žinios, 2002-04-06, Nr. 36-1340 [https://www.e-tar.lt/portal/lt/legalAct/TAR.2E7C18F61454/asr].

[15] Code of Criminal Procedure of the Republic of Lithuania, Valstybės žinios, 2002-04-09, Nr. 37-1341 [https://www.e-tar.lt/portal/lt/legalAct/TAR.EC588C321777/asr].

2. Before the Court of First Instance, the case shall be heard orally and in the same composition. If, at the end of the proceedings, at least one of the judges is replaced, the case must be heard from the outset, unless the parties to the proceedings object to the case being adjourned beyond the postponement of the proceedings. If the case is heard from the outset, witnesses heard in court are not normally summoned again.“[16]

Although procedural law guarantees the right of a person to be heard during the proceedings, this right may in certain cases be restricted or postponed.

This year Lithuania was facing the threat of a pandemic for the first time, and for this reason the Government of the Republic of Lithuania on March 14 declared quarantine in the territory of the Republic of Lithuania by a resolution. This resolution established the priority of judicial activity in order to ensure a fair balance between ensuring the protection of personal and public health and a person's right to go to court.

Taking into account the situation, the Council of Judges prepared recommendations for the heads of Lithuanian courts to make decisions on the organization of the work of the court under their leadership during the quarantine regime[17], proposing the organization of teleworking for judges and court staff, restricting work on court premises and organizing court hearings by written procedure. The Judicial Council recommended the cancellation of all court hearings scheduled during the quarantine period in cases pending before the oral procedure, except in cases of urgency provided for by law (for example, the resolution of issues related to arrest, removal of a child from an unsafe environment). Schedule (postpone) court hearings in oral proceedings after the end of the quarantine regime. Ensure that those involved in the case are informed immediately of any changes in the date and time of the court hearings. In cases where the proceedings cannot be adjourned and the written procedure is also not possible, oral hearings must be organized with all precautions taken to prevent the risk of the COVID-19 virus spreading, while maintaining the maximum distance in the courtroom between participants or conduct court hearings remotely by telecommunications.

In some cases, the time limits for proceedings are quite short, the problem is how to ensure the individual's right to a speedy trial, the individual's right to be heard, as well as how to ensure

[16] Law on Administrative Justice of the Republic of Lithuania, Valstybės žinios, 1999-02-03, Nr. 13-308.
[17] Council of Judges 2020 March 16 letter No. 36P-48- (7.1.10) "Regarding the performance of judicial functions during the quarantine period", [https://www.teismai.lt/lt/naujienos/teismu-sistemos-naujienos/del-teismu-darbo-organizavimo-karantino-laikotarpiu/7444].

the individual's and society's right to health and life. For example, the Law on the Procedure for Pre-trial Administrative Disputes of the Republic of Lithuania provides that "a complaint (request) submitted to the Administrative Disputes Commission must be examined no later than within 20 working days from the day of its submission."[18] The law provides for the possibility of extending the term of the case for a maximum of another 10 working days: „ If necessary, by a reasoned decision of the Administrative Disputes Commission, the general term for examination of the complaint (request) may be extended for another 10 working days."[19] When deciding to hear a case by written procedure, a person's right to be heard can be exercised only to a very limited extent, for example through the submission of explanations and statements in writing.

On the other hand, if the parties request an oral hearing in order to guarantee the person's right to be heard, but also to comply with the quarantine requirements, the case must be suspended until the end of the quarantine. In this way, a situation will inevitably arise where the time limits for the proceedings will be violated, and at the same time the individual's right to a speedy procedure will be violated. However, following the quarantine in Lithuania, courts and pre-trial dispute resolution bodies have decided to suspend proceedings in cases where the parties do not agree with the written hearing, considering the right to be heard more important than the right to a speedy trial.

ACTIVITIES OF EUROPEAN JUDICIAL AUTHORITIES DURING A PANDEMIC

The OSCE Office for Democratic Institutions and Human Rights (ODIHR), in co-operation with the European Association of Judges (EAJ) on 9 April 2020 organized an online conference devoted to discussion about the challenges of functioning justice systems despite states of emergencies, curfews and lockdowns due to the Covid-19 pandemic.[20]

At the time of the conference, many European countries established special measures for the justice systems. In some countries, for example, Albania, Court hearings on administrative, civil and criminal cases, which are not urgent were suspended without an exact termination of

[18] Law on Pre-trial Administrative Disputes of the Republic of Lithuania Article 12 part 1, Valstybės žinios, 1999-02-03, Nr. 13-310
[19] Law on Pre-trial Administrative Disputes of the Republic of Lithuania Article 12 part 2, Valstybės žinios, 1999-02-03, Nr. 13-310
[20] ONLINE EVENT: The functioning of courts in the Covid-19 pandemic https://www.osce.org/odihr/450385

suspension. The term of suspension of court hearings was linked to the end of the epidemic caused by the COVID-19 outbreak.

In France was adopted four legal acts (ordonnances) on the basis of the Law on Health Emergency in the context of the Covid-19 pandemic, which adapted rules of criminal procedure, rules applicable to ordinary courts dealing with non-criminal matters, rules of administrative procedure and on prolongation of deadlines expiring during the period of the health emergency. Statutes of limitation and deadlines for the exercise of remedies were extended, the possibility to hold hearings by videoconference was provided for in the Code of Criminal Procedure and without the concent of parties was used in all crimnal courts other than jury trials.[21]

In Czech Republic, the Ministry of Justice has introduced the so-called „Lex-COVID Justice“, which extended legal deadlines and remits missed deadlines.

The new laws in Italy, Portugal and Slovenia stipulated that urgent acts in which fundamental rights ar at stake – such as proceedings concerning minors at risk or urgent guardianship and domestic violence proceedings – be carried out“.[22]

In Austria, the Second COVID-19 Act has interrupted deadlines in civil proceedings until 30 April, which means that the full period re-starts when the interruption ends, for example a deadline of four weeks for an appeal will expire four weeks into May (unless the interruption were to be extemded). In Austrian justice system video-conferencing is available as an option for hearings in sivil, administrative and criminal matters, and can include hearing witnesses, examination of other evidence and reviewing prie-trial detention[23].

In Hungary at the time of the conference courts acted with changes such as digital hearings and restrictions on physical access to buildings and judicial premises. Some procedural measures were implemented during the state of emergency in Hungary, hovewer, normal deadlines remained applicable to courts and parties of proceedings. In the cases where a procedural regulation imperatively requires the presence of any of the parties to proceedings and there is no other means by way of which the court could proceed with the case, for example,

[21] This information is based on an unofficial translation of the ordonnances in France and the information presented during on-line 9 April 2020 conference “The Functioning of Courts in the Covid-19 pandemic”
[22] European Union Agency for Fundamental Rights, Coronavirus Pandemic in the EU – Fundamental Rights Implications, Bulletin 1 (1 February – 20 March 2020), p.28 [https://fra.europa.eu/en/publication/2020/covid19-rights-impact-april-1]
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ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
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2020 (24)
Research Journal

impossibility of correspondence in writing, communication by electronic means or of remote interviewing by info-communication tools, the cases were suspended.

It was reportet that in Sweden no temprary legislation was adopted which would have interrupted or suspended legal proceedings.

The conference shared experiences from the judiciary in many European countries about their activities during the pandemic. It turned out that various problems arose in the context of videoconference hearings, including lack of meaningful participation during online hearings and shortcomings in terms of observing non-verbal cues, problems with the identification of parties and the examination of evidence, and the lack of means for confidential client-lawyer communication during online hearings. Access of the public may be compensated partially by broadcasting hearings, however shortcomings remain, including with regard to trial monitoring. Many judicial functions and the delivery of fair trial rights mean that face-to-face interaction cannot be entirely replaced by the use of IT-solutions. Parties may not own a computer, not have access to internet, or due to lack of computer literacy may not be able to full participation in online hearings.

Courts need to remain functional to discharge key functions while preserving the right to life and health of judges and judicial staff, as well as for lawyers, parties, witnesses, etc. Judges have special obligations and may justifiably be asked to accept a higher degree of risk given the essential role of the judiciary in securing human rights protection and the rule of law. There is a consensus regarding the definition of "urgent" cases, which cannot be suspended. These include cases with persons in detention, cases where immediate protection is required from domestic violence and other urgent family disputes.

CONCLUSIONS

The *audi alteram parte* principle is one of the most important components of due process of law. The person's right to be heard in criminal, civil and administrative procedure is enshrined in national and international legal documents. The most important aspect of the *audi alteram parte* procedure is a hearing – the main and most common method is oral process. It also includes acceptance of relevant evidence submitted by the party, acquaintance of the parties with the submitted evidence, examination of witnesses and hearing of evidence, comments and arguments on the entire file (litigation, inquiries of the opposing party). However, this principle is not an absolute and has to be applied according to the circumstances.

Lithuanian national law (Code of Civil Procedure of the Republic of Lithuania, Code of Criminal Procedure of the Republic of Lithuania, Law on Administrative Justice of the Republic of Lithuania, Law on the Procedure for Pre-trial Administrative Disputes of the Republic of Lithuania, etc.) provide for the right to an oral hearing and the right to be heard. When the quarantine was announced in the territory of Lithuania, the Lithuanian courts and quasi-courts decided to suspend the oral proceedings and to hear the cases by written procedure. If the parties, however, request an oral hearing in order to guarantee the person's right to be heard, but also to comply with the quarantine requirements, the cases are suspended until the end of the quarantine. In this way, a situation will inevitably arise where the time limits for the proceedings will be violated, and at the same time the individual's right to a speedy procedure will be violated. However, following the quarantine in Lithuania, courts and pre-trial dispute resolution bodies have decided to suspend proceedings in cases where the parties do not agree with the written hearing, considering the right to be heard more important than the right to a speedy trial. During the quarantine regime courts organize the oral proceedings only in cases where there are urgent issues.

During pandemic, many European countries established special measures for the justice systems: procedures were suspended (except for urgent cases), access to court buildings has been restricted. Summarizing the experience of many European judicial authorities, it has been observed that during the pandemic, oral proceedings were suspended or conducted by telecommunications, mainly by written procedure, thus substantially restricting a person's right to be heard during court proceedings. The concept of "urgent cases" is the same in many states, which include cases with persons in detention, cases where immediate protection is required from domestic violence and other urgent family disputes. The courts are challenged to deal with such urgent cases immediately despite the pandemic.

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ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

JŪRŲ VANDENŲ APSAUGA: JŪRŲ VANDENŲ SAMPRATA IR TARPTAUTINIS REGULIAVIMAS

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DOI: 10.13165/PSPO-20-24-36

Anotacija. Tobulėjant šiuolaikiniam jūrų teisiniam reglamentavimui ir didėjant susirūpinimui dėl jūrų vandenų būklės, buvo sukurta daugybė teisinių režimų, kuriuose sprendžiamos jūrų aplinkos problemos, įskaitant taršą, biologinės įvairovės nykimą, nykstančių rūšių apsaugą ir jūros žinduolius. Straipsnyje analizuojama jūrų vandenų apibrėžimas hidrografiniuose ir teisiniuose dokumentuose, toliau tiriamas ekonominis jūrų vandenų aspektas, atskleidžiama darnaus jūrų vandenų naudojimo samprata. Antrojoje straipsnio dalyje atskleidžiamas tarptautinio teisinio reguliavimo turinys ir ribos. Jūrų vandenų sampratą teisine prasme nustato UNCLOS, kuri yra prilyginama vandenų konstitucijai. Tarptautinės konvencijos sudaro teisinio reguliavimo pagrindą, saugant jūrų aplinką, nustatydamos valstybių jurisdikcijos ribas.

Pagrindinės sąvokos: Jūrų apibrėžimas; jūrų vandenų apsauga; tarptautinė aplinkosaugos teisė

ĮVADAS

Procesai, susiję su žmogaus veiklos poveikiu jūrų vandenims, kelia tiek žmogaus, tiek visuomenės, tiek ir valstybių, tame tarpe ir Europos, susirūpinimą, nes grėsmės jūrų vandenims daro tiesioginį poveikį žmogaus gyvenimo kokybei. Kartu galima pastebėti, kad kinta ir šios problemos suvokimas ir nuo lokaliai suvokiamos problemos, jūros vandenų apsauga tampa regionine ir net globalia valstybių vyriausybių dienotvarkės dalimi, formuojasi nauja mąstymo paradigma. Teisinis reglamentavimas yra jūrų vandenų apsaugos pagrindas ir būtina sąlyga, siekiant apsaugoti šį žemės išteklių.

Tobulėjant šiuolaikiniam jūrų teisiniam reglamentavimui ir didėjant susirūpinimui dėl jūrų vandenų būklės, buvo sukurta daugybė teisinių režimų, kuriuose sprendžiamos jūrų

aplinkos problemos, įskaitant taršą, biologinės įvairovės nykimą, nykstančių rūšių apsaugą ir jūros žinduolius. Tarptautinė jūrų teisė suteikia pagrindą nuolatinei pažangai. Tačiau akcentuojama, kad jūrų išsaugojimo ateitis vis dėlto priklauso nuo valstybių sugebėjimo ir noro bendradarbiauti siekiant šių bendrų tikslų. Tai priklauso taip pat ir nuo atskirų valstybių sugebėjimo nustatyti ir įgyvendinti nacionalinius jūrų apsaugos įstatymus.[1]

Konstatuotina, kad jūrų vandenų apsaugą ir jos pobūdį apibrėžia ir ženklią įtaką daro dvi dedamosios dalys: aplinkosaugos veiksnys ir valstybių ekonominiai interesai. Balansas tarp šių dviejų dažnai priešingų krypčių yra jūrų vandenų apsaugos Europoje ir pasaulyje uždavinys, kuris nėra pasiekiamas lengvai ir be interesų derinimo. Todėl svarbu apibrėžti jūrų vandenų sampratą ir pagrindinius teisės aktus, reglamenuojančius jūrų vandenų apsaugą.

Straipsnio tikslas – atskleisti esminius jūrų vandenų sampratos bruožus ir apibrėžti jiems taikomo teisinio reguliavimo ribas.

Analizei naudojami lingvistinis, lyginamasis, sisteminis bei loginis-analitinis metodai. Lingvistinis metodas naudotas, siekiant paaiškinti galiojančių teisinių dokumentų – tarptautinių sutarčių, regioninių ir nacionalinių teisės aktų, reglamentuojančių jūrų vandenų apsaugą, normas. Šis metodas naudotas taip pat paaiškinant atskiras darbe naudojamas sąvokas. Lyginamuoju metodu naudotasi siekiant palyginti atskirų teisinių dokumentų nuostatas, taip pat atskirų jūrų vandenų apsaugos teisinį reglamentavimą.

JŪRŲ VANDENŲ SAMPRATA

Kalbant apie sąvokų „vandenynas“ ir „jūra“ turinį, reiktų pabrėžti, kad pagal tarptautinės hidrografijos organizacijos apibrėžimą, pasaulyje išskiriami trys vandenynai: Atlanto vandenynas, Ramusis ir Indijos vandenynai.[2] *Atlanto vandenynas* tęsiasi nuo Antarktidos į šiaurę ir apima visą Arkties jūrą, Europos Viduržemio jūrą ir Amerikos Viduržemio jūrą, labiau žinomą kaip Karibų jūra. *Ramusis vandenynas* tęsiasi į šiaurę nuo Antarktidos iki Beringo sąsiaurio. Riba tarp Ramiojo vandenyno ir Indijos vandenynų eina linija nuo Malajų pusiasalio per Sumatrą, Java, Timorą, Australiją prie Londono kyšulio ir Tasmaniją. Nuo Tasmanijos iki Antarktidos yra Tasmanijos 147◦E pietryčių kyšulio dienovidinis. *Indijos vandenynas* driekiasi

[1]SCHIFFMAN, H. S. *International Law and Institutions. International Law and the Protection of the Marine Environment.* Encyclopedia of Life Support Systems. UNESCO, 2009. P.2
[2] STEWART, R. H. *Introduction to Physical Oceanography*. Department of Oceanography, Texas A & M University. 1997–2000. P. 22-23

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
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Research Journal

nuo Antarktidos iki Azijos žemyno, įskaitant Raudonąją jūrą ir Persijos įlanką. Kai kurie autoriai apibūdina Antarktidą supantį vandenyną pavadinimu *Pietinis vandenynas*. [3]

Kalbant apie jūros apibrėžimą, reiktų pažymėti, jog jūros, kurios yra pasaulinio vandenyno dalis, yra apibrėžiamos dažniausiai pagal geografinę padėtį žemynų atžvilgiu. Viduržemynines jūras (angl. *Mediterranean Seas*) daugiausia supa sausuma. Pagal šį apibrėžimą Arkties ar Karibų jūros yra viduržemyninės jūros: Arkties viduržemyninė jūra ir Karibų viduržemyninė jūra.[4] Europos ir Afrikos apsupta jūra yra vadinama tiesiog Viduržemio jūra. Pagal šį skirstymą tokia yra ir Baltijos jūra. Tai baseinai, įsiterpę į vieną kurį nors žemyną. Šių jūrų pagrindinis bruožas – ribotas ryšys su atviraja jūra. Tarp būdingų šio tipo jūrų hidrologijos bruožų pažymėtina: savita vandens masių stratifikacija, priklausanti nuo gėlo vandens ir apskritai vandens balanso; autonomiškų apykaitinių sistemų susiformavimas; komplikuotas potvynių ir atoslūgių bangos prasiskverbimas į šių jūrų akvatorijas ir kt.[5] Kitas jūrų tipas – pakraštinės jūros (angl. *Marginal Seas*) yra tik įdubos pakrantėje. Pavyzdžiui, Arabijos jūra ir Pietų Kinijos jūra yra kraštinės jūros. Jų dubuo, vandens masės bei jų dinamika nedaug skiriasi nuo vandenyno. Nuo vandenyno jas riboje tik dugno iškilumai ir negausios salos. Nemažai atvirų jūrų yra Ramiajame vandenyne. Atlanto vandenyne tipiškų atvirų jūrų beveik nėra. Dauguma atvirų jūrų pasižymi dideliais gyliais.[6]

Kartu pažymėtina, kad skirtumas tarp jūros ir vandenyno yra dialektinis, kai jūra (angl. *sea*) yra terminas britų anglų kalba, o vandenynas (angl. *ocean*) yra terminas Šiaurės Amerikos anglų kalba. Remiantis Kembridžo žodynu[7], jie abu reiškia druskos vandens masę, kuri apima didžiąją dalį žemės paviršiaus, tik vandenynas apibrėžiamas kaip daug didesnė vandens masė.[8] Manytina, kad pagal šias prielaidas, jūros yra vandenyno dalis. Darbe atskirais atvejais kalbama apie vandenyną, kaip virš jūrų esančią ir ją apimančią didesnę struktūrą.

[3] Ibid.
[4] Ibid.
[5] GRYBAUSKIENĖ, V. *Baltijos jūra. Pakrančių apsauga*. Mokomoji knyga. Kaunas: Ardiva, 2008. p.19-20.
[6] Ibid., p.18-19
[7] CAMBRIDGE DICTIONARY. *sea.* [interaktyvus] [žiūrėta 2020 m. vasario 3 d.] prieiga per internetą: https://dictionary.cambridge.org/dictionary/english/sea.
[8]Tačiau žodynas lietuvių kalba nepateikia subordinacinio elemento tarp šių sąvokų ir nurodo, kad „jūra" suprantama, kaip didelis sūraus vandens plotas, susisiekiantis su vandenynu. ZODYNAS.LT *Kas yra jūra?* Terminų žodynas. [interaktyvus] [žiūrėta 2020 m. vasario 3 d.] prieiga per internetą: https://www.zodynas.lt/terminu-zodynas/J/jura. Vandenynas apibrėžiamas, kaip vandens plotas tarp žemynų. ZODYNAS.LT *Kas yra vandenynas?* Terminų žodynas. [interaktyvus] [žiūrėta 2020 m. vasario 3 d.] prieiga per internetą: https://www.zodynas.lt/terminu-zodynas/V/vandenynas.

Kalbant apie ES teisinį reguliavimą, pagrindinis Europos Sąjungos teisės aktas, reglamentuojantis jūrų vandenų apsaugą yra 2008 m. birželio 17 d. Europos Parlamento ir Tarybos direktyva 2008/56/EB, nustatanti Bendrijos veiksmų jūrų aplinkos politikos srityje pagrindus (Jūrų strategijos pagrindų direktyva) (toliau – Jūrų direktyva)[9]. ES priimta direktyva nustatoma bendra sistema ir tikslai, kuriais siekiama apsaugoti bei išsaugoti jūrų aplinką ir neleisti blogėti jos būklei dėl žalingos žmogaus veiklos. Šioje direktyvoje taip pat nurodomi būtini strateginiai žingsniai, kuriuos ES valstybės narės turėjo įgyvendinti, kad iki 2020 m. ES būtų pasiekta gera jūrų aplinkos būklė.[10] Jūrų direktyvos preambulės 11 punkte sakoma, kad "kiekviena valstybė narė turėtų vystyti jai priklausančių jūros vandenų jūrų strategiją, kurioje, atsižvelgiama į bendrą atitinkamo jūrų regiono perspektyvą, nors ji ir skirta saviems vandenims. Jūrų strategijomis turėtų būti pasiekta, kad būtų vykdomos priemonių programos, skirtos gerai ekologinei būklei pasiekti"[11] Tokiu būdu pabrėžtina atskirų šalių jūrų strategijos reikšmė, vykdant bendrąją Europos jūrų strategiją.

Šioje direktyvoje nurodoma, jog „jūrų vandenys – tai: a) vandenys, jūros dugnas ir po juo esantis gruntas, jūros pusėje nuo pagrindinės linijos, nuo kurios matuojamas teritorinių vandenų plotis, besitęsiantys iki toliausios ribos tos teritorijos, kuri priklauso valstybių narių jurisdikcijai ir (arba) kurioje ji vykdo jurisdikciją pagal UNCLOS, išskyrus vandenis, esančius greta Sutarties II priede išvardytų šalių ir teritorijų, bei Prancūzijos užjūrio departamentų ir kolektyvinių darinių; ir b) pakrančių vandenys, kaip apibrėžiama Direktyvoje 2000/60/EB, jų dugnas ir po juo esantis gruntas, įtraukiami tik tiek, kiek tai yra susiję su konkrečiais jūrų aplinkos apsaugos elementais, kuriems nėra taikoma minėtoji direktyva arba kiti Bendrijos teisės aktai."[12]

Iš esmės jūros tipas nulemia ir jos vandenų apsaugos teisinį reguliavimą ir jo tikslus. Atitinkamos jūros vandenų apsauga per specifines priemones, kurių reikalinga imtis, siekia išsaugoti konkrečią jūrą. Uždaros jūros teršiamos labiau nei atviros pakrančių jūros. Jų galimybės išsivalyti yra ribojamos daugelio specifinių aspektų, tarp kurių – uždarumas ir kaip taisyklė – intensyvi ūkinė veikla jūroje ir jos priekrantėje. Tačiau atvirose jūrose vandenų

[9] EUROPOS PARLAMENTAS IR TARYBA. 2008 m. birželio 17 d. Europos Parlamento ir Tarybos direktyva 2008/56/EB, nustatanti Bendrijos veiksmų jūrų aplinkos politikos srityje pagrindus (Jūrų strategijos pagrindų direktyva) (OL 2017 L 125, p. 27).
[10] *Jūrų aplinkos strategija*. [interaktyvus][žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą https://eur-lex.europa.eu/legal-content/LT/TXT/HTML/?uri=LEGISSUM:l28164
[11] Jūrų strategijos pagrindų direktyva, op. cit. 9.
[12] Ibid., 3 straipsnis.

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
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PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
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apsaugos iššūkiai yra susiję su ekosistemų apsauga, ūkinės veiklos (žuvininkystės) ribojimu, klimato atšilimu ir kitais panašiais aspektais.

Viduržemio jūros, Baltijos jūros, Juodosios jūros ir šiaurės rytų Atlanto vandenyno vandenys, taip pat Azorų, Madeiros ir Kanarų salas supantys vandenys priklauso Europos Sąjungos valstybių narių jurisdikcijoje esantiems jūrų vandenims, į kuriuos jos turi suverenias teises[13]. Europos tikslas yra tvarus jūrų bei vandenynų naudojimas, sėkminga ir tausi žvejyba, klestinti mėlynoji ekonomika, Europa taip pat turi rodyti iniciatyvą tarptautinio vandenynų valdymo srityje ir atlikti svarbų vaidmenį ne tik Jungtinių Tautų diskusijose, visų pirma 2020 m. Lisabonoje įvyksiančioje JT konferencijoje dėl vandenynų, tačiau ir kituose regioniniuose bei tarptautiniuose forumuose. Siekiama sukurti naują darnios mėlynosios ekonomikos viziją, apimančią įvairiausias sritis – žinias apie jūras ir jų mokslinius tyrimus, jūrinių teritorijų planavimą, jūrų atsinaujinančiąją energiją, mėlynąsias investicijas ir regioninį bendradarbiavimą jūrų srityje.–vienas pagrindinių uždavinių.[14]

JŪRŲ VANDENŲ SAMPRATA EKONOMINIU ASPEKTU

Jūrų ir pakrančių ekosistemų vertės nustatymas yra svarbi supratimo apie jūrų ekosistemų reikšmę žmonių gerovei dalis. Jūros vandenys, kaip ekosistemos dalis, turi visų pirma ekonominę vertę. Ją galima įvertinti kaip ekonominį vienetą, o tai yra pirma sąlyga ir teisinei apsaugai. Konkreti ekonominė vertybė kaip taisyklė yra ginama teisės nuo įvairių pažeidimų. Galime teigti, kad ekonominė jūrų vandenų vertė sudaro teisinės jūrų vandenų apsaugos pagrindą.

Jūrų vandenų teisinės apsaugos reglamentavime taip pat visada užprogramuota priešpriešа tarp ekonominės vertės ir aplinkos apsaugos polių, lemianti ir tuos rezultatus, kuriuose jūrų vandenų apsaugos teisinis reglamentavimas pasiekia praktiškai. Klausimas tik vienas - kurioje pusėje yra visuomenė, o taip pat ir valstybės? Šiuo požiūriu kalbant apie Europą, iš viso 75 % Europos išorės prekybos ir 37 % ES vidaus prekybos sudaro jūrų prekyba. Didžioji dalis šios veiklos, nors ir ne visa, sutelkta prie Europos krantų.

[13] Ibid.
[14] VON DER LEYEN, Ursula. Europos Komisijos Pirmininkė. *Įgaliojimų raštas Virginijui Sinkevičiui, Komisijos nariui, atsakingam už aplinką, vandenynus ir žuvininkystę*. Briuselis, 2019 m. gruodžio 1 d. [interaktyvus] [žiūrėta 2019 m. gruodžio 23 d.] prieiga per internetą https://ec.europa.eu/commission/commissioners/sites/comm-cwt2019/files/commissioner_mission_letters/mission-letter-virginijus-sinkevicius_en.pdf

Dar vienas vertybinis aspektas, bet taip pat susijęs su ekonomika – mėlynoji ekonomika (arba jūrų ekonomika, mėlynasis augimas (ES atveju)[15]). Nurodoma, kad nėra vieno tarptautiniu mastu priimto „jūrų ekonomikos“ ar „mėlynosios ekonomikos“ apibrėžimo, todėl šių terminų vartojimas skiriasi atskirose šalyse ar organizacijose.[16] Atskirose šalyse pateikiami ir skirtingi šios ekonomikos sampratos apibrėžimai. Tai neprisideda prie vieningo supratimo ir atitinkamai teisinio reguliavimo. Skirtingus apibrėžimus pateikia 1 lentelė.

1 lentelė. Jūra grįstos ekonominės veiklos apibrėžimai atskirose šalyse.

Šalis	Apibrėžimas/Kriterijai
Jungtinės Amerikos Valstijos	Ekonominė veikla, kuri yra: a) pramonė, kurios apibrėžimas aiškiai susieja jos veiklą su jūra, arba b) kuri iš dalies susijusi su jūra ir yra prie kranto esančioje teritorijoje(pašto indekse).
Jungtinė Karalystė	Veikla, susijusi su darbu jūroje. Taip pat veikla, susijusi su prekių gamyba ar paslaugų teikimu, kurie tiesiogiai prisidės prie veiklos jūroje. ar jūroje.
Australija	Jūroje vykdoma veikla, kai pagrindinis indėlis yra jūrų ištekliai, arba prieiga prie jūros yra reikšmingas veiklos faktorius.
Airija	Ekonominė veikla, kuriai tiesiogiai ar netiesiogiai naudojama jūra.
Kinija	Visų rūšių veiklų, susijusios su jūrų išteklių plėtra, naudojimu ir apsauga, visuma.
Kanada	Tos pramonės šakos, kurios įsikūrusios Kanados jūrų zonose ir pakrančių bendruomenėse, besiribojančiose su šiomis zonomis, arba jų pajamos yra priklausomos nuo veiklos šiose teritorijose.
Naujoji Zelandija	Ekonominė veikla, vykdoma jūros aplinkoje arba naudoja jūros aplinką, arba gamina tokiai veiklai reikalingas prekes ir paslaugas arba tiesiogiai prisideda prie nacionalinės ekonomikos.
Korėjos Respublika	Jūroje vykdoma ekonominė veikla, kuri taip pat apima ekonominę veiklą, pagal kurią prekės ir paslaugos įtraukiamos į jūros veiklą, o jūrų ištekliai naudojami kaip pagrindinis indėlis.

Parengta autorių pagal UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. *Blue Bio Trade: Harnessing Marine Trade to Support Ecological Sustainability and Economic Equity*. 2018. [interaktyvus] [žiūrėta 2020 m. sausio 2 d.] prieiga per internetą https://unctad.org/en/PublicationsLibrary/ditcted2018d11_en.pdf

[15] EUROPOS KOMISIJA. Komunikatas *Mėlynasis augimas. Tvaraus jūrų ir jūrininkystės sektoriaus augimo galimybės* [interaktyvus] [žiūrėta 2020 m. sausio 2 d.] prieiga per internetą http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52012DC0494:EN:NOT
[16] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. *Blue Bio Trade: Harnessing Marine Trade to Support Ecological Sustainability and Economic Equity*. 2018. [interaktyvus] [žiūrėta 2020 m. sausio 2 d.] prieiga per internetą https://unctad.org/en/PublicationsLibrary/ditcted2018d11_en.pdf

Kaip matyti iš pateiktos lentelės, atskirose šalyse pateikiami skirtingi šios ekonomikos sampratos apibrėžimai. Tai neprisideda prie vieningo supratimo ir atitinkamai teisinio reguliavimo, o kaip pasekmė - vieningos jūrų vandenų apsaugos. Europos Sąjungoje mėlynasis augimas suprantamas kaip ilgalaikė strategija, kuria siekiama remti tvarų visų jūrų ir jūrininkystės sektorių augimą. Strategiją sudaro trys dalys:

1. specialios integruotos jūrų politikos priemonės: a) žinios apie jūrą[17]– siekiama pasirūpinti geresnėmis galimybėmis gauti informacijos apie jūrą, b) jūrų erdvės planavimas[18]– norima užtikrinti veiksmingą ir tvarų veiklos jūroje valdymą, c) integruotas jūrų stebėjimas[19]– siekiama, kad valdžios institucijos susidarytų geresnį vaizdą, kas vyksta jūroje.

2. jūrų baseinų strategijos, skirtos užtikrinti, kad būtų imamasi tinkamiausių priemonių tvariam augimui skatinti, kuriomis būtų atsižvelgiama į vietos klimato, okeanografinius, ekonominius, kultūrinius ir socialinius veiksnius: a) Adrijos ir Jonijos jūrų[20], b) Arkties vandenyno [21],c) Atlanto vandenyno[22]d) Baltijos jūros[23],e) Juodosios jūros[24],f) Viduržemio jūros[25],g) Šiaurės jūros[26].

[17] EUROPEAN COMMISSION. *Marine knowledge 2020*. [interaktyvus] [žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą https://ec.europa.eu/maritimeaffairs/policy/marine_knowledge_2020
[18] EUROPEAN COMMISSION. *Maritime spacial planning*. [interaktyvus] [žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą https://ec.europa.eu/maritimeaffairs/policy/maritime_spatial_planning
[19] EUROPEAN COMMISSION. *Integrated maritime surveillance* [interaktyvus] [žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą https://ec.europa.eu/maritimeaffairs/policy/integrated_maritime_surveillance
[20] EUROPEAN COMMISSION. *Sea basin strategy: Adriatic Ionian sea*. [interaktyvus] [žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą https://ec.europa.eu/maritimeaffairs/policy/sea_basins/adriatic_ionian
[21] EUROPEAN COMMISSION. *Sea basin strategy: Arctic Ocean*. [interaktyvus] [žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą https://ec.europa.eu/maritimeaffairs/policy/sea_basins/arctic_ocean
[22] EUROPEAN COMMISSION. *Sea basin strategy: Atlantic Ocean*. [interaktyvus] [žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą https://ec.europa.eu/maritimeaffairs/policy/sea_basins/atlantic_ocean
[23] EUROPEAN COMMISSION. *Sea basin strategy: Baltic Sea*. [interaktyvus] [žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą https://ec.europa.eu/maritimeaffairs/policy/sea_basins/baltic_sea
[24]EUROPEAN COMMISSION. *Sea basin strategy: Baltic Sea*. [interaktyvus] [žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą https://ec.europa.eu/maritimeaffairs/policy/sea_basins/black_sea
[25]EUROPEAN COMMISSION. *Sea basin strategy: Mediterranean Sea*. [interaktyvus] [žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą https://ec.europa.eu/maritimeaffairs/policy/sea_basins/mediterranean_sea
[26] EUROPEAN COMMISSION. *Sea basin strategy: North Sea*. [interaktyvus] [žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą https://ec.europa.eu/maritimeaffairs/policy/sea_basins/north_sea

3. tikslinis požiūris į konkrečią veiklą: a) akvakultūra (žuvininkystės interneto svetainė)[27],b) pakrančių turizmas[28],c) jūrų biotechnologijos[29],d) vandenyno energija[30],e) iškasenų gavyba jūros dugne[31].

Tokiu būdu ekonominiai aspektai suponuoja ir aplinkosaugos galimybes vienoje ar kitoje atskirai nagrinėjamoje jūroje. Vėlgi, konstatuotinas ekonominių klausimų pirmumas prieš aplinkosauginius, tačiau įmanomai didesniu mastu kompensuojant ekonomikos (kad ir mėlynosios) potencialią daromą žalą jūrų vandenims.

Be skirtingos terminijos, šalys ir institucijos jūrų ekonominei veiklai taiko skirtingus sektorių klasifikatorius. Vandenynų ekonomikos sektorių skaičius svyruoja nuo šešių Jungtinėse Amerikos Valstijose iki aštuoniolikos Jungtinėje Didžiosios Britanijos ir Šiaurės Airijos Karalystėje ir trisdešimt dviejų Japonijoje. Be to, kiekviename sektoriuje veikiančios pramonės šakos taip pat skiriasi priklausomai nuo šalies. Pavyzdžiui, Jungtinė Karalystė netraktuoja jūros gėrybių perdirbimo kaip jūrų sektoriaus, tuo tarpu Prancūzija įtraukia elektros energijos gamybą šiluminės ir branduolinės energijos būdu, kurios jokia kita šalis nepriskiria jūriniams sektoriams.[32]

Darytina išvada, kad tokia situacija taip pat neprisideda prie vieningo vertybinio, o kartu ir teisinio reglamentavimo supratimo tiek pasaulyje, tiek konkrečiai Europoje ir kelia sunkumų tinkamai organizuojant ir reglamentuojant jūrų vandenų apsaugą Europoje.

Ūkinė veikla jūrose sparčiai plečiasi, visų pirma dėl pasaulio gyventojų pokyčių, ekonomikos augimo, prekybos ir kylančių pajamų lygio, klimato ir aplinkos bei technologijų.[33] Tai tik keletas problemų, su kuriomis susiduria jūros. Jūrų vandenų patiriamo poveikio laipsnis priklauso nuo daugelio vertybinių priežasčių, jų masto ir pobūdžio:

[27] EUROPEAN COMMISSION. *Aquaculture*. [interaktyvus] [žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą http://ec.europa.eu/fisheries/cfp/aquaculture/index_lt.htm
[28]EUROPEAN COMMISSION. *Coastal tourism*. [interaktyvus] [žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą https://ec.europa.eu/maritimeaffairs/policy/coastal_tourism
[29] EUROPEAN COMMISSION. *Biotechnology*. [interaktyvus] [žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą https://ec.europa.eu/maritimeaffairs/policy/biotechnology
[30] EUROPEAN COMMISSION. *Ocean energy*. [interaktyvus] [žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą https://ec.europa.eu/maritimeaffairs/policy/ocean_energy
[31] EUROPEAN COMMISSION. *Seabed mining*. [interaktyvus] [žiūrėta 2020 m. balandžio 28 d.] prieiga per internetą https://ec.europa.eu/maritimeaffairs/policy/seabed_mining
[32] Op. cit. 16.
[33] ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT. *The Ocean Economy in 2030*, OECD Publishing, Paris, 2016. https://geoblueplanet.org/wp-content/uploads/2016/05/OECD-ocean-economy.pdf

- Kai kurie sunkumai gali atsirasti tiesiogiai dėl atskirų piliečių veiksmų (pvz., šiukšlių išmetimas). Tokiu atveju piliečių informavimas apie ryšį su jūrų vandenų apsauga gali paskatinti pakeisti elgesį (pvz., sumažinti šiukšlinimą), ypač jei tai palaikoma teikiant vartotojams alternatyvius pasirinkimo variantus (pvz., vandens fontanai kaip alternatyva plastikiniams buteliams).
- Kai kurie iš jų nulemti komercinės veiklos, tačiau vis dar yra glaudus ryšys su piliečių pasirinkimais (pvz., kurią žuvį vartoti), nors reikia ir reguliavimo. Tokiu atveju piliečių informavimas gali pakeisti vartojimo įpročius, kurie savo ruožtu daro įtaką komercinių bendrovių sprendimams. Tačiau kai kuriais atvejais pokyčiai yra riboti, todėl dažnai reikia taikyti reguliavimą.
- Kai kuriuos atvejus piliečiams sunkiau paveikti savo veiksmais, taigi vienintelis būdas yra reguliavimas (pvz., balastinio vandens kontrolei). Vis dėlto piliečių sąmoningumas yra naudingas kuriant paramą reguliavimo intervencijai.[34]

Tarp rekomendacijų siekiant plėtoti vertybėmis pagrįstą požiūrį į jūrų apsaugą Europoje, pateikiamos šios:

- Visos institucijos ir suinteresuotosios šalys (ES, valstybės narės, valstybinės ir privačios institucijos) turėtų aiškiai pripažinti vertybėmis grindžiamo požiūrio svarbą.
- Valstybės narės, valstybinės ir privačios institucijos ir ES institucijos turėtų nustatyti joms svarbius jūrų raštingumo poreikius ir nustatyti procesus, finansavimą ir kt., kad būtų gerinamas jūrų raštingumas.
- Valstybės narės turėtų nustatyti, kur yra galimybių įgyvendinti tikrą vertybėmis pagrįstą požiūrį įgyvendinant konkrečią politiką ir procesus.
- Valstybės narės turėtų įdiegti, tobulinti ir patobulinti vertybėmis grindžiamo požiūrio priemones, pagrįstas specifiniais tų šalių bendruomenių poreikiais ir aplinkybėmis.
- Europos Komisija turėtų sukurti naujus metodus ir priemones, kad būtų galima geriau suprasti ir suvokti ES piliečių vertybes.
- Europos Komisija turėtų išbandyti ilgesnį ir nuodugnesnį piliečių vertybių nustatymą ir naudojimą tam tikruose politikos vertinimo punktuose (*ex-ante* arba *ex-post*).

[34] FARMER, A. *Ocean protection: why citizens' values matter*. Institute for European Environmental Policy. Brussels, 2018. P. 4.

- ES lėšos turėtų būti skiriamos remti iniciatyvas valstybių narių lygmeniu, siekiant į vertybėmis grindžiamą požiūrį į sprendimų priėmimą, ypač remiant ES politikos įgyvendinimą.
- Europos Parlamentas (ir atskiri EP nariai) turėtų išnagrinėti, kaip geriau suprasti ir naudoti piliečių vertybes ir kaip jas atpažinti kalbant asmenims ir lobistų grupėms.[35]

Konstatuotina, kad procesai, susiję su žmogaus veiklos poveikiu jūrų vandenims, kelia tiek žmogaus, tiek visuomenės, tiek ir valstybių, tame tarpe ir Europos, susirūpinimą, nes grėsmės jūrų vandenims daro tiesioginį poveikį žmogaus gyvenimo kokybei. Kartu galima pastebėti, kad kinta ir šios problemos suvokimas ir nuo lokaliai suvokiamos problemos, jūros vandenų apsauga tampa regionine ir net globalia valstybių vyriausybių dienotvarkės dalimi, formuojasi nauja mąstymo paradigma. Teisinis reglamentavimas yra jūrų vandenų apsaugos pagrindas ir būtina sąlyga, siekiant apsaugoti šį žemės išteklių.

Europos Sąjungoje pabrėžiama, kad taikant ekosistemomis grįstą žmogaus veiklos valdymo metodą, tuo pačiu sukuriant sąlygas tvariam jūrų prekių ir paslaugų naudojimui, pirmenybė turėtų būti teikiama tam, kad būtų siekiama geros Bendrijos jūrų aplinkos būklės arba ji būtų išlaikoma, tęsiama jos apsauga ir saugojimas bei užkertamas kelias tolesniam blogėjimui. Tam, kad būtų pasiekti tie tikslai, būtina turėti skaidrią ir darnią teisės aktų sistemą. Ši sistema turėtų padidinti skirtingų politikos krypčių nuoseklumą ir paskatinti aplinkosaugos klausimų integravimą į kitas politikos kryptis, pavyzdžiui, į bendrą žuvininkystės politiką, bendrą žemės ūkio politiką ir kitas atitinkamas Bendrijos politikos sritis. Teisės aktų sistema turėtų sudaryti visapusišką veiksmų pagrindą ir sąlygas, kad vykdomi veiksmai būtų suderinti, nuoseklūs ir tinkamai sujungti su veiksmais pagal kitus Bendrijos teisės aktus bei tarptautinius susitarimus.[36]

Pagrindinės grėsmės jūrų vandenims yra klimato kaitos poveikis, tarša (įskaitant taršą pavojingomis medžiagomis, taip pat taršą iš sausumoje esančių šaltinių, šiukšles, mikrobiologinę taršą, avarijų metu išsiliejusią naftą, taršą dėl laivybos veiklos, naftos ir dujų paieškos jūroje, taršą dėl laivų išmontavimo ir akustinę taršą), komercinės žvejybos poveikis, nevietinės (egzotiškos) rūšys, paprastai patenkančios iš laivų išpilant balastinį vandenį, praturtinimas maistinėmis medžiagomis (eutrofikacija) ir dėl to padidėjęs dumblių žydėjimas,

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[35] Ibid. P. 17
[36] Jūrų strategijos pagrindų direktyva, op. cit. 9.

neteisėtas radionuklidų išmetimas. Šios grėsmės lemia ir atitinkamo teisinio reglamentavimo poreikį.

Šiaurės rytų Atlanto vandenynas, Viduržemio jūra ir Juodoji jūra yra trys iš septynių pasaulio jūrų regionų, kuriuose žuvų ištekliams labiausiai reikia atsigauti. Manoma, kad Baltijos regiono ekologija tiesiog „sulūžo“ ir yra įtraukta į nuolatinę eutrofikaciją. Tai lemia spaudimas, atsirandantis dėl veiklos jūroje, tokios kaip naftos ir dujų žvalgymas, dugno gilinimas ir smėlio bei žvyro gavyba, laivyba, komercinė žvejyba ir turizmas. Tačiau sausumos veikla (žemės ūkis ir pramonė apskritai) sudaro 80% jūros vandenų taršos.[37] Taigi ekonominis vandenų naudojimas tiesiogiai siejasi su jų aplinkos išsaugojimu ir sukelia daugiausiai aplinkosauginių jūrų vandenų problemų.

Todėl šiomis problemomis susirūpinusi ne tik Europa, bet ir kiti pasaulio regionai. Afrika parengė integruotą jūrų strategiją iki 2050 m. (angl. *2050 AFRICA'S INTEGRATED MARITIME STRATEGY*).[38] Jungtinės Amerikos Valstijos (JAV) pretenduoja į didžiausią pasaulyje 11,5 mln. km2 išimtinę ekonominę zoną (IEZ). JAV IEZ yra 25% didesnė nei JAV sausumos masyvas - 9,2 milijono km^2, o JAV pakrantės linija tęsiasi 19 924 km. JAV pakrančių zona sukuria pusę bendrojo JAV vidaus produkto ir sudaro daugiau nei 50% visų JAV gyventojų. JAV vandenynai tiesiogiai daro įtaką jūrų transportui, žuvininkystei ir akvakultūrai, energijos gamybai, rekreacijai, biotechnologijoms ir kitoms sritims. JAV nėra pasirašiusios ar prisijungusios prie Jungtinių Tautų jūrų teisės konvencijos (UNCLOS), tačiau reikalauja, kad jos jūrų zonos atitiktų UNCLOS.[39] Kai kurios aplinkosaugos rekomendacijos šioje srityje buvo įgyvendintos gana greitai.[40] Tačiau JAV išlieka didžiausia UNCLOS neratifikavusia valstybe. Pagrindinė to priežastis yra konvencijos XI dalis, kurioje kalbama apie tarptautiniuose vandenyse esančių gamtinių išteklių naudojimą. Nepaisant JAV prezidentų pritarimo konvencijai ir skatinimų ją ratifikuoti, ji nesulaukia ratifikavimui būtino 3/4 senatorių pritarimo

[37] EUROPEAN COMMISSION. *EU Marine Strategy. The story behind the strategy.* Luxembourg: Office for Official Publications of the European Communities. 2006. P. 9

[38] „2050 m. Afrikos integruota jūrų strategiją“ sudaro visa apimantys, suderinti ir nuoseklūs ilgalaikiai daugiasluoksniai veiksmų planai, kuriais bus pasiekti Afrikos Sąjungos tikslai padidinti jūrų gyvybingumą klestinčioje Afrikoje. 2050 m. strategijos vizija yra skatinti didesnį turto kūrimąsi iš Afrikos vandenynų ir jūrų, saugiu ir ekologiniu požiūriu tvariu būdu plėtojant tvarią klestinčią mėlynąją ekonomiką. AFRICAN UNION. 2050 Africa's Integrated Maritime Strategy. (2050 AIM STRATEGY). [interaktyvus] [žiūrėta 2019 m. gruodžio 3 d.] prieiga per internetą https://cggrps.com/wp-content/uploads/2050-AIM-Strategy_EN.pdf

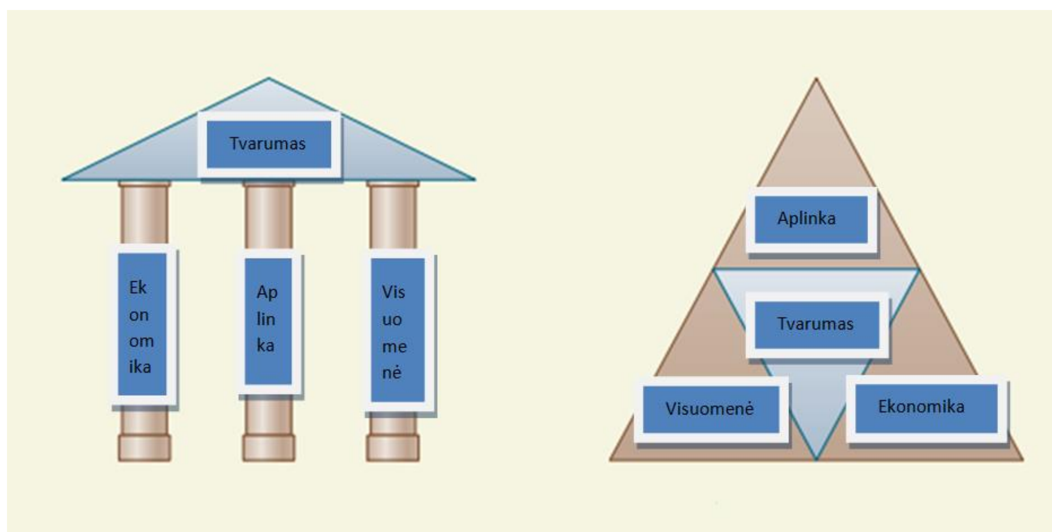
[39] CICIN-SAIN, B., EHLER, Ch. N., KUSKA, G. F. United States of America Ocean Policy. *The Ocean Policy Summit*. 2005 Lisbon, Portugal. [interaktyvus] [žiūrėta 2019 m. gruodžio 23 d.] prieiga per internetą https://www.researchgate.net/publication/237537528_UNITED_STATES_OF_AMERICA_OCEAN_POLICY

[40] Ibid.

Senate. Nepritariantys senatoriai mano, kad konvencija pažeis JAV suverenitetą ir nėra suderinama su šalies ekonominiais interesais. Konstatuotina, kad didelę dalį JAV rūpesčio jūromis sudaro išimtinai ekonominiai interesai.

Pažymėtina, kad svarbi sąvoka jūrų vandenų apsaugos atveju yra tvarumas, kaip vertybinis aspektas. Jau minėjome, kad pagrindinis EK tikslas yra „tvarus jūrų bei vandenynų naudojimas."[41] Moksle pastebima, kad šis terminas viešose diskusijose vartojamas taip dažnai, kad savotiškai jau yra paveiktas infliacijos.[42] N. Gelpke ir M. Visbeck pateikia įžvalgą, kad kalbant apie aplinkos bei ekonomikos ir visuomenės santykį, tvarumo požiūriu, klasikiniame trijų ramsčių modelyje - aplinka, ekonomika ir visuomenė - yra pavaizduotos kaip trys vienodo pobūdžio faktoriai (ramsčiai), palaikantys tvarumą.[43] Santykinis modelis atvaizduojamas kaip trikampio formos sistema, kurioje tvarumas sudaro centrinę modelio dalį.

Šiuos tvarumo modelius vaizduoja 1 paveikslas.



1 pav. Klasikinis ir santykinis „trijų ramsčių" modeliai. Parengta autorių pagal Gelpke N., Visbeck, M. Sustainable Use of Our Oceans – Making Ideas Work. World ocean review. Living with the oceans. 2015, 4. p. 17

Apibendrinant, jūrų vandenų kaip teisinės vertybės supratimas yra sąlygojamas visų pirma požiūrio į jūrų vandenis (ekonominis ar aplinkosauginis), o taip pat ir pačios ekonominės veiklos skirtingo supratimo, kas savo ruožtu daro įtaką ir skirtingai apsaugos apimčiai bei atitinkamai ir teisiniam reglamentavimui. Taip pat konstatuotina, kad pagrindinės grėsmės jūrų

[41] Op. cit. 14.
[42] GELPKE N., VISBECK, M. Sustainable Use of Our Oceans – Making Ideas Work. *World ocean review. Living with the oceans*. 2015, 4. p. 10
[43] Ibid., p. 17

vandenims yra klimato kaitos poveikis, tarša (įskaitant taršą pavojingomis medžiagomis, taip pat taršą iš sausumoje esančių šaltinių, šiukšles, mikrobiologinę taršą, avarijų metu išsiliejusią naftą, taršą dėl laivybos veiklos, naftos ir dujų paieškos jūroje, taršą dėl laivų išmontavimo ir akustinę taršą), komercinės žvejybos poveikis, nevietinės (egzotiškos) rūšys, paprastai patenkančios iš laivų išpilant balastinį vandenį, praturtinimas maistinėmis medžiagomis (eutrofikacija) ir dėl to padidėjęs dumblių žydėjimas, neteisėtas radionuklidų išmetimas.

JŪRŲ VANDENŲ NAUDOJIMO IR APSAUGOS REGULIAVIMAS TARPTAUTINIU LYGMENIU

Dar XVII a pradžioje Hugo Grotius suformulavo pagrindinį teisinį principą, kad pasaulio jūros priklauso visiems ir sudaro bendrą visų turtą. Šis principas žinomas Laisvosios jūros doktrinos (angl. *Freedom of the Seas Doctrine*)[44] pavadinimu ir ligi pat šių dienų nulemia šiuolaikinės jūrų teisės pagrindus.

Tarptautinės jūrų aplinkos apsaugos teisėje išskiriamos trys pagrindinės sritys, kurios daro didžiausią įtaką jūrų aplinkos išsaugojimui. Tai gyvųjų išteklių naudojimas ir žvejyba, jūrų aplinkos taršos prevencija ir kontrolė bei atsakomybės už jūrų aplinkai padarytą žalą taikymas. Būtina siekti, kad jūrų aplinka būtų saugoma kompleksiškai. 1982 m. priimta Jungtinių Tautų jūrų teisės konvencija apima visas aukščiau išvardintas sritis. Lietuva ratifikavo UNCLOS 2003 m. lapkričio 12 d.[45]

Kaip teigia I. Isokaitė, „Jūros erdvių teisinį režimą ir įvairius jūrų ir vandenynų naudojimo aspektus reglamentuoja universali visuotinė 1982 m. Jungtinių Tautų jūrų teisės konvencija (UNCLOS), kuria tiesiogiai remiasi arba su ja vienaip ar kitaip susijusios beveik visos tarptautinės sutartys jūrų teisės klausimais. Prisijungimas prie šios konvencijos koregavo ir valstybių dalyvių nacionalinius teisės aktus.“[46]

UNCLOS kartais yra vadinama „jūrų konstitucija“, nes jos taikymo sritis labai plati – faktiškai visi jūrų naudojimo atvejai aptariami konvencijoje. Daugybė nuostatų yra susijusios su jūrų aplinkos ir jūrų gyvūnijos apsauga. UNCLOS XII dalis „Jūros aplinkos apsauga ir

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[44]GROTIUS, H. *Freedom of the Seas*. [interaktyvus] [žiūrėta 2019 m. gruodžio 23 d.] prieiga per internetą https://socialsciences.mcmaster.ca/econ/ugcm/3ll3/grotius/Seas.pdf
[45] UNITED NATIONS. Oceans and Law of Seas. Chronological lists of ratifications of, accessions and successions to the Convention and the related Agreements. https://www.un.org/Depts/los/reference_files/chronological_lists_of_ratifications.htm
[46] ISOKAITĖ, I. Baltijos regiono valstybių jūros erdvių reglamentavimo teisiniai ypatumai. *Teisė. Mokslo darbai*, 2009, 73. P. 75

išsaugojimas“ apima tiek bendruosius, tiek specialiuosius valstybių, šios Konvencijos Šalių, įsipareigojimus užkirsti kelią taršai, ją mažinti ir kontroliuoti. UNCLOS yra apibrėžta jūros aplinkos teršimo sąvoka – tai žmogaus veikla, kurios metu tiesiogiai ar netiesiogiai paskleidžiamos medžiagos ar energija jūros aplinkoje, įskaitant upės žiotis, ir kuri sukelia arba gali sukelti žalingas pasekmes, tokias kaip: žala gyviesiems ištekliams ir jūros gyvūnams, pavojus žmonių sveikatai, kliūtys veiklai jūroje, įskaitant žvejybą ir kitą teisėtą jūros panaudojimą, taip pat naudojamo jūros vandens kokybės ir poilsio sąlygų pablogėjimas (1 straipsnis).

Taip pat ypatingas UNCLOS indėlis yra tas, kad ji ne tik nustatė, kad teritorinės jūros plotis yra ne daugiau kaip 12 jūrmylių, bet ir išskyrė kitus jūros segmentus, kuriuose pakrančių valstybių interesai derinami su kitų valstybių poreikiais. Kiekvienoje iš šių zonų galioja skirtingos teisės ir pareigos, susijusios su jūrų apsauga. Už teritorinės jūros ribų iki 200 jūrmylių atstumu yra jūros segmentas, vadinamas išskirtine ekonomine zona (IEZ)[47]. Pakrantės valstybės kontinentinis šelfas apima jūros dugną ir jo gelmes tų povandeninių rajonų, kurie tęsiasi už tos valstybės teritorinės jūros per visą jos sausumos teritorijos natūralų tęsinį iki žemyno povandeninio krašto išorinės ribos arba 200 jūrmylių nuo bazinių linijų, nuo kurių yra matuojamas teritorinės jūros plotis, jei žemyno povandeninio krašto išorinė riba nesiekia šio atstumo (UNCLOS 76 straipsnis).[48] 1999 m. Lietuva ir Latvija sudarė susitarimą dėl teritorinės jūros, išskirtinės ekonominės zonos ir kontinentinio šelfo atribojimo Baltijos jūroje[49], tačiau Latvija jo neratifikavo. Kadangi kontinentinio šelfo delimitavimo klausimas liko neišspręstas, tarp kaimynių kyla nesutarimai dėl pasienyje esančio naftos telkinio E24.[50]

Vidaus vandenys yra sudedamoji valstybės, turinčios jūros pakrantę, teritorijos dalis. 1958 m. Ženevos konvencijos dėl teritorinės jūros ir gretutinės zonos 5 straipsnyje nurodoma,

[47]Išskirtinė ekonominė zona - gretutinė teritorija už pakrantės valstybės teritorinės jūros, kurioje galioja konkreti teisinė tvarka, pagal kurią pakrantės valstybės teisėms ir jurisdikcijai, taip pat kitų valstybių teisėms ir laisvėms taikomos atitinkamos Jungtinių Tautų jūrų teisės konvencijos nuostatos. EUROPOS KOMISIJA. *INSPIRE*. INSPIRE registrai. [interaktyvus] [žiūrėta 2019 m. gruodžio 23 d.] prieiga per internetą http://inspire.ec.europa.eu/codelist/MaritimeZoneTypeValue/exclusiveEconomicZone/exclusiveEconomicZone.lt.html

[48] *Jungtinių Tautų jūrų teisės konvencija*. Valstybės žinios, 2003, Nr. 107-4786.

[49] Lietuvos Respublikos ir Latvijos Respublikos sutartis „Dėl teritorinės jūros, išskirtinės ekonominės zonos ir kontinentinio šelfo atribojimo Baltijos jūroje“. Valstybės žinios. 1999, Nr.100-2893

[50] LAPIENYTĖ, J. Nei Lietuva, nei Latvija neskuba iš Baltijos jūros pasiimti joms priklausančių 150 mlrd. Lt. *15 min.* 2014 birželio 12d. [interaktyvus] [žiūrėta 2019 m. gruodžio 23 d.] prieiga per internetą https://www.15min.lt/verslas/naujiena/energetika/nei-lietuva-nei-latvija-neskuba-is-baltijos-juros-pasiimti-joms-priklausanciu-150-mlrd-lt-664-433009

kad vandenys, esantys kranto pusėje nuo teritorinės jūros bazinės (išeitinės) linijos, sudaro valstybės vidaus vandenis. Šią sąvoką įtvirtina ir 1982 m. konvencija UNCLOS. Vidaus vandenys – tai tokia jūros įlanka (atšaka) ar atsišakojimas, kuris yra teritorijos dalyje ir kurį galima pagrįstai atskirti iki kranto ir tas krantas yra ar bent gali būti valstybės dalimi. Tokia vidaus vandenų, kaip valstybės teritorijos dalies, samprata išlieka ir šiais laikais, todėl vidaus vandenys nėra detaliau reguliuojami UNCLOS. Pakrantės valstybė turi teritorinio suverenumo teisę vidaus vandenyse.[51] Pagal Tarptautinės jūrų teisės doktriną paprastai prie valstybės vidaus vandenų yra priskiriami: 1) vandenys, esantys iki teritorinės jūros bazinės linijos; 2) jūrų uostų vandenys; 3) jūrų, esančių vienos valstybės teritorijoje, vandenys; 4) jūros užtakiai ar limanai, taip pat įlankų vandenys.[52]

Tačiau taip pat pastebima, kad šiuo metu UNCLOS neišsprendžia visų egzistuojančių problemų. Su apgailestavimu tenka pažymėti, kad vergų darbas naudojamas žvejybos laivynuose, užsiimančiuose nelegalia, nedeklaruojama ir nereglamentuojama žvejyba, nebaudžiamai vykdant veiklą visame pasaulyje,[53] ir UNCLOS nuostatos čia negelbsti.

Konstatuotina, kad tarptautinės konvencijos sukuria pagrindus, kuriuose ES, jos valstybės narės ir trečiosios šalys iš viso pasaulio dirba kartu. Jos sudaro teisinio reguliavimo pagrindą, saugant jūrų aplinką, nustatydamos valstybių jurisdikcijos ribas. Tačiau jose numatyta nepakankamai vykdymo ir kontrolės galių, todėl jų įsipareigojimus sunku įgyvendinti.

Toliau kalbant apie jūrų vandenų apsaugą, paminėtinos dvi sritys, kuriose tarptautinė bendruomenė veikia gana aktyviai: jūrų teršimas ir perteklinė žvejyba. Viena sritis yra tiesiogiai susijusi su aplinkosauga, kita – su ekonominiais valstybių interesais. Didžiausią problemų dalį sudaro tarša, kuri yra labai įvairios prigimties ir masto. Pats taršos apibrėžimas, lyginant atskirų konvencijų reglamentavimą iš esmės vienodas, kai kuriose jų toks apibrėžimas visai nepateikiamas. UNCLOS 1 straipsnyje 1 dalyje 4 punkte „jūros aplinkos teršimas“ apibūdinamas kaip „žmogaus veikla, kurios metu tiesiogiai ar netiesiogiai paskleidžiamos medžiagos ar energija jūros aplinkoje, įskaitant upės žiotis, ir kuri sukelia arba gali sukelti žalingas pasekmes, tokias kaip: žala gyviesiems ištekliams ir jūros gyvūnams, pavojus žmonių sveikatai, kliūtys veiklai jūroje, įskaitant žvejybą ir kitą teisėtą jūros

[51] CHURCHILL R. R., LOVE H. V. *The Law of the Sea*. Manchester University Press, 1988. P. 51-58
[52] KATUOKA, S. *Tarptautinė jūrų teisė*. Vilnius: Eugrimas, 1997. P. 26
[53] HAINES, St. UNCLOS: fit for purpose? [interaktyvus] [žiūrėta 2020 m. vasario 23 d.] prieiga per internetą https://www.maritimefoundation.uk/publications/maritime-2018/unclos-fit-for-purpose/

panaudojimą, taip pat naudojamo jūros vandens kokybės ir poilsio sąlygų pablogėjimas".[54] . Panašią taršos sąvoką taiko ir Konvencija dėl Baltijos jūros baseino jūros aplinkos apsaugos - „tarša" reiškia žmogaus vykdomą tiesioginį ar netiesioginį išmetimą į jūrą, įskaitant upių žiotis, medžiagų ar energijos, galinčių sukelti pavojų žmogaus sveikatai, pakenkti gyviesiems ištekliams ir jūros ekosistemoms, sutrukdyti teisėtą jūros naudojimą, įskaitant žvejybą, pabloginti vartojamo jūros vandens kokybę, sąlygoti poilsio galimybių sumažėjimą. (2 straipsnis 1 dalis).[55]

Aplinkosaugai skirta UNCLOS XII dalis pavadinta „Jūros aplinkos apsauga ir išsaugojimas" (192 – 196 straipsniai), kuri sudaro tarsi „konstitucines" nuostatas jūros aplinkos apsaugai. Taikomos priemonės pagal UNCLOS taip pat apima priemones, kurios yra būtinos siekiant apsaugoti ir išsaugoti retas ar pažeidžiamas ekosistemas, taip pat natūralią terpę nykstančioms ar pavojuje atsidūrusioms rūšims bei kitoms jūros gyvybės formoms, taip pat toms, kurioms gresia išnykimas (194 str. 5 d.).

Ypatingai daug dėmesio taršos mažinimui skirta UNCLOS XII dalies straipsniuose. Akcentuojama tai, jog valstybes turi pareigą išsaugoti jūros aplinką. Todėl valstybės pagal galimybes privalo imtis visų būtinų priemonių, kad būtų išvengta jūros aplinkos teršimo iš bet kokio šaltinio, jis būtų sumažintas ir kontroliuojamas, tuo tikslu naudodamos veiksmingiausias priemones, kuriomis valstybes disponuoja ir kurios atitinka jų galimybes. Valstybės turi siekti suderinti savo politiką aplinkos apsaugos klausimu su kitomis valstybėmis. Daugelį funkcijų valstybės turi užtikrinti pačios arba per kompetentingas tarptautines organizacijas. Būtent tai, jog nenurodoma kaip konkrečiai turi būti atlikta viena ar kita apsaugos priemonė bei kokia tarptautinė organizacija yra kompetentinga atitinkamoje srityje rodo, jog ši UNCLOS yra bendro pobūdžio teisinis dokumentas. Joje yra numatytos bendros gaires, tačiau specifinius klausimus išsamiau reglamentuoja regioninės tarptautinės sutartys.

Be UNCLOS daugybė tarptautinių sutarčių reglamentuoja įvairius jūrų taršos aspektus. Viena pirmųjų buvo 1914 m. Tarptautinė žmonių gyvybės apsaugos jūroje konvencija (SOLAS). Šalys narės iš esmės pakeitė SOLAS 1929, 1948, 1960, 1974 ir 1978 m.[56]

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[54] Op. cit. 48.
[55] 1992 m. Helsinkio konvencija dėl Baltijos jūros baseino jūrinės aplinkos apsaugos. Valstybės žinios, 1997, Nr. 21-499.
[56] INTERNATIONAL MARITIME ORGANIZATION (IMO), International Convention for the Safety of Life at Sea (SOLAS). [interaktyvus] [žiūrėta 2019 m. gruodžio 23 d.] prieiga per internetą

ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

Svarbi sutartis, reglamentuojanti jūrų naftos taršą, yra Tarptautinė jūrų taršos nafta prevencijos konvencija (OILPOL). Ši konvencija įsigaliojo 1961 m. gruodžio 8 d. ir buvo skirta taršai, atsirandančiai dėl įprastų tanklaivių operacijų ir iš laivų išleidžiamų naftos atliekų.[57] Konvencija uždraudė šių koncentruotų medžiagų išmetimą 50 mylių nuo žemės paviršiaus ir ragino šalis aprūpinti įrenginius. tvarkyti ir apdoroti laivų naftos atliekas.

Viena iš svarbiausių bendrųjų tarptautinių jūrų taršos sutarčių yra Konvencija dėl jūrų taršos prevencijos išmetant atliekas ir kitas medžiagas, geriau žinoma kaip Londono konvencija, kuri buvo priimta 1972 m. lapkričio mėn. Londone ir įsigaliojo 1975 m. rugpjūčio 30 d.[58] Jos tikslas yra užkirsti kelią jūros taršai, išmetant atliekas ir kitas medžiagas, galinčias sukelti pavojų žmonių sveikatai, pakenkti gyviesiems ištekliams ir jūros gyvybei, sugadinti privalumus ar kištis į teisėtą kitų jūros išteklių naudojimą. Panašus principas (7 principas) yra deklaruotas jau minėtoje Stokholmo konferencijoje.

Tarptautinė konvencija dėl teršimo iš laivų prevencijos konvencija (MARPOL), buvo priimta 1973 m. ir kartu su 1978 m. protokolu įsigaliojo 1983 m. spalio 2 d.[59], o jos tikslas yra užkirsti kelią taršai bei kuo labiau sumažinti taršą iš laivų. Šeši konvencijos priedai skirti beveik visoms įmanomoms laivų taršoms.

Tarptautinė konvencija dėl pasirengimo naftos taršai, reagavimo ir bendradarbiavimo buvo priimta 1990 m. lapkričio mėn., įsigaliojo 1995 m. gegužės 13 d. (OPRC)[60]. Konvencija siekiama užkirsti kelią jūrų taršai nafta, naudojant atsargumo principą. Joje reikalaujama, kad šalys patvirtintų tinkamas reagavimo į naftos išsiliejimus priemones, teiktų savitarpio pagalbą

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http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-for-the-Safety-of-Life-at-Sea-(SOLAS),-1974.aspx

[57] International Convention for the Prevention of Pollution of the Sea by Oil. 1954. [interaktyvus] [žiūrėta 2019 m. gruodžio 23 d.] prieiga per internetą https://sedac.ciesin.columbia.edu/entri/texts/pollution.of.sea.by.oil.1954.html

[58] INTERNATIONAL MARITIME ORGANISATION, Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, [interaktyvus] [žiūrėta 2019 m. gruodžio 23 d.] prieiga per internetą http://www.imo.org/en/OurWork/Environment/LCLP/Pages/default.aspx

[59]International Convention for the Prevention of Pollution from Ships (MARPOL). 1973. [interaktyvus] [žiūrėta 2019 m. gruodžio 23 d.] prieiga per internetą http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-for-the-Prevention-of-Pollution-from-Ships-(MARPOL).aspx

[60]International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC). 1990 [interaktyvus] [žiūrėta 2019 m. gruodžio 23 d.] prieiga per internetą http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Oil-Pollution-Preparedness,-Response-and-Co-operation-(OPRC).aspx

ir bendradarbiautų reaguojant į naftos išsiliejimus, rengiant avarinius naftos taršos avarinius planus, kaupiant naftos taršos įrangą ir priimant ataskaitas dėl naftos išsiliejimo.

Taršos aspektu taip pat paminėtina visai neseniai priimta Visuotinė jūrų aplinkos apsaugos nuo sausumos veiklos programa (GPA) nėra tikroji konvencija, bet greičiau visuotinis politinis susitarimas imtis veiksmų siekiant apsaugoti jūrų vandenis nuo sausumos taršos[61] priimtas 1995 m., dalyvaujant 108 šalims ir Europos Komisijai UNEP konferencijoje Vašingtone, JAV. GPA yra vienintelis pasaulinis tarpvyriausybinis mechanizmas, tiesiogiai skirtas sausumos, gėlo vandens, pakrančių ir jūrų ekosistemų ryšiui. Juo siekiama teikti konceptualias ir praktines rekomendacijas, kurias turi naudoti nacionalinės ir (arba) regioninės valdžios institucijos, projektuojant ir įgyvendinant tvarius veiksmus, siekiant užkirsti kelią, sumažinti, kontroliuoti ir (arba) panaikinti jūrų būklės blogėjimą dėl sausumos veiklos.[62]

Perteklinės žvejybos atveju egzistuoja daugybė sutarčių, pavyzdžiui, Tarptautinė konvencija dėl Atlanto tunų apsaugos, siekiant reglamentuoti atskiras jūrų rūšis, kurioms kyla pavojus.[63] Tačiau, kaip teigiame moksle, šis dėmesys atskiroms rūšims pasirodė esąs neveiksmingas, nagrinėjant perteklinio gaudymo padarinius netikslinėms rūšims, buveinėms ir jūrų ekosistemoms.[64] Dėl to, atsižvelgiant į žuvų žvejybos pereikvojimo paplitimą ir jo šalutinį poveikį, ypač turėdami omenyje jūrų vandenų ir jų gyventojų kompleksiškumą, mokslininkai vis dažniau rekomenduoja saugomas jūrų teritorijas (angl. *Marine protected area*, MPA), jūrų rezervatus ir nacionalines MPA bei jūrų rezervatų sistemas, kaip geriausią priemonę išsaugoti ir atkurti jūrų biologinę įvairovę.[65] Apskritai MPA yra bet kokia jūros teritorija, atribota įstatymų ir saugoma nuo bent kelių naudojimo būdų. Labiausiai efektyvi MPA rūšis yra jūrų draustinis.[66]

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[61] The Global Programme of Action for Protection of the Marine Environment from Land-based Activities (GPA). [interaktyvus] [žiūrėta 2019 m. gruodžio 23 d.] prieiga per internetą https://www.unenvironment.org/resources/toolkits-manuals-and-guides/global-programme-action-protection-marine-environment-land
[62] Ibid.
[63] Taip pat paminėtinos 1986-06-09 Tarptautinė konvencija dėl Atlanto tunų apsaugos; 1982-12-13 Lašišų išsaugojimo Šiaurės Atlante konvencija; l98l-09-04 Konvencija dėl Antarkties jurų gyvųjų išteklių apsaugos; 1978-12-28 Konvencija dėl būsimo daugiašalio bendradarbiavimo žvejyboje Šiaurės Vakarų Atlante; 1992-03-17 Susitarimas dėl mažųjų banginių apsaugos Baltijos ir Šiaures jūrose; 2001-04-20 Konvencija dėl žuvininkystes išteklių išsaugojimo ir valdymo pietryčių Atlante.
[64] OGDEN, J. C. Maintaining Biodiversity in the Oceans, 43:3 *Environment*, 28, 29 (2001). P. 29-30
[65] CRAIG, R. K. Protecting International Marine Biodiversity: International treaties and National Systems of Marine Protected Areas. *Journal of Land Use & Environmental Law.* Vol. 20, No. 2 (SPRING 2005), 364.
[66] CRAIG, R. K. Taking Steps Toward Marine Wilderness Protection? Fishing and Coral Reef Marine Reserves in Florida and Hawaii, 34:1 *Mc George Law Review*. 155, 167-68 (Winter 2003).

MYKOLO ROMERIO UNIVERSITETAS
ISSN 2029-1701
ISSN 2335-2035 (Online)
Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

Viena iš pirmųjų su biologine įvairove susijusių sutarčių buvo 1972 m. lapkričio mėn. priimta Konvencija dėl pasaulio kultūros ir gamtos paveldo apsaugos, geriau žinoma kaip Pasaulio paveldo konvencija.[67] Ir nors Pasaulio paveldo konvencija netaikoma konkrečiai jūrų teritorijoms, šalys, kurios yra jos narės, yra priskyrusios daugybę jūrų vietų kaip pasaulio paveldo vietas, įskaitant Didįjį barjerinį rifą Australijoje ir Galapagų salas Ekvadore.[68]

Didelę reikšmę perteklinės žvejybos požiūriu turi ir UNCLOS. Kelios jos nuostatos sustiprina pakrančių valstybių galimybes sudaryti MPA, jūrų rezervatus, MPA ir jūrų rezervatų sistemas. Pirmiausia, UNCLOS nustato pakrančių valstybių jurisdikciją įvairiose jūros vietose. Taip pat reikšmės turi IEZ nustatymas, kurioje įgyvendinama jurisdikcija, įskaitant ir jūrų aplinkos apsaugą. Keletas kitų UNCLOS nuostatų įpareigoja valstybes saugoti jūrų biologinę įvairovę, nors mokslo teigimu, šios pareigos dažnai kertasi su šalių teisėmis eksploatuoti jūrų išteklius ir neskatina jų optimalaus naudojimo.[69]

1992 m. buvo priimta Jungtinių Tautų biologinės įvairovės konvencija, kuri įsigaliojo 1993 m. gruodžio 29 d.[70], Pagrindinis jos principas yra tas, kad „valstybės turi<...> suverenią teisę eksploatuoti savo išteklius pagal savo aplinkos politiką ir atsakomybę užtikrinant, kad jų jurisdikcijai priklausanti ar kontroliuojama veikla nepadarytų žalos kitų valstybių ar teritorijų, esančių už nacionalinės jurisdikcijos ribų, aplinkai. “ (3 str.)[71]. 1995 m. rugpjūčio 4 d. UNCLOS šalys dalyvės priėmė Susitarimą dėl tranzitinių ir toli migruojančių žuvų atsargų (įsigaliojo 2001 m. gruodžio 11 d.), kad būtų išsamiau išnagrinėti jurisdikciją peržengusių ar keliaujančių per atvirą jūrą žuvų išteklių valdymo ribų klausimai.[72]

IŠVADOS

Jūrų vandenys skirstomi į vandenynus ir jūras, šios – į atviras bei uždaras jūras. Iš esmės jūros tipas nulemia ir jos vandenų apsaugos teisinį reguliavimą ir jo tikslus. Atitinkamos jūros vandenų apsauga per specifines priemones, kurių reikalinga imtis, siekia išsaugoti konkrečią

[67] UNESCO. Basic Texts of the 1972 World Heritage Convention. [interaktyvus] [žiūrėta 2019 m. gruodžio 23 d.] prieiga per internetą http://whc.unesco.org/uploads/activities/documents/activity-562-4.pdf
[68] UNESCO. World Heritage List. [interaktyvus] [žiūrėta 2019 m. gruodžio 23 d.] prieiga per internetą https://whc.unesco.org/en/list/
[69] Op. cit. 65, p. 364.
[70] The Convention on Biological Diversity. [interaktyvus] [žiūrėta 2019 m. gruodžio 23 d.] prieiga per internetą https://www.cbd.int/
[71] Ibid.
[72] Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks, 1995. [interaktyvus] [žiūrėta 2019 m. gruodžio 23 d.] prieiga per internetą http://www.un.org/Depts/los/convention_agreements/texts/fish_stocks_agreement/CONF164_37.htm

jūrą. Uždaros jūros teršiamos labiau nei atviros pakrančių jūros. Jų galimybės išsivalyti yra ribojamos daugelio specifinių aspektų, tarp kurių – uždarumas ir kaip taisyklė – intensyvi ūkinė veikla jūroje ir jos priekrantėje. Tačiau atvirose jūrose vandenų apsaugos iššūkiai yra susiję su ekosistemų apsauga, ūkinės veiklos (žuvininkystės) ribojimu, klimato atšilimu ir kitais panašiais aspektais. Jūrų vandenų sampratą teisine prasme nustato UNCLOS, kuri yra prilyginama vandenų konstitucijai. Jūros vandenys, kaip ekosistemos dalis, turi visų pirma ekonominę vertę. Ją galima įvertinti kaip ekonominį vienetą, o tai yra pirma sąlyga ir teisinei apsaugai. Konkreti ekonominė vertybė yra ginama teisės nuo įvairių pažeidimų. Galime teigti, kad ekonominė jūrų vandenų vertė sudaro teisinės jūrų vandenų apsaugos pagrindą.

Tarptautinės konvencijos sudaro teisinio reguliavimo pagrindą, saugant jūrų aplinką, nustatydamos valstybių jurisdikcijos ribas. Tačiau jose numatyta nepakankamai vykdymo ir kontrolės galių, todėl jų įsipareigojimus sunku įgyvendinti. Pasauliniu lygmeniu taip pat egzistuoja mažai suderintų daugybė strategijų, konvencijų ir susitarimų, tačiau ne visada yra lengva šiuos įsipareigojimus pilnai įgyvendinti.

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MARITIME WATER PROTECTION: THE CONCEPT OF MARITIME WATERS AND INTERNATIONAL REGULATION

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Summary

With the development of modern marine legislation and growing concerns about the state of marine waters, a number of legal regimes have emerged that address the marine environment, including pollution, biodiversity loss, the protection of endangered species and marine mammals. The article analyzes the definition of marine waters in hydrography and legal documents, further examines the economic aspect of marine waters, reveals the concept of sustainable use of marine waters. The second part of the article reveals the content and limits of international legal regulation. The concept of marine waters is legally defined by UNCLOS, which is equivalent to a constitution for waters. International conventions provide a legal framework for the protection of the marine environment by defining the limits of national jurisdiction

Keywords: Definition of seas; protection of marine waters; international environmental law.

MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

WHAT IS THE ATTITUDE OF FUTURE POLICE OFFICERS TOWARDS THE DIVERSITY OF CITIZENS?

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DOI: 10.13165/PSPO-20-24-37

Annotation. With regards to the refugee crisis in EU many questions were raised – what are the prevailing attitudes of the citizens to these challenges and how to increase their tolerance and social sensitivity of the citizens belonging to various minority groups. One of the most important factors influencing the formation of personality attitudes and humanistic values is education. Education for autonomy and open-mindedness can prepare students for citizenship in diverse society (Taylor, R.M., 2017). As researches show Lithuanians seem to have rather negative attitude toward immigrants and minority groups therefore the role of education is becoming increasingly important. So, the purpose of this study was to explore and assess the attitudes of students the future police officers towards immigrants, asylum-seekers, refugees, and other minority groups, analyzing them in the context of the general tolerance level, as well as of the acceptance of other minority groups and identifying the role of Education at the University in developing these attitudes.

Students of law enforcement university program do not consider Lithuanians as very tolerant. Females future officers consider themselves being more tolerant compared to males. Participants consider themselves as more tolerant persons compared to other Lithuanians. The concept of being tolerant does not include the attitude toward acceptance of asylum-seekers and immigrants. The level of tolerance in both gender groups is related to acceptance of persons with physical disability. Students express higher agreeableness to admission of asylum- seekers to Lithuania under such circumstances as family reunion, hunger, financial strain or natural catastrophes and the war. Only one third of the law enforcement program students stated that they discuss during the lectures the issues about asylum-seeking and immigration.

Keywords: attitudes immigrants, asylum-seekers, refugees, minority groups, future police officers, education

INTRODUCTION

The essence of European identity seems to be mainly determined by the values and traditions that define the European Union (EU), such as freedom, human rights, democracy, tolerance and the enlightenment. In addition, the basis for the identity of Europe indicates the

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VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
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cultural diversity of European nations. With regards to the refugee crisis in EU many questions were raised – what are the prevailing attitudes of the citizens to these challenges and how to increase their tolerance and social sensitivity of the citizens belonging to various minority groups, what is the legal, material and social readiness of the countries to receive refugees, etc.

COVID-19 has somewhat overshadowed the refugees problem, but it has not disappeared and may become even stronger in the near future. Thus, the problem of citizens' attitudes towards the phenomenon in question remains relevant.

Human history shows that the migration of large groups of people causes indigenous people feelings of insecurity, hostility and inter-group conflicts (Dummett, M., 2001). This is often related to the strengthening of stereotypes and prejudices towards "strangers" (Louis,Duck,Terry, et al.,2007). Thus, the question why some citizens want to exclude refugees is socially important. Usually people are more tolerant toward asylum-seekers who are escaping from war-zones, as they can be considered as extremely deprived persons. But recent researches show that in some EU countries (Slovakia, Czech Republic, Poland, Hungary) a relatively small percentage of citizens would admit refugees from war-zones and let them settle down in these countries (Bernát, Sik, Simonovits, Szeitl, 2015). There are also other differences in the attitudes of citizens of different EU countries towards refugees, asylum seekers, etc. (Thalhammer et al., 2001, Erolova Y.,2017, Hochman O., 2015). Researchers are exploring the various mechanisms by which such attitudes are formed - sociocultural, national, socioeconomic, and psychological (Davidov, E.,Meuleman, B.,2012, Nickerson A. M., Louis W.R., 2008). The aim is also to understand the influence and weight of individual characteristics and the influence of the environment such as education, social media on the formation of attitudes and prejudices (Hochman O., 2015, Chong, D., Druckman, J. N. 2007, Sutkutė R., 2019). One of the most important factors influencing the formation of personality attitudes and humanistic values is education. Education for autonomy and open-mindedness can prepare students for citizenship in diverse society (Taylor, R.M., 2017).

Every EU country meets the challenges for Citizenship education how to raise and educate children and young people in the spirit of tolerance, combating racism and xenophobia, respect for human rights, and an understanding of common cultural heritage. Discrimination and intolerance are often based on/or justified by prejudice and stereotyping of people and social groups, doing this consciously or unconsciously. People may be discriminated against because of many factors – age, disability, ethnicity, origin, political belief, race, religion,

gender, sexual orientation and on many other grounds. Researchers has proved that negative attitudes toward homosexuals and elderly people, Blacks (as well representation of racism), women (as well representation of sexism), prejudice toward mentally disabled persons are highly correlated and form one single factor (Ekehammar and Akrami, 2003; Ekehammer et al., 2004). Discrimination has direct consequences on those people and groups being discriminated against, but it has also indirect and deep consequences on society as a whole. A society where discrimination is allowed or tolerated is a society where people are deprived from freely exercising their full potential for themselves and for society (EP, 2006).

Lithuania has very homogeneous society in means of ethnicity and religion. Surveys in Lithuania show that Lithuanians are not psychologically prepared to accept refugees and asylum-seekers and have quite negative attitudes towards them as well as attitudes toward various minority groups and it may reflect general intolerance (Petronytė, 2016, Snieškienė, Vaitkevičiūtė, 2016, Jankauskaitė, 2003, Reingarde, Zdanevičius, 2007, Platovas, 2003, Tereškinas, 2003).

Police and law enforcement officers should not take up discriminatory position related to some persons as this can affect the professional interactions negatively. The quality of police–community relations depend on effective communication and trust-based interaction. However, police officers may have many barriers to communication because of their position and authority, nature of their work, power they may demonstrate in relations with citizens, and the image they convey (these barriers include use of jargon, lack of feedback, failure to listen, prejudices and stereotypes). One of the most challenging things in our increasingly diverse society is to avoid the discrimination. Prejudice is an attitude, discrimination is a behavior. According to researchers and professionals who work in practice it is critical to recognize prejudices and stereotypes in order to avoid discrimination (Miller, Hess, Orthmann, 2011), and it is very important for every law enforcement system. Police officers, lawyers, educators, employers' agents are the professionals who should ensure right to equality of any person despite his/her belonging to certain group. Unfortunately there is no evidence about Lithuanian law enforcement officer's attitudes towards immigrants, asylum-seekers, refugees, as well as towards representatives of other minority groups in the sense of ethnicity, religion, special needs, sexual identification, etc. So, it was important for us to explore this point of attitudes.

Role of education and tolerance training may have a huge impact on homophobic reactions, attitudes toward and dealing with immigrants, asylum-seekers, refugees, and other

minority groups members. According to Council of Europe recommendations, educational programmes that raise awareness about the mechanisms of prejudice and intolerance and how they contribute to discriminate and oppress people, and on the appreciation of diversity and promoting tolerance, may be most effective. Educators recognize the need to develop in every person a tolerant, non-discriminatory attitude and create a learning environment that acknowledges and benefits from diversity instead of ignoring or excluding it (Council of Europe). Therefore, we believe that the training of future police officers at the University must pay due attention to the development of appropriate attitudes of future officers to immigrants, asylum-seekers, refugees, and other minority groups members.

The purpose of the study to explore and assess the attitudes of the future police officers towards immigrants, asylum-seekers, refugees, and other minority groups, analyzing them in the context of the general tolerance level, as well as of the acceptance of other minority groups and identifying the role of Education at the University in developing these attitudes.

Objectives:

- To evaluate students' tolerance level in relation with acceptance of migrants, asylum-seekers, refugees, and other minority group persons.
- To explore students' opinion about admission of asylum-seekers refugees, and immigrants to Lithuania.
- To evaluate the role of education at the University in forming their attitudes towards migrants and asylum-seekers
- To compare the attitudes towards migrants, asylum-seekers, refugees, and other minority group persons in relation with the gender of respondents

METHODOLOGY OF THE RESEARCH

Participants. 264 students (63,1,8% female and 36,9% male) of Mykolas Romeris University Academy of Public Security from Law and Police Activity program participated in the study. The age range of the students is 18 to 46 years with mean M=21,7(SD=3,4) years.

Methods. Questionnaire: questions adapted from our previous study, also Hungary study "Attitudes towards refugees, asylum seekers and migrants" (Bernát, Sik, Simonovits, Szeitl, 2015) was used in the study, statements with 5 point scale were ealuationg the attitudes toward various minorities groups (statement evaluation: 1 – strongly disagree, 3 – neutral, 5 – strongly agree; Cronbach's $\alpha = 0{,}906$).

Also students were asked about their sociodemographic: gender, age, parents family status (lived with both parents, with single parent but was interacting with both of them, lived with single parent), siblings (no/yes), living place in early years (city, town, village place, countryside), financial strain of parental family during early years of live and personal financial situation during studies (sufficient–lack).

Procedure. The questionnaires for participants were anonymous. SPSS 22.0 package was used for statistical analysis and empirical data.

RESULTS

Results presented in Figure 1 revealed that only about one third of participants strongly perceive themselves as a tolerant person (and in fact this prevalence may be smaller because of positive social acceptability and tendency to present themselves as more positive). 58,1% males and 71,3 % females consider themselves as a tolerant person. Future law enforcement officers females consider themselves being more tolerant compared to males: Chi-squared statistics χ^2=11,578, df=4, p=0,021).

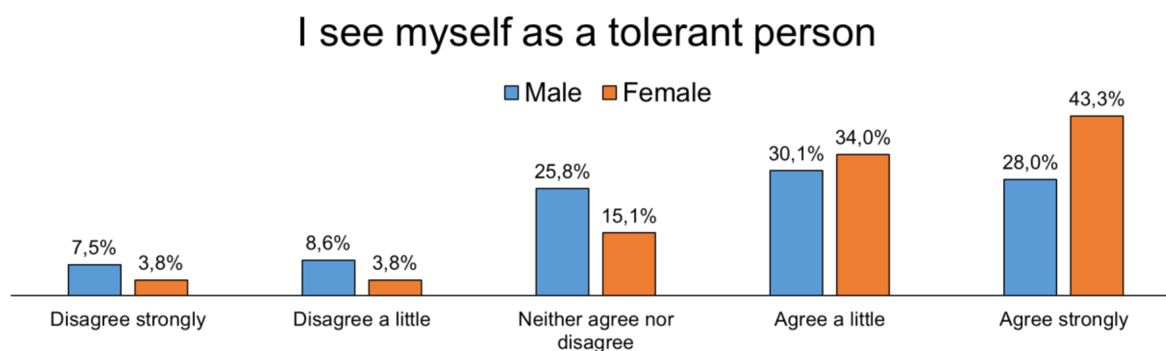

Figure 1. Do future law enforcement officers consider themselves as a tolerant person?

Students do not consider Lithuanians as very tolerant – only 22,8% males and 21,4% females stated that their nationals are tolerant persons (no statistical significant differences in opinions between male/female groups: χ^2=4,799, df=4, p=0,309, Mann-Whitney standardized statistics -1,590, p=0,112; Figure 2).

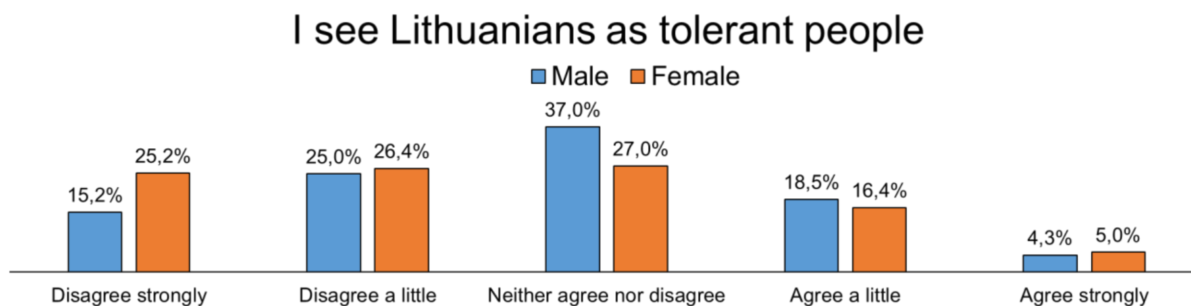

Figure 2. Do future law enforcement officers consider Lithuanians as a tolerant society?

Participants consider themselves as more tolerant persons compared to other Lithuanians (Sign test standardized statistics -5,828, p<0,001 (male); standardized statistics -10,231, p<0,001 (female)).

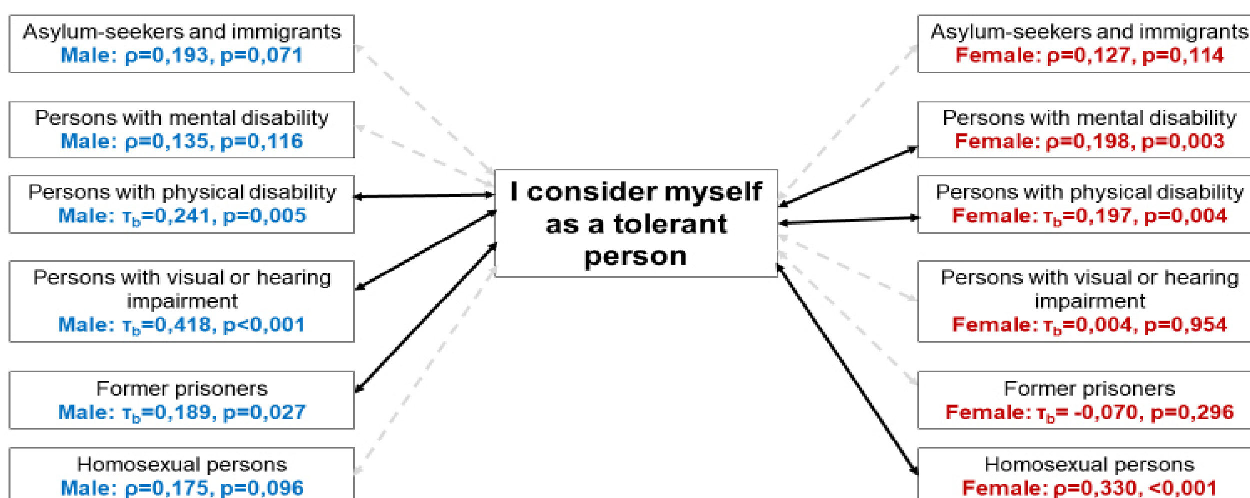

Figure 3. How students' tolerance level is related to acceptance of minority group persons?

Higher perception of themselves as a tolerant person is related to stronger acceptance of persons with physical disability (positive correlations coefficients for both male and female participants groups (p<0,05; Figure 3)). Male participants that perceive themselves as a more tolerant person are more tolerant and unobjectionable for persons with visual or hearing impairment and former prisoners as well. Contrary, female participants that perceive themselves as a more tolerant person, are more tolerant and acceptable for persons with mental disability and homosexual minorities.

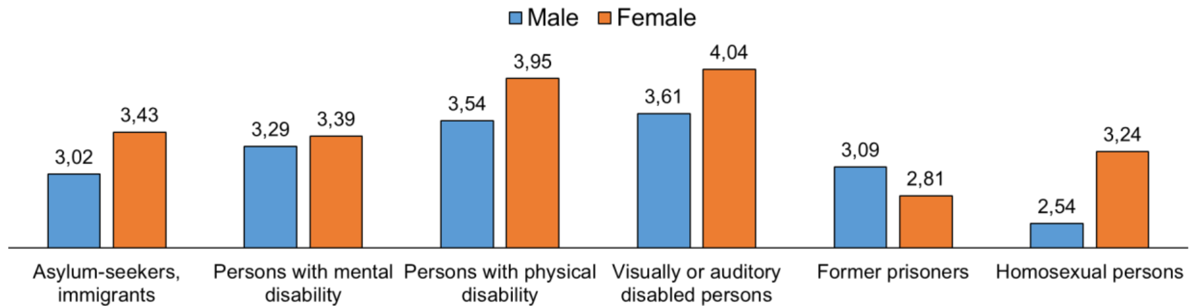

Figure 4. Do future law enforcement officers avoid some minority group persons?

Results presented in Figure 4 reveal that female participants are more comfort compared to male colleagues while communicating with asylum seekers (Students t test's $p<0,05$), persons with physical, visual or auditory disabilities ($p<0,05$) and homosexual persons ($p<0,01$), while male future law enforcement officers are more confident when communicating with former convict individuals ($p<0,05$) (higher mean scores in Figure 4 represents higher tolerance and acceptance while communicating with a person).

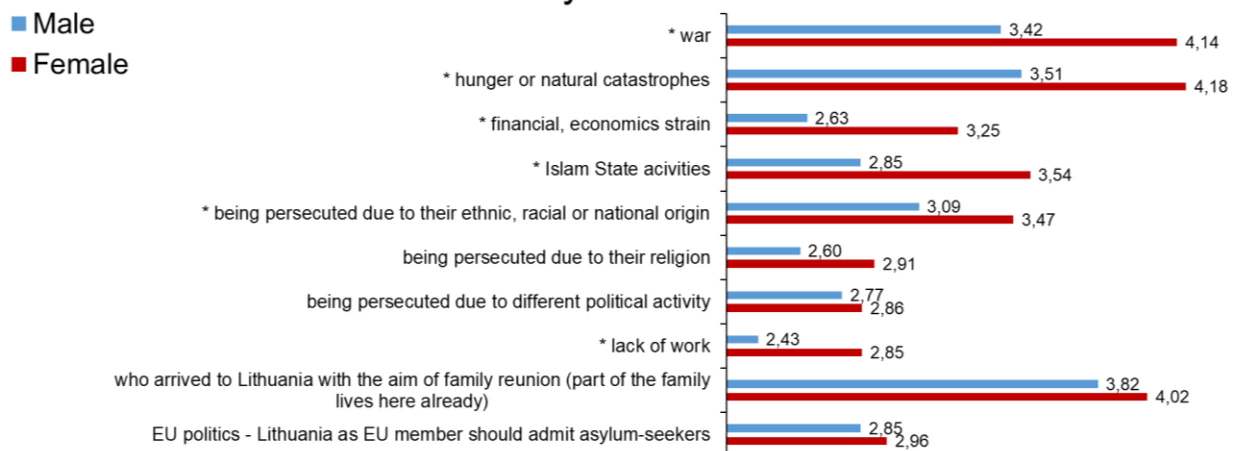

Figure 5. What is male and female student's opinion about admission of asylum-seekers and immigrants?

Female students tend to be more acceptant because of specific admission circumstances of asylum seekers compared to male colleagues ($p<0,05$; higher mean scores in Figure 5 represents higher tolerance and acceptance of asylum seekers) – female future law enforcement officers agree that Lithuanian governance and citizens should accept for residence individuals who left their country because of war, hunger, natural catastrophes, economical strain, lack of work, because of Islam state activities and being persecuted in home country for some reasons.

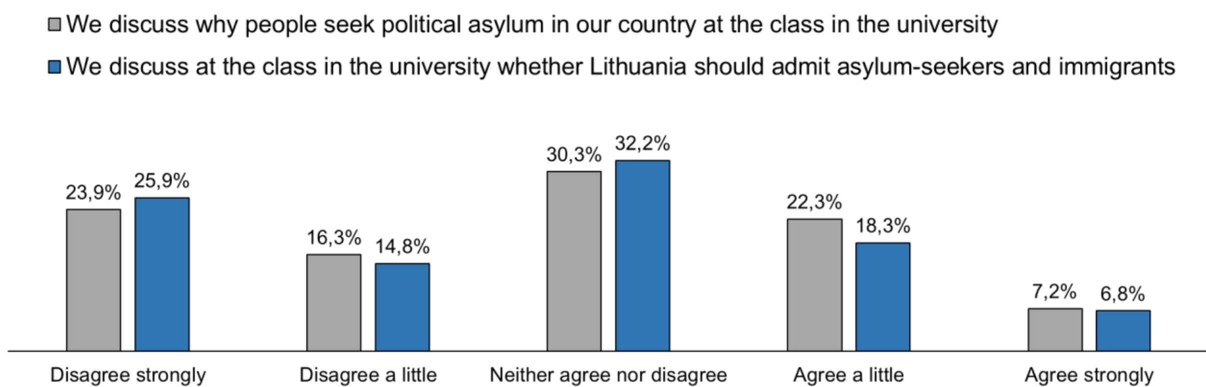

Figure 6. Do future law enforcement officers discuss during the study process why do people seek political asylum and the admission problems?

Only about 25-30 percent of students stated that they discuss during the study process about the individuals who seek political asylum and the reasons of admission problems (there were no statistically significant differences comparing the opinions of male and female persons, $p>0,05$ for Chi-squares statistics; Figure 6).

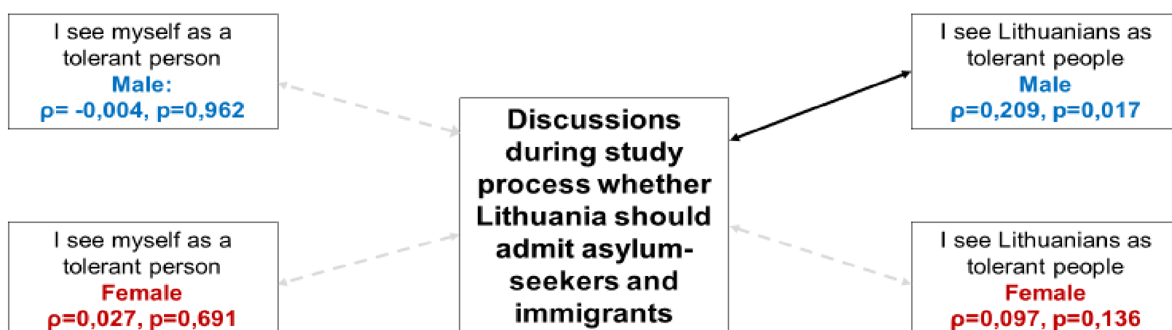

Figure 7. May the discussions about the asylum-seekers' and immigrants' admission process be related to students' tolerance?

There are no statistically significant relationships between discussions at the class in the university whether Lithuania should admit asylum-seekers or immigrants and future law enforcement officers' perception of themselves as tolerant persons: correlation coefficients ρ(male)= -0,004, p=0,962; ρ(female)=0,027, p=0,691 (Figure 7). However male students who discuss more at the class in the university whether Lithuania should admit asylum-seekers or immigrants, perceive other Lithuanians as more tolerant persons: ρ(male)=0,209, p=0,017; ρ(female)=0,097, p=0,136.

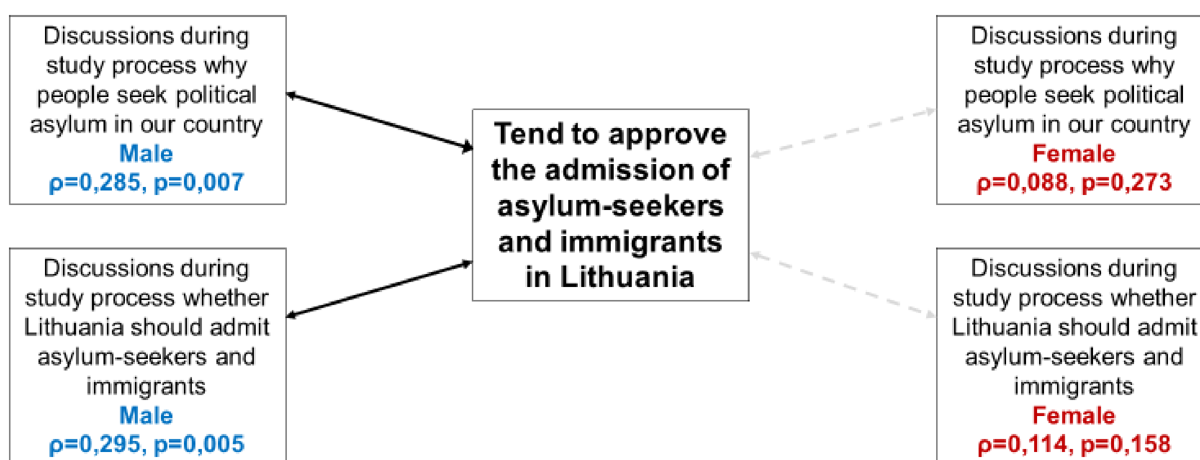

Figure 8. May the discussions about the asylum-seekers' and immigrants' admission process be related to students' acceptance of these persons?

Male students tend to approve the admission of asylum-seekers and immigrants in Lithuania more often if they discuss more often why people seek political asylum in our country (correlation coefficient ρ=0,285, p=0,007; Figure 8) as well if discuss more often whether Lithuania should admit asylum-seekers and immigrants in the university (ρ=0,295, p=0,005). There are no statistically significant relationships related to these points in female future law enforcement officers‘ group (ρ=0,088, p=0,273 and ρ=0,114, p=0,158, respectively).

CONCLUSIONS

Students do not consider Lithuanians as very tolerant. Participants consider themselves as more tolerant persons compared to other Lithuanians. Future law enforcement officers females consider themselves being more tolerant compared to males.

The concept of being tolerant does not include the attitude toward acceptance of asylum-seekers and immigrants. The level of tolerance in both gender groups is related to acceptance of persons with physical disability. Males' level of tolerance is related to acceptance of persons with visual or hearing impairment and past prisoners, but not related to acceptance of persons who are asylum-seeking or immigrant, homosexual and have mental disability. Females' level of tolerance is related to acceptance of persons with mental disability, but not asylum-seeking or immigrant individuals, past prisoners, persons with visual or hearing disability.

Students express higher agreeableness to admission of asylum- seekers to Lithuania under such circumstances as family reunion, hunger or natural catastrophes and the war. Female students tend to be more tolerant because of specific admission circumstances compared to male colleagues. Female students are more likely to agree with the admission of asylum-seekers in the cases of the war, hunger, financial, economic strain, Islam State activities, lack of work, and being persecuted due to different political activity.

Only one third of the law enforcement program students stated that they discuss during the lectures the issues about asylum-seeking and immigration. The discussions during the lectures about the problems of asylum-seekers and immigrants are related with the male students' perception of Lithuanians as more tolerant persons.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinis žurnalas
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
Research Journal

FEATURES OF MODERN IT MARKETING AND ITS PROSPECTS

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DOI: 10.13165/PSPO-20-24-38

Annotation. World IT marketing, despite its young age, is becoming increasingly preferred in the retail system. Network sales were previously known to the population of large cities as a way of bringing sales technologies closer to the consumer. When it is not the consumer who goes to the store, but the product comes to the consumer through an intermediary, a network seller, Internet information. Network trade around the world is actively developing. And with the advent of the Internet, it received a “second breath” in the form of online sales, online stores (IM), and others. Like network sales technologies, the Internet was initially used as a modern platform for innovative technologies in trade. In the positive, this means bringing goods closer to the customer (comparable to network technologies), simplifying the delivery of goods to the consumer, and expanding the assortment. The emergence of powerful IM, online warehouses, and the largest presentation sites has become a prerequisite for the development of this convenient form of trading.

Keywords: IT marketing, marketing, the country’s economy, blockchain, consumer, payments market stability.

JEL Classification codes: M31, M39, D29

INTRODUCTION

Like any other undertaking, network IT marketing has not yet been able to avoid the significant shortcomings that make his preferences very vulnerable. To know the existing

disadvantages of e-commerce, this means protecting new trading technologies by developing them and making them not only more accessible, but also safer, and therefore more comfortable for users.

On the one hand, a new direction in trade is indeed becoming more and more preferable, effective. On the other hand, next to the professional giants of e-commerce, start-up, developing, small enterprises appear, and next to them, as always, is low-grade online trading. As a result, the world gets a mix, which has significant shortcomings that make such trade, to some extent, dangerous and undesirable for the consumer. The convenience of on-line shopping is offset by the risks of falling into the cybersecurity area. Moreover, the dangers from cybercrime in IM are many times higher than from real crime [5].

Judging by the Ukrainian market, in the negative of network e-commerce it can be noted: not always high quality of the product, as a rule, a short life before failure, often initially low consumer cost of the product, its latent expiration, very often - overpriced product. Most often, such a product in ordinary stores consists in the category of illiquid, residual, not in active demand, sometimes with amortized qualities. Such goods represent illiquid surpluses that pull the company's trade balance down. This is one of the reasons why network trading has received significant development in our country. That's why, and not for any other reason,

It is worthwhile to deal with this phenomenon, at least from the standpoint of social security of such trading systems, which becomes one of the problems of human security in the Internet space. We can assume that the main source of many problems is the lack of consistency and organization at the heart of this activity.

LITERATURE REVIEW

Theoretical and practical aspects of IT marketing were described in the works of such scientists as Mamaeva L. N., Grebenshchikov N. A. (2018). Modern aspects of blockchain perspectives were described in the works of Don Tapskott, Aleks Tapskott; (2018), Genkin A., Mikheev A. (2018), Mogayr U., Buterin V. (2016).

In the book "Decoded: The Science Behind Why We Buy ", Phil Barden explains with numerous examples why one way or another a person reacts to a purchase, which from a scientific point of view affects decision making and why people themselves cannot explain the logic of a perfect purchase.

Michael Stelzner in the book "Launch: How to Quickly Propel Your Business Beyond the Competition" talks about how to achieve success in business with the help of content marketing and what relations it is important to establish with potential buyers in order to transfer them to the category of real ones.

Avinash Kaushik in his book “Web analytics 2.0” gives examples on web analytics, considers the solution of problems in this area from different perspectives, describes the current state of the web space, teaches how to select tools, analyze the information received.

Philip Kotler in his book “Marketing Essentials” describes the basics of marketing, combines theoretical information with examples from real practice in marketing.

Trout Jack and Al Rice in the book "Positioning: The Battle for Your Mind" reveal the principle of success in competition, which is based not on the product itself, but in the way it is presented to the customer.

Porter, M.E. (2008), Inkpen, A. C., Ramaswamy, K. (2006). There were very few attempts to combine aspects of marketing and its influence on the IT security of the in terms of how really attractive should be object of IT investments not only from the business (or economic) point of view but more from the emotional one.

METHODOLOGY

The theoretical and methodological basis of the study was the works of domestic and foreign authors on the issues of motivating and managing the effectiveness of marketing, making decisions.

In the course of the study, the methods of typology and classification, functional, marketing, system analysis, program and target planning and management, expert analysis, dynamic programming, and graphical interpretation were used.

Method of expert assessments. The essence lies in the fact that the basis of the decision, forecast, and conclusion is the opinion of a specialist or a team of specialists based on their knowledge and practical professional experience. Expert judgment must also adhere to the rules of objectivity and honesty.

Blockchain technology is a distributed database in which data storage devices are not connected to a common server. This database stores an ever-growing list of ordered records called blocks. Each block contains a time stamp and a link to the previous block.

The methodological basis of the research is the methods of materialistic dialectics. The studies were conducted on materials of state statistics, which guarantee the necessary reliability of scientific findings and the possibility of their application. The study is based on the works of domestic and foreign scientists dealing with the problems of the effective functioning of IT marketing in a market economy.

In the process of processing and analyzing information, the following methods of economic research were used: monographic, balance, calculation-but-constructive, mathematical statistics.

RESULTS AND DISCUSSION

Theoretical and methodological basis of modern IT marketing.

Worldwide IT marketing, despite its young age, is becoming increasingly preferred in the retail system. Online sales were previously known to the population of large cities as a way of bringing sales technologies closer to the consumer. When it is not the consumer who goes to the store, but the product comes to the consumer through an intermediary, an online seller, Internet information.

Online trade around the world is actively developing. And with the advent of the Internet, it received a “second wind” in the form of Internet sales, online stores (IM), etc. Like network sales technologies, the Internet was initially used as a modern platform for innovative technologies in trade. In the positive aspect, it means bringing goods closer to the customer (comparable to network technologies), simplifying the delivery of goods to the consumer, and expanding the assortment. The emergence of the powerful " I-M ", the online stores, the largest presentation of sites was a prerequisite to the development of this convenient form of trade. According to with the advent of Internet technology in trade, commodity circulation in China increased seven times, in Japan and the United States - two and a half times. Europe is not far behind. The rule has always been characteristic of the Western world - "you need to earn more, work comes first, and there is no time to spend money." " I-M " began to deal with these social problems very effectively. They increasingly demand. Annual rate of growth of revenues from sales in the "I-M" up to 25%. The leaders here are camping United States, China and Western Europe. They account for exactly 90% of the total turnover in e- commerce [2, 3]. Such American, Chinese and other countries giants like Alibaba, Amazon, Taobao, AliExpress, 6PM, Walmart, Carter ' s, Zara, and many others are multi-billion-dollar enterprises. The global trade

turnover of online commerce reaches more than 2.5 trillion dollars. And its growth rate is impressive - 18-23% per year. At a time when the growth rate of world trade does not exceed 3-4.5%. About 1.32 billion people around the world participate in Internet commerce [3].

In Ukraine, the volume of sales of electronic products in online stores exceeds 65 billion UAH, and in the near future will reach 85 billion UAH per year [4].

Already today, the advantages of this type of trade are obvious, the prospects of which are extremely high in the world. The positive aspects of it include:

- access to any goods previously inaccessible to the average person;

-alignment of the distribution of goods throughout the consumption network;

- Reducing the scarcity of many groups of goods;

-increase in turnover and, accordingly, the growth of tax revenues;

- access to previously scarce items for use in a given area;

-significant cheapening of goods;

-development of the mobility of trading systems, the emergence and expansion of mobile retail chains;

-the formation of new rules in trade, the creation of a new marketing order, the development of new legislation in the field of trade;

-globalization of trade relations, participation in the WTO rules and influence on them;

- the growth of people's well-being, familiarization with high living standards, improvement of life, a sense of a higher level of social security;

- parallel development of the postal services system.

It is difficult to dispute these achievements, which are based on digital technologies, completely different legislation, an ever-increasing need for a wide range of products, new jobs, and the level of professionalism in a completely new field of knowledge - IT marketing. Society receives a completely new system of effective services, which fits perfectly into the modern palette of human life. With the new technologies we make a qualitative leap in one of the oldest technologies - trade.

Like any start-up initiative, network IT-marketing have yet not succeeded will avoid and be considerable insufficient that make it very vulnerable and. Know the current shortcomings an e - commerce, etc. means to be the new trading e technology developing them and do not only more accessible but also secure, and therefore more comfortable for users.

On the one hand, a new direction in trade is indeed becoming more and more preferable, effective. Next to a professional giant an e - commerce there are beginners, developing, small businesses, and next to them, as always - is base I -shopping. As a result, the world receives a mixt, which has significant shortcomings that make such trade, to some extent, dangerous and undesirable for the consumer. Facilities on-line shop put offset by the risk of being in the area cyber threat. Moreover, a n bout their dangers of the cyber in the " I-M " is several times higher than the real crime [5].

Judging by the Ukrainian market in the red network an e - commerce can be noted: not always the highest quality product, usually a short period of operation before the failure, often initially low consumer value of the goods, his hidden past-due, very often - for a weighted price of the product. Most often, such a product in ordinary stores consists in the category of illiquid, residual, not in active demand, sometimes with amortized qualities. Such goods represent illiquid surpluses that pull the company's trade balance down. This is one of the reasons why network trading has received significant development in our country. That’s why, and not for any other reason,

It is worthwhile to deal with this phenomenon, at least from the standpoint of social security of such trading systems, which becomes one of the problems of human security in the Internet space. We can assume that the main source of many problems is the lack of consistency and organization at the heart of this activity.

One of the main problems is the insecurity of purchases in the e-commerce market from criminals. A threat in this case comes from the networks themselves, both technical systems so and from criminal effects of the various fraud. But besides this, it is possible to form groups of problems and the risks associated with them, which in the absence of a solution can become a significant obstacle to the development of modern areas of marketing. We list them among them.

1. Lack of visualization of the goods or the lowest of his visualization. Online sphere often compensates for this shortcoming by the opportunity for the buyer to make a return of the product if its quality after delivery and visual inspection does not correspond to the primary data. But this opportunity is not provided by all “I-M”.

2.Absence of contact the seller and consultant. Sometimes networks compensate for this shortcoming with the possibility of e-contacts with consultants. But while effective algorithm of actions that claim to satisfy the needs, does not exist.

3.Absense of sales receipts and electronic payment verification.

This is due to the method of delivery of goods through mail or courier delivery, when the person transferring the goods to the buyer does not legally respond to the purchase and sale procedure. This situation since ancient times has been an ideal resource for illegal trade, a dream for the seller. Recall network trading operations when a customer was “handed” goods of dubious quality, which he did not need. Alternatives are emerging in Europe today "metering" schemes, various "distribution centers" models of click and collect type" and others.

There is an opinion of experts that in Ukraine, modern sales on the Internet are 80% black schemes in which crime manifests itself. For example, only in 10% of cases you can receive a correctly executed check with the goods. Moreover, the check is legal guarantee for the return of goods, at least in court).

4. Alternatively, the absence of a contract of sale, or improper execution of such a contract, which initially puts the buyer at a disadvantage.

5. " I-M ", as a legal entity, often a platform for placing in it of goods in separate individuals. That is, such an undertaking as “I-M”, is not responsible for the legality and proper being the sale of goods, leaving it at the mercy of the same individuals who post information about their own product in a store. Thus, the " I-M " is a kind of legal shell that makes a profit from the payment for the backup of virtual containers ("rent"), which store offers the true owner of the goods.

It turns out that “I-M” represent the interests of private traders, brand the product isolated and sellers are not even intermediaries between buyer and holder of the goods, as a kind of cover, a platform for sales. In addition, these partners cannot even leave their true origin, which can be carried out their work in the legal aspects of it.

A sign of such a relationship is a condition for transfer of money not to bank account “I-M”, and on the individual card account indeterminate natural person, of which the buyer is not even aware at the time of manifestation of interest in the product on the website of “I-M”. In this case, the buyer is not protected in any way about the receipt of low-quality goods and claims against the seller. Most of the laws of the world are not yet suited to this type of fraud.

6.Absense or hiding business entities or legal vague their existence as legal and corporation. The fact of the fact that the true seller does not have obligations for the goods sold and the receipt of money in the legal aspect should be qualified as "unreasonably received income " deposited on the individual bank account card, which is subject to judicial recovery.

For at least in the law is, in Ukraine we do not find such a precedent. Many of the "I-M ' do not publish on their website's information about the seller's location, method of claims against its product.

Sales volumes of the conditional "I-M" is the total sales from numerous physical sellers cooperates with this store. And this is very far from the true meaning of "I-M".

7. Maximum trust is forced of the buyer to the seller. Judging by the history of world trade, this situation is not far from the absurd. Because trade at all times was based on competition in pricing between the merchants themselves, between the merchant and the buyer, between different purchasing groups. The principles of competition and complete trust, unfortunately, are not psychologically compatible in the business world.

8. The chaotic structure of online stores. The lack of a unified design practice for such stores leads to the fact that the sole center of the store is its legal address, which is not always used for its intended purpose, and a blurred network of sellers and suppliers of goods, lack of initial documentation for the goods. Sales through Ukrainian sources such as OLX, Instagram and other sites are often carried out without any documents at all. Even if required, the result will not be worth the effort. So far, such issues are outside the Ukrainian legislation. And the consumer is offered smart advocacy schemes that allow to get out of such situations.

9. In Ukraine, relations in the field of e- commerce are theoretically governed by two laws: "About electronic commerce" and "About protection rights of consumers". They are designed to regulate the order of purchases, check security, online payment, return conditions, product defects or discrepancy with the expectations of the buyer, other controversial issues. Which are decided only through the courts, with their incredible duties, often exceeding the cost of the goods themselves, the opportunity to lose for reasons of a subjective nature known to us or in other ways that are not available to the law. All this makes court proceedings unrealistic for the majority of the population and gives the right of permissiveness to the hands of the responding party.

10. Lack of professional staff. Today, no one in the world trains proper internet marketing professionals, at the level of master's programs.

11. And, finally, the fact of the use of the personal data of the buyer "I-M" poses a direct security risk to the buyer. Huge databases of personal data are being formed, but so far their users exchange date for just a little bit. But these databases on store customers, when falling into other hands, provide personal information about a huge number of people that can be used

to harm a person. Imagine such a database from the largest e- commerce stores to billions of consumers. The Facebook privacy scandal with M. Zuckerberg may seem like a toy.

Thus, the "I-M", as usual, does not guarantee the buyer receipt of goods of the quality he needs and in a digestible condition. The proceedings for each conflict case require tremendous effort. And while such trading systems are establishing themselves in the services market, they are trying to observe the image rules a. But the number of such situations will eventually turn into a negative quality that is characteristic of trade as a whole - categorical refusals of their obligations to comply with the quality of goods and services. This is to be expected. But the "I-M" because of their rapid development in this regard, is able to significantly outperform traditional trade.

Modern aspects of IT marketing in contexts of economic development

We systematize these problems and give them a sociological assessment.

An expert assessment of the quality of modern online trading was carried out in Kiev, Dnipro, Mariupol, Zaporizhzhya region among 650 respondents, including 123 specialists , of those who are professionally engaged in this type of activity (Arabic numbering in table 1) and 527 e-service buyers - commerce in these cities (Roman numbering).

Table 1. Table of expert risk assessments related to e-commerce

№№ n / n	Group Code	Name and risk group	Representativeness, people	Expert point X/Y point
Organizational reasons				
1 / I	A	Lack of contact with the seller, consultant	25/237	4.2 / 8.1
2 / II	A	The absence of a contract of sale or improper execution of the contract	53/158	5.1 / 6.5
3 / III	A	Lack of sales receipts	72/258	6.1 / 6.5
4 / IV	A	Lack of specific legislative framework for e-commerce	92/369	8.5 / 5.0
5 / V	A	"I-M", as a legal entity - a platform for the placement of goods by individuals	98/411	7.7 / 4.8
6 / VI	A	Lack of professional staff	113/464	8.8 / 4.3
Technical reasons				
7 / VII	IN	The use of personal data of the buyer "I-M" as a direct security risk to the buyer	25/158	9.0 / 3.5
8 / VIII	IN	Lack of product visualization or low visualization	67/274	8.3 / 5.1
9 / IX	IN	Arbitrary and commonality structures "I-M"	114/48	7.6 / 7.1
Subjective reasons				
10 / X	FROM	Insecurity of shopping on the e-commerce market from criminals	77/316	9.0 / 7.7
11 / XI	FROM	Forced maximum customer confidence in the seller	87/353	7.4 / 6.5
12/ XII	FROM	Absence, concealment or legal blur of business entities	102/474	5.0 / 3.0

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2020 (24)
Research Journal

The choice of answers was made on a 10-point scale in the form of an expert risk probability for each of the items in the group of reasons: organizational (A), technical (B), and other subjective (C). Residents could not give an assessment of individual reasons if they did not meet with them. Table 1 summarizes the survey data. Here in the numerator there are answers from experts, and the denominator reflects the results of consumers of e- commerce services.

According to the results of such studies (Fig. 1), it is worth highlighting more confidence among professionals in the development of e-commerce as a modern and equal subject of trade relations. Consumers now want to see a more organized system of online trading in Ukraine. The most important reasons that hinder the growth of confidence in the research object among buyers are the lack of sales receipts, the lack of contact with the seller, and the specialists have a weak legislative base. The technical side of the issue is more worrying for specialists who see in it the resources in the development of this type of trade, the weak unification of the structures of online stores. Buyers, in turn, are not worried about the relativity of the equipment of such trading systems.

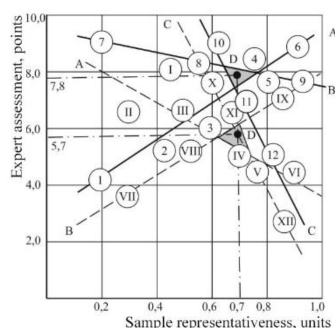

Figure 1. The state of expert assessments of groups of Internet marketing participants in Ukraine - specialists (solid lines) and consumers of e- commerce services (dashed lines) for groups A - organizational reasons; B - technical reasons; C - subjective reasons

Subjectively, the effectiveness of online stores is high according to their staff. Buyers are more skeptical about this factor. The area of rational satisfaction with the functioning of IM in Ukraine on the part of personnel is approximately 1.4-1.5 times higher than that of consumers of IM services (area D, see Fig. 1). For the former, this is due to high volumes of sales that are not achievable in other areas of trade, high wages, mobility, modern forms of work, and the absence of systemic conflicts like “seller-buyer”. On the contrary, skepticism and caution in the consumer of e - commerce services cause uncertainties arising from the execution of orders,

low level and delay of product visualization, forced dependence on the seller, etc. The areas of comfort for the two groups of respondents are almost the same in the estimates: they put more than 5 points and both with a comparable representative sample of 70% of the demand in the market for goods and there are no antagonisms in its further promotion to the consumer.

Internet stores are to some extent an intermediate stage in the development of modern e-commerce. They represent a more organized compared to the existing sequence of sales transactions with a relatively low variety and goods. Of course, this variety differs from that in traditional commodity sales such as “goods-money-goods”, and has opportunities for further development. The payoff function in the grid in Figure 2 means: 1 -mining operations in blockchain technology related to energy costs; 2 - a personal user database as a factor of reckoning in technologies like Tangle (DAG).

You can also rely on the fact that ultra-modern blockchain technologies, which are also based on the network principle of access to distributed information databases without an intermediary, will find their application in IT marketing. Moreover, already today large corporations, such as Alibaba, Bosch, Siemens, are finding ways to use blockchain technologies in their management, logistics and other activities. Despite the fact that digitalization- based technologies are currently being actively developed, their advantages and disadvantages are far from explored.

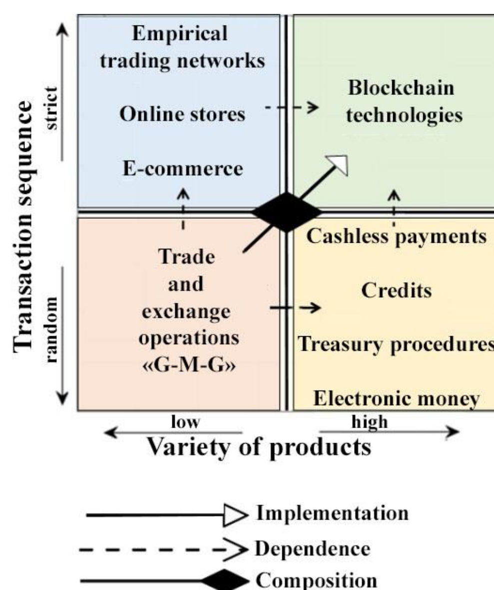

Figure 2. The place of IT technologies in areas related to marketing in the development cartogram. Coordinates n - the number of transactions; φ - payback function; P is the capacity of marketable products in transactions.

The technology of blockchain Numeric chain distributed registries of transactions, commercial transactions, contracts, conveniently enough is applied to the target surface of the diversity of targeted commodity products. For the sake of this, it is necessary to create a comparable dual system of distributed access to databases - commodity and consumers, taking into account their anonymity. Local networks of such registers can be combined, providing the user with a variety of address information about the totality of goods. The speed of operations in such networks can reach units. per second. Such databases are already used by Walmart, the largest US wholesale and retail supply chain, together with IBM, to account for the delivery of groups of goods. The product is becoming more accessible, regardless of where it is produced and where it is stored [6]. According to economists, this approach to marketing will give a new incentive to the development of production, to the development of the world economy in the context of its globalization, which cannot be ignored [7].

A few points that should be considered in the direction of simplification participate in the dis -determination registers used in blockchain technologies.

If the access technologies multiply the network will achieve the technical simplification of verification shadow subject network, it is essential exercise osteitis access any contacts etc. To use in the "procedures for participation." This will take another step forward by simplifying access to any product that is currently being sold anywhere in the world.

Complexity with such networks can become and factor reckoning, which, for example, in the case of financial bitcoins is mining electricity. In the case of e- commerce, one of the equal factors of reckoning may be, for example, a personal database of distributed users, each of whom voluntarily agrees to a limited targeted use of their personal data. E that may contribute to the development tokenization and integration blockchain platforms IoT and AI (see Below). Moreover, the market price of such a database of personal data as an independent product can only increase over time. Such a database of hundreds of millions of e- commerce users can be of significant value, of course, outside of criminals.

The Internet of Things (IoT) is another toolkit for organizing and managing the objects of the surrounding world and virtual objects, followed by the sequential confirmation of each of the subsequent transactions on the basis of already confirmed ones. Such a protocol is based not on mining operations such as POS or POW, like a blockchain, but on network scaling in proportion to the number of such transactions [8]. Such an algorithm (DAG – directed acyclic graph) allows you to more reliably approach each new chain from the standpoint of its

participation in distributed network systems such as “goods-buyer”, without a seller. This scheme is reminiscent of a model when you can choose the goods on the shelf yourself and pay its cost in a nearby “box”. In this case, the non-payment of goods by any one user becomes all participants and wish to set up clear evidence of bad faith of one of them. Similar programs already allow you to implement projects such as "Yandex-stopper" for the regulation of traffic flows in accordance with the congestion of city roads, or to optimize the saturation of the market of certain product depending on its status, as is the case with supplies from India perishables Company s the Walmart .

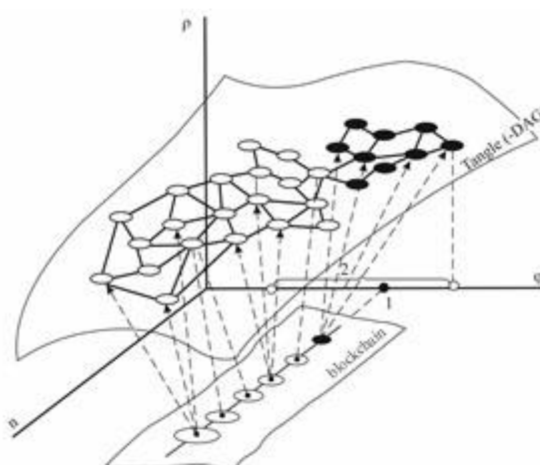

Figure 3. The author’s scheme of dual unity when combining Blockchain and Tangle (DAG) technologies in trading operations. Here is the volume of commodity units in transactions; number of transactions; payback function (mining, personal data bases, etc.).

In marketing terms, a blockchain is a sequential chain of stored blocks of data on digital registries of all previous transactions reflecting events - technical transactions, contracts, contracts between participants. In this case, the generation occurs without the subsequent possibility of their elimination or change. Events are considered to have happened if there is an entry in the registry about it distributed among all participants in the transactions. In turn, Internet of Things projects based on the Tangle (DAG) platform differ from the blockchain in that the condition for the existence of a new transaction is the absence of mining and the confirmation of at least two previous transactions in the network mode (Fig. 3). The overlap of these two technologies (Blockchain and DAG) distributed between transaction participants makes them a fundamentally new tool in e-commerce. Each sequential transaction in the blockchain has its own mapping on the surface of an acyclic digraph.

Such an approach, at first glance, of disparate databases gives the right to use significantly large distributed data about a huge number of transactions managed by the Internet of things. True, the dual-system registry system can have a significant drawback in the form of high costs of processing time in the network of a block of prohibitive sizes, which actually contains two large databases.

CONCLUSION

Implementing these aspects will enable state officials to attract more national and foreign investors on national and local levels that will lead to increase economic security on all stage of it.

Today, a sufficient number of marketing programs for managing commodity and other resource flows are being developed based on the blockchain technology platform. Network products for tracking supply chains of certain groups of goods created on the basis of blockchain platforms are focused on reengineering specific business projects, including elements of distribution, data immutability, decentralization, tokenization.

There is a finite time between software product which is capable hundred be the same flexibility for trade, such as the computer operating the program, cloud, etc. and the Internet.

All this gives confidence that the methods of IT marketing and the accompanying forms of trading using Internet technologies are already an irrevocable given that has found its active niche in trade and is doomed to development. The number of “I-M” is constantly increasing, their functionality is constantly evolving, the need is growing. In Ukraine, as in many other countries, these forms still work almost outside the legal field on the protection of consumer rights, on the specific conditions of e-commerce, outside the basic organizational forms. Solving these issues will significantly increase the attractiveness of e- commerce and make it an important competitor in world trade.

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MYKOLO ROMERIO UNIVERSITETAS

ISSN 2029-1701
ISSN 2335-2035 (Online)

Mokslinių straipsnių rinkinys
VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA
PUBLIC SECURITY AND PUBLIC ORDER
2020 (24)
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Autorių kolektyvas
Visuomenės saugumas ir viešoji tvarka (24): mokslinis žurnalas. – Kaunas: Mykolo Romerio universiteto Viešojo saugumo akademija, 2020. – 585 p.
ISSN 2029–1701 (print) ISSN 2335–2035 (online)

VISUOMENĖS SAUGUMAS IR VIEŠOJI TVARKA (24)
Mokslinis žurnalas

PUBLIC SECURITY AND PUBLIC ORDER (24)
Research Journal

Atsakingasis redaktorius – prof. dr. Rūta Adamonienė
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Maketavo – Nėlė Visminienė ir Pavel Lesko
2020-06-10
42 autoriniai lankai

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